

# Supplementary guidance:

equality, human rights and  
English as an additional  
language

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Autumn 2017

**The purpose of Estyn is to inspect quality and standards in education and training in Wales. Estyn is responsible for inspecting:**

- ▲ nursery schools and settings that are maintained by, or receive funding from, local authorities
- ▲ primary schools
- ▲ secondary schools
- ▲ all-age schools
- ▲ special schools
- ▲ pupil referral units
- ▲ independent schools
- ▲ further education
- ▲ independent specialist colleges
- ▲ adult community learning
- ▲ local authority education services for children and young people
- ▲ teacher education and training
- ▲ Welsh for adults
- ▲ work-based learning
- ▲ learning in the justice sector

Estyn also:

- ▲ provides advice on quality and standards in education and training in Wales to the National Assembly for Wales and others
- ▲ makes public good practice based on inspection evidence

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Publication Section

Estyn

Anchor Court

Keen Road

Cardiff

CF24 5JW or by email to [publications@estyn.gov.wales](mailto:publications@estyn.gov.wales)

This and other Estyn publications are available on our website: [www.estyn.gov.wales](http://www.estyn.gov.wales)

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**What is the purpose?**

To provide guidance to inspectors for evaluating equality

**For whom is it intended?**

Inspectors of maintained and independent schools, non-maintained settings and post 16/FE

**From when should the guidance be used?**

September 2017

**Contents**

<b>Supplementary guidance</b>	<b>1</b>
<b>1 Introduction</b>	<b>2</b>
<b>2 Evaluating equality and human rights</b>	<b>4</b>
<b>3 English as an additional language</b>	<b>6</b>

## Supplementary guidance

The key Estyn documents that guide inspection activity are the inspection guidance handbooks for each sector. However, we also produce supplementary guidance to help inspectors to consider specific aspects of education and training further.

The supplementary guidance documents set out some key principles, considerations and resources for inspectors. They relate to all sectors that Estyn inspects, unless they state that they are for a specific sector. They expand on certain aspects of education/training (e.g. the inspection of literacy) or on ways of conducting inspections (e.g. the use of learning walks) or specific inspection arrangements (e.g. guidance on inspecting church schools).

The supplementary guidance documents do not aim to be comprehensive. Inspectors are not required to work through them exhaustively when covering any specific aspect on an inspection. However, inspectors may find them useful when responding to specific emerging questions that arise during inspections or when they wish to reflect or investigate further.

The supplementary guidance documents may help providers gain an understanding of Estyn's inspection arrangements. They may also be helpful to providers in evaluating specific aspects of their own provision.

Our inspection work is based on the following principles:

- Inspectors will approach inspection with a positive mindset to ensure it is the best possible professional learning experience for the staff in each provider
- Inspectors will take a learner-focused approach to inspection
- Inspectors will always focus strongly on the quality of teaching and learning
- Inspectors will seek out well-considered innovative practice
- Inspectors will tailor the inspection activities according to the circumstances in each provider as far as possible
- Inspectors will be agile and responsive to emerging findings and will use the increased range of inspection tools and approaches available
- Inspectors will consider everything in the inspection framework, but will only report on the key strengths and weaknesses within each provider

## 1 Introduction

The public sector equality duty creates a statutory requirement for providers to have due regard to the need to promote equality, eliminate discrimination and foster good relations on the basis of 'protected characteristics' such as race, gender and disability. More detail is provided in section two, but in essence inspectors should look for evidence – such as equality objectives and published relevant information – that providers are addressing key issues affecting different protected groups and have effective steps to address possible disadvantage experienced by them, such as differential attainment, rates of exclusion and bullying.

Aspects of equality and human rights are covered throughout the five inspection areas of the common inspection framework.

The first inspection area focuses on standards. Under this inspection area, inspectors will consider the performance of different groups of learners including minority ethnic groups, refugees, asylum seekers, migrant workers, gypsies and travellers, learners with disabilities, gender etc.

The second inspection area is about wellbeing and attitudes to learning. In this area, inspectors will judge those matters over which the provider has some influence, such as if learners (including those from different groups) have a secure understanding of how they can become healthy and to what extent they feel safe and secure, and free from physical and verbal abuse in school. Inspectors should consider the trends in the overall attendance rate and the most up-to-date information available, noting any variations between particular groups of learners. Inspectors should also consider significant mitigating factors, for example in relation to learner mobility, where there is robust evidence to support them.

The third inspection area relates to teaching and learning experiences. In this area, Inspectors should evaluate the extent to which teachers have high expectations of all learners. Inspectors should evaluate how well the provider's curriculum provides for specific groups of learners, especially those with advanced skills and understanding, those with additional learning needs and pupils with English as an additional language.

The fourth inspection area is care, support and guidance. Inspectors should evaluate how well the provider tracks and monitors learners' progress and wellbeing, including attendance and behaviour as they move through the provider. Inspectors should consider how well the provider uses this information to consider the progress of specific groups, for example those pupils whose circumstances may make them vulnerable to underachievement or those who are more able. Inspectors should evaluate the extent to which learners, including those from different groups such as those eligible for free school meals, take on responsibilities and play a part in the provider and wider community.

Inspectors should evaluate how well the provider's personal and social education programme supports the development of the social and emotional skills of all learners, including those from disadvantaged backgrounds. Inspectors should look at how well the provider helps pupils to understand issues relating to equality and

diversity, and develops the values of tolerance and respect. They should consider to what extent the provision challenges stereotypes in learners' attitudes, choices and expectations, and how well it promotes human rights. They should consider how well the provider develops learners' knowledge and understanding of harassment, discrimination, identity-based bullying and extremism.

