

Diversity in the Workplace

A Toolkit for Employers in Romania

Creating an inclusive and supportive work environment



This resource aims to:

- Broaden the concept of diversity in the workplace
- Challenge some of the stereotypes associated with LGBT+ persons
- Suggest concrete means for improving their well-being at work
- Offer basic information on the individual rights and obligations of all employees in a workplace that respects diversity

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Diversity in the Workplace

Legislation and Policies

The main sources of employment law

The main sources of employment law are the Labour Code (Law No. 53/2003), as republished in the Official Gazette No. 345/18.05.2011 and further modified (the “Labour Code”), and the Social Dialogue Law (Law No. 62/2011), published in the Official Gazette No. 322/10.05.2011 (the “Social Dialogue Law”) as further modified.

For other labour-related matters, such as labour, health and safety, protection of maternity in the workplace, non-discrimination, social security, and the protection of employees in the case of transfer of undertakings etc., there are particular legal sources.

Workers / employees

There are two types of workers:

- (i) workers employed by private legal entities – companies, NGOs, etc.; and
- (ii) workers employed by public institutions and authorities (i.e. public servants).

The employment laws protect both categories of workers, but there are certain differences regarding the applicability of such legal provisions, as follows:

- Workers from the private system may negotiate details concerning their contracts – or ‘Individual Labour Agreements’ (“ILAs”) within the limits set by the applicable legal provisions, such as salary, holiday, work time, etc. In this case, the employment laws represent only the legal frame, whereas such workers may have a more flexible approach with regards to the conditions of their specific labour positions.
- Labour relations applicable to workers in the public system are ruled by special and derogatory legal provisions. Such workers may not negotiate and change all the conditions of their employment.

As regards the workers from the private system, the legal regulations provide for full-time workers and part-time workers, as well as for fixed-term workers and workers employed for an unlimited period of time.

All the rights and obligations applicable to full-time workers and to workers employed for an unlimited period of time are recognised as applicable to part-time workers and fixed-term workers as well.

The main difference between such categories is that: in relation to part-time workers, the working time is less than the normal working hours provided by the legal regulations for a full-time worker (i.e. 40 working hours per week) and they are not allowed to work overtime; and, in what concerns fixed-term workers, their ILAs are limited to the period mentioned in the agreement.

In addition, the Labour Code and other legal provisions regulate the temporary workers who are employed by temporary workforce agencies and who are made available to companies, called

beneficiaries, for determined periods of time. The temporary workers enjoy the same rights as the beneficiaries' own employees.

The legal provisions with regards to the rights and obligations of the workers are the same for all categories of workers. The differences are triggered only by the nature of their employment contract.

Protection against discrimination

The employer must comply with the principles of equal treatment, non-discrimination and equal opportunities for all its employees.

Direct or indirect discrimination towards an employee, based on criteria such as gender, sexual orientation, genetic characteristics, age, national origin, race, colour of skin, ethnic origin, religion, political orientation, social origin, disability, family conditions or responsibilities, or trade union membership or activity, is prohibited.

The Labour Code specifically provides for the equal treatment in employment and protection of employees during recruitment and dismissal, and during their employment, against direct and indirect discrimination based on criteria including:

- Gender.
- Sexual orientation.
- Age.
- Nationality.
- Ethnic origin.
- Religion.
- Political opinion.
- Trade union membership or activity.

If the employer fails to comply with its legal obligation to protect employees from discrimination and harassment, they can be liable for a fine of between RON 1,000 to RON 30,000 (where the person concerned is an individual). The fine can range between RON 2,000 and RON 100,000 if the discrimination concerns a group of individuals or a community.

Harassment is prohibited and punishable in the same way as discrimination.

The Romanian Government Ordinance No. 137/ 2000 on Preventing and Punishing All Forms of Discrimination additionally provides for generally-applicable definitions of discrimination, harassment¹, and specific measures related to several areas – including employment.

¹ At the same time, harassment is defined in Article 2(5) of the Anti-discrimination Law as a specific form of discrimination: 'any behaviour on grounds of race, nationality, ethnic origin, language, religion, social status, beliefs, sex, sexual orientation, belonging to a disadvantaged group, age, handicap, refugee or asylum seeker status or any other criterion, which leads to establishing an intimidating, hostile, degrading or offensive environment.' Even though the list of protected grounds differs from those in the definition of discrimination, harassment was interpreted as being covered by the main list of protected criteria reflected above.

The Anti-discrimination Law (GO 137/2000) sanctions 'any difference, exclusion, restriction or preference based on race, nationality, ethnic origin, language, religion, social status, beliefs, gender, sexual orientation, age, handicap, non-contagious chronic disease, HIV positive status, belonging to a disadvantaged group or any other criterion, aiming to or resulting in a restriction or prevention of the equal recognition, use or exercise of human rights and fundamental freedoms in the political, economic, social and cultural field or in any other fields of public life.' (Art. 2(1)).

What types of discrimination are unlawful and in what circumstances?

The employer must observe and respect non-discrimination principles during the recruitment process, when concluding the ILA and for the entire term of the ILA, as well as when terminating the ILA. Any type of discrimination on the grounds mentioned hereinabove is considered unlawful, and may be sanctioned by the Romanian courts of law and by the National Council for Combating Discrimination.

If a discrimination claim has been registered with the competent court of law, the sole defence for the employer is to prove, with testimonies, written documents and other legal evidences, that no measures or actions were taken towards the employee based on discriminating views, but based on objective grounds related to his/her actions and/or activities within the company.

How do employees enforce their discrimination rights? Can employers settle claims before or after they are initiated?

Provided that an employee considers any discrimination is being exerted in his/her regard and he/she informs the employer accordingly, the employer may settle such a claim by taking the necessary measures to protect the employee from discrimination.

Furthermore, if the employees consider that they have been discriminated against, they are entitled to file a formal complaint with the National Council for Combating Discrimination, within one year as of the date when the discriminatory action took place, or from the time he or she learned of such an action.

If the employee is still not satisfied with the result of the complaint, he or she is entitled to file a discrimination claim to the competent court of law. The claim may be settled amicably by the parties, if they reach an agreement, even after the litigation is initiated.

What remedies are available to employees in successful discrimination claims?

An employee who has proven that he or she has been discriminated against may request and obtain (i) special (moral) and/or compensatory damages, (ii) reinstatement of the *status quo ante* position, or (iii) cancellation of the discriminatory situation (measure, deed).

Further, in the case of dismissal on discrimination grounds, the employee may request to be reinstated in his/her former position.

Why is workplace diversity important?

Diversity in the labour force in terms of age, gender, ethnic origin, disability and sexual orientation has grown substantially over recent decades, even in Romania.

However, Lesbian, gay, bisexual and transgender employees often remain invisible in society generally and in the workforce in particular.

Although legally protected from discrimination, they face limitations with regard to certain rights – including that to family and private life – but are also often faced with prejudice, stereotypes, and even bullying, mobbing and harassment in the workplace.

However, sexual orientation and gender identity are slowly becoming a diversity issue in the policies of progressive and fair employers. Employers from mainly the private sphere are increasingly interested in diversity when it comes to their recruitment, organisational culture, terms and conditions as well as benefits offered to employees, etc.

For these reasons, the **Diversity in the Workplace Toolkit** has been designed to enable employers to change attitudes and behaviour within their respective companies, institutions or organisations.

All staff, especially those with managerial functions, need to understand that it is illegal to discriminate either directly or indirectly against any colleagues, customers or service users on account of their sexual orientation or gender identity. Just as it is illegal to discriminate on other grounds – such as race, religion, age, (dis)ability etc.

The toolkit aims at supporting you, as an employer, to comply with legal obligations, but also set up beneficial workplace policies for all your staff and in time build a culture of respect for all employees and service users, regardless of their sexual orientation or gender identity.

ACTION POINT 1:

An Organizational Culture Promoting Respect And Diversity

It is very important to support intentions with policies and procedures that communicate the values you promote as an employer.

This can reinforce compliance with employment legislation, foster equal opportunity and is more than anything a statement of the non-discriminatory practices and values you promote in the entity and at the wider societal level.

In general, creating an inclusive and supportive workplace involves:

- Leading by example with a clear commitment from the top management down that diversity is important
- Adopting policies and procedures to support diversity, anti-discrimination and anti-harassment
- Promoting (both internally and externally) the organization's commitment to diversity
- Holding all staff and volunteers accountable
- Providing training and awareness in the workplace

Diversity-focused workplace culture – why is it important?

First of all, because when individuals feel that they cannot be themselves at work, they will not engage fully as part of the team or in assigned work.

Example: An employee may feel that sexual orientation or a hidden disability cannot be revealed due to fear of reprisals. This type of 'closed' environment can impact the employee's involvement in the organization, potentially resulting in low morale, decreased productivity, absenteeism and retention difficulties.

Every Employer starts from a different place and in a unique context, but all have room for improvement.

Importance of training:

Both managers and employees fear that they may say the wrong thing and be perceived as discriminatory.

Employees need to know that while there are standards and expectations for appropriate behaviour in the workplace, a focus on diversity isn't about being *perfect*.

Diversity and inclusion is best nurtured in an open workplace where mistakes can be used for learning – not for embarrassing or shaming individuals.

There has to be an open, effective communication, as well as clear channels for feedback for discussions of issues related to inclusion and discrimination.

Ideas for embracing diversity in the workplace

- Learn about the cultural backgrounds, lives and interests of employees outside of the workplace. Building relationships through increased understanding and trust helps to foster inclusion
- Include opportunities for staff to interact in settings outside of work so that employees feel more comfortable.
- Be creative, flexible and look for new ways of doing things
- Ensure all employees have the opportunity to take part in decision-making and planning for social activities
- Organize collective meals where employees can learn about one another's cultures by sharing food
- Be aware of, and provide time off for, culturally significant events and holy days. Consider offering a float day for employees to use at their discretion to observe such events or days
- Recognize and acknowledge special days and events such as International Day of Persons with Disabilities, International Day to End Racism, Gay Pride celebrations, etc.
- Create Intranet-based multicultural calendars to avoid scheduling important meetings on major cultural holidays
- Permit flexible schedules so that employees who observe religious practices can arrange their schedules around their beliefs
- Acknowledge all faiths present in your workplace

Tips for creating a LGBT+ inclusive environment

- Don't assume everyone is heterosexual
- If specific significant days or events are highlighted for other employees, annual Gay Pride celebration should be similarly marked
- Acknowledge the relationships of staff equally by ensuring that anniversaries, births and marriages/union ceremonies are celebrated in the same way
- Use the term 'partners' when inviting spouses to social activities. This is a more inclusive and non-gender-specific term, and includes same-sex couples
- Never reveal a LGBT+ person's sexual orientation or gender identity without permission
- In training or information sessions for employees or managers, use concrete examples of situations that pertain to LGBT+ persons

ACTION POINT 2:

Creating A Diverse Staff

When a company, authority, or more generally an organization, is composed of a diverse staff OR has diverse membership/board, it puts into action its organizational values and further attracts diverse staff.

It is essential to note that putting into place policies, procedures, and statements that encourage diversity and inclusiveness are simply a step toward achieving equality.

Benefits of a Diverse Staff:

- **Increased Creativity** - Creativity increases when people with different ways of solving difficult problems work together toward a common solution. The more ideas generated, the more likely an organization is to develop solutions that will appeal to a larger, more varied client base.
- **Improved Problem-Solving** – A wide range of solutions can result when people with different ideas come together and collaborate. Diverse ways of approaching problems can cultivate more innovative solutions and a variety of action plans.
- **Increased Productivity** – Productivity increases exponentially when people of all backgrounds work together toward a shared goal. A wide array of perspectives, abilities, and experience lends itself to expanded outcomes and improved organizational performance.
- **Reduced Interpersonal Conflict / Quality Teamwork** – When workplace diversity is leveraged, people from various backgrounds become enabled to communicate more effectively – and respectfully – with a broad spectrum of clients or beneficiaries. Inclusive attitudes can greatly reduce interpersonal conflict and improve teamwork as we accept, appreciate, and adapt to differences in culture, religion, gender, sexual orientation, work space preferences, behavioral styles, experiences, and beliefs.

Strategies for Creating a Diverse Staff

Ensuring a diverse staff and board composition has as much to do with the way in which an organization internally operates and communicates as it does with the way it attracts, recruits, and hires people.

The strategies below outline a few things to consider when working to create and retain a diverse staff and board over the long-term.

Hiring and Recruitment

- Actively seek applications from a wide range of candidates and recruit from diverse groups, taking proactive steps to address underrepresented or minority groups.
- Advertise in publications that specifically target minority populations, for example, women, gay men and lesbians, people of color, and people with disabilities.
- Offer applicants a copy of your organization's non-discrimination policy.
- Assess the candidate's application based upon his or her experience, knowledge, and competencies rather than personal characteristics and background.

Training

To help your organization's staff understand ways they can support diversity in the workplace:

- Invest in a training program for staff and board members that incorporates concepts of diversity and inclusion.
- Offer leadership program training for staff and board members.
- Offer other trainings that address diversity topics you may not have considered, such as learning styles, behavioral styles, work styles, and generational issues.

Employee Representation:

Evaluate whether members of your staff represent:

- More ethnicities and nationalities.
- Members of the gay, lesbian, bisexual, and transgender (LGBT) community (and who are open about this)
- A wide variety of religious/faith-based practices.
- A wide range of age groups and experience levels.
- People with physical disabilities.
- People with varied socioeconomic backgrounds and education levels.

Communication

Evaluate whether your management group:

- Demonstrates patience with people who have trouble speaking and understanding Romanian / speaks other languages.
- Values face-to-face opportunities that enable them to interpret body language.
- Demonstrates sensitivity to the wide range of potential family arrangements, such as domestic partner relationships and single-parent families.

- Helps employees learn to express themselves more effectively.
- Refrains from talking negatively about people when they aren't present.
- Makes an effort to provide bilingual services in order to improve customer service or staff relations.

External Relationships

Take steps to ensure that your organization:

- Actively reaches out to a multicultural consumer / beneficiary / service users base.
- Forges relationships and partnerships with minority-owned businesses.
- Offers innovative promotional programs that encourage a wide variety of population groups to connect with the company.
- Practices diversity and inclusion within all levels of the organization in order to set a companywide example.
- Encourages partners, vendors, and clients, through any external communication – including publicity – to have a non-discrimination policy inclusive of sexual orientation and gender expression.

Organizational Leadership

Constantly reflect on the ways in which the organization's management and leadership demonstrate:

- An understanding of the principles of inclusion, diversity, fairness, and equality.
- Ongoing personal development in diversity awareness.
- Collaboration with mentors and consultants who have proven knowledge and experience in the areas of inclusiveness and diversity appreciation.
- A commitment to take the necessary steps to eradicate any structural discriminatory practices with relation to employee opportunities and benefits.
- Visible support for all employees both in the workplace and in the community.

Key issues

In some companies, institutions or organisations based in Romania, diversity policies are inclusive and deal explicitly with issues of sexual orientation and gender identity amongst others. In most, 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.

Action points

- Your public statements should assume that a percentage of your workforce and your customers are lesbian, gay or bisexual.
- Create role models by publicising, at least through the internal comms networks (e.g.: internal newsletter) the success of any high-profile LGB people in your organisation.
- Provide 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.

[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.

[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.

[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 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 channels?
- 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 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.

[Have clear, inclusive recruitment policies and procedures](#)

- Adapt your recruitment and selection procedures to accommodate the requirements of the Anti-discrimination Law
- 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.

ACTION POINT 3:

Tackle workplace bullying & harassment

Anti-LGBT+ harassment is not just demotivating, but also 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.

LGBT Victimisation at Work

LGBT people who are out at work can be vulnerable to harassment, bullying and discrimination in their careers.

According to a FRA report on LGBT discrimination², the experience of employees who are part of this community was most often reported in negative terms. First of all, 60% of respondents said they had never been open about their sexual orientation or gender identity in the workplace during any employment they’ve had in the past 5 years, while 23% of respondents said they had rarely been open about their sexual orientation or gender identity in the workplace. Only 7% stated they were open during the past 5 years with employers. Furthermore, the same study revealed that 58% of respondents have always, throughout their professional life, hidden their sexual orientation or gender identity. Only 13% in fact stated they have always been open about their sexual orientation or gender identity in any workplace they had.

Respondents have additionally indicated experiences of victimisation in the workplace: some were verbally threatened by work colleagues, physically threatened by work colleagues, called hurtful names by work colleagues etc.

Discrimination and harassment in the workplace 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.

Tackling workplace bullying & harassment

² EU LGBT survey - European Union lesbian, gay, bisexual and transgender survey

<http://fra.europa.eu/DVS/DVT/lgbt.php>

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 antigay 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 even staff representatives
- 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.

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.

ACTION POINT 4:

Effectively Supporting Employees from the LGBT+ Community

Heterosexuality is often assumed in the workplace and discrimination or harassment based on sexual orientation or gender identity is often subtle. However, all job seekers and employees deserve respect, dignity and protection from discrimination and harassment.

Terminology

It is important to be informed and use terms correctly. The following definitions will help.

Bisexual	An individual who is sexually attracted to either males or females.
Gay	A man who is sexually attracted to other men.
Gender Identity	An individual's sense of being male or female.
Intersex	An individual born with both XX and XY chromosomes, the full or partial sex organs of both genders, or with underdeveloped or ambiguous sex organs, in addition to a hormones of both genders. Individuals who are born intersexed may also embody secondary sex characteristics of either gender.
LGBTQ	The acronym used as a collective term to refer to gay, lesbian, bisexual, transgender and queer people.
Lesbian	A woman who is sexually attracted to other women.
Queer	Formerly an exclusively derogatory term for all LGBT+ people; now proudly used by some as an umbrella term for the entire LGBT+ community; also used by those who see their own gender identity, sexual identity, and/or sexual orientation as not fitting the widely recognized pattern of straight, gay or lesbian, bisexual, transgender, or questioning.
Sex reassignment surgery	The medical procedure to surgically create the physical appearance of the opposite gender.
Sexual Orientation	Affection and sexual attraction for people of the same or opposite sex.
Transgender Person	Individuals who are uncomfortable with (or reject in whole or in part) their birth assigned gender and may include transsexual persons, whether or not they have undergone sex reassignment surgery.
Transition	The process of changing gender, including hormones, cross living and surgery.

Transsexual	An individual who identifies himself or herself as a member of the opposite gender and who acquires the physical characteristics of the opposite gender. A transsexual can be of any sexual orientation.
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Potential barriers

For many employees, revealing their sexual orientation or gender identity can have serious consequences. Many do not feel safe in the workplace. Will they be let go or passed over for a promotion? Will they be the source of jokes? Will they be ignored and isolated? Will colleagues treat them differently than before?

Here are a few possible workplace scenarios that an employee could face:

- When providing the name of an emergency contact person, LGBT+ persons must come out if they wish to give their partner's name and are asked the nature of their relationship
- When required to attend the funeral of a member of their partner's family, LGBT+ persons must come out if they want to request special leave rather than annual leave
- When they begin the process of changing their name and sex on official employment-related forms, transgendered persons must come out to their managers.
- If LGBT+ persons wish to include their accomplishments in the LGBT+ community among the volunteer activities listed on their CV, they may have to come out to the prospective employer

Practical and supportive practices for here and now

Creating an inclusive and supportive workplace involves:

- Leading by example with a clear commitment from the top down that diversity is important
- Adopting policies and procedures to support diversity, anti-discrimination and anti-harassment
- Promoting (both internally and externally) the organization's commitment to diversity
- Holding all staff and volunteers accