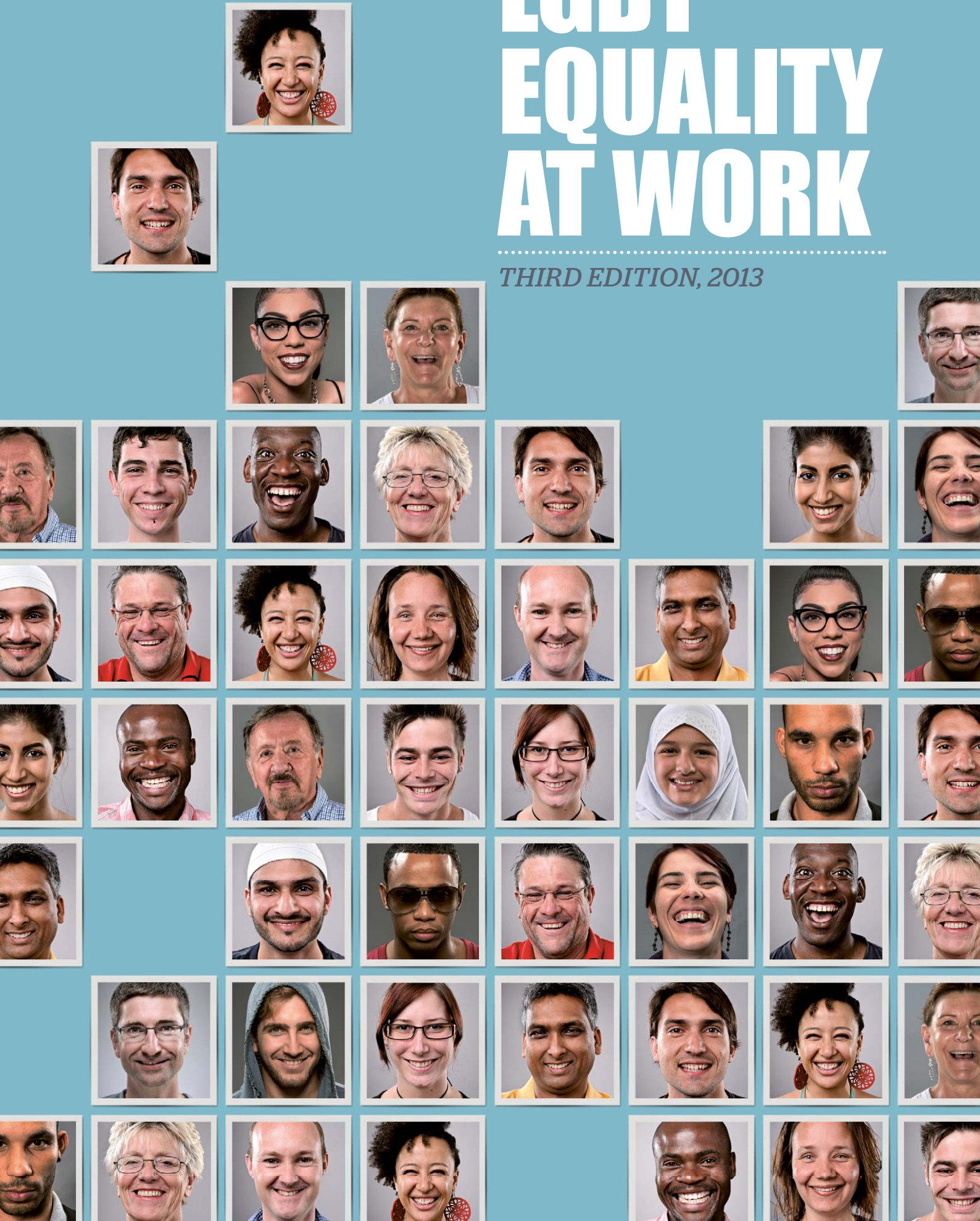


LGBT EQUALITY AT WORK

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THIRD EDITION, 2013



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SECTION ONE

1 LGB AND T EQUALITY TODAY: THE CONTEXT



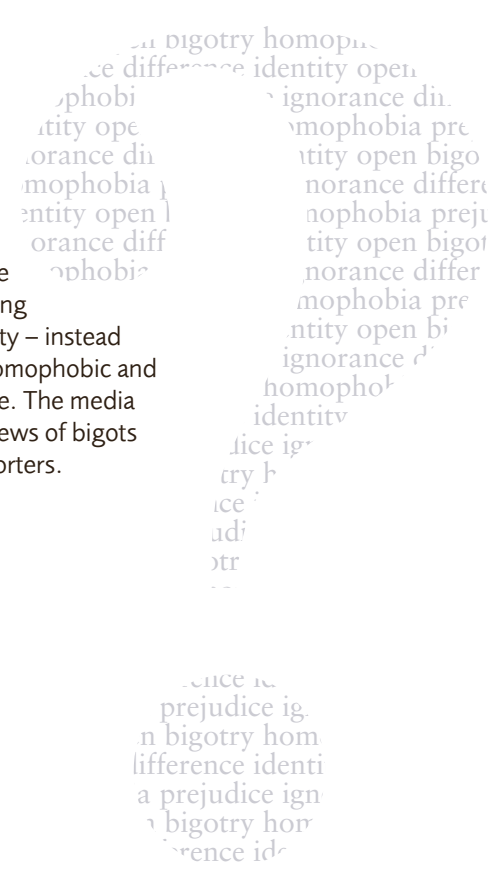
The position of lesbian, gay, bisexual and transgender (LGB and T) people in Britain has been transformed beyond recognition in the course of a single generation. However, the problems that remain are substantial and trade unions, which have played a major part in winning the improvements gained in recent years, still have work to do.

There have been significant improvements on every front. Legally, with a few exceptions explained in this guidance, LGB and T people now enjoy the same protection and the same rights as any other citizen, consolidated through the 2010 Equality Act, in employment, and in access to goods and services. The public sector equality duty requires all public bodies to promote equality on grounds of sexual orientation and gender reassignment just as for any of the other protected characteristics. Same sex couples will be able to have a civil marriage when the Marriage (same sex couples) Act introduced in 2013 comes into effect, although in most other respects, those registering a civil partnership already had the same rights and responsibilities as married heterosexual couples. Obstacles to adoption and other "family" matters have been removed.

Accompanying the legal reforms have been dramatic changes in attitudes. Surveys of public opinion have reported a continuous reduction in popular prejudices. The number of "out" members of parliament has never been greater. All the major political parties now support equality, and the 2010 general election was the first ever in which all the national parties actually competed with each other to appear the most LGBT-friendly. In this climate, it is extremely unlikely that there will be any attempt to backtrack on the equality laws.

However, a stubbornly large minority of public opinion remains hostile, and if these people (around one third of the surveyed population) are open about their resistance to LGBT equality, it might be wondered how many others have responded with what they think they are now meant to say, rather than genuinely reflecting deeply-held convictions. The continuation of racism in the UK after a much longer period in which it was no longer officially acceptable than LGBT equality has enjoyed should be a reminder of the scale of the problem.

There remain whole areas of life where homophobia and transphobia are rampant, and little challenged. No single player in Britain's most popular sport (as of 2013) has dared to come out. Education – where the next generation should be learning to respect difference and diversity – instead remains a hotbed of bullying. Homophobic and transphobic hate crimes continue. The media continues to give space to the views of bigots disguised as columnists and reporters.





There are improvements taking place in all these areas, thanks to the efforts of LGB and T campaigners themselves, and of their allies, but the reality for too many LGB and T people in Britain is that being open about their sexuality or gender identity is still not a safe option. The Office for National Statistics asked about sexual orientation for the first time in its general household survey in 2010. The result seemed to suggest that just 1.5 per cent of the population is lesbian, gay or bisexual. But a study of the actual figures reveals that what the survey really shows is that only that percentage is willing to be identified. In large parts of the country, and among older age groups, the smaller proportions of people answering the question positively confirm not that there are fewer LGB people over 60, or in the countryside, but that more of them feel constrained to remain closeted.