Inspectors will consider the provision for child safeguarding. They will look at how effective its arrangements are for preventing and addressing bullying, harassment and discrimination. Inspectors should consider how the provider keeps learners safe from the dangers of radicalisation.

Inspection area five is about leadership and management. There are four reporting requirements, and implicit across them is the impact that leaders and managers have in meeting the needs of learners from the different groups.

This supplementary guidance gives some further information for inspecting these areas.

## 2 Evaluating equality and human rights

### Equality objectives and strategic equality plans

#### The Equality Act 2010

The Equality Act 2010 (the Act) brings together and replaces the previous anti-discrimination laws with a single Act.

The Act includes a new **public sector equality duty** (the 'general duty'), replacing the separate duties on race, disability and gender equality. This came into force on 5 April 2011.

#### What is the general duty?

Public authorities<sup>1</sup> (providers) are required to have due regard to the need to:

- 1 eliminate unlawful discrimination, harassment and victimisation and other conduct that is prohibited by the Act
- 2 advance equality of opportunity between people who share a relevant protected characteristic and those who do not
- 3 foster good relations between people who share a protected characteristic and those who do not.

This guidance refers to these three elements as the three 'aims' of the general duty and so when we discuss the general duty we mean all three aims.

The Equality Act covers the same groups that were protected by existing equality legislation – age, disability, gender reassignment, race, religion or belief, sex, sexual orientation, marriage and civil partnership and pregnancy and maternity – but extends some protections to groups not previously covered, and also strengthens particular aspects of equality law. These are now more commonly known as the protected characteristics and the groups are referred to as the protected groups.

Note too in relation to the list of protected characteristics, that schools do not have to consider the protected characteristic of age when providing education to pupils or when providing benefits, facilities or services to them. Schools do not therefore have to consider advancing equality of opportunity between pupils of different ages, nor consider how to foster good relations between pupils of different ages. This is a narrow exception that only applies in relation to age. Schools will still need to have due regard to the general duty in respect of each of the other protected characteristics.

#### Specific duties in Wales

There are also a range of specific duties that providers need to cover. The broad purpose of the specific duties in Wales is to help providers in their performance of the general duty and to aid transparency.

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<sup>1</sup> Public authorities include local authorities, maintained schools, colleges of FE and HE.

## Equality objectives and strategic equality plans

The purpose of a strategic equality plan is to document the steps a provider is taking to fulfil its specific duties.

- Providers must publish strategic objectives and have drawn up a strategic equality plan by 2 April 2012. Strategic objectives should be reviewed at least every four years
- Providers must also publish an annual equality report by 31<sup>st</sup> March each year, which includes details on progress towards fulfilling each of the equality objectives

## Inspection checklist<sup>2</sup>

For Estyn's purposes, the main points you should consider are whether:

- the provider has published strategic objectives (must be reviewed at least every four years), a strategic equality plan and an annual equality report
- the plan includes a description of the provider and its equality objectives
- the steps it has taken or intends to take to meet its objectives and in what timescale
- its arrangements to monitor progress on meeting its equality objectives and the effectiveness of the steps it is taking to meet those objectives
- its arrangements to identify and collect relevant equality information; this includes information gathered from engaging with protected groups about how the work of the provider may relate to the general duty
- its arrangements for publishing relevant equality information that it holds and which it considers appropriate to publish
- its arrangements for:
  - assessing the likely impact on protected groups of any policies and practices that an authority is proposing, reviewing or revising
  - monitoring their actual and ongoing impact
  - publishing reports where an assessment shows a substantial impact (or likely impact) on an authority's ability to meet the general duty
- details of how a provider will promote knowledge and understanding of the general and specific duties among employees, including through performance assessment procedures to identify and address training needs

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<sup>2</sup> Adapted from 'The essential guide to the public sector equality duty: An overview for listed public authorities in Wales' published by the Equality and Human Rights Commission.

### 3 English as an additional language

Reporting inspectors should ensure that they include in the section on the context of the provider, where relevant, reference to details of the languages spoken and the number of pupils learning English as an additional language. All team inspectors should ensure that they use the correct terminology, when referring to community languages and avoid common usage names where these are wrong. This guidance would also apply to Welsh medium-schools for those pupils who have a language other than English or Welsh as their first language.

In providers where the proportion of pupils for whom English is an additional language is a significant feature, comments on matters, such as standards, wellbeing, learning experiences etc, should be included in the relevant sections of the full report.

#### **Questions to ask in relation to English as an additional language include:**

- Is there a whole provider policy for supporting pupils who learn English as an additional language and, if so, is it implemented consistently?
- Is the environment welcoming for pupils for whom English is an additional language?
- Do teachers use information about the languages spoken by the pupils?
- Do pupils with English as an additional language have full access to the curriculum? Have any mainstream teachers undertaken training to help them understand the learning needs of pupils for whom English is an additional language?
- How close is the liaison between English as an additional language teachers and mainstream teachers?
- How are lessons in mainstream classes and, where relevant, during any withdrawal sessions, structured to meet the specific needs of pupils learning English as an additional language?
- Does the provider track the success of its English as an additional language provision by evaluating pupils' attainments and is it using the information to identify targets for improvement?
- Does the provider use the first language to support learning?
- How does the provider meet the needs of pupils with English as an additional language when no support teaching is available?
- Does the provider provide translations of provider letters and documents in community languages? If not, how does it communicate with parents who have little or no English/Welsh?
- Does the provider fully understand that a lack of competence in English alone is not to be equated with learning difficulties?
- How does the provider assess the needs of pupils with English as an additional language when they are suspected of also having special educational needs?