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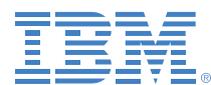
Irish Business and Employers Confederation



Irish Congress of Trade Unions



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GLEN WOULD ALSO LIKE TO THANK FOR THEIR SUPPORT

Philippa Conaty



Stonewall United Kingdom

Transgender Equality Network Ireland (TENI)



LESBIAN, GAY & BISEXUAL **DIVERSITY** IN THE **WORKPLACE**





Now more than ever Ireland needs to put the best possible environment in place to up-skill our workforce, to increase our competitiveness and to build a vibrant 'Smart Economy'. Creativity and innovation are vital elements in the development of the 'Smart Economy', and diversity in turn is an important component in supporting both creativity and innovation. Diversity brings with it an openness to new ideas, more creative workforces and wider markets and customer bases. That openness to diversity contributes significantly to an environment which "attracts more creative people as well as more businesses and more sources of capital." was also recognised by the Expert Group on Future Skills Needs in its recent report Skills in Creativity, Design and Innovation.

Our openness to lesbian, gay, bisexual and transgender (LGBT) people will be a critical part of our success as an advanced, competitive and 'smart' global economy. The Government recognises that diversity and equality can be key global competitive advantages for Ireland in developing, attracting and retaining investment, enterprises, key high skilled workers, and visitors, and is committed to ensuring equality for LGBT people in the workplace and in society. Ireland already has a sophisticated equality infrastructure. The Equality Acts 1998 and the Equal Status Act 2000 were at the forefront internationally in naming sexual orientation as a specific equality ground.

On a personal level, work takes up a major part of our lives in terms of both time and commitment. Work becomes a vital conduit for how we express our ambitions, creativity and productivity. It is essential therefore that work must be a place where we are respected and valued. No one should feel or experience that one's position in the workplace

is of less value due to one's sexual orientation. No one should feel or experience that one's sexual orientation is an impediment to positive team and customer relationships, promotion prospects and career development.

It is important that employers and trades unions communicate actively and visibly to their LGBT employees. Experience has shown that unless employers and trades unions specifically identify sexual orientation as a priority in their equality and diversity initiatives, that sexual orientation may not be addressed adequately. Employers and trades unions in effect need to "come out" to their LGBT employees as being positive and inclusive places to work for LGBT employees.

This timely guide is an important addition to the advice now available to employers, employees and trades unions on the economic and business case for equality and diversity as it pertains to lesbian, gay, bisexual and transgender people. It highlights specific issues that LGBT employees may experience in the workplace, and suggests how companies and trades unions can address them.

I would like to congratulate the Gay and Lesbian Equality Network and their partners in IBM, the Irish Business Employers Confederation, the Irish Congress of Trade Unions, Business in the Community Ireland and the Equality Authority on the production of this guide. My Department looks forward to supporting further work and initiatives in this area.

An Tánaiste and Minister for
Enterprise, Trade & Employment,
Ms. Mary Coughlan, T.D.

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Throughout this guide, we use the abbreviations LGB to indicate lesbian, gay and bisexual, and LGBT to indicate lesbian, gay, bisexual and transgender. While the guide is written primarily from a sexual orientation perspective, many of the issues raised also affect transgender people and LGBT people are referred to where possible. There is an introductory section on transgender issues in the resource section.

This information is for general guidance only and should not be regarded as legal advice.



1

WINNING THE ARGUMENT

“The ability to attract people and talent is the single biggest predictor of a city’s economic success”.

Mayor Michael Bloomberg, New York City Partnership for New York City 2008



1.1 THE ECONOMIC CASE FOR DIVERSITY & EQUALITY

A theme consistently highlighted in a broad range of economic development and recovery strategies produced by Government and policy bodies such as the National Economic and Social Council and the National Competitiveness Council is that Ireland has moved to a period where competitiveness will be based on the application of knowledge, creativity and a highly skilled, creative and adaptable workforce. A key challenge for policy makers across a whole range of sectors is how to nurture, attract and retain the skills on which they depend.

Supporting diversity and equality, (for example across the grounds of the equality legislation), is an important factor in meeting this challenge. For example, meeting the targets set by government for education at all levels, including lifelong learning, will be diminished if areas of education are only considered appropriate for one age group or gender. Equally, creating the educational basis for critical and creative thinking and developing the personal capacity and confidence for life-long learning will be undermined if bullying or harassment on the basis of any diverse quality is tolerated and not addressed.

The economic significance of equality and diversity can be observed across other policy areas also. Many companies have strong diversity policies, inclusive of lesbian, gay, bisexual and transgender (LGBT) people, which are considered essential not only for recruitment and retention, but also for creating the conditions under which innovation can thrive. These policies will be undermined if the city or country in which the firms locate is perceived or experienced by diverse workers as hostile or unsafe.

Visitor and immigration laws and regulations have also become increasingly important factors for attracting and retaining high skilled workers as well as attracting a broader base of visitors (including tourists, business visitors, students and workers) and ensuring they return. Accommodating diversity of people in immigration regulations and other policies relating to international mobility is critical to the effectiveness in delivering on these objectives.

US economist Professor Richard Florida has identified a broader impact of what he describes as ‘tolerance of difference’, namely that tolerance and acceptance of diversity are seen by companies and people as an indicator of an underlying culture and eco-system that is conducive to creativity, a key quality driving new economic sectors. Florida states:

“Economic growth in the Creative Economy is driven by 3T’s: Technology, Talent and Tolerance ... But technology and talent have been mainly seen as stocks that accumulate in regions or nations. In reality both technology and talent are flows. The ability to capture these flows requires understanding the third T, tolerance, the openness of a place to new ideas and new people. Places increase their ability to capture these flows by being open to the widest range of people across categories of ethnicity, race, national origin, age, social class and sexual orientation.”

Florida et al 2008



Diversity and tolerance have also been highlighted by the National Competitiveness Council when it stated:

“Diversity provides a richer cultural experience for citizens and visitors bringing with it openness to new ideas and wider markets and customers. As highlighted by Richard Florida, diverse and tolerant cities are more likely to attract the skilled workers who possess the “creative capital” required to power knowledge economies”

National Competitiveness Council, 2008

Professor Florida has described lesbian and gay people as the ‘canaries in the coalmine’ of diversity, with openness to and acceptance of lesbian and gay people often indicating a wider culture of tolerance and acceptance. This was raised by former Taoiseach Bertie Ahern TD when he stated:

“The most successful cities in the world are those that foster cultural diversity. This success manifests itself economically as well as socially. A touchstone of this diversity is the manner in which lesbian and gay rights are respected.”

(Former) Taoiseach Bertie Ahern TD, 2006.

In 2009, the Irish Government published the Civil Partnership Bill that will extend many of the rights and obligations of civil marriage to same sex couples. US demographer Dr Gary Gates has explored the implications of such legal recognition on international

competitiveness. In line with Richard Florida’s framework, Gates notes that recognition of same-sex couples offers a strong signal to gay and non-gay people alike that Ireland welcomes diversity. On a practical level, Gates notes that legal recognition of same-sex couples also makes it easier for global companies to move lesbian and gay employees, their partners and families from one country to another without risking the economic penalties and logistic challenges often associated with non-recognition of their relationships.

The growing acknowledgement of the links between equality, diversity and the economy in this respect means that equality and diversity policies, programmes and regulatory frameworks have become an important part of our overall economic support infrastructure and competitiveness. This policy recognition is akin to the shift in thinking in education in the 1990s, where education is now seen as an important part of economic as well as social expenditure. It also means that diversity and equality are important factors in the process of economic recovery and renewal. As Paul Rellis, Chief Executive of Microsoft in Ireland said recently:

“One of the most emotional challenges facing this country is the fear factor. The country needs to focus on being ahead of the curve. We have a huge amount of people here who know how to work internationally. One of the biggest investments the country can make is in its people. The ability to work cross-culturally will be as important as the quality of the graduates coming out of university.”

Paul Rellis, Chief Executive, Microsoft Ireland.
Irish Independent, February 26th 2009

Diversity in the labour force in terms of age, gender, ethnic origin, disability and sexual orientation has grown substantially over recent decades. Lesbian, gay, bisexual and transgender people are more and more visible in society generally and in the workforce in particular. Civil Partnership when it is introduced will increase this visibility even further. The arguments for ensuring your organisation's diversity policies and practices include lesbian, gay and bisexual and transgender (LGBT) people have **never been stronger**.

1.2

BUILDING THE BUSINESS CASE FOR DIVERSITY

Many progressive employers recognise this and the importance of creating a workforce culture that embraces diversity and equality. These employers have four key motivations:

- **Productivity** – the need to retain and motivate the talent necessary for optimal performance.
 - **Recruitment and retention** – the need to become an employer of choice for all sections of the population to maintain competitive advantage in an increasingly complex labour market.
 - **Reputation** – the need to show the right corporate image to an increasingly discerning population of potential staff and customers.
 - **Risk mitigation** – the need to comply with a robust set of anti-discrimination laws and avoid the escalating costs of litigation.
-



These four strands of the business case for diversity are interlinked. For example, an organisation that strives to create a working environment free from unlawful harassment should also reap the rewards of a loyal, well motivated, more productive workforce. At the same time, a company known to recruit actively from varied communities is likely to be more successful in promoting its goods to a wider market.

Productivity

Retaining a motivated workforce is critical because it's the discretionary effort that employees make that is the difference between an organisation and its competition.

So how can an employer leverage this discretionary effort? How can an employer increase efficiency and loyalty as well as lower recruitment and retraining costs?

Productivity is one of the essential conditions for success. Productivity growth in Ireland compares favourably with other countries during the 2001-2007 period (National Competitiveness Council 2009). It is hardly surprising therefore, that boosting productivity is a key issue for employers – large and small.

Until comparatively recently, many believed this simply meant sweating assets – getting more from less. But increasingly the government and economic experts are stressing the importance of factors such as the skills base and declining levels of innovation. Organisations are realising they need to add value through recruiting, training, developing and retaining the best people.

University College Cork

“Where people do not feel that they will be accepted then they cannot contribute their full potential. This is not just a personal loss but also a loss to the organisation or business, and also ultimately to society generally.”

Dr. Michael Murphy, President,
University College Cork.

A new generation, with different expectations from its predecessors, is forcing employers to review how they recruit, manage and remunerate their staff. The values an organisation claims to espouse and its reputation play an increasingly important part in its ability to attract, retain and enhance talent.

One of those core values can be fair treatment of all staff. A recent survey of 1,110 LGBT people in Ireland showed that 57% of lesbian, gay and bisexual staff surveyed conceal their sexual orientation from some or all of their colleagues (Mayock et al 2009). This creates stress and tension for many staff but it has consequences for employers too. All people perform better when they can be themselves. This obvious truth applies in particular to lesbian, gay and bisexual staff.

There is evidence to support this assumption. Research in America has found that employees who felt able to

be ‘out’ as gay or lesbian in safe environments earn 50 per cent more than their ‘closeted peers’. Conversely, more than half of gay or lesbian employees facing discrimination report a direct negative work impact (Stonewall 2008).

The answer is to demonstrate visibly to your staff – gay and straight – that they are valued. Lesbian, gay and bisexual staff who feel supported by their employer and work in an accepting environment will show increased commitment.

An Garda Síochána

“In recent years, we have increasingly realised the value of diversity to the organisation. This Diversity Strategy [An Garda Síochána Diversity Strategy 2009], however, goes much further, in that it aims for action, beyond mere legal compliance. It sets out how An Garda Síochána will deliver on its commitment to champion, value and accommodate, where possible, all aspects of Diversity. Treating people objectively on merit, as individuals, rather than just as members of minority or majority groups, will pay rich dividends in our corporate vision of ‘Excellent people delivering policing excellence’.”

M.F. Murphy, Garda Commissioner



Organisations are starting to understand they need to do more to become employers of choice. They must demonstrate to the people they want that they:

- Are dynamic.

- Are prepared to invest in them.

- Will enable them to perform at their best.

- Have positive policies and will deliver on them.

- Are high performers in their field.

Organisations that demonstrate respect for individuals have been shown to have higher levels of performance and morale and lower levels of absence. Workplace studies show these organisations create an environment of trust and openness, where people are more likely to be creative, to take risks, to develop new products and to establish new markets and new ways of working. Research commissioned by the Equality Authority and the National Centre for Partnership & Performance (Flood 2008) found that companies using High Performance Work Systems incorporating strategic HRM, workplace partnership, diversity and equality systems and flexible work systems were found to be associated with a 15% positive variance in labour productivity, 12% variance in workplace innovation and 8% of variance in employee turnover.

“Equality and diversity are key priorities of both the National Workplace Strategy and Towards 2016. Transforming Irish workplaces into Workplaces of the Future is all about fostering greater levels of innovation and creativity, ... positive equality and diversity policies are a major contributor to higher levels of workplace innovation.”

Lucy Fallon-Byrne, Director, National Centre for Partnership and Performance (Equality Authority 2007)

Recruitment & Retention

Employers such as Microsoft claim that non-tangible assets, such as intellectual capital, talent, leadership and reputation, represent 90 per cent of their market value. Even in a changing economic climate qualified lesbian, gay and bisexual employees can take their talent to the most inclusive work environments.

In a recent survey of 1,127 LGBT people, workplace equality i.e. being able to work in an environment where one can be fully open about one's sexuality or gender identity without fear of discrimination was rated the single most important issue facing LGBT people in Ireland (Denyer et al 2009).

With skills at a premium irrespective of the economic climate, holding on to expensively trained, nurtured and motivated staff is a key priority. Every staff member who leaves an organisation because of a negative workplace culture, discrimination or stress has a potentially negative impact on its reputation as an employer - internally as well as externally. Remaining staff and potential recruits lose confidence in managers and leaders who appear to be flouting their own value statements.

As well as the cost of losing talented staff through an intolerant working environment, there are the up-front expenses of replacing them. IBEC for example has identified that regardless of the seniority of the position, recruitment is expensive in terms of cost and time. It can cost up to 150 per cent of salary to recruit, induct and train a new member of staff. Therefore successful organisations regard staff turnover figures as a key measure of their success as employers.

Australian research (Stonewall 2008) demonstrates that almost two in five of lesbian and gay staff facing discrimination will change careers if the discrimination continues. Being positive towards gay and lesbian recruits is a litmus test for inclusive and effective recruitment generally.

It's not just about attracting the best gay and lesbian people; it's about attracting the best people full stop.

“One of the reasons I decided to change jobs, well one was for the promotion and the other was that again I was fed up of pussyfooting around with people and not saying that I was with my partner. There were children involved ... some people didn't see it as being

a normal lifestyle ... The new job, I'm there two years and I sat down today at lunchtime and I was able to talk about Primetime last night and gay marriage and actually get support from the people I work with."

(Mayock et al, 2009)

Reputation

Organisational reputation is hugely important and becomes more so as the world becomes more competitive and consumers and service users more demanding. In the past, brand association with sexual orientation was sometimes seen as a liability. Now it is frequently perceived as an asset. Addressing issues of sexual orientation and gender identity can demonstrate that an organisation is courageous and forward-thinking. It can also furnish an ideal platform to communicate a commitment to a key human rights issue of our times that is also good for business.

It's not only external reputation that can benefit from engaging with issues around sexual orientation and gender identity. Research by the Work Foundation, in the United Kingdom, has shown that pride in working for an organisation where strong interpersonal relations and solidarity were manifest was key in differentiating top UK producers. (Stonewall, 2008).

Conversely, a reputation for discrimination can have a negative impact on an organisation's ability to attract and retain customers and clients, as well as staff. Research by Harris Interactive in the United States has demonstrated that almost three quarters of gay and more than two in five "straight" consumers are less likely to buy products from companies perceived to hold negative views of lesbians and gay men (Stonewall, 2008).

In the private sector, robust diversity policies and practices seen to encompass LGBT people can play an important part in attracting the 'pink pound'. While not all LGBT people have high disposable income, statistical evidence suggests it is a lucrative market for many businesses. According to Out Now Consulting the annual income of gay and lesbian people in Ireland is €8.75 billion per annum (Out Now Consulting 2007).

Significantly, lesbian, gay and bisexual consumers tend to show higher levels of brand loyalty. A survey by Gay Community News revealed that more than 74 per cent of GCN readers would buy products or services from companies that choose to advertise in gay-oriented media. They also established that 70% of GCN readers are more likely to buy products and services from companies they know to be gay-friendly (Out Now Consulting 2007).

BT (British Telecom) in the UK encourages members of Kaleidoscope, its LGBT network, to participate in market research for BT's marketing strategy and products. This feeds into the company policy to raise the profile of BT as an employer and preferred supplier in the eyes of the LGBT communities.

In the public sector, lesbian and gay people have the same rights to access public services as everybody else but may not feel able to. They often find their specific needs have been ignored or under-resourced when they do, which can impact on the effective delivery of a huge range of services from health, education and housing to criminal justice and leisure. This can have significant cost implications. The Equal Status Acts 2000 - 2008 is in place to prevent discrimination in the provision of goods and services in both private and public sectors. Therefore building a positive reputation sits alongside a compliance imperative.

Risk mitigation

Cases taken by lesbian and gay staff as a result of discrimination based on their sexual orientation don't just do reputational damage. They can cost employers significant amounts of money and organisational energy.

Fighting a discrimination case at an employment or equality tribunal is often a no-win situation. It's time-consuming and costly for both employer and employee and uses up valuable resources. Even if the tribunal finds in the employer's favour, any publicity about the case itself will almost certainly damage the organisation's reputation among existing and prospective workers as well as customers.

The highest amount awarded by the Equality Tribunal in 2009 for discrimination in employment was €189,000. The number of claims referred to the Equality Tribunal in 2008 increased by 17 per cent on the previous year. Redress for discrimination can include awards of up to two years' pay, or equal pay and arrears. There can also be an order to re-instate or re-engage a person and to pay compensation for the effects of discrimination or victimisation.

Even settling out of court can be expensive as there is a huge investment of energy, time and resources in preparing the defence. It may keep an organisation out of the local papers, but it will still test the loyalty and affect the morale of the rest of the staff.

The Equality Tribunal

A gay construction worker was awarded £49,700 against his employer by the Equality Tribunal in 2008 for sexual discrimination, harassment and victimisation.

The worker complained to his foreman that he was being harassed because of his sexual orientation. The foreman took written statements from him and the alleged harasser. As a result the complainant's conditions of employment were changed and he was moved to another site. When the worker informed the company that he felt suicidal as a result of continuing discrimination, the company responded by putting him on unpaid sick leave. After a period of time the complainant was made redundant.

The worker further complained that his company treated him in a discriminatory manner and victimised him when it changed his conditions of employment, placed him on sick leave and ultimately made him redundant.

The Equality Officer identified:

- The employer's failure to communicate the consequences and the outcome of the process.

- That there were unacceptable time delays in dealing with and resolving the situation.

- All relevant information was not considered by the employer.

- The worker was not given an opportunity to respond.

As a result the Equality Officer awarded the complainant €14,700 for loss of earnings, €10,000 for the distress and effects of the harassment and €25,000 for the distress caused by the victimisation. On appeal the award was reduced to €26,090.

The Equality Tribunal ruled that the construction company must ensure that:

- a. Policies relating to harassment and sexual harassment are implemented.

- b. All staff are fully acquainted with the policy and that it is raised with staff regularly.

- c. A specified contact person is appointed as a first point of contact for employees making initial enquiries or complaints.

Equality Tribunal reference DEC-E2008-048

The profitability and reputation of organisations increasingly requires them to demonstrate corporate social responsibility. A commitment to social responsibility can also draw in new sources of talent from beyond an organisation's traditional recruiting pools, and these will often include LGBT people. The increased diversity that results brings innovation, and puts a business in closer touch with its wider marketplace.

So, in a spectrum of ways, it clearly makes good sense to position your organisation as one that welcomes LGBT customers or service users and employees, and endeavours to meet their particular needs.

2

MAKING IT HAPPEN



**A TOOLKIT
FOR SUCCESS**

Almost every aspect of employment policy and practice throws up specific issues and challenges. While experience of other diversity issues, such as ethnicity, gender and disability, may be useful as a starting point for introducing LGBT policies, there will be many new issues to consider and barriers to overcome in creating a **truly inclusive workplace.**

This chapter introduces eight key steps to making sexual orientation an everyday diversity issue, alongside others such as gender, race, disability and age. They cover issues such as organisational culture, recruitment, terms and conditions, performance management and monitoring and evaluation.

At first sight, it might seem daunting, but this toolkit has been designed to enable employers to change attitudes and behaviour within their organisations. All your staff need to understand that it is illegal for them to discriminate either directly or indirectly against any colleagues, customers or service users on account of their sexual orientation or gender identity.

The toolkit should not only help you avoid litigation but also develop best practice people policies so that you can reap the benefits of the legislation. Some of these steps outlined are essential to complying with the law and are therefore urgent. For example, if your selection processes are not up to scratch and you are perceived to be overlooking LGB candidates in favour of less well qualified heterosexual applicants, LGB candidates can take their grievance to the Equality Tribunal.

Other steps are less urgent and will evolve over time as you build a culture of respect for all employees and service users, regardless of their sexual orientation or gender identity.

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**2.1 BUILD
A CULTURE
OF RESPECT**

**2.2 RECRUIT
AND SELECT
FAIRLY**

**2.3 TACKLE
WORKPLACE
BULLYING &
HARASSMENT**

**2.4 REVIEW
TERMS &
CONDITIONS**

**2.5 MANAGE
PERFORMANCE
FAIRLY**

**2.6
ESTABLISH
EMPLOYEE
NETWORKS**

**2.7 DELIVER
TO YOUR
CUSTOMERS**

**2.8 MONITOR
& EVALUATE**

2.1 BUILD A CULTURE OF RESPECT

Creating a workplace culture that **genuinely values people** and all their differences is a major challenge – and opportunity – facing every organisation.

Recruitment, training and development, succession planning, equal opportunities policies, benefits packages, treatment of customers and service users – all of these aspects of management affect LGBT staff. Employers need to communicate this to their managers and ensure that they understand how to act.

Organisations that wish to promote the value and importance of diversity have to provide leadership and create a climate where everyone feels safe and contributes fully. In a recent survey by the Public Service Executive Union, 60% of LGBT respondents were not “out” to their immediate line manager (Lee and Hannigan 2009). On a purely practical note, organisations must also be sure that their diversity policies specifically cover sexual orientation and gender identity.

IBM Ireland

For IBM Ireland strong diversity policies and an inclusive workplace for lesbian and gay staff is fundamentally about supporting employees to contribute their full potential in an atmosphere of understanding, respect and trust. This is considered central to creating a workplace environment where creativity and innovation flourishes, and where people from very different backgrounds and perspectives are able to share ideas and thinking.

“The diversity journey is about leveraging all differences and creating the environment to maximise talent”

David Cornick, Vice President
IBM Northeast Europe

Key issues

In some organisations, diversity policies are inclusive and deal explicitly with issues of sexual orientation and gender identity amongst others. In others it is still a taboo topic, or one that is not openly discussed. A major challenge is to make sexual orientation and gender identity an everyday issue in the workplace, alongside ethnicity, faith, gender, disability and age.

Being “out” at work

For LGB employees, being “out” at work simply means that a LGB employee does not feel they have to disguise their sexual orientation. LGB employees may need to disguise their orientation to prevent possible harassment or discrimination at work. LGB employees who have decided not to “come out” at work are concerned that disclosing their sexual orientation to colleagues will have a potentially negative consequence for their careers, promotion prospects, relationships with colleagues, clients or customers *inter alia*.

The freedom to be out at work removes a significant burden from LGB colleagues in terms of the efforts and pressure to conceal important and everyday elements of one’s identity. In terms of workplace relations, being “out” may be as simple as not disguising or concealing everyday elements of one’s life that are commonly discussed in the workplace e.g. what one did at the weekend, discussing a partner’s illness, where one socialises, discussing holidays or civil partnership plans. LGB employees who are out in a positive and respectful work environment report positive experiences in terms of greater integration with colleagues and teams and a sense of belonging within the company *inter alia*.

It is important that lesbians, gay men and bisexuals who are “out” and feel able to be open about their lives as lesbian, gay and bisexual people at work are not inaccurately stereotyped in ways that are damaging to their careers, for example, as only being suitable for certain jobs. Additionally when LGB people are referred to in the workplace, they may be stereotyped as young, affluent, educated gay men, rather than the diverse range of people that they really are.



“For me, one of the great advantages of working for IBM has always been that I can have complete confidence in being myself. I have never felt any need to hide that I’m gay - and it has never been an issue. Because I can be myself, without concern or concealment, this allows me to devote all of my energy to doing my job to the best of my ability. The strong and consistent message of full support, from the most senior executives down, and the repetition and reinforcement of this message, is one of the most important aspects for me in fostering the spirit of inclusion and the embracing of diversity.”

Dominick Daly, IBM Ireland

Elizabeth (55) teaches in a school in Dublin and has not come out, nor does she intend to as there is such a lack of support of LGBT ethos in her workplace. **“All the onus for change, or to come out as a teacher, is on the individual, we need to be able to come out in a safe environment.”** [Religious run institutions i.e. many schools, are exempt from the Employment Equality Act under certain circumstances] She is afraid of losing her job, **“it doesn’t feel safe. You cover your private life all the time; you cover it. It is a deadening experience not to be out. You don’t talk spontaneously in the staffroom about your social life. I’m always censoring myself. Everyone else talks about their partners. I’ve been in a relationship for eight years, and I have never once mentioned my partner at school,”** she laughs wryly. **“I will bring my partner to my retirement do, but it would be nice if I could bring her to the school before that.”**

<http://www.irishtimes.com/newspaper/weekend/2009/1017/1224256878050.html>

Action points

PROVIDE LEADERSHIP AT ALL LEVELS

- Your public statements should assume that a percentage of your workforce and your customers are lesbian, gay or bisexual.
- Create role models by publicising the success of any high-profile LGB people in your organisation.
- Provide all your managers with training and development to help them create a climate in which diversity, including sexual orientation and gender identity, is valued.
- Google, Microsoft, IBM, Accenture and other organisations have appointed senior-level champions for LGB equality. Explore whether there is someone who could do this for your organisation. They don’t have to be lesbian, gay or bisexual themselves.

CREATE A CLIMATE WHERE EVERYONE CAN BE THEMSELVES AND FEEL SAFE

- Think about how you show that you respect minority employees and what more you could do to publicise a message of openness, trust and equality. Training is a valuable tool in raising awareness of LGB issues in the workplace, and should be aimed at all staff. Reinforce the message to all staff that they do not need to tolerate harassment, bullying or unfair treatment of any kind.
- Revisit your grievance procedures and ensure there are mechanisms in place to deal effectively with any problems arising from unfair treatment.
- Make it clear that social events involving partners and children are equally open to same sex partners and their children.
- Consider other ways in which you can demonstrate your commitment to putting equality and diversity policies into practice.

Irish Congress of Trades Unions

The Irish Congress of Trades Unions has produced **Guidelines for Negotiators on LGBT Rights in the Workplace**. The guidelines explain why LGBT diversity is an issue for trade union members, what the legal situation is, and what trade unions can do to support LGBT diversity.

<http://www.ictu.ie/equality/lgbt.html>

REVIEW YOUR EQUALITY AND DIVERSITY POLICY AND STRATEGY

- To have any meaning, your policy should be clearly linked to business or service outcomes.
- It should accommodate the changes in the law and explicitly include LGBT employees.
- It needs to be communicated to managers so they understand the nature and importance of issues that affect LGBT employees.
- It should include an effective complaints procedure which is properly implemented.

Grants Scheme to promote equality for Small and Medium Enterprises

The Equality Authority administers a grants scheme to assist small to medium sized enterprises develop equality policies and systems. The Scheme funds up to 5 days consultancy support in an individual enterprise to develop:

- An employment equality policy.
- An equal status policy.
- An equality and diversity training strategy.
- Access to equality-related contacts, resources and networks.

Contact the Equality Authority for further information.

Benefits

Employers who create a culture where diversity is acknowledged, and where people are truly valued, will be more successful. They will:

- become employers of choice for talented people who want to work in a progressive and ethical workplace.
- retain the best people, and use their talents to the full.
- increase job satisfaction and morale, and therefore productivity.
- send powerful signals about being modern and forward-looking, and show a determination not to allow old-fashioned prejudice and discrimination to undermine effective performance.

IBM and Google

IBM has a Pride*/Diversity month which takes place each June. It consists of a heightened awareness of LGB issues throughout the organisation world wide. Corporate web space is used for on-line material, and posters are displayed in employee common areas on notice boards. There are also recruitment advertisements placed with the Gay Community News.

Google has an annual budget which they have used in the past on Pride sponsorship. Part of this sponsorship has been on Google representation in the Pride parade. Each year during Pride month the executive leadership of Google show public displays of support for their LGB colleagues.

* Pride is an international celebration of LGBT identity and is usually centred around a week long festival and parade each June.

2.2 RECRUIT AND SELECT FAIRLY

Staff selection is an obvious area where unlawful discrimination can occur, and has long been an issue for those concerned with race, gender and disability equality. Many organisations will already have a policy and set of procedures, plus training, in place to support those involved in recruitment and selection. These can be adapted to ensure they address the challenges LGBT people often face in advancing their careers.

However, there is much more to the recruitment and selection process than appointing an individual to a job. With each job advertisement, the organisation is potentially communicating with a huge audience.

How enquirers, applicants and candidates are treated will impact positively or negatively on the reputation of that organisation. Every time an organisation appoints an LGBT person, other high calibre candidates will be encouraged to apply. These candidates will be LGBT or general candidates who value diversity within organisations.

The entire process is therefore a unique opportunity for an organisation to send out a message about what it values both in its staff and in its customers.

People are a vital resource for high performing organisations. Recruiting and retaining the best people from the **widest possible field** is key to building competitive advantage.

Key issues

Recruiters may have stereotyped notions of what LGBT people are good at or not so good at, and these affect their decisions. Some may believe LGBT people will not fit in. Others simply do not want to appoint people they know or think are LGBT, especially to customer-facing roles.

Excellent potential applicants may not bother to apply for jobs in organisations they, rightly or wrongly, believe to be intolerant of LGBT people. Research indicates organisations get a better field of applicants if they include positive and inclusive statements in their advertising literature, and the material they send to applicants. A Garda Reserve recruitment campaign encouraging LGBT people to apply has sent a clear signal to all staff and the wider public about the changing culture and leadership of the Reserve force.

A key feature of the guidance that accompanies the equality legislation is that selection criteria should be fair, related to the job, and applied consistently. However, the criteria are only as fair as the managers who apply them. Providing training for those involved in designing the selection process, short listing, interviewing and decision-making is crucial to recruiting fairly.

Action points

LET LGBT PEOPLE KNOW THEY ARE WELCOME TO APPLY

- Find out if the make-up of your workforce reflects your customer base or the communities you serve. Consider how it would help the organisation if it did.

- Think about how and where you advertise vacancies. Have you advertised in specifically LGBT media, such as Gay Community News?

- Look also at the language you use. Is it unwittingly discouraging LGBT people from applying?

- Recruitment, advertising and literature are part of your image building work. They should include any LGBT initiatives you have taken, such as extending benefits to same sex partners and establishing employee networks.

- You can raise your profile with LGBT jobseekers through sponsorship of LGBT community events or more generally, through advertising your products or services in the LGBT media, and by using LGBT-aware images or words in mainstream advertising.

- Always include your equality and diversity policy in the information you send out to applicants.

‘Over the years, I’ve done a lot of voluntary work for a lesbian organisation. But I only put it in a job application if an employer mentions gay people in their equal opportunities policy, because otherwise you just don’t know what the reaction will be at the other end. Of course, that means that some employers never get to see the full range of my experience.’

Naomi.



HAVE CLEAR, INCLUSIVE RECRUITMENT POLICIES AND PROCEDURES

- Adapt your recruitment and selection procedures to accommodate the requirements of the Employment Equality Acts 1998-2008 as they relate to sexual orientation and gender identity.
- Where possible, take advice from LGBT staff to help you make sure policies and procedures are inclusive and effective.
- Where employers monitor recruitment procedures and include equality and diversity criteria, ensure that sexual orientation and gender identity are included as employee categories. This sends out a positive message to potential LGBT staff that sexual orientation or gender identity are considered effectively in your organisation.

MAKE THE RECRUITMENT PROCESS TRANSPARENT

- Candidates who have encountered discrimination in the past will find it reassuring if you are open about your recruitment process.
- Keep a record of each stage of the recruitment process so that candidates and anyone else involved can see that you have dealt fairly with all applicants.
- Be ready to deal promptly with any complaints from candidates about their treatment during the selection process.

TRAIN THE DECISION-MAKERS

- Provide equality training for interviewers and recruiters.
- Interviewers and recruiters need to understand the selection criteria and apply them consistently.
- Make sure recruiters are not making unfounded assumptions based on stereotypes and prejudices about particular groups. They should also understand that prejudice may have limited a candidate's opportunities to develop in previous jobs.
- Set up a system so that staff know what to do if they think a recruiter or interviewer has made a prejudiced remark, or a decision based on sexual orientation or gender identity rather than a candidate's ability to do the job.

Benefits

Employers who recruit using objective, measurable criteria will:

- Have a wider choice of applicants.
- Minimise staff turnover and associated costs – because the right people will be appointed to the right jobs.
- Make the best use of the most talented people.
- Secure competitive advantage in areas of skills shortage.
- Avoid the costs of litigation.

Anti-gay harassment is **demotivating and unlawful**. It can take the form of being ignored or excluded; physically or verbally abused; being “outed” i.e. publicising that someone is LGBT where the LGBT person wishes to keep their sexual orientation or gender identity private; or made the subject of jokes and offensive remarks. Extreme cases involve violence, forced resignation or unfair dismissal.

2.3 TACKLE WORKPLACE BULLYING & HARASSMENT

A generally hostile environment can be a form of harassment, even where actions and comments are not apparently aimed at individuals.

As harassment is under-reported, the true scale of the problem is unknown. As more and more employers tackle the issue, however, evidence is emerging that anti-gay harassment is all too common.

LGBT Victimisation at Work

LGBT people who are out at work can be vulnerable to harassment, bullying and discrimination in their careers. A recent survey of 1110 Irish LGBT people found:

Experience of victimisation in the workplace:	Ever %	Current Job %
Verbally threatened by work colleagues	14.7	3.2
Physically threatened by work colleagues	6.7	1.3
Called hurtful names by work colleagues	26.8	8.9
Missed work to avoid any of the above	9.3	1.9

Mayock et al 2009

Lesbians and the “Double Glass Ceiling”

Research from the United Kingdom suggests that gay women often understand their gender as being more of a barrier to success at work than their sexual orientation. Therefore, if they can hide the fact that they are gay, some feel it best to do just that. As one participant said, ‘putting your hand up twice’ can be difficult. But for those who have felt able to come out at work, the personal and professional benefits are considerable.

“As a woman you’ve already got one strike against you in terms of a diversity box that you check. As a lesbian that’s the second one as well. If you’re an ethnic minority lesbian then you’ve got three. As a woman and as an ethnic minority you can’t hide that, but there’s no reason to foreground the fact you’re gay as well. People feel that it’s hard enough.”

Georgia, private sector in Stonewall 2009



In a recent survey by the Public Service Executive Union 41 per cent of LGBT respondents (as compared to only 30 per cent of heterosexual respondents) agreed with the statement that there was an uncomfortable atmosphere for LGBT people in their workplaces. (Lee and Hannigan 2009).

Key issues

Many people are frightened to complain because they believe their complaints will not be taken seriously or they will end up taking the blame. An added complication for many LGBT staff is that making a complaint would force them to come out as gay or lesbian, possibly leading to further harassment.

Because most LGB employees are not completely out about their sexual orientation at work, they are particularly vulnerable to ‘canteen culture’ harassment – homophobic comments made in the course of general conversation but without the intention of causing offence. Such comments are often made in the belief that everyone in the immediate audience will be sympathetic to them.

LGBT people with disabilities, who come from ethnic minorities or come within one of the other protected grounds are particularly vulnerable to bullying and harassment and can suffer from multiple discrimination. Equally lesbians may experience discrimination both as lesbians and as women. Such multiple discrimination may make these experiences of discrimination far more hurtful and problematic.

Action Points

Prevention is a key way to minimise harassment in the workplace and to ensure legislative compliance. Effective policies not only help to prevent unlawful behaviour but encourage best practice and a safe and harmonious workplace where such behaviour is unlikely to occur.

- Explain to staff why harassing people because of their sexuality is illegal and unacceptable.
- Adapt your existing harassment policy to make it LGBT inclusive.
- Make specific references to harassment in your induction programme.
- Provide clear definitions of harassment and examples of unacceptable behaviour, including anti-gay bullying and harassment.
- Ensure that managers understand their duties in preventing and tackling bullying and harassment, including respecting confidentiality where possible. Those in positions of responsibility should be equipped to protect their LGBT staff, and should not be allowed to ignore or condone discrimination.

- To be credible, any initiative designed to prevent anti-gay bullying and harassment needs to be endorsed and validated by senior management and staff.

- Provide equality training for employees with the aim of creating a pro-equality, anti-bullying and harassment culture.

MAKE IT EASY FOR PEOPLE TO REPORT A PROBLEM

- Bullies are often more senior than those they harass. Staff who feel that they have been harassed need several routes to address the issues and if necessary to make a complaint, for example, through Personnel or Human Resources or Employee Assistance Programmes.

- Staff who want to highlight an issue of concern or make a complaint that they have been bullied for being gay or lesbian may want to keep this information confidential. You should support them in this where it is practicable. However where a serious allegation is brought to the attention of a Manager he or she is duty bound to ensure that an appropriate process is initiated and completed. This is essential to fulfilling duties and responsibilities to the individual and the organisation.

- Informal resolution or mediation is preferable, as far as possible, to engaging in formal grievance procedures, but an organisation must actively demonstrate that anti-gay discrimination, bullying and harassment will be taken seriously at all stages throughout the process.

- Speedy and effective action will enhance your reputation for fairness.

MONITOR COMPLAINTS AND REVIEW POLICY

- Be prepared for an initial rise in complaints when you introduce a prevention of bullying and harassment policy to cover all diverse groups including LGBT people. You need to know who's going to deal with complaints and who's going to support the complainant. For example, it may be useful to produce support information or a support pack for complainants.

- Managers are responsible for building a climate in which harassment and bullying are not tolerated and do not happen. They need to be trained in procedures for monitoring and reviewing incidents.

- By monitoring the nature of complaints and collecting the data you should be able to press for deeper cultural changes within your organisation.

“The university where I work does not have a positive attitude towards LGBT people. For all the ‘equality’ and ‘diversity’ legislation and workplace policies in existence, few practical steps are ever taken to deal with bullying. It is more likely that the complainant will be pressurised to leave the workplace.”

(Mayock et al 2009)

Benefits

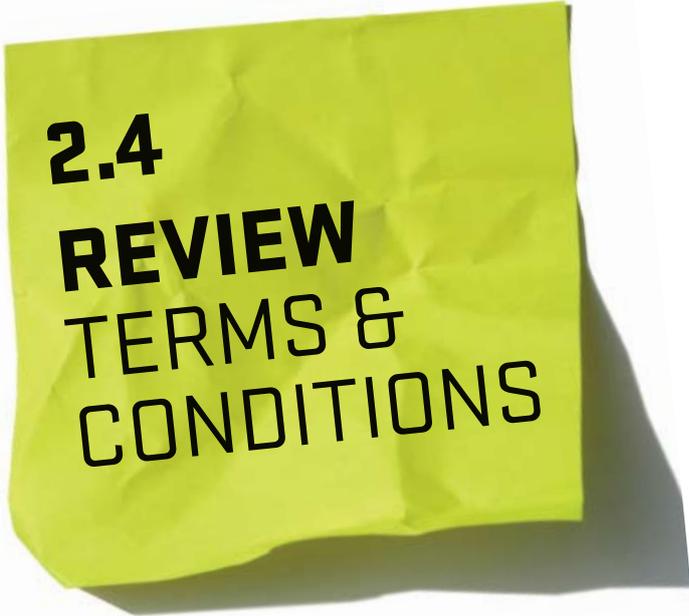
Organisations that tackle harassment and bullying, including that specifically directed at LGBT staff:

- Increase the effectiveness and productivity of staff, through reduced sick leave, improved retention and greater loyalty and commitment.
- Demonstrate leadership in dealing with challenging issues.
- Minimise the likelihood of damaging litigation and bad publicity.

The Irish Congress of Trade Unions

has identified equality on the grounds of sexual orientation and gender identity as being a growing priority for trade unions in Ireland. ICTU has encouraged unions to recognise that discrimination against lesbian, gay and bisexual workers is a trade union issue and to develop serious anti-discrimination policies and programmes.

Benefits and conditions are important motivators for employees. Yet LGBT people do not always enjoy terms and conditions of employment equal to those of their heterosexual colleagues.



2.4 REVIEW TERMS & CONDITIONS

Key issues

In the past, the same-sex partner of an employee was likely to be excluded from many workplace benefits. These included pensions, leave arrangements, health insurance, travel concessions for employees and their partners, and relocation allowances. When the Civil Partnership Bill 2009 is enacted employers will be obliged to treat lesbian or gay staff who are in a civil partnership in the same way as married people. To be sure that you don't fall foul of the law, it is advisable to offer exactly the same benefits that apply to married couples to civil partners, and equally to apply the same benefits that apply to opposite sex couples who are not married to same sex couples who are not in a civil partnership. See the Sexual Orientation and the Law section for more information.

Leave, for bereavement or family emergencies, is designed to help employees balance their work and home commitments so that they can be more effective in the long-term. The Parental Leave Act 1998 includes same-sex partners on the same basis as opposite sex couples for force majeure. A policy that excludes leave for same-sex partners can cause considerable personal trauma and lead to discrimination claims.

Microsoft

has been a pioneer in workplace diversity, being one of the first companies in the world to offer employee benefits to same-sex domestic partners and to include sexual orientation in its corporate non-discrimination policy. Since 1989, Microsoft has supported and sponsored the LGBT community in their organisation.

A recent survey from the UK found that 77% of respondents reported their employers had LGB inclusive equal opportunities policies; 46% offered same sex partnership benefits; and 40% supported LGBT employee groups.

Action points

MAKE SURE YOUR POLICIES ARE EXPLICITLY INCLUSIVE

- A menu of benefits will acknowledge the different requirements, family circumstances and living arrangements of all employees. Many employers already recognise this as good practice when it comes to recruiting, retaining and motivating key staff.

- Your policies should state clearly that any of the following benefits which are available to opposite sex couples are also available to same-sex couples:

- Bereavement leave
- Parental leave and adoptive parental leave
- Force Majeure leave
- Relocation allowances
- Carer's leave
- Travel benefits
- Discounts on the company's or other services
- Private healthcare.

MAKE YOUR COMMUNICATIONS INCLUSIVE

- Include same-sex employees in any oral or written examples you use to explain to staff the benefits of your reward package.
- People who are responsible for giving staff information about their terms and conditions should:
 - Never assume that that the person to whom they are giving information to is either heterosexual or LGBT.
 - Tell inquirers that policies extend to same-sex partners or other nominees if applicable.
 - Talk about partners (or nominees where applicable) rather than husbands, wives and spouses.
 - Understand the need for confidentiality in relation to nominated beneficiaries of perks and policies.

Benefits

ENSURING YOUR TERMS AND CONDITIONS ARE FAIR TO LGBT PEOPLE MEANS:

- All employees are rewarded fairly for their contribution.
- Employers get more value from their benefits package by maximising staff motivation from their reward package.
- The organisation becomes an employer of choice, helping to attract the best recruits.
- Focusing on best practice makes compliance with legislation more likely.

Microsoft Host Seminar on Civil Partnership

Microsoft's Diversity Advisory Council recently held a discussion based forum for companies entitled "Preparing for Civil Partnership: What Every HR Professional Needs to Know". McCann Fitzgerald, Ernst and Young, the Gay and Lesbian Equality Network (GLEN) and Microsoft gave presentations on the legal, taxation, policy and HR implications of Civil Partnership to a wide range of companies and LGBT employee networks. A wide range of companies and LGBT employee networks attended including An Garda Síochána, ESB International, Mercer, Dell, Irish Rail, IBM and IBEC.

Managing people properly, **openly and with respect** is increasingly being linked with high performance in businesses. LGBT organisations are very aware that LGBT people are not always treated fairly at work, for example by being passed over for promotion, disciplined unfairly or even dismissed for no good reason.



2.5 MANAGE PERFORMANCE FAIRLY

Key issues

Organisations have many different ways of managing performance, from informal chats to elaborate systems of appraisal by stakeholders, customers and peers as well as managers.

However, people often have stereotyped notions of what LGBT people are good or not so good at, and therefore which jobs or assignments are suitable for them.

Inclusive Job Appraisals

Job appraisal can take the form of an informal review of the previous year and provide an opportunity for employees to air their concerns, or can be connected to more formal procedures related to employee 'performance' in their job and part of career planning. Either way, a discussion with an individual on how she/he is progressing in their work is a sensitive matter.

Discussions with individual employees which can have implications for promotion, should avoid discriminating between employees on grounds of sexual orientation. Intentional and unintentional differences in treatment between employees must be avoided. Equally, employees should be able to perceive that such discussions are fairly conducted. Formal and informal appraisal discussions are opportunities to confirm with employees of all backgrounds that their work contribution is valued on its merit.

The Equality Authority, Guidelines for Employment Policies in Enterprises 2001

LGBT people are often considered by some to be suitable to only work in certain professions or not suited to aspects of other professions. In addition, LGBT people can be subject to unspoken assumptions that they cannot be trusted to represent the organisation to the public or to high-profile customers.

LGBT people often find they are described as not being team players. This can arise because they are unable to be entirely open about their personal or social lives at work.

In addition, managers can fail to spot homophobia or transphobia whether intended or not, and its effects on LGBT people's performance. Managers may not notice that LGBT people are disregarded by colleagues or badly treated by customers, let alone harassed by neighbours or excluded by their families in ways that affect their work.

Action points

CREATE THE RIGHT CLIMATE

- All the information you give to employees should reinforce the message that decisions about recruitment, promotion, rewards and redundancy are based on merit and competence, and are not affected by the employee's sexual orientation or gender identity.
- Develop sets of competencies to cover the skills and abilities different roles in the organisation require. You will then build a culture based on how people perform rather than who they are and where they come from.
- Understanding diversity and equal opportunities issues should be built into your management development. This will provide managers with the skills to use their discretion wisely and fairly. Diversity awareness could become one of their key competencies.

DEVELOP FORMAL PERFORMANCE MANAGEMENT SYSTEMS

- Performance management systems should cover the way you review employees' performance, how you help them develop their skills and provide access to training and promotion.
- By using a system based on competencies for each job, you will enable managers to make fair and consistent decisions based solely on employees'

performance.

- All employees should know how the performance management system works. Managers especially need to be able to identify any bias in the way they might make judgements about people. Training should explicitly include:
 - Examples of the way homophobia can be disguised.
 - Common misconceptions that are applied to LGBT people, particularly with reference to different types of work.
 - Examples of the ways in which managers' discretion might disadvantage people from various groups, including LGBT people.
 - General equality issues.

Monitor and review policies

GOOD PERFORMANCE MANAGEMENT PRACTICES WILL INCLUDE SOME FORM OF MONITORING SO EMPLOYERS CAN REVIEW WHETHER OR NOT:

- Best practice procedures were followed.
- Decisions were based on firm evidence.
- Penalties and rewards were proportionate to performance.

Benefits

A performance management process that addresses LGBT discrimination will:

- Enable LGBT staff and their managers to address the full range of issues that may affect their performance.
- Provide a model of good practice for addressing all aspects of discrimination.
- Enable organisations to maximise the performance of all staff.

2.6 ESTABLISH EMPLOYEE NETWORKS

Employee networks – forums for staff who share one or more aspects of their identity – are becoming more common.

Increasingly, they are funded and promoted by employers, rather than operating informally, as employers appreciate the benefits such networks can **bring to the whole organisation.**

Networks for women and ethnic minority staff have proved successful across the public, private and voluntary sectors and often provide useful lessons on how best to establish a network for LGBT employees, as do existing LGBT networks.

Establishing employee networks demonstrates your commitment to diversity in the workplace. It tells staff that the organisation values all its people, and recognises the need to bring together staff who may feel isolated or vulnerable. Networks can provide a safer and more supportive working environment.

In addition it can give the employer a valuable mechanism for consulting LGBT employees about employment practices and customer service, and also ways to engage with LGBT clients, customers and potential recruits.

Microsoft LGBT Staff Network

Since 1993 GLEAM has operated as the Diversity Advisory Council for gay, lesbian, bisexual, and transgender people and their friends and associates at Microsoft. Together they work to reach beyond limitations or boundaries to support colleagues and employees by fostering career development, advancing equality and celebrating diversity. GLEAM now has more than 700 members around the world including a section in Ireland.

University College Cork LGBT Staff Network

“The formation of the LGBT Staff Network is a major statement on the part of the university. As an employer UCC is committed not just to the aspiration of equality and inclusiveness but to taking the concrete steps to ensure our laudable aspirations become a reality. The creation of the LGBT Staff network is part of a general equality strategy and one of a range of initiatives which the HR Department is pursuing.”

“UCC is giving leadership not just to our fellow academics but also to the wider society. The Ireland of the 21st century can be a truly inclusive one which will be to everyone’s benefit. Initiatives such as the LGBT Staff Network can make it happen.”

Dr. Michael Murphy. (2008) President,
University College Cork.

Inter Company LGBT Employee Events

LGBT employee networks from a number of leading companies in Ireland have held a number of combined networking events in Dublin with Accenture, IBM, Google and Microsoft attending among others.

The events are an informal opportunity for the networks to meet, chat and exchange ideas and experiences. Discussions also centre on LGBT inclusion and diversity in the workplace and how these can be progressed.

Key issues

Many workplace cultures assume everyone is heterosexual. Due to fear of prejudice, most LGBT employees are not completely out about their sexual orientation or gender identity to colleagues and many believe they are alone in their workplace. In larger organisations, LGBT employees may be based in different offices and regions.

This can make it difficult for LGBT employees to identify each other, create informal connections, find support and address any difficulties. However, LGBT employees may wish to participate in a network without being “outed” as gay, lesbian, bisexual or transgender. They need to be confident that joining or contacting a network is safe.

Action points

ESTABLISH THE NETWORK IN CONSULTATION WITH LGBT STAFF

- **Contact and consultation with LGBT staff can be managed in several ways, including:**

- anonymous surveys.

- consultation through staff associations or trade unions.

- using a third party organisation such as GLEN.

- **Discuss a range of practical issues with staff, such as:**

- What role should the network have? The network should have a clear business-related purpose, encompassing, for example, contributing to the organisation’s inclusion and diversity agenda and improving the work environment for LGBT employees.

- When and where will meetings take place? Should they be regional or national, during work or leisure time?

- Deciding on whether the membership should be exclusive to LGBT staff, or open to all staff with an interest in LGBT issues.

- If you are a unionised organisation, should you involve the trade union?

- Finding ways to encourage a wide range of participants.

Garda LGB Staff Network

Group G is the official Garda Lesbian, Gay and Bisexual Support Network and was established by LGBT Gardaí in 2009. It has a number of objectives including:

- Providing a forum for social interaction and peer support for LGBT members of An Garda Síochána
- Assisting the Garda Síochána in the development of policy relating to LGBT/diversity issues
- Providing assistance to An Garda Síochána when dealing with its LGBT customers
- Increasing the visibility of LGBT staff through a variety of communication initiatives

CONNECT THE NETWORK TO THE REST OF THE ORGANISATION AND OTHER NETWORKS

- Consider the network's purpose and responsibilities.
- Make sure the network is adequately resourced. It needs sufficient time and money to fulfil its aims and objectives.
- Think about how you can link your LGBT network with other employee groups. Together they can deal with common issues and challenges that emerge.

ENSURE LEADERS OF THE ORGANISATION PROMOTE THE NETWORK

- Ask high-profile, senior managers to champion the network. They don't have to be lesbian, gay or bisexual, but they will need to buy into the idea of an LGBT network. By talking confidently and comfortably about LGBT issues, they can make clear this is a business matter, not a taboo or private issue.
- Be prepared for negative reactions from other staff who may feel left out. You must be able to explain how the network benefits the whole organisation.
- Provide a range of ways for staff to communicate with the network, guaranteeing confidentiality or anonymity if required.



PUBLICISE THE NETWORK BOTH INTERNALLY AND EXTERNALLY

- Make sure all staff know about the network, why it exists, who can join and how. If you have your senior team behind the idea, then make sure staff know that too.
- Communicate its successes to all staff.
- Don't forget to publicise the network externally, for example, in the HR and professional press, LGBT titles such as Gay Community News and trade union publications.

MONITOR AND REVIEW THE NETWORK

- Having established some objectives for the network, work out how you are going to measure its performance.
- Don't ignore the rest of the workforce – monitor their perceptions of the network and its value to the organisation.

Benefits

An LGBT employee network can:

- Challenge the invisibility of LGBT staff and issues.
- Give LGBT staff a forum for sharing experiences.
- Allow organisations to tap into the specific experience and knowledge of LGBT staff.
- Help LGBT staff to come out and other employees to appreciate the diversity of the organisation.

“The Lesbian, Gay and Bisexual primary teachers’ group (LGB) carved out a piece of Irish social history when it held its first conference at Dublin’s Royal College of Physicians. The LGB group is part of the Irish National Teachers’ Organisation (INTO), and 120 delegates in total attended. At the conference, the good practice guidelines for “creating an inclusive staffroom for lesbian, gay and bisexual staff” were launched. The INTO will be circulating a copy of these guidelines to every primary school in the country in the near future.”

<http://www.irishtimes.com/newspaper/weekend/2009/1017/1224256878050.html>



LGBT people are likely to be consumers of your goods and services as well as your employees. The **Equal Status Acts 2000-2008** makes it illegal to discriminate against someone when providing them with goods or services because of their sexual orientation or gender identity.

Key issues

The last 15 years have seen an increase in services aimed specifically at the LGBT community including leisure, household services, legal and financial services.

Many LGBT people still do not always feel confident of getting a good service from mainstream companies. Many members of the LGBT community will support companies they perceive as responsive to their needs.

There are also many public services that provide LGBT people with a more limited choice. For example in recent research a majority of respondents did not feel respected as an LGBT person by their health care provider and almost one quarter tried to hide the fact that they were LGBT when dealing with health professionals because of how they might react.

The Equal Status Acts apply to both the private and public sectors and outlaws discrimination in access and provision of goods and services. See the Sexual Orientation and the Law Section for further information.



2.7 DELIVER TO YOUR CUSTOMERS

In 2004 the Equality Tribunal awarded a settlement against the Bridge Hotel in Waterford for a complaint of discrimination against a gay customer, Mr Martin O'Regan. Mr O'Regan complained that he was refused service and was asked to leave the Hotel by a member of staff prior to closing time. Mr O'Regan claimed that this happened because he was known to be gay and that one of the barmen made offensive comments to him.

The owners of the Hotel rejected the accusation that they discriminated against gay people but they failed to support their case under the Equal Status Act 2000 at the Equality Tribunal.

The Equality Officer found the Mr O'Regan's evidence to be more compelling and found that he was less favourably treated because of his sexual orientation.

[Equality Tribunal reference DEC-S2004-037](#)

Action points

SHOW YOU RECOGNISE YOUR LGBT CUSTOMERS AND SERVICE USERS AND MAKE SURE YOU ARE NOT BREAKING THE LAW BY DISCRIMINATING AGAINST THEM

- Audit your policies and procedures for provision of goods, facilities and services to make sure they do not discriminate, either directly or indirectly, on the grounds of sexual orientation or gender identity.

- Revisit the public statements you make about your goods and services to ensure they recognise the diversity of the people who use your services.

- Advertising counts. Images used in publicity materials send a powerful message, so use same-sex couples if you can. Examples of organisations who advertise in Gay Community News include Paddy Power, Garda Síochána, Health and Safety Executive, Canon, RaboBank, Glaxo Smith Kline, HMV, Bristol Myers Squibb and New York Mellon Bank.

TRAIN CUSTOMER-FACING STAFF

- Customer service training should deal explicitly with the fact that a proportion of customers or service users will be LGBT, and should make staff aware that discrimination on the basis of sexual orientation or gender identity is illegal.
- Staff should be aware of the specific needs of LGBT customers and service users.
- They should also be schooled to ask questions in a way that does not assume heterosexuality.

CONSULT YOUR CUSTOMERS

- Encourage LGBT customers or service users to make their requirements known.
- Monitor how members of the LGBT communities perceive your goods and services.

Gay Community News readers spend:

- An average of €1,214 on computer technology (hardware/software) per annum.
- An average annual spend of €3,766 shopping online.
- In excess of €110 million annually on grooming and fashion.
- Based on the estimated number of gay people in Ireland, the annual gay dining out bill is €646 million.

(Out Now Consulting, GCN Readership Survey, October 2006 to January 2007.)

Benefits

ORGANISATIONS THAT ADDRESS THE NEEDS OF LGBT CUSTOMERS AND SERVICE USERS WILL:

- Attract the full range of potential customers, including groups with high levels of disposable income.
- Develop consultation mechanisms that can be used with other customer groups.
- Create a modern and positive image of themselves.
- Avoid legal cases brought by LGBT people who have been unfairly discriminated against in this area.

IBM and the Business Case for Diversity

“There is a business perspective to IBM’s approach. Firstly we want our employees to be motivated and feeling good about their workplace and when you have that kind of an environment it encourages creativity and innovation which can only be positive for the business. Secondly we are dealing with customers which include members of the GLBT community and it is important for us that our IBM workforce fully reflects our customer base.”

Eileen Shanahan, HR Director, IBM Ireland

Monitoring and evaluation are central to ensuring any activity is successful. They are the means of checking whether an organisation's diversity policy is being implemented effectively. They provide valuable management data, which can assist the organisation in making the right strategic and operational decisions to ensure it employs and retains a **skilled and diverse workforce.**

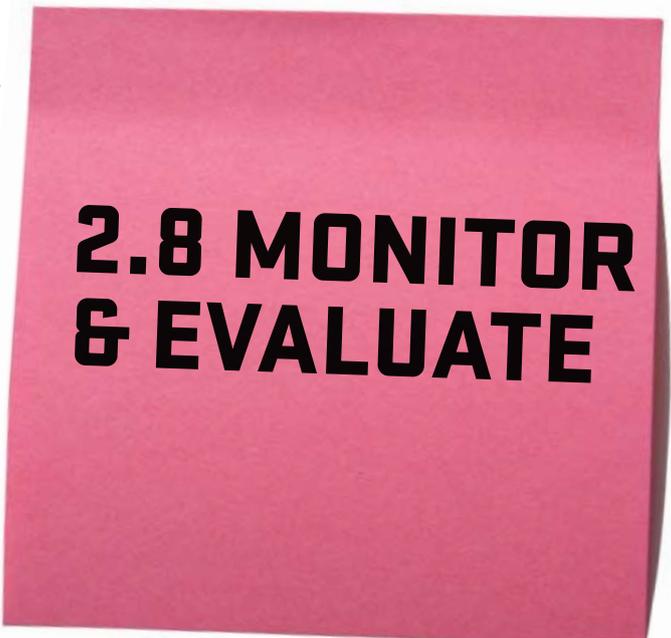
Monitoring also sends out a strong signal to staff that an organisation takes the achievement of diversity goals seriously, and this is especially true for sexual orientation.

Monitoring and evaluation can show whether LGBT employees:

- Are employed in numbers that reflect the local/national population.
 - Apply for promotion at the same rate as all other employees.
 - Are recruited or selected for training in proportionate numbers.
 - Are concentrated in certain jobs, sections or departments.
 - Think the organisation's procedures and culture are supportive.
-

Key issues

Sexual orientation monitoring will only work if senior management and staff support the initiative and if a clear business case for collecting the data is communicated to staff. Sexual orientation monitoring is not appropriate for an organisation which has not previously engaged with LGBT staff or developed initiatives to eradicate homophobia from the workplace. Indeed monitoring in a company which does not have a clear diversity strategy and culture could be counterproductive in terms of employee morale or possible complaints.



2.8 MONITOR & EVALUATE

Consultation with key stakeholders should take place before monitoring is introduced. LGBT staff or the network group can play a vital role in communicating new monitoring procedures to the wider organisation and building confidence in the process among LGBT employees.

There are different degrees of monitoring, and it can be a good idea to start with anonymous monitoring in staff attitude surveys and including sexual orientation and gender identity in any existing equality and diversity monitoring processes at recruitment and promotion, before introducing it as part of the formal HR recording process for all staff.

The Data Protection Acts 1988 to 2003 set out strict rules regarding the collection, storage, use and retention of data to protect the rights of individuals and assign responsibilities to those who collect and control data. Organisations collecting, analysing or publishing diversity

data need to be fully aware and compliant as breaches of these regulations bring significant penalties.

Monitoring of diversity takes time to bed down in an organisation. It will take several years before monitoring information on sexual orientation gives something close to a reliable picture.

An Garda Síochána LGBT Policy

An Garda Síochána’s Diversity Strategy 2009 – 2012 commits the organisation to the development and implementation of a Garda Síochána Lesbian, Gay and Bisexual (LGB) Policy. As part of this policy An Garda Síochána will introduce, for statistical purposes, an ‘Equality Monitoring’ processes based on Sexual Orientation, to measure representation levels in the organisation.

Forms should avoid the suggestion that heterosexuality is the expected norm and that being lesbian, gay or bisexual is unusual and they should use commonly understood language. Stonewall research suggests that the question is best phrased in the following way:

WHAT IS YOUR SEXUAL ORIENTATION?

- Bisexual

- Gay man

- Gay woman/lesbian

- Heterosexual/straight

- Other

- Prefer not to say

Being transgender is not an issue of sexuality but one of gender identity. Guidance on the United Kingdom national census stated that transgender people could tick the gender they felt described them, irrespective of the sex on their birth certificate. It may therefore be more inclusive to use the word “gender” rather than “sex” on forms.

PSEU Survey of LGBT members

The Public Service Executive Union (PSEU) recently identified a lack of data within the union about the experiences of LGBT members in the workplace and in the union. It undertook a survey in 2009 of its 10,000 members. The results found a number of important LGBT issues on being out in the workplace, implementation of equality policies and difficulties in general workplace culture regarding LGBT people.

- **60% of LGBT respondents are not ‘out’ to their immediate line manager/supervisor.**
- **53% stated that LGBT employees must be secretive to management about their sexuality.**
- **55% fear unfair treatment because of their sexual orientation.**
- **60% indicated that LGBT employees are not free to be themselves.**

However on the more positive side:

- **71% of respondents indicated that the atmosphere for LGBT employees is improving.**

The survey was an indication to LGBT employees that the PSEU is committed to supporting LGBT equality. The PSEU’s equality committee has identified a number of actions it will take to progress the issues identified.

Public Service Executive Union, Survey of LGBT Members (2009)

Action points

- Build senior support for the rationale behind sexual orientation monitoring. This could include awareness raising training for both management and staff.

- Consult with LGBT staff and ensure they have confidence in the process.

- Ensure that communication to staff on LGBT workplace equality is consistent and authoritative, and that monitoring is seen as a logical part of the organisation's diversity strategy.

- Introduce monitoring in stages if appropriate, and have realistic expectations in the early years.

- Communicate the results of surveys and actions you will take as a result, to maintain engagement of employees.

Benefits

Organisations that monitor effectively:

- Can measure the success of specific initiatives.

- Send a message that their LGBT employees are valued.

- Can identify and communicate improvements in the position of LGBT employees.



3

SEXUAL ORIENTATION AND THE LAW

The Employment Equality Acts 1998 and 2004 make it unlawful to discriminate in employment or training on the grounds of **sexual orientation and gender**.

This section gives an overview of the equality legislation as it applies to lesbian, gay and bisexual people, further detailed information is available from the Equality Authority www.equality.ie.

The Employment Equality Acts 1998 - 2008 make it unlawful to discriminate in employment or training on the grounds of sexual orientation and gender.

The Equal Status Acts 2000 - 2008 make it unlawful to discriminate in the provision of goods, facilities and services, including accommodation and education on the grounds of sexual orientation and gender. There are also particular provisions which apply to registered clubs.

The Civil Partnership Bill 2009 when enacted will entitle same-sex couples to legal recognition of their relationships. The Equality Acts will be amended to extend the marital status ground to "civil status". This will prohibit discrimination against people on the grounds of their civil partnership.

Definitions

Everyone has a sexual orientation and a gender, but these terms are sometimes confused.

Sexual orientation describes who we are sexually attracted to. We may be:

- Heterosexual or straight: attracted to others of the opposite gender.
- Lesbian (women) gay (men): attracted to others of the same gender.
- Bisexual: attracted to others of either the opposite or the same gender.

Gender usually describes our identity as a woman or a man. For most people, this coincides with the biological sex ascribed at birth, and how others perceive them. For transgender people, their internal sense of identity is different from the sex ascribed at birth and how others perceive them. Because gender and sexuality are not the same thing, someone who is transgender may be straight, lesbian, gay or bisexual.

Transgender people are protected under the gender ground in equality legislation in terms of employment.

A transgender person is said to be going through transition when they move from living as a member of one gender to living as a member of the other gender that they feel more correctly reflects who they are. They may or may not choose to have hormone treatment and/or surgery as part of this process.

The Employment Equality Acts 1998 and 2008

These acts make it unlawful to discriminate in employment or training on the grounds of sexual orientation or gender. The Equality Authority states that transgender people who have transitioned from one gender to another are covered under the gender ground following rulings by the European Court of Justice.

What does the legislation cover?

The legislation applies to all aspects of employment and training, including recruitment, promotion, terms and conditions (including pay) and dismissals.

There are different types of discrimination covered by the Acts including direct, indirect and discrimination by association.

Direct discrimination is where one person is treated less favourably than another person would be treated in a comparable situation on any of the equality grounds including sexual orientation. It is unlawful to decide not to employ someone, to dismiss them, refuse to promote them, deny them training, give them adverse terms and conditions or deny them benefits available to others of a different sexual orientation because they are or thought to be lesbian, bisexual, gay or straight.

Direct discrimination also covers discrimination by imputation on the grounds of perceived sexual orientation, whether the perception is correct or not. In this case, job applicants for example will not need to establish their sexual orientation to bring a complaint. If someone has assumed them to be gay or lesbian and discriminated against them as a consequence, that will suffice.

Direct discrimination need not be intentional.

Indirect discrimination is where an organisation has employment rules, selection criteria, policies and other practices in place which put people of a particular sexual orientation, including the person who complains, at a particular disadvantage when compared with others.

Indirect discrimination is unlawful whether it is intentional or not. However, in contrast to direct discrimination, indirect discrimination is not unlawful if the provision is objectively justified by a legitimate aim and the means of achieving that aim are appropriate and necessary.

Discrimination by Association happens where a person associated with another person is treated less favourably because of that association. So words such as ‘Why

are you so friendly with that poof?’ could constitute harassment on grounds of sexual orientation, even if the person they are speaking to is heterosexual.

Harassment is defined as unwanted conduct which has the effect of violating the dignity of a person and of creating an intimidating, hostile, degrading, humiliating or offensive environment. Section 14A of the Employment Equality Acts 1998-2008 provide that where harassment is carried out by another employee, a client, customer or business contact of the employer, the employer will be liable unless he/she can clearly show that reasonable steps were taken to prevent the harassment occurring in the first place.

The legislation will be amended when the Civil Partnership Bill 2009 is enacted, so that employers will be legally obliged to treat staff who are in a civil partnership equally with those who are married, in a wide range of areas. So for example, if an employer allows staff who are about to be married time off for their wedding, it must provide the same benefit to a member of staff about to form a civil partnership. Employers should ensure that any benefits provided to married people extend to those in a civil partnership.

The legislation allows for certain benefits, such as survivor benefits, to be conferred on civil partners and spouses to the exclusion of others without such a status. The effect is that an individual who is neither in a civil partnership nor a marriage, whether gay or heterosexual, cannot claim that such a practice amounts to unlawful discrimination under the legislation.

However, the legislation makes it unlawful for an employer to provide employment-related benefits to unmarried opposite-sex partners but deny them to same-sex partners not in a civil partnership.

What does sexual orientation mean?

The Employment Equality Acts 1998 - 2008 define sexual orientation as “heterosexual, homosexual or bisexual orientation”.

The legislation covers not only how people ‘are’, but the conduct they display. It is to employers to regulate the conduct of their employees while on duty, provided that any such regulation is reasonable and even-handed.

For example, take a case where two shop workers of the same sex are disciplined for holding hands in view of the customers. An employer can no longer argue that it is worried what the customers will think if workers are seen to be gay or lesbian. That would obviously be discrimination.

The defence would have to be that any two workers

holding hands in these circumstances would have been treated in the same way. If, however, the workers can persuade the Equality Tribunal that an opposite sex couple would have been treated differently (or was treated differently), the Tribunal would be bound to conclude that this was sexual orientation discrimination.

How does the legislation affect harassment claims?

Harassment is defined as conduct that has the purpose or effect of violating a person's dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment for them.

The legislation provides that a person's conduct will be seen to have these effects if having regard to all the circumstances, including in particular the perception of [the complainant], it should reasonably be considered as having that effect.

Is unintentional harassment outlawed?

The fact that many lesbians and gay men conceal their sexual orientation, often for fear of prejudice, renders them particularly vulnerable to unwitting harassment. People can often make anti-gay remarks on the mistaken assumption that everyone present is heterosexual.

The legislation makes it clear that lack of intention to offend is no defence. If the conduct has the purpose or effect of violating a person's dignity, or creating an intimidating or offensive environment, and it is reasonable for the complainant to take offence, then it is harassment. Ignorance is no excuse.

Organisations may be held legally responsible for the actions of their staff.

Are there any circumstances where it is permissible for employers to discriminate?

The legislation provides for a number of exemptions where less favourable treatment is allowed. Difference in treatment is allowed which is based on a characteristic related to sexual orientation or any of the nine grounds in respect of access to employment but only to the extent that the characteristic constitutes a genuine and determining occupational requirement and the objective is legitimate and the requirement proportionate.

The legislation sets out the scope of this exception by indicating that certain religious, educational and medical institutions may take action which is reasonably necessary to prevent an employee or a prospective employee from undermining the religious ethos of the institution.

In general, where this exception applies, it permits discrimination in refusing to appoint, promote or

transfer people of a particular sexual orientation to a particular position. However this discrimination must be "proportionate".

But if such people are already employed (whether the employer realises it or not) the legislation does not allow them to be employed on less favourable terms than others for example, paid less, harassed, or victimised.

This exemption has never been invoked or tested in the courts. However, given the very negative views certain religions have taken against lesbian, gay, bisexual and transgender people, the presence of Section 37 in the legislation has a very negative impact upon the confidence of LGBT employees, e.g. teachers, that they will be treated fairly with regard to recruitment, retention and promotion.

It remains to be seen in what circumstances an employer may succeed in relying on an exception. For example, in the UK the proposition that heterosexuality was a genuine occupational requirement for serving in the armed forces was robustly rejected by the European Court of Human Rights and the ban on lesbian and gay people was overturned.

The Civil Partnership Bill 2009

Under the terms of the Civil Partnership Bill published by Government in 2009, same-sex couples will be able to enter into civil partnership to gain legal recognition of their relationship, entitling them to similar rights and responsibilities as those of married couples. The Government introduced the Bill to the Dáil at the end of 2009. At the time of writing it is expected that the Bill will be fully enacted in 2010.

What does the legislation cover?

The Civil Partnership Bill proposes two separate schemes:

1) A Civil Partnership Registration Scheme confined to same-sex couples and 2) A Cohabitation scheme, designed to provide a more basic set of protections for cohabitants (opposite sex or same-sex) who do not or cannot marry or enter civil partnership.

Same-sex couples will be able to register their civil partnerships according to the same-procedures as those entering a civil marriage. Civil partners will then be treated the same as married couples across a wide range of areas. These include:

- Taxation, including inheritance tax.
- Pensions.
- Immigration.
- Employment benefits.

What do Employers Need to know?

The Civil Partnership Bill requires employers to treat staff who are civil partners in the same manner as staff who are married. For example, in relation to pensions, the Bill requires that where a pension scheme provides a benefit for the spouse of a person, that pension scheme will be deemed to provide equally for the civil partner of a person. In other words, in assessing pension entitlements, civil partners will be treated as if they were spouses.

The Bill also provides for the amendment of the Equality legislation (the Employment Equality Acts 1998-2008 and the Equal Status Acts 2000-2008) to prevent discrimination against civil partners. The term "marital status" will be replaced by the term "civil status". It will thus become illegal to discriminate between people on the basis of their "civil status", namely the fact that

they are married, a party to a civil partnership, divorced, widowed, separated, single or a party to a dissolved civil partnership. In practice this means that if an employer offers a benefits package – such as private health insurance or gym membership – which is available to the spouse of an employee, it must also be made available to an employee's civil partner.

The Civil Partnership Bill also extends the definition of a 'member of the family' of a person for the purposes of the Employment Equality Acts 1998-2008 so as to include the civil partner of a person, as well as the child of his or her civil partner. Other relatives of a person's civil partner are also deemed to be included. This means that any workplace benefits which may be provided to the children or relatives of an employee or spouse must also be provided to the children of a civil partner.

For further information on the Civil Partnership Bill 2009 see Ryan (2009).

Equal Status Acts 2000-2008

The Equal Status Acts 2000-2008 apply to the provision of goods, facilities and services including educational establishments and accommodation and the exercise of public functions. The Acts cover both the private and public sectors and registered clubs.

The Act covers a wide range of areas from housing, healthcare and education in the public sector, to advertising, the provision of financial services and accommodation in a hotel or similar establishment in the private sector.

The legislation makes direct discrimination, indirect discrimination and discrimination by association unlawful. Victimisation is also covered.

It would for example be direct discrimination if a landlord were to refuse to let a flat to a lesbian couple because of their sexual orientation.

Indirect discrimination is more complex than and often not as obvious as direct discrimination. It happens where there is less favourable treatment by impact or effect. It occurs where people are, for example, refused a service not explicitly on account of a discriminatory reason but because of a provision, practice or requirement which they find hard to satisfy. If the provision, practice or requirement puts people who belong to one of the grounds covered by the Acts at a particular disadvantage, then the service provider will have indirectly discriminated, unless the provision is objectively justified

by a legitimate aim and the means of achieving that aim are appropriate and necessary.

Direct discrimination also covers discrimination on grounds of perceived sexual orientation or gender, whether the perception is, in reality, correct or not. For example, a plumber refuses to work in the flat of a man who he believes to be, but is not in fact, gay – the laws make this unlawful.

What do employers need to know?

The key point for employers is that these laws should be seen as an extension of what you currently do for your staff. Just as the Employment Equality Acts 1998-2008 ensure that your gay and straight employees are treated equally, these laws extend that protection to your customers and service users. Similar laws protect customers and service users from discrimination on all of the nine equality grounds.

Organisations should audit their activities, particularly customer focused services, to ensure compliance with the legislation. Think about your outward facing activities, such as how you provide services and offer goods and products. In conducting the audit, organisations should bear in mind that discrimination can be unintentional rather than deliberate, and indirect rather than direct.

You may find that you don't need to take any action as you're already complying with the legislation.

You should inform your staff about the laws so they understand what they mean. Lesbian and gay customers and service users should be treated the same as everyone else. If you offer perks, such as reduced gym rates for partners, they should apply to gay and lesbian couples too. Be sure to give your staff training so they know what to do.

What does sexual orientation mean?

Sexual orientation as it relates to the Equal Status Act means an individual's sexual orientation towards people of the same sex as him or her (gay or lesbian), people of the opposite sex (heterosexual) or people of both sexes (bisexual). This has the effect that the protection against discrimination applies to everyone, whether they are lesbians, gay men, heterosexuals or bisexuals.

The laws apply if discrimination occurs on grounds of the sexual orientation of the person being less favourably treated or on the grounds of the sexual orientation of any other person. So for example, if a business refuses to serve a man who is heterosexual because he is accompanied by a gay man, this would be discrimination by association.

Are there any exemptions?

The Equal Status Act includes a very limited exemption from the Act on religious ethos grounds. Section 7.3(c) relates solely to school enrolment selection decisions on religious grounds. It allows primary and post-primary schools of a particular denominational ethos to enroll students of that ethos in preference to other students. It also allows those schools to refuse a student who is not of that denomination if it is essential to maintain the ethos of the school. There is no other religious exemption in any other area of the provision of good and services.

As with the Employment Equality Act section 7.3(c) has not been invoked or tested on the grounds of sexual orientation. The Act provides that once a school has admitted a student they cannot use this exemption to ask them to leave. So if a student is admitted and subsequently 'comes out' the school cannot ask them to leave on the basis of their sexual orientation.

Insurance

Insurance companies have to comply with the legislation, so prejudice against gay or lesbian people will not be a reason for charging someone an additional premium for their mortgage insurance.

However an exemption which applies to sexual orientation and all other equality grounds allows people to be treated differently in relation to insurance. This covers annuities, pensions, insurance policies and other matters relating to risk assessments. The differences must be based on actuarial or statistical data or other relevant underwriting or commercial factors and they must be reasonable having regard to the data or other relevant factors.

Separate services

The legislation includes an exemption to allow services to be provided separately for different groups on the basis of their sexual orientation or gender, where this is the best way to meet a specific need facing people of a particular sexual orientation or gender (which may result from discrimination or disadvantage). For example a women's refuge could offer service to women only.

Private Member Clubs

Private members clubs will be required to comply with the legislation, except in cases where sexual orientation or gender is specifically linked to the club's purpose. For example in 2009 the Supreme Court ruled that Portmarnock Golf Club could continue to exclude women as full members of the golf club as it was a "gentlemen's golf club" and as such gender was specifically linked to the club's purpose.



4

RESOURCES

SAMPLE DIVERSITY & EQUALITY POLICY

This sample policy serves to illustrate a typical form of a diversity and equality policy statement similar to that recommended by IBEC, ICTU and the Equality Authority and in operation by large organisations such as CIE, An Post, ESB and An Garda Síochána.

The purpose of this policy is to provide diversity and equality to all in our employment regardless of their gender, marital status, family status, sexual orientation, religious beliefs, age, disability, race, or membership of the Traveller community. We oppose all forms of unlawful discrimination.

Diversity is based on a positive attitude to difference which recognises that everyone is different and these differences should be respected and encouraged for the good of the business and the employee.

All employees, whether part time, full time or temporary, will be treated fairly and equally. Equal treatment does not mean that all employees must be treated the same in all circumstances as the application of the same rules in different situations can give rise to discrimination.

Selection for employment, promotion, training or any other benefit will be on the basis of aptitude and ability.

All employees will be helped and encouraged to develop their full potential and the talents and resources of the workforce will be fully utilised to maximise the efficiency of the organisation.

Our commitment:

- Every employee is entitled to a working environment which promotes dignity and respect to all. No form of intimidation, bullying or harassment will be tolerated.

- We will provide equality training for our staff.

- The commitment to diversity and equality in the workplace is good management practice and makes sound business sense.

- Breaches of our diversity and equality policy will be regarded as misconduct and could lead to disciplinary proceedings.

- This policy is fully supported by senior management and has been agreed with trade unions and employee

representatives (insert details if appropriate).

- The policy will be monitored and reviewed annually.

- Implementation (include brief details of what will happen, staff training and how the policy will be monitored and reviewed over time).

As an employee you can expect

- To be treated fairly and without discrimination during your employment commencing with recruitment processes and having access to training and advancement based on merit.

- To be fairly appraised and rewarded for your personal contribution to the business.

- To work in a healthy and safe environment free from hazards.

- To access opportunities for training and development to enable you to develop your full potential.

- To be supported in balancing your work and home life commitments and to have your request considered objectively in line with business needs.

- To be treated with dignity and respect in a fair and consistent manner in an environment where inappropriate behaviour is not acceptable.

This organisation is committed to promoting equality for all. Therefore if you believe you have been subject to discrimination in employment which is in direct conflict with our commitment to equality of opportunity, you should consider raising this with your line manager or trying to resolve it yourself. Alternatively, consider registering a complaint through the agreed grievance procedures.

As an employee you also have a responsibility to treat others with dignity and respect. If you have been found to have acted in a discriminatory manner, appropriate disciplinary procedures will apply.

We are committed to monitoring the effectiveness of the diversity policy through the Diversity and Equality of Opportunity Committee. This committee is led by a senior executive officer endorsed by the Board, and is comprised of executive managers and diversity champions drawn from across the business.

We support this diversity policy by providing further information to staff through staff induction, training and internal communications.

SAMPLE SEXUAL ORIENTATION STRATEGY

An Garda Síochána

An Garda Síochána is committed to:

- The development and implementation of a Garda Síochána Lesbian, Gay and Bisexual (LGB) Policy.
- Actively encouraging recruitment from the LGB Community.
- Developing training to challenge stereotypes, harassment or mockery of individuals or groups.
- Dealing with the sexual orientation related needs and concerns of both its staff and the community.
- Creating a non-discriminatory Garda Síochána environment in which all are valued and supported.
- Introducing, for statistical purposes, 'Equality Monitoring' processes based on Sexual Orientation, to measure representation levels in the organisation.
- Facilitating the establishment and development of a support structure for the Garda Síochána's LGB Staff.
- Developing Diversity Training to include inputs on 'sexual orientation' awareness on 'Student / Probationer', 'CPD', 'Management & Supervisory' Training and the Garda Síochána 'Executive Leadership Programme'.
- Providing support to the Garda LGBT Liaison Officers in their work.



Our Successes to Date

- Consultation process through meetings and awareness raising initiatives conducted by the Garda Community Relations Division.
- The appointment and training of 50 LGBT officers under the coordination of an Inspector at Community Relations Division, Garda Headquarters to coordinate, monitor and advise on all aspects of policing the LGBT communities.
- Ongoing liaison between the DMR (North Central) Garda Community Policing units and the LGBT 'Outhouse' drop in centre at Capel Street, Dublin.
- Raising awareness of Sexual Orientation issues in the current Garda Síochána Diversity Works training programme.
- Raising awareness of Sexual Orientation issues in the current Garda Síochána Managing Diversity Works training Programme for Inspectors and Superintendents.

An Garda Síochána's Diversity Strategy and Implementation Plan - 2009 - 2012

TRANSGENDER ISSUES IN THE WORKPLACE

“Transgender people are individuals whose gender expression and/or gender identity differs from conventional expectations based on the physical sex they were assigned at birth. “Transgender” is also an umbrella term which is often used to describe a wide range of identities, experiences, and people whose appearance seems to conflict with the gender norms of society... Transgender people can have any sexual orientation – lesbian, bisexual, straight, asexual or indeed, be celibate.... Many trans people undergo a number of surgeries to be fully bodily reassigned in a different gender”

[McIlroy, 2009]

A worker, who is male to female transsexual, lodged a complaint with the Equality Tribunal alleging that her employer discriminated against her on grounds of gender and disability contrary to the terms of the Employment Equality Acts when she was dismissed.

The complainant advised her employer that she would be undergoing treatment for her Gender Identity Disorder during a period of annual leave and would be presenting her female identity on her return to work. She was advised that she would not be permitted to return to work presenting as female and was thereafter advised to seek alternative employment. The complainant, who suffered from depression as a result of her Gender Identity Disorder, also lodged a complaint in relation to the failure of her employer to afford her reasonable accommodation for her disability, as the refusal to allow her to present in her female identity brought on her depression and prevented her continuing in employment.

The Equality Authority granted the complainant legal representation to bring her complaint and lodged a detailed legal submission with the Equality Tribunal on her behalf. The complaint was settled prior to the hearing date on payment of a sum of money, but without admission of liability.

The European Trade Union Confederation identified the following good practice:

- Gender identity and gender reassignment are included in equal opportunities policy and practice and there is well publicised compliance with the gender reassignment regulations.
- Staff are trained and informed about transgender people - that harassment and discriminatory behaviour will not be tolerated.

- There are clear procedures for members undergoing transition.

- Workers undergoing gender reassignment have paid leave from work for specialist medical appointments and for surgery.

- All records are kept up to date, old records destroyed and confidentiality is practised scrupulously.

- Transgender people are advised of the legal implication of their status re-pensions and other benefits.

Trade union branches should ensure:

- All members are clearly informed that discrimination on grounds of gender identity and gender reassignment will not be tolerated by the union at any level.

- Training and information is provided to those who have a role in advising and representing members.

- Union records are kept up to date, old records destroyed and the highest levels of confidentiality ensured.

- Transgender members are given information about support groups, including our own self-organised groups.

What can trade unions do to support transgender workers?

- Include transgender workers in equality policies. Policies that refer to discrimination on the grounds of sex can also include discrimination against transgender people.

- Negotiate recruitment policies and procedures that are explicit in stating that discrimination against transgender people is not tolerated. Recruitment advertisements, for example, can state that transgender people are welcome to apply.

- Ensure that transgender people have the right to confidentiality, for example, in personnel records.

- All workers are treated as the gender in which they live and work, irrespective of their legal sex. A transgender worker should have access to 'men only' or 'women only' areas according to the gender in which they attend work.

- Union negotiators should consider negotiating time off required for medical treatment during gender reassignment, as normal sick leave.

- Unions can provide education to members and officers on the rights of transgender people, and particularly in dealing with harassment and discrimination at work

European Trade Union Confederation 2008
Contact the Transgender Equality Network Ireland for further information www.teni.ie

STONEWALL DIVERSITY CHAMPIONS

Much of the good practice identified in this guide has been developed from best international practice. One such programme from the United Kingdom is Stonewall's Diversity Champions programme. It is the UK's leading good practice forum for employers on sexual orientation issues and diversity in the workplace. It provides advice and support to major organisations in the private and public sectors, which between them employ more than four million people.

The programme has ten key benefits:

- **Exclusive networking** with 500 organisations across all sectors, ranging from IBM to Barclays and from Barnardo's to Manchester City Council and the Royal Navy.
- **Best practice seminars** and downloadable presentations.
- **Dedicated point of contact** for members at any time by telephone or email with the opportunity for a tailored meeting each year.
- **Tailored benchmarking** to help in the Stonewall Workplace Equality Index
- **Dedicated online access** to Stonewall Diversity Champions Members Only pages and regular updates by e-bulletin.
- **In-house training** from Stonewall Master classes to Stonewall's DVD training package
- Company listing in the **Starting Out Recruitment Guide** which is distributed to every university in the UK.
- **Joint branding** including free and exclusive use of the Stonewall 'Diversity Champion' logo for internal and external communications plus recruitment advertising and sponsorship opportunities.

- **Discounted registration and priority booking** for Stonewall Workplace Conference and Stonewall Leadership programme.

- **Definitive workplace guides** on a range of key workplace issues as well as our small business guide plus Stonewall's latest research on media, health and education.

For further information please visit:

www.stonewall.org.uk/workplace

What employers say about Stonewall Diversity Champions

'Stonewall's Diversity Champions programme will help us to raise KPMG's profile as an employer of choice to the LGB community in order to attract, retain and motivate people of all sexual orientations.'

Sara Turner, Diversity Manager, KPMG

'The Royal Navy's goal is to be a world-class navy, ready to fight and win. I am committed to ensuring that the Royal Navy has a culture in which all our people are valued for themselves and are thus able to give 100 per cent to their jobs. Our engagement with Stonewall is an important part of making this happen and we strongly support this excellent initiative.'

Vice Admiral Adrian Johns, Second Sea Lord, Royal Navy

“Joining the Diversity Champions programme endorsed what we were trying to achieve, gave the work credibility from an early stage, and provided us with specialist information and resources that we would otherwise not have been able to access. I can honestly say that the money was very well spent – worth every penny!”

Sigrid Fisher, Strategy Officer (Equalities),
Cambridge City Council

“Barnardo’s has gained a number of benefits as members of Stonewall’s Diversity Champions programme. Now LGB staff are telling us that they selected Barnardo’s as their employer of choice because we are members of the programme, and in an environment where quality recruits are hard to come by that gives us a competitive advantage.”

Ian Theodoreson, UK Director, Barnardo’s

“We will continue to work with Stonewall to continually improve the quality, relevance and accessibility of our service and maintain our ‘Excellent’ local authority status.”

Roger Latham, Chief Executive,
Nottinghamshire County Council

Workplace Equality Index

The Workplace Equality Index (WEI) is the definitive national benchmarking exercise showcasing Britain’s top employers for gay and lesbian staff.

The WEI is also now seen as a key measure of an organisation’s commitment to diversity generally. Any organisation that secures a place in Stonewall’s Index can be justifiably proud of the progress they are making.

Launched in 2005, the WEI is used routinely in both the private and public sectors to benchmark performance. The 1.7 million gay and lesbian people in the UK workforce use it to see how their employer compares with rivals. However, the Index is also now a key resource for consumers. The 3.6 million lesbian and gay people in Britain use it in deciding where they want to spend their disposable income.

In addition 150,000 gay and lesbian students in UK universities use it when deciding where they want to take their talents upon graduation. Any organisation in the UK can enter the WEI free of charge online at www.stonewall.org.uk/wei.

Stonewall Workplace Guides

Stonewall has produced a range of workplace guides including: **Monitoring:** How to monitor sexual orientation in the workplace. **Network Groups:** Setting up networks for lesbian, gay and bisexual employees **Bullying:** Preventing the bullying and harassment of gay employees

See www.stonewall.org.uk/workplace for further information

CONTACTS

GLEN - The Gay and Lesbian Equality Network

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www.glen.ie

admin@glen.ie

Irish Congress of Trade Unions, Equality Section

31/32 Parnell Square, Dublin1,

Tel: +353 (1) 8897777 **Fax:**+353 (1) 8872012

www.ictu.ie/equality/lgbt.html

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IBEC - Irish Business and Employers Confederation

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The Equality Authority

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Co. Tipperary

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Business in the Community Ireland

32 Lower O'Connell Street,
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The Equality Tribunal

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DIVERSITY CHECKLIST

It is illegal to discriminate on the grounds of sexual orientation. Here are **ten key action points** to help make your organisation not only comply with legislation, but to ensure good and best practice.

1. Understand the law

The Employment Equality Acts 1998 - 2008 make it unlawful to discriminate in employment or training on grounds of sexual orientation. Lesbians, gay men and bisexuals, are entitled to protections similar to those already provided for women, disabled and black and ethnic minority staff.

The Sexual Orientation ground in the Equal Status Acts 2000 - 2008 provide robust protections to gay and lesbian people against discrimination in the provision of 'goods, facilities and services', essentially almost any activity in which either business or public providers are engaged.

The Civil Partnership Bill, which is due to be enacted in 2010, will afford lesbian and gay people the same package of rights and responsibilities that heterosexual people can derive from marriage. Employers will be required to treat staff who are married or in civil partnerships in the same way.

2. Act now

Make sure your policies and practices comply with the regulations. Employers risk legal claims from staff who have been treated less favourably in, for example, recruitment, promotion, training, or dismissal; are disadvantaged as a group by workplace practice and policy because of their sexual orientation; or have been offended – either intentionally or unwittingly – by homophobic actions or comments. Organisations which

provide goods, facilities or services to customers or service users risk legal claims if they discriminate against lesbians and gay people in the provision of these.

3. Communicate

Explaining the company's good practice guidelines and programmes including the legal context to staff and line managers is critical. Make sure everyone understands that LGBT staff and customers are protected by discrimination legislation and knows what they must do to comply with the regulations and with the company's good practice approaches.

4. Make the business case for diversity

Robust diversity policies contribute substantially to long-term competitiveness; attract higher skills, motivated employees and loyal customers. More organisations are also making the link between how they treat existing and potential employees and how they are perceived by customers. Persuade colleagues to see diversity issues as an opportunity not a threat.

5. Build a culture of respect

Over half of lesbians and gay men may conceal their sexual orientation from some or all of their colleagues. They often find it difficult to get support when private events affect their work. Work to create an environment where LGBT people can feel safe and do their best. Make

equal treatment for LGBT people both a question of fairness and a question of common sense.

Recognise that a portion of your staff will be LGBT and ensure that there is explicit reference to this in all company policy documents and in public statements both internally and externally.

6. Recruit fairly

Recruiters often have stereotyped notions of what LGBT people are good at or not so good at, and these affect their decisions. They may believe LGBT people will not fit in. Ensure that recruiters understand fair selection criteria and apply them consistently.

7. Tackle harassment and bullying

Often LGBT people who have been harassed will not want to complain because it would force them to come out as gay or transgender. Make LGBT staff feel confident about using your procedures even if it would mean having to reveal their sexual orientation or gender identity.

8. Review terms and conditions

Same-sex partners registered in civil partnerships must once civil partnership has been enacted, be treated as equivalent to married partners for all workplace benefits. The best employers also offer equivalent benefits to non-registered same-sex partners as to non-married mixed-sex partners.

9. Manage performance fairly

Ensure that everyone in your organisation makes decisions based only on merit and competence. LGBT people are sometimes passed over for promotion, disciplined unfairly or even dismissed for no good reason. They may find they are described as not being team players, simply because they are unable to be entirely open about their personal or social lives.

10. Monitor and evaluate your policies and practices

Monitoring is essential to check whether unlawful discrimination is going on and whether an organisation's diversity policy is working in practice. Think about how you will reassure LGBT people that it is safe to provide information for monitoring purposes.

REFERENCES

An Garda Síochána's Diversity Strategy and Implementation Plan - 2009 - 2012 (2009).

Ahern, B., speech at the opening of the offices of GLEN 2006.

Collins, E. (2009) International Competitiveness and the New Economy. Gay and Lesbian Equality Network.

Denyer, S. Dr. Howard, D. McEvoy, D. Ó hUllacháin, D. (2009) Burning Issues, listening to the voice of the LGBT community in Ireland. National Lesbian and Gay Federation.

Department of Trade and Industry (2003) Amendment to Employment Equality (Sexual Orientation) Regulations: Full Regulatory Impact Assessment. United Kingdom.

Equality Authority (2001). Guidelines for Employment Equality Policies in Enterprises.

Equality Authority. The Employment Equality Acts 1998 and 2004.
<http://www.equality.ie/eng/index.asp?locID=106&docID=52>

Equality Authority. The Equal Status Acts 2000 and 2004.
<http://www.equality.ie/eng/index.asp?locID=106&docID=226>

Equality Authority (2007). Press Release 2nd July 2007.

Flood, P. Guthrie, P. Liu, W. Armstrong, C. O'Regan, C (2008). New Models of High Performance Work Systems: The Business Case for Strategic HRM, Partnership and Diversity and Equality Systems. Equality Authority and National Centre for Partnership & Performance.

Florida, R., Gates, G., Knudsen, B., Stolarick, K. (2008). The University and the Creative Economy. Creativeclass.org.

Gibbons, M. Manandhar, M. Gleeson, C. Mullan, J. (2007) Recognising LGB Sexual Identities in Health Services. The Equality Authority.

Irish Congress of Trade Unions (2003). Lesbian, Gay and Bisexual Rights in the Workplace, Congress Guidelines for Negotiators.

Lee, F. Hannigan, B. (2009). Public Service Executive Union. Survey of LGBT Members.

Mayock, P. Bryan, A. Carr, N. Kitching, K. (2009) Supporting LGBT Lives: A study of mental health and wellbeing of lesbian, gay, bisexual and transgender people.

McIlroy, C (2009) Transphobia in Ireland. Transgender Equality Network Ireland.

Miles, N. (2008). The Double-Glazed Glass Ceiling, Lesbians in the Workplace. Stonewall.

Monks, K. (2007). The Business Impact of Equality and Diversity: The International Evidence. The Equality Authority and the National Centre for Partnership and Performance.

Murphy, M. Dr. (2008) Launch of University College Cork LGBT Network Speech.

National Competitiveness Council (2009) Benchmarking Ireland's Performance. Annual Competitiveness Report.

National Competitiveness Council (2009). Our Cities: Drivers of National Competitiveness.

Out Now Consulting (2007). Gay Community News, Readership Survey.

Partnership for New York City (2008) Winning the Global Race for Talent.

Pillinger, J. Dr. (2008). Extending Equality. European Trade Union Confederation.

Ryan, F Dr (2009). Civil Partnership: Your Questions Answered. A Comprehensive Guide to the Civil partnership Bill. GLEN.

Stonewall (2008) Sexual Orientation Employers Handbook. www.stonewall.org.uk/workplace

Stonewall (2009) The Double Glazed Ceiling: Lesbians in the Workplace. www.stonewall.org.uk/workplace



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