In identifying the main issues for lesbian, gay, bisexual and transgender members, the most important resource is the union's own members

This background is also important for unions, as there is no artificial wall between the workplace and the football terrace or public bar. By challenging prejudice at work, unions will also help defeat it in society.

Sexuality and gender identity are characteristics that call for particular understanding when deciding how to consult members and how to monitor

In identifying the main issues for lesbian, gay, bisexual and transgender members, the most important resource is the union's own members. The majority of trade unionists belong to unions which have recognised this reality and have established structures for their LGB and T members. But sexuality and gender identity are characteristics that call for particular understanding when deciding how to consult members and how to monitor. Later sections of this guidance offer advice on how to get this right. Members who are intersex (some organisations now include intersex people and describe themselves as LGBTI) will face similar problems at work.

Section 2 explains why the correct use of language is important if LGB and T members are to feel at home and welcome within the union. Section 3 looks at the law, sections 4 and 5 at some common workplace issues. Section 6 deals with monitoring, section 7 explains the importance of recognising diversity within the LGBT umbrella, and the last section lists useful resources for further information.

SECTION TWO

2 USING
THE RIGHT
LANGUAGE



Sexual orientation and gender identity are two areas that are particularly sensitive to the use of the right terminology. It is important that trade unionists are aware of the issues involved. Some terms commonly used to describe LGB and T people are completely unacceptable and very hurtful. This is not just an issue of “political correctness”.

Just as with any other area of equality, oppressive language should be unacceptable in any context. Lesbian, gay, and bisexual people have always been marginalised or put down as second class through the use of oppressive language, while trans people have to confront abuse based on similar prejudices about what is or is not normal or natural. Employment tribunals have been coming down hard on employers who permit or encourage the misuse of language in the guise of “banter”, recognising its power to harass and discriminate.

Historically, LGB and T people have sometimes adopted the words used to put them down – such as “queen” or “queer” – as a badge of pride. In recent years, there has been a movement of people who reject the gender norms of society altogether, and identify themselves as “queer”. In situations where an individual has made it clear that this is how they want to be described, that is fine: but in the great majority of situations, whether in a workplace environment, or negotiating with the employer, or organising within the union, the TUC advises strongly that lesbian, gay or bisexual should be used to describe these sexual orientations – and in that order too, because it is the approach adopted by almost all LGB community campaigns and organisations, to reflect the need to highlight that women – lesbians – are not a sub-group of gays. For sexual orientation, therefore, use LGB, and do not think that the word “gay” will cover everyone, because it won't.

For people who identify that their birth gender is not the gender in which they wish to live, whether or not they choose to undergo the whole (medical) process of gender reassignment, the single term transgender can be used without causing offence. Some people, who have undergone reassignment, will identify as transsexual, and that term can be used if the individuals prefer it. The short term “trans” can happily apply to either group and will usually satisfy everyone.

In this guidance, some sections apply specifically to LGB people and some specifically to trans people, and some to both groups. The majority of trans people have decided to ally themselves with the LGB community, and most organisations of LGB people have welcomed them: hence the term LGBT is now in widespread use, including by the TUC and most trade unions. Of course, some trans people are themselves lesbian, gay or bisexual, in which case they are protected by the laws on sexual orientation as well as those on gender reassignment. But because different laws apply to each characteristic (sexual orientation, gender reassignment), and because there are distinct workplace issues for each group, these are treated separately in this guidance.

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In summary, TUC advice is to use the terms lesbian, gay, bisexual and transgender or LGBT, but recognise that these are each distinct groups of people whose particular needs must be catered for

One of the risks associated with using the shorthand "LGBT" is to forget that each of the component parts (L, G, B and T) has their own particular concerns and issues. In recent years, trans people have become much more vocal about ensuring that their own priorities – which are quite different in important respects from those facing LGB people – are not simply lost in the generic term. That is why, where appropriate, this text uses the form "LGBT and T". Similarly, bisexual people have had to confront a variety of challenges, including from within LGBT organisations, which need to be addressed. Advice on these points is given in section 7.

In summary, TUC advice is to use the terms lesbian, gay, bisexual and transgender or LGBT, but recognise that these are each distinct groups of people whose particular needs must be catered for. The simplest way to ensure that this happens is to provide space for each group to prepare its input into any generic LGBT structure, if resources permit, otherwise to devise a mechanism for ensuring that all the distinct voices are heard.

SECTION THREE

3 THE LAW
AND LGB AND T
PEOPLE



1 THE EQUALITY ACT 2010

Important note: *nothing in this section should be regarded as a definitive statement of the law.*

(a) Overview

The Equality Act (EqA) 2010, enacted on 1 October 2010, consolidated all previous equality legislation into a single statute. For LGB people, reliant previously on various regulations and amendments introduced piecemeal over the last dozen years, this consolidation represents recognition of formal equality with all other equality groups. For trans people, previously reliant on government responses to court judgements and coverage by sex discrimination law, the creation of a protected characteristic of "gender reassignment" alongside the other protected characteristics also represents a significant improvement in status.

In the context of continuing prejudice against LGB and T people in wider society, the Public Sector Equality Duty created by the Act represented an important potential that unions will need to exploit: current moves by the government to weaken its provisions may reduce this potential considerably.

Another negative side is that the new law continues to allow various exemptions that mean that complete legal equality has not yet been secured.

The law is accompanied by very detailed Codes of Practice produced by the Equality and Human Rights Commission, which are difficult for lay persons to use. The EHRC and the Government Equalities Office (GEO) websites however contain practical interpretation of the Equality Act in accessible language, illustrated with helpful examples.

(b) Who is protected

The definition of who is protected against discrimination by this law is the same as before for sexual orientation, but has been changed for gender reassignment. The EqA has removed the previous requirement for there to be medical supervision of gender reassignment. This brings the law into line with the wording of the Gender Recognition Act (2004), meaning that the (many) trans people who live their lives in the opposite gender without undergoing medical procedures can claim the protection of the law against discrimination on the grounds of their gender identity. The EqA states that protection applies to people "intending to undergo... a process" of gender reassignment, but the Code of Practice on employment spells out that this means "a personal process, that is, moving away from one's birth sex to the preferred gender, rather than a medical process", and does not require the medical or surgical steps that some trans people opt to go through.

The law covers employees, job applicants, self-employed, apprentices, contract workers, partners in firms and office holders. It includes UK workers who are working overseas for a UK employer, and workers on ships, hovercraft and aircraft.

The law also covers qualifications bodies, employment service providers, trade associations (including trade unions), members of local authorities, and trustees of occupational pension schemes.

In the context of continuing prejudice against LGB and T people in wider society, the Public Sector Equality Duty created by the Act represented an important potential that unions will need to exploit



(c) Prohibited discrimination

The EqA prohibits:

- ▶ direct discrimination
- ▶ indirect discrimination
- ▶ harassment
- ▶ victimisation
- ▶ failure to make a reasonable adjustment for a disabled person; and
- ▶ pregnancy and maternity discrimination

On grounds of the following "protected characteristics":

- ▶ age
- ▶ disability
- ▶ gender reassignment
- ▶ married or civil partner
- ▶ pregnancy and maternity
- ▶ race
- ▶ religion or belief
- ▶ sex
- ▶ sexual orientation.

For the first time, the prohibition of indirect discrimination now applies to gender reassignment as well.

Harassment has continued to be the main reason for LGB people to claim discrimination, and employment tribunals have regularly made substantial awards where people have faced such treatment. Fewer cases have reached the courts on unfavourable treatment of trans workers. It is important to note that the definition of what constitutes harassment is wide, and includes what employers have often attempted to defend as no more than "workplace banter". Such defences have rarely worked, and employers are also liable if they have not themselves encouraged the behaviour, but have not acted to prevent it. It is the perception of the recipient that they are being harassed that is critical.

However, the Act has deliberately excluded sexual orientation, gender reassignment and religion or belief from the grounds protected against harassment in the context of schools. The government argued that direct discrimination provisions would suffice to protect staff.

Association and perception

The law covers "association" and "perception". That is, anyone facing discrimination on the grounds of the protected characteristic of someone with whom they are associated can claim the protection of the law. Similarly, someone facing discrimination because they are perceived to have a protected characteristic is also protected: for example, a worker facing harassment because she is thought to be a lesbian, even if she is not, can claim protection against discrimination on the grounds of sexual orientation. There have been a number of successful tribunal claims under this heading.

Third party harassment

The TUC welcomed that the EqA made an employer liable for (repeated cases of) third party harassment, but unfortunately the government is in the process of repealing this section (from April 2014).

Dual discrimination

The government has also decided not to implement (although it has not been formally repealed) that part of the EqA that for the first time made it possible for someone to claim for dual discrimination – that is, where they have faced discrimination on a combination of any two of the protected characteristics.

Positive action

The EqA permits positive action in recruitment, although in very limited circumstances. Where an employer can show that there is an under-representation of people with a particular protected characteristic in their workforce, and where they have two equally well qualified candidates for a vacancy, they are permitted to select a candidate from the under-represented group. Since there is very little monitoring of either sexual orientation or gender identity in UK workplaces, and no firm evidence of the size of the respective populations, it would be very difficult for an employer to demonstrate under-representation.

(d) Enforcement

As previously, challenges to employment related discrimination need to be brought before an Employment Tribunal within three months of the act complained of.

(e) The public sector equality duty

From April 2011, all public bodies or bodies carrying out public functions are under a legal obligation to promote equality for the groups protected by the EqA (except for marriage/civil partnership). Specifically, they are obliged to have "due regard" to the need to eliminate "discrimination, harassment, victimisation" and any other conduct prohibited by the EqA, to promote "the advancement of equality of opportunity between those who share a particular characteristic and those who do not", and foster "good relations between those who share a relevant protected characteristic and those who do not". This amounts to what is termed the general equality duty.

Previous equality duties applied only to race, disability and gender. So LGB people are included for the first time, and trans people are now fully included, having been only partially covered by the previous gender duty.

The retention of the "due regard" provision in the new equality duty means that case law developed under the previous equality duties remains applicable. In particular, this requires public bodies to have consciously considered equality issues before making a decision, that evidence needs to have been collected sufficient to assess any impact properly, and where negative impacts have been identified, the public body must show that it considered how the proposal might be altered to mitigate the impacts. The process of doing this needs to have been documented. Failure to carry through this process lays the public body open to judicial review by anybody with a sufficient interest in the fulfilment of the duty. Clearly, trade unions are likely to have such an interest.

The EqA has replaced the specific duties that previously spelt out the kind of things that public bodies were expected to do in order to give effect to the general duty, with something much less detailed, designed, according to the government, to be less bureaucratic and more accountable. However, the previous requirement to engage with those affected in determining equality plans and in monitoring them (that had proved effective in implementing the disability equality duty) has been replaced by something much less specific.

The requirement on public bodies is to:

- ▶ publish the protected characteristics of their workforce (if employing over 150) – but this is not obligatory for sexual orientation or gender reassignment, since this would require monitoring of these characteristics, and the law recognises that many employers do not ask these questions
- ▶ assess the impact of their policies and practices on equality
- ▶ show the information taken into account when assessing the impact, and
- ▶ provide details of any engagement with relevant groups.

From April 2012, they have had to:

- ▶ prepare and publish "one or more" equality objectives
- ▶ explain how they will measure progress, and
- ▶ repeat the objective setting every four years.

Failures to carry out the general duty can be challenged by means of judicial review, as described above, however challenges to an alleged failure to comply with specific duties must be made by the Equality and Human Rights Commission.

The specific duties in Wales and in Scotland are more detailed, resembling the specific duties for the former race, gender and disability duties.

Unions believe that the Equality Duty offers great potential for making genuine progress in challenging prejudice, but the changes in the nature of the specific duties will place greater responsibility on organisations such as public sector trade unions to ensure that the opportunities are exploited. There is more on this in section 4.

(f) Exemption for purposes of an organised religion

The new law reproduces the wording of the regulations that allowed discrimination in employment where the job is for the purposes of an organised religion. Following the trade union challenge to this wording of the 2004 regulations, on the grounds that it was not compliant with the European directive it was meant to transpose (*R (on the application of Amicus- MSF section) v. Secretary of State for Trade and Industry*), the interpretation of the law has been that the exemption had to be defined very narrowly, as covering only ministers of religion and a small number of other posts whose main function is to promote the religion. This narrow interpretation has been generally upheld by courts since that time.

It is important to understand, therefore, that the law does not permit organisations established "for the purpose of organised religion" or "with a religious ethos" to discriminate against employees or prospective employees on the grounds of sexual orientation or gender reassignment except in the narrow circumstances described.

Nor does the law allow for one set of rights not to be discriminated against to trump another: this has been the ruling in a number of high profile cases where individuals have argued that they have the right, because of their religious belief that homosexuality is sinful, not to provide (for example) a service to LGB people. This argument failed in the UK courts in the case of *Ladele and the London Borough of Islington* and again in the case of *McFarlane and Relate Avon Ltd*. These rulings have confirmed that religious belief is not a justification for discrimination on grounds of sexual orientation. In January 2013, the European Court of Human Rights upheld these rulings and this should prevent any further challenge to the interpretation of the law from now on.

(g) Exemption for occupational requirements

The EqA allows an employer to discriminate if it can show that a provision, criterion or practice is "a proportionate means of achieving a legitimate aim." However, as a result of the wording of the new law, the previous protection offered to anyone holding a Gender Recognition Certificate against discrimination on grounds of their having changed sex has disappeared, making it possible for a trans person to face discrimination because of their previous gender on the grounds of an "occupational requirement". Whether or not this backward step was an error or deliberate will have to be tested out in the courts interpreting the intention of parliament and the test of "proportionate means of achieving a legitimate aim".

Otherwise, the EqA continues to permit exemptions where it can be argued that being LGB is an occupational requirement, as it might be, for example, for someone working with lesbian, gay or bisexual young people or a LGB support group.

Unions believe that the Equality Duty offers great potential for making genuine progress in challenging prejudice

2 GENDER RECOGNITION ACT 2004

The GRA enabled trans people to acquire full legal equality in their acquired gender. Anyone obtaining a Gender Recognition Certificate is entitled to have documentation changed to reflect their acquired gender (for example, birth certificates). The GRC is granted by a Gender Recognition Panel, and can be applied for by anyone who has lived in their new gender for two years and intends to do so permanently, and can produce medical evidence to support this. The Marriage (same sex couples) Act ends the requirement for anyone currently married to divorce their current marriage partner before obtaining a full GRC.

The GRA brought new privacy rights. It is important to understand that anyone – including a trade union representative – who acquires information about someone's trans status is liable to criminal proceedings if they pass that information to a third party without the permission of the individual. That would include, for example, an employer or other union officials.

Someone intending to undergo a medical transition to their new gender will require sometimes substantial time off work in order to undergo the treatment. Someone in this position has the right to be treated in the same way as anyone absent from work for reasons of sickness or injury. Unions should view this as a starting point for negotiating sufficient time for the process – this is covered further in section 5.

3 CIVIL PARTNERSHIP AND CIVIL MARRIAGE

The Civil Partnership Act 2005 created rights equivalent to marriage for same sex couples who register their relationship as a civil partnership. The law enables civil partners to claim the same tax arrangements as apply to married couples, the same access to next-of-kin rights, and no liability for inheritance tax.

The Marriage (same sex couples) Act 2013 extends civil marriage to same sex couples with equivalent rights and responsibilities to opposite sex married couples, with the exception of some pension arrangements (see below). Civil partnerships will remain unchanged, and available only to same sex couples and those already in civil partnerships will be able to change over to a civil marriage if they wish. However, a review of civil partnership was promised by ministers during the debate on the equal marriage legislation.

4 OCCUPATIONAL PENSIONS

Following vigorous trade union campaigning, the Civil Partnership Act was also amended to ensure equality in pension survivor benefits where there is a contracted-out occupational pension scheme in place. The law provides for service to be backdated to 1988, the equivalent date as for widowers' pensions.

It also extends to all those in contracted-out private pension schemes.

In non-contracted out pension schemes, there is no obligation to backdate benefits dependent on marital status beyond 5 December 2005 (when civil partnerships came into force).





The absence of full equality in pension survivor benefits elsewhere was challenged in the Maruko case (European Court of Justice, 2008) in Europe but until recently no one had attempted to use this authority to challenge unequal pension provision in the UK. In January 2013, however, an Employment Tribunal found that denial of equal pension provision was direct and indirect discrimination (Walker v. Innospec Ltd, ET/2411316/11). The case has been appealed (2013), but the government has promised a review of this issue.

It is important to remember that heterosexual unmarried couples, and same sex couples who choose not to register, are excluded.

5 EQUALITY AND HUMAN RIGHTS COMMISSION (EHRC)

LGB and T people are within the remit of the EHRC. The Commission now has a role reduced to enforcing equality (and human rights) law, and in advising and supporting individuals, following significant changes imposed by the government. Resource constraints mean that its support for individual cases is strictly limited to those it judges to have a larger strategic impact, and it has already intervened in several sexual orientation cases to help ensure the right outcome. Unions will generally be expected to represent LGB and T members themselves, and the EHRC helpline has now been replaced (see section 8 for details). The website (www.equalityhumanrights.com) contains much useful advice and guidance, and access to the Codes of Practice for the Equality Act as well as guidance on implementation of the law.

SECTION FOUR

4 WORKPLACE ISSUES AND GOOD PRACTICE



The previous section spelt out the way in which equality for lesbian, gay, bisexual and trans people has become established in law, with a few exemptions. This transformation in legal status is of great importance both in itself, and because of the basis it provides for changing peoples' real lives. For trade union reps and officers, awareness of the law is vital, not so much because it offers recourse to justice if all else fails, but because it can be deployed as a lever in negotiations with management.

This section will consider some common workplace issues for LGBT people - and some of them will be different for trans people, covered in section 5 - and recommend good practice solutions.

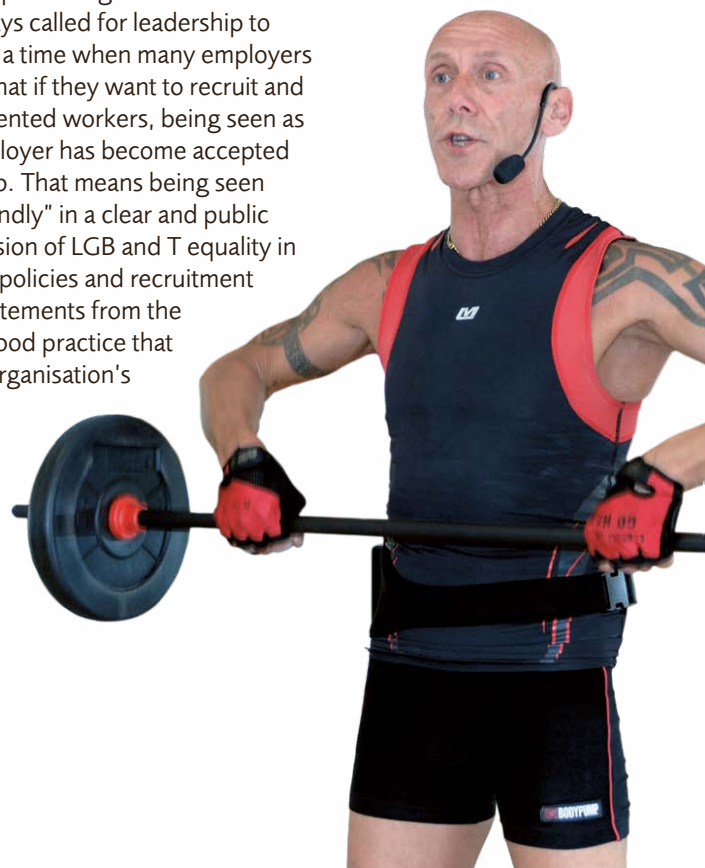
Policies and training

There can be a difference between having a policy and implementing it, and this is just as true for equal opportunities policies. The necessary first step is to persuade the employer to adopt a policy. Unless a reference to lesbian, gay, bisexual and trans equality is spelt out on the face of the policy, it is unlikely that any specific action will be taken. The Equality Act creates every incentive for an employer to grasp the need to confirm their commitment to equality in detail, if they are to avoid the risk of unlawful discrimination. For the public sector there is even more reason to be specific, because implementing the equality duty in the way the law intends requires awareness of the issues affecting LGBT communities.

A growing number of employers have been persuaded to include LGB and T in their organisation's policy. This is particularly so in the public sector. Although some employers have taken this step on their own initiative, or in response to the initiative of a staff LGB and T group or an "out" senior person, unions have continued to play the major role.

The TUC's audit of union equality policies and actions has shown that the number of unions producing their own guidance and policies on LGB and T issues – the proportion of unions having such policies stood at 44 per cent in the 2012 audit, representing a large majority of trade union members. In the same audit, unions were asked separately about policies on trans workers for the first time, and (again) 44 per cent responded positively. Clearly, there is still some way to go before complete inclusion of LGB and trans issues is achieved in trade unions, but the progress has been substantial.

Unless senior managers in an organisation are aware of equalities issues, it will be hard for the organisation as a whole to respond positively to the equalities agenda. The TUC has therefore always called for leadership to start at the top. At a time when many employers have recognised that if they want to recruit and retain the most talented workers, being seen as a progressive employer has become accepted as a necessary step. That means being seen as "LGB and T-friendly" in a clear and public way: explicit inclusion of LGB and T equality in the organisation's policies and recruitment materials, clear statements from the top – and actual good practice that will enhance the organisation's reputation.



To negotiate effective policies for and representation of LGB and T members on issues arising from their sexuality or gender identity requires that representatives are trained. The ideal will be for reps and officials to take part in dedicated training on lesbian, gay, bisexual and trans issues in the workplace, including on the legal background, and focussing on common workplace issues such as those highlighted in this publication. Some unions offer their own training courses on equality issues, others make use of those provided by TUC Education. Since 2007, TUC Education has offered training based on the publication *Out at Work*. This provides a thorough grounding in all relevant issues.

The TUC recommends that equality is a core element of basic training for representatives and officials. The consolidation brought about in the Equality Act 2010 makes it possible to approach the different strands of equality within a common context. However, it would be easy to lose sight of the specifics of each strand within the overall approach, therefore it is recommended that space is allowed for presentation and discussion of the issues with which unions need to be familiar, with signposting to the union's own specific guidance, and this publication, for more detailed information.

Workplace benefits

The law requires that packages of benefits offered to their workers by employers must not discriminate on grounds of any of the protected characteristics. Many employers had already extended the offer of benefits to the spouses of married workers to those in civil partnerships before the Equality Act. Such things as travel concessions, health care packages, free or subsidised membership of particular facilities (etc) must be offered without discrimination to civil partners, where they are offered to spouses. Where, in addition, they are offered to unmarried heterosexual workers' partners, they need to be offered to same sex partners not registered as civil partners. In workplaces where they are limited to spouses and civil partners unions will want to ensure that in the name of fairness the same benefits are extended to unmarried heterosexual and same sex partners too.



THE STONEWALL WORKPLACE EQUALITY INDEX

The LGB charity Stonewall has run the Workplace Equality Index since 2006, measuring employers against a range of markers covering equality policy, staff engagement, bullying and harassment policy, senior role models, delivery of policy, development and training, monitoring, community development and supplier diversity. As a result of a discussion with the TUC, the Index from 2011 onwards incorporates references to involvement of trade unions. The announcement of the top places in the Index regularly attracts considerable media interest. A majority of the top 100 in 2012 were public sector organisations, therefore the potential for trade union participation is high.

The TUC has issued guidance to unions on how to approach the Index (available from the TUC website), and encourages negotiators to get involved from the outset.

The Index does not cover trans people, however, but there is nothing to prevent unions ensuring that employer policies developed to promote sexual orientation equality should not provide the opportunity to simultaneously develop policies for trans workers.

Parental leave

Entitlements to leave and pay following the birth or adoption of a child are typically available to partners in a same sex relationship. For more information, see the TUC Guide to Equality Law, part 2 (published 2011).



Pension schemes

As outlined in section 3, there is a legal requirement to include registered same sex civil and married partner survivors in occupational pension schemes. UK law, however, continues to discriminate by limiting the backdating of this benefit to 1988. Meanwhile, other schemes (especially in the public sector) have agreed to more generous terms for same sex partners.

The Local Government Pension Scheme (LGPS) provides equal survivor benefits to both spouses and civil partners, as well as survivor pensions for "nominated co-habiting partners". Only benefits accrued since 6 April 1988 count, although members can pay additional contributions themselves to extend the period.

Several employers in the private sector have already modified their pension schemes to ensure that there is no discrimination on the basis of sexual orientation or marital status. These schemes set a benchmark of good practice that unions should seek to persuade their employer's pension scheme to follow.

Schemes which allow equal benefits that are not reliant on a discretionary power of the trustees are clearly preferable, even if this power has previously been exercised in a progressive way.

Provision for time off

Many employers already have policies in place allowing their workers to take time off in a wide range of specific circumstances arising from non work-related events— bereavement, domestic emergencies, illness of children or dependents (etc). By law, such facilities have to be extended to civil partners where they exist for spouses, but likewise in a position where they are offered to unmarried heterosexuals, they must also be offered to lesbian, gay or bisexual workers in analogous situations.

Bullying and harassment

The most common complaint raised by LGB and T workers has been of bullying and harassment in the workplace. The defence that the behaviour only amounted to ordinary "workplace banter" has long been found unsustainable by employment tribunals, and the clear message of the law has been that employers allowing this to continue will be liable for the misbehaviour of their employees. Substantial damages have been awarded where a case has been proven.

CASE STUDY 1

In the case of *Mitchell v. The Vincent Group*, the claimant had been dismissed after being off sick with depression, following homophobic comments by his manager (who was also his father) who had reduced his hours after he had "come out". The Tribunal awarded damages of £28,890 including £10,000 for injury to feelings (2007).

A second example shows the response of the courts to a failure to treat a complaint of sexual orientation harassment in a non-discriminatory fashion.

CASE STUDY 2

In the case of *Rondeau v. G4S*, the claimant won a case for harassment and for discriminatory treatment, after he had faced offensive comments from a female colleague, then been suspended when she falsely accused him of inappropriate behaviour, although she had not been suspended when the allegations were found untrue, and he had himself complained of her behaviour. The Tribunal awarded £62,525 compensation (2009).

The case of *English v. Thomas Sanderson Ltd* ended with the judgement (Court of Appeal 2008) that protection against discrimination on grounds of sexual orientation applied whether the victim of the treatment was homosexual or not, as the unlawful behaviour had been "on the grounds of...". The Equality Act confirms that this is the correct interpretation to follow.

There have been few reported cases involving gender reassignment. However, there is no suggestion that tribunals have been less willing to punish errant employers where the case is proven (see case study 3, right).

The *Marland v. P&O Ferries* case was taken as a claim for sex discrimination, but would now fall under the Equality Act gender reassignment protected characteristic.

Nonetheless, union representatives need to be aware that despite these examples, the great majority of tribunal awards are low. Studies by Acas and by the TUC have also confirmed that many cases are settled in advance of a hearing, and that, compared with other discrimination cases, fewer cases get to tribunal. In the absence of qualitative studies to explain this, it is possible to infer that the reason is that many LGB and T workers are not willing to "out" themselves by complaining, or to risk publicity in their local area by taking a case to tribunal.

It is therefore essential that workplace representatives are trained to understand that many LGB and T workers and members may not feel confident about outing themselves at work, or to their representative, and that this situation will certainly not improve if negative comments and "banter" are prevalent within the workplace.

CASE STUDY 3

In *Marland v. P&O Ferries*, a trans crew member claimed to have been driven out of her job by the behaviour of fellow crew members. The Employment Tribunal found that the employer had failed in its duty to protect her from "an atmosphere of intimidation and hostility caused by the fact that she was undergoing gender reassignment", and that managers had failed to provide guidelines. The compensation awarded amounted to £65,000 (2006).

RECOMMENDATION

In any large workplace, if no one is out as LGB or T, the probability is not that there are no LGB and T workers there, but that the workplace culture is hostile. Therefore, unions need to focus on including LGB and T issues in negotiations with management, and to dispute the argument "we don't have any of those people here".

Domestic abuse

Domestic abuse is also a workplace issue. Domestic abuse is now defined (by the Home Office) as "any incident or pattern of incidents of controlling, coercive or threatening behaviour, violence or abuse between those aged over 16 who are or have been intimate partners or family members regardless of gender or sexuality". Research by Stonewall (in 2008) suggested that one in four lesbian and bisexual women (four in ten when disabled), and half of all gay or bisexual men (two thirds if also disabled) had suffered domestic abuse from a family member or partner, significantly more than for non-LGB people. Nearly 80 per cent had never reported incidents to the police and half of the few who had were unhappy with the response. A major national survey of LGB and Trans survivors was being carried out during 2013 by the LGBT Domestic Abuse Forum (see www.lgbtdaf.org).

The consequences for the individual at the receiving end of DA can include many related to work. They may include periods of absence or sickness, with particular impact on mental health. In many cases, individuals will feel extremely isolated and in need of support. However, they will be very reluctant to discuss DA with colleagues or representatives, and such reluctance will be all the greater for those in a same-sex relationship if the workplace is not LGB and T-friendly.

Union representatives must not attempt the skilled work of counselling those facing DA. However, unions can assist by:

- ▶ Providing information on support services and helplines (for example, on notice boards) (see section 8).

Unions can also negotiate with employers to ensure that if a case of DA is brought to their attention, certain key principles are followed:

- ▶ A right of absolute confidentiality.
- ▶ And that all necessary steps will be taken, if required, to protect the person facing DA from further danger if this might happen through the workplace itself. Such steps may be called for if the perpetrator works in the same place, or if they don't, but try to locate the new contact details for the person suffering the DA through contacting the workplace.

Postings abroad

The growing phenomenon of employers posting workers abroad raises big questions where LGB and T workers may be sent to work in countries where being LGB or T is still illegal (as in 78 countries (2013)), with sometimes very severe punishments, or where even if legal equality has been established, the culture remains violently hostile. There may well be different attitudes to trans people and it is vital that employers do not assume that the situation is the same for trans as it is for LGB workers.

The growing phenomenon of employers posting workers abroad raises big questions where LGB and T workers may be sent to work in countries where being LGB or T is still illegal

Employers have responsibility for the health and safety of their employees (Health and Safety at Work Act 1974, although this does not apply abroad) and a general duty of care; they therefore have an obligation to make a risk assessment.

There is advice available to employers and unions are urged to make themselves aware of good practice arrangements put in place by progressive employers (see section 8, resources). The impact on individual LGB and T workers working in hostile environments (and often having to go back "into the closet") may be significant. A TUC seminar (February 2013) identified some key points of good practice that union representatives must take into account:

- ▶ Always check the situation in the country, but beware that social attitudes may not be the same as the legal position; use the Foreign and Commonwealth Office country reports and the ILGA map (see resources, section 8) for information and where possible, take advice from local LGBT organisations;
- ▶ Argue for proper training for all managers involved in postings; confirm with the employer what measures they are taking to ensure the safety of their LGB or T employee while abroad;
- ▶ Staff networks for international corporations may be helpful but also may not be able to discuss with employers; if part of an international network, ensure people are not accidentally outed when abroad (always use bcc for messages, for example);
- ▶ If the worker declines the posting on safety grounds, negotiate to ensure that their career prospects are not harmed;
- ▶ There are examples of good practice that can be borrowed: for example, BT and Barclays (2013).



The public sector equality duty

Potential use by unions

It is too soon to know whether the PSED has been employed with good effect for LGB and T people. However, the inclusion of sexual orientation in the public sector equality duty established by the EqA 2010, and the establishment of a distinct "gender reassignment" characteristic in the same legislation, creates a big potential for trade unions to promote equality for LGBT workers and communities, and to extend this to employers who are working on public contracts.

The law requires public sector bodies to have "due regard" to the need to eliminate discrimination and harassment, to advance equality of opportunity, and to "foster good relations" between those sharing a particular characteristic and those who do not (see section 3, above, on the Equality Act).

In order to carry out these duties in respect of the sexual orientation and gender reassignment characteristics, a public sector employer needs to have put in place policies that are sufficient to meet the requirements of the duty. Where the employer only has a generic equal opportunities statement, for example, it should be possible to have them expand this to include specific commitments to each protected group. Then, in order to make the policy effective, it will be necessary to ensure that there is a training programme for those with management responsibilities.

Consulting

Although the weakening of the requirements of the PSED to consult and to measure has reduced its potential to bring about changes, employers are still required to publish who they have consulted. How should they reach out to LGB and T workers or communities for this purpose? Unions with existing LGB and T structures are recommended to discuss these questions in their structures.

In education

It has been particularly hard to make progress in education despite the PSED which applies to schools and colleges. Current government policy (2013) permits the expression of prejudiced views about same sex relationships in schools based on a religion or belief, although the institution is bound not to permit homophobic or transphobic harassment. The unworkability of this distinction in practise has not been understood.

Monitoring

Sexual orientation and gender reassignment are two areas where the Equality Act specifies that it is not necessary for the employer to carry out monitoring, and although it is not prohibited, it may be difficult to convince the employer to attempt this. More information about recommended monitoring processes is given in section 6.



RECOMMENDATION

The Public Sector Equality Duty (PSED) has the potential to greatly improve the working lives of LGB and T people, but only if it is used effectively. Unions may need to use the duty as a lever for negotiating changes. In particular, it will be important to use existing trade union LGB and T structures as a means to identify what issues to prioritise.

Without monitoring, it will be impossible for the employer to know whether there are problems facing LGB and T workers. If the employer cannot be convinced to monitor workers' sexual orientation, then it may be worth advocating other kinds of evidence gathering, such as confidential surveys to establish whether there are problems such as bullying and harassment, including grounds of sexual orientation among other possible grounds.

Older LGBT people

As LGB or T people approach the end of their working lives, they may face different problems that are distinct from those faced by other workers. Unions should point people towards the specific advice provided by Age UK nationally (available via their website at www.ageuk.org.uk)

Training is available from specialists at Age UK (as at April 2013) and can be tailored to the requirements of any particular group and unions may wish to avail themselves of the opportunity in order to raise the skills level of officers or representatives.

SECTION FIVE

5 **TRANS**
WORKPLACE
ISSUES



Many of the issues discussed in section 4 apply to both LGB and Trans workers but there are important issues applying only to trans people.

Background: changing gender – the process

The process of changing gender is slow and arduous, with significant consequences beyond the purely medical for the individual undergoing it. These facts may have significant consequences in the workplace, for which union representatives will need to be prepared. Here is an outline of the stages that most transsexual people will have to go through before achieving their desired gender. However, the timings of the various stages vary significantly between individuals, and each situation will be unique.

Those undergoing treatment through the NHS will begin by receiving specialist medical advice and diagnosis. They will be expected to commit to the "real life test" (see below) before hormones are prescribed. Those being treated privately may be prescribed hormones before committing full time to the real life test. At whatever point they begin the real life test, this is the most likely time when they will have to deal with issues around their gender role at work.

The next stage is that the individual begins to live as a member of the new gender, and may have records changed to reflect this (such as driving licence and passport). The period during which the person is living and working in their new gender is called the "real life test". One year is the minimum period for the real life test recommended under the international standards of care, however NHS patients are likely to be expected to have a minimum of two years and often more.

Finally, for the individual intending, and able, to undergo surgery, after one or two years of hormone therapy, the person undergoes corrective surgery to complete, physically, the transition from the previous to the opposite gender. The timing of this varies according to local funding and waiting lists.

The process can be very stressful requiring support and sympathetic handling from all concerned, and there is an obvious need to adopt the right approach in the workplace where the transition can have significant impact both upon the individual and upon colleagues.

Workplace issues

Underlying principles

In any situation where a trans member approaches the union for support, one principle needs to underlie the approach adopted by union representatives. At every point in the process, the steps to be taken must be agreed with the member, and the maximum confidentiality must be observed for as long as the member wishes that to be the approach. Each individual situation will be different, but requires the same respect for the wishes of the member if their transition to a new gender is to be brought about successfully in a workplace. Developing a plan with the individual covering some of the issues listed here will be a good approach, and must necessarily include taking these to management (while preserving confidentiality) to secure agreement with the proposed steps.

Some of the issues likely to arise at the point of transition are:

Remaining in post or redeployment?

In larger workplaces, the member may wish to transfer to another position at the point at which they adopt their new gender, and it is important to discuss how to manage this with management in order to achieve the best outcome. Early contact with an appropriate manager, or Human Resources departments, will be necessary, and this may involve identifying a specific individual with whom to plan the transition process, in order to limit the number of people who know (should the individual want this approach).

Support during the transition: information and training of others

Whether or not the individual remains in the same post, a plan for support during the transition and after will need to address such questions as what information and training will need to be provided for managers and colleagues. It will often happen that the person undergoing transition will wish to take leave before returning to work in their new gender. This will provide the opportunity to brief managers and colleagues and to ensure that management stress the need for proper treatment of the worker.

Time off for treatment

The plan will necessarily include how to deal with the time off needed for medical treatment. There is no standard length of time for such treatment, which varies with the individual, but might be some months. Trans people will need to take time to attend a Gender Identity clinic at intervals up to and beyond surgery, and also sometimes for other aspects of transition such as hair removal and speech therapy. It is important that as a minimum the same policy is applied as for sickness absence, and if it is possible to obtain special leave for this period, that would make the stress of that time easier to manage.

The changeover: records

The plan will need to identify the point at which the individual's new gender is formally established in terms of the employer's personnel records, and any consequent alterations (for example, security passes, the individual's choice of name for directories etc). The right of the individual to maintain the confidentiality of their previous identity needs to be secured as part of this stage. Many employers keep individual records for long periods and it needs to be organised such that access to past records that reveal the individual's previous gender identity is strictly controlled and limited on a "need to know" basis.

Continues overleaf



The changeover: other workplace issues

It would be good practice for an employer with a dress code to allow flexibility during transition, and to respect the individual's wishes as to when he or she was comfortable to change into the form of dress appropriate for their new gender.

Agreement needs to be reached on use of toilets and changing facilities. Here, it will be appropriate to agree with managers that the individual starts to use the facilities for their new gender at the point where they begin to live in that gender. Other approaches, such as requiring the trans person to use the toilets for disabled workers, will not be appropriate unless, of course, the individual is disabled. Clearly, at this particular point, it will be necessary to explain the situation to work colleagues as well.

Harassment

If the employer does not already include gender identity among the grounds covered by a policy against harassment, it will be important at an early stage to ensure that this is negotiated. Trans people may be particularly vulnerable to abusive and harassing behaviour and it must be made clear to all that this will not be tolerated.

Pensions

Union representatives may need to negotiate to obtain the best outcome for someone who has changed their gender and remains part of an employer's pension scheme. At a minimum, the individual should be treated as a member of their acquired gender from the date of transition. It may be appropriate to seek the advice of the union's pension experts to ensure that the most beneficial outcome is negotiated.

Disclosure, references (etc)

As part of the overall approach of respecting the right of the individual trans worker to decide what they wish to be disclosed about their present or previous identities, unions need to negotiate with managers to ensure that no such disclosure is made without the express permission of the individual. This applies in particular to the provision of references if the individual decides to leave for another employment.

There will be further issues that arise subsequent to the transition and/or the obtaining of a GR certificate.

Record retention

Long-standing employment records may well reveal the trans person's previous gender identity, and where records are retained over a long period issues arise over who should have access to these records and what should be done in the event that someone's previous gender identity is revealed without the person's permission.

It is strongly recommended that union representatives negotiating on behalf of a trans member and who feel they need more expert advice consult the websites from trans organisations listed in the final part of this Guide.

SECTION SIX

6 MONITORING: WHY AND HOW



Should we monitor?

Since discrimination in employment was outlawed, a growing number of employers have started to monitor the sexual orientation of their staff. Advice given by organisations such as Stonewall has been strongly in favour. After discrimination became illegal, the TUC's is that it should be done, but only after a number of important questions had been answered in the affirmative – in particular, whether the employer had an equality plan in place, whether staff had been briefed in advance and knew what use the employer would make of the information, and whether the survey would guarantee confidentiality.

The Equality and Human Rights Commission came out in support of monitoring to collect data on sexual orientation in 2009 (*Beyond Tolerance: making sexual orientation a public matter*, 13-16), and offered good arguments that can be cited to convince employers of the importance of doing this.

The public sector equality duty in the Equality Act 2010 does not require employers to monitor sexual orientation.

The question of whether to monitor gender identity (gender reassignment) is much more difficult, for reasons explained below.

What is the purpose of monitoring?

A key first question is: what will we do with the information when it is collected? Surveys of gender and race can be compared with national statistics to identify if there is under-representation. This cannot be done for LGB or T people, since there are no reliable statistics on the size of the population – the first ever question on sexual orientation was asked in the 2010 general household survey, and the result demonstrated how many people were still unwilling to identify themselves as LGB. There was no question in the 2011 census, so there will continue to be no data against which an employer can measure the number of LGB staff they have. There has never been a question on gender identity.

Nonetheless, if a staff monitoring survey produces figures showing a very small number (say one per cent or fewer) of people identifying as LGB, it is a fair conclusion that there really are LGB people in the workforce, but they are not willing to risk disclosure even in a confidential survey. Such findings should alert the union to the need to propose further action by the employer.



So the main use of the evidence would be to identify if LGB people are facing discrimination such as harassment or bullying. In order to provide more usable information, it might be best if the survey was presented as a broader attitude survey, in which people were invited to respond to questions about their experience at work as well as which groups they identify with. Such surveys can, by correlating the answers, reveal where urgent remedial action is needed by the employer.

Even where an organisation has a good equality policy and practice, and this is conveyed to staff, response rates can still be low. The reasons are that some people are still scared to risk outing themselves, and that many people regard their sexuality as a purely private matter, no business of the employer. Other people refuse to "label" themselves, while some refuse to accept the wording, preferring to call themselves something else (e.g. "queer"). The likelihood that a significant number of individuals will adopt this approach should be taken into account when considering the numbers at the end of the process.

Unions may need to be ready to argue that these considerations are not sufficient reason not to carry out a monitoring exercise, if only because experience shows that response rates tend to rise when surveys are repeated – as they must be at intervals if they are to measure progress.

Confidentiality

It will almost always be essential to guarantee to respondents that they cannot be individually identified in the survey. This may require careful thinking about the design, so as not to be able to associate people on certain grades or departments with responses to other questions in the survey – there may not be many (e.g.) black lesbian staff on grade x in a department, as people completing the form will well know, and be less likely to respond if they do not wish to be open.

Monitoring at recruitment should be done with a separate, detachable, monitoring form kept separate from individual application forms.

What to ask

Employers will generally ask questions about sexual orientation based on legal definitions. As the law defines sexual orientation as "gay, lesbian, bisexual or heterosexual" these are the terms most employers will opt for. It may however be better to use the "sexuality" rather than "sexual orientation" as the title of the section of a survey, because the latter, although the legal term, sometimes causes confusion.

The TUC recommends that there is a second question alongside the question about sexuality/sexual orientation. This should be "Are you out at work?" Comparing the answers to this question to those to the first question immediately may help identify if there are problems to resolve. While it may be that some people (see above) do not believe it should be a public matter, a large discrepancy between the two figures would warrant further investigation.

Monitoring gender identity

Whether to monitor "gender identity", in other words to ask whether any staff identify as transgender, is more difficult.

The civil service trans group, a:gender, argues that doing a headcount of trans people in a workplace is the wrong approach. The main reasons are:

- ▶ A trans person who has undergone (in whatever form they choose) gender reassignment will want to be identified simply in their acquired gender.
- ▶ Trans people undergoing reassignment are very likely to prefer anonymity, and their legal right to privacy may be threatened.

Some other trans organisations have a similar approach, while the leading campaign organisation Press for Change (www.pfc.org.uk) has a nuanced view, recommending monitoring only when strict preconditions were complied with (of the kind identified at the start of this section), never to be used with recruitment, and never to be used if there is any risk of individuals being identified.

Given the small size of the trans population overall, there is a risk that trans workers might refuse to respond to monitoring, thereby producing a zero return and giving the employer an excuse to do nothing.

These reasons should not however be used to permit the employer to ignore the value of identifying the views of trans employees. a:gender itself organises the "Trans equality Index" across the civil service, a questionnaire that serves the purpose of measuring progress towards trans equality.

As with sexual orientation, one of the key issues for trans workers is bullying and harassment, and there is no disagreement that this might be included in a list of grounds identifying (anonymously) the basis on which such behaviour has occurred.

Organisations of trans people can be consulted as representatives or spokespeople for the rest of the community, and trans members of union LGB and T structures can be asked as well for their views on how best to proceed.

In the event of disagreement, the union should give due weight to the views of its own trans members.

SECTION SEVEN

7 CHALLENGING PREJUDICE PROMOTING EQUALITY



Identifying the problem: coming out

This guidance has explained how unions should use LGB and T rights to negotiate effective policies and practices in a workplace. Throughout, it has been stressed that, in most cases, the main problem faced by LGB and T workers is prejudice. Employers, managers and fellow workers are all equally capable of exhibiting prejudiced attitudes, and these do not even have to take on particularly outspoken or flagrant forms in order to make a workplace extremely uncomfortable for anyone who is LGB or T, or who thinks they might be – recognition of one's sexuality can take place at any time in one's life. The biggest decision many will take is that to "come out" as LGB or T. With the improved social position and effect of growing and more visible LGB and T communities, increasing numbers of people are "out" and will announce their orientation or gender identity without hesitation. Being "out" makes it possible to challenge prejudiced assumptions, to tackle head-on any offensive behaviour, and to be willing to use an organisation's policies to progress any grievances (etc.).

However, "coming out" for many people remains a challenge, and for many people, who can easily "pass as straight", it can be a painful and difficult decision, based on previous bad experiences, or fearing a hostile response from friends and colleagues. It is also a repeated experience, every time one changes job or address, to come out again to a new group of people. The evidence of the 2010 General Household Survey, of many monitoring exercises and common experience all suggest that many LGB people are not out in their workplace. That is why it is so important that it can be seen that a workplace is LGB and T-friendly. The union's role is to help promote a LGB and T-friendly environment through the policies and practices suggested here.

Diversity within difference

Stereotypes of LGB and T people are often presented in the media. As a result, people still say such things as "she doesn't look like a lesbian to me." The assumptions behind such comments make it very difficult for anyone who is LGB or T and not yet "out" either to come out themselves, or to challenge the maker of the remark.

The reality is entirely different. LGB and T people are of all ages, shapes and sizes. They are of all races, ethnic origin, religions (or none), and as likely as anyone to have mental or physical impairments. Many (especially those who are older) will be married, with families. The only thing they will have in common with another LGB and T person is their sexuality or gender identity.

Therefore it is important for union representatives to challenge such misconceptions when they are heard. A firm stand against prejudice is the best way to tackle it, and will also have the important side effect of giving confidence to any LGB or T members who are not yet "out" that the union will stand up for them if necessary.

Recognising the differences between L, G, B and T

This guide has already explained that trans people are distinct from LGB people and have different issues. The Equality Act deals with the distinct issues as well as those that all protected groups have in common (see section 3). But there are also important distinctions between lesbian, gay and bisexual people, which are not reflected in the blanket legal category of "sexual orientation", and which are all too often overlooked. Union reps need to understand that these differences are real.



The most common problem is where "LGB" gets treated as if it is actually only the "G". For many reasons, gay men can be the most visible (and audible) presence, and there is a risk of making invisible or drowning out the concerns of lesbians and bisexuals. For lesbians, the same issues will arise as do for all women in environments and organisations that are male-dominated. Unions must recognise and tackle anything that gives undue prominence to one section of those covered by "LGB".

This is no less true for bisexual people. The widespread problems faced by bisexual workers, as bisexuals, was uncovered in surveys by both the TUC and Stonewall in 2010. Particularly shocking was the finding that bisexual people faced prejudice, ignorance and harassment from lesbian and gay colleagues, as well as misunderstanding from work colleagues in general. The chief problem inside unions was invisibility of people as bisexual and assumptions about their sexuality.

The solution is to allow space for each of the component parts of LGB and T to have its voice, so that particular issues for one group are not lost.

For the union, appreciating the diversity of the LGB and T communities means that LGB and T issues should not be compartmentalised to the point of overlooking the overlap with other equality issues. LGB and T equality policies should be specific, where they need to be. But they should also be mainstreamed, insofar as all the organisation's policies may have an impact on LGB and T people. There may be for example specific lesbian angles to policies affecting women workers, and these should not be forgotten during a consultation between the union and women members generally.

Support and training

Many trade unions now have networks or other structures in place for their LGB and T members. Some of these have regional or local structures as well as national groups. Sometimes, groups such as these are essential supports for someone who is not "out", but who has started to think about changing this. They may well not feel confident talking to someone else in their workplace, or their representative, for fear of disclosure before they are ready. Becoming aware of fellow union members who are LGB and T can be a critical step in giving them the confidence to be open about themselves. But confidentiality in establishing contact may be what determines whether someone takes the step of making the initial contact.

Therefore where unions have LGB and T networks, contact details need to be displayed where members can see them without necessarily revealing their interest; and if approached by a member asking for such details, representatives should be able to provide the information as well as confirming the confidentiality of the enquiry, if that is requested.

In some large-scale employers, there are network groups for LGB and T (as well as for example black, women, or disabled) workers. Information about these will need to be promoted by the employer through the usual mechanisms, and unions should encourage members to become involved. These groups may provide the route whereby the employer is persuaded to organise briefings or training on LGB and T issues across the organisation, as well as providing the kind of practical support that individuals may require.

Whether or not any LGB and T network within an organisation is making the recommendation, unions should also press on the employer the benefit to all of organising training for managers and staff – not just in personnel/HR, but also line managers everywhere, as that is where the problems faced by most LGB and T workers will be dealt with, and, indeed, may originate.

SECTION EIGHT

8 **RESOURCES:**
HELP AND
ADVICE



Important note: the information in this section is correct at the time of publication, August 2013.

Employment and legal rights

TUC

The TUC has published guidance and advice for unions on all areas of equality. This guidance, and other documents, can be downloaded from the equality section of the TUC website:

www.tuc.org.uk

For problems at work visit:

www.worksmart.org.uk

Acas

Acas, the advisory, arbitration and conciliation service, has a helpline 08457 474747 (text phone users 0845 061600) and publishes a guide for employers and employees at www.acas.org.uk

Equality and Human Rights Commission (EHRC)

There is detailed guidance and advice on all aspects of the Equality Act and other equality issues available from the Equality and Human Rights Commission website:

www.equalityhumanrights.com

Equality Advisory and Support Service (EASS)

The Commission helpline has been replaced by the Equality Advisory and Support Service (EASS). This service does not offer legal advice but can advise on discrimination, informal solutions and refer callers to legal services.

Tel: 0808 800 0082 Text phone: 0808 800 0084 (available 09:00–20:00 Mon to Fri and 10:00–14:00 Sat)

www.equalityadvisoryservice.com

Government Equalities Office (GEO)

There is advice on the law on the website of the Government Equalities Office (GEO):

www.equalities.gov.uk

Trans rights

Gender Trust

Additional information on trans people's rights can be obtained from the Gender Trust www.gendertrust.org.uk with a helpline on 0845 231 0505.

Press for Change

The campaign group Press for Change has a helpline on 08448 708 165 (Monday to Wednesday 10:00–16:30, Thursday 09:30–17:00 and a website at www.pfa.org.uk

Gender Identity, Research and Education Society (GIRES)

The Gender Identity, Research and Education Society (GIRES) carries out research to support trans people's rights, its website is:

www.gires.org.uk

Domestic abuse

Advice and support is provided by the following:

LGBT Domestic Abuse Forum

Tel: 0207 354 6316

www.lgbtdaf.org

Broken Rainbow

Helpline: 0300 999 5428

www.broken-rainbow.org.uk

GALOP

Tel: 020 7704 2040

www.galop.org.uk

Stonewall Housing

Stonewall Housing's services include support for people facing DA:

Tel: 020 7359 5767



Postings abroad

International Lesbian, Gay, Bisexual, Trans and Intersex Association (ILGA)

Click on the map provided by the International Lesbian, Gay, Bisexual, Trans and Intersex Association (ILGA) at www.ilga.org

Stonewall

Stonewall has published advice for employers, *Global working* (Stonewall, 2012) available free from the website at www.stonewall.org.uk

Foreign and Commonwealth Office

Country reports can be read on the website of the Foreign and Commonwealth Office: www.gov.uk/foreign-travel-advice

Older LGB and T workers

Age UK publishes advice for older LGB and T people that can be accessed via their website: www.ageuk.org.uk

Age UK is happy to arrange training for unions on issues and support available for older LGBT workers. Contact Antony Smith (ext 2013) at Age UK head office.

Trade union LGBT groups

Nearly every large or medium-sized trade union now has its own LGBT group or network. Each has its own way of advertising it, so check the website or journal, or call head office and speak to the equal rights department.



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