

Supplementary guidance

Equality, human rights and English as an additional language

September 2021

Supplementary guidance: equality, human rights and English as an additional language

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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 2021

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About this guidance

Copyright statement

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
- special schools
- pupil referral units
- all-age schools
- independent schools
- further education
- independent specialist colleges
- adult learning in the community
- 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:

- reports to Senedd Cymru and provides advice on quality and standards in education and training in Wales to the Welsh Government and others
- makes public good practice based on inspection evidence

Every possible care has been taken to ensure that the information in this document is accurate at the time of going to press. Any enquiries or comments regarding this document/publication should be addressed to:

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About this guidance

Overview

Our inspection guidance explains **What** we inspect and **How** we inspect. 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

Guidance

Introduction

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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 learning. Under this inspection area, Inspectors should evaluate the progress of all pupils across the school including that of different groups of pupils. Depending on the school's context, this might include pupils eligible for free school meals, boys and girls, pupils with English as an additional language (EAL), pupils who are more able, pupils with alternative timetables or regularly receiving education off-site and those from minority ethnic groups.

The second inspection area is about wellbeing and attitudes to learning. In this area, inspectors should consider how well all pupils are developing as ethical, informed citizens, for example through their awareness of fairness, equality, sustainability and children's rights. Inspectors should consider the trends in the overall provider attendance rate and the most up-to-date information available, including any notable variations between particular groups of pupils and others, for example those eligible for free school meals.

The third inspection area relates to teaching and learning experiences. When evaluating the provider's curriculum, inspectors should consider how well:

- the provider develops the Curriculum for Wales to fully reflect the nature of the school's context, including designing learning activities that reflect the cultural, linguistic and ethnic diversity of Wales and the school's local area
- the provider's curriculum provides for specific groups of pupils, for example more able pupils, those with additional learning needs and pupils with English as an additional language. (In Welsh-medium schools or Welsh-medium streams, this might include provision for pupils with little prior knowledge of the Welsh language. In schools with pupils receiving part of their education off-site or on-site in nurture groups or inclusion provision, inspectors should evaluate how well this curriculum

meets these pupils' needs)

Inspectors should consider the extent to which teachers and other practitioners have high expectations of all pupils. Inspectors should evaluate how well teachers develop a shared understanding of progression to ensure that their assessments are valid, accurate and reliable. When evaluating teachers' use of the outcomes of their own and external assessments, inspectors should consider how well they use this information to:

- assess the progress and development of individuals and specific groups, for example those pupils at risk of underachievement or those who are more able

The fourth inspection area is care, support and guidance. Inspectors should consider how well the school or PRU:

- helps pupils, including those from different groups, such as those eligible for free school meals, to take on responsibilities and to play a full part in the school and wider community
- helps pupils to develop an understanding of their culture, the local community and the wider world
- helps pupils to understand issues relating to equality and diversity and develops the values of respect, empathy, courage and compassion
- fosters shared values, such as honesty, fairness, justice and sustainability, and helps pupils to understand the needs and rights of others, both locally and as members of a diverse world
- challenges stereotypes in pupils' attitudes, choices and expectations, and how well it promotes human rights
- promotes principles that help pupils to distinguish between right and wrong
- provides effective opportunities for pupils to develop secure values and to establish their spiritual and ethical beliefs
- develops pupils' ability to reflect on religious and non-religious responses to fundamental questions and to reflect on their own beliefs or values

Inspectors should consider how well the school or PRU:

- develops pupils' knowledge and understanding (in line with their stage of development) of emotionally damaging or unsafe behaviours, for example grooming, harassment, discrimination, bullying and extremism
- keeps pupils safe from the dangers of radicalisation and exploitation
- responds to and manages any alleged incidents relating to prejudice-related bullying, harassment and discrimination, whether by staff or by fellow pupils, including onward referral and reporting where appropriate
- uses its arrangements to promote and support an anti-bullying culture and a positive approach to managing pupils' behaviour
- records and addresses poor behaviour and specific types of bullying, including those involving protected characteristics, and how well leaders use the records to

improve the provision

Inspection area five is about leadership and management. There are three reporting requirements, and implicit across them is the impact that leaders and managers have in meeting the needs of learners from the different groups. Inspectors should evaluate the extent to which leaders and managers have established and communicated a clear vision. They should consider whether there are appropriate aims, strategic objectives, plans and policies that focus on meeting all pupils' needs to ensure that all pupils achieve at least as well as they should. They should consider the priority that leaders have given to ensuring that all staff understand and promote the school's safeguarding culture. Inspectors should consider how well leaders and managers act in accordance with the principle of sustainable development and how well they make decisions, for example relating to spending, and set priorities for improvement that balance immediate, short-term needs with the long-term needs of pupils, the local community and Wales.

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

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 (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.

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. So for example, providers must have a current strategic equality plan dated from 2020 onwards.
- Providers must also publish an annual equality report by 31st March each year, which includes details on progress towards fulfilling each of the equality objectives.

Inspection checklist

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

English/Welsh 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 for whom English/Welsh is 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/Welsh as an additional language include:

- Is there a whole provider policy for supporting pupils who learn English/Welsh as an additional language and, if so, is it implemented consistently?
- Is the environment welcoming for pupils for whom English/Welsh is an additional language?
- Do teachers use information about the languages spoken by the pupils?
- Do pupils with English/Welsh as an additional language have full access to the curriculum?
- Have any mainstream staff undertaken training to help them understand the learning needs of pupils for whom English/Welsh is an additional language?
- How close is the liaison between English/Welsh as an additional language support staff 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/Welsh as an additional language?
- Does the provider track the success of its English/Welsh as an additional language provision by evaluating pupils' attainments and is it using the information to identify targets for improvement?
- How does the provider meet the needs of pupils with English/Welsh as an additional language when no support staff are 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?
- How does the provider assess the needs of pupils with English/Welsh as an additional language when they are suspected of also having special educational

needs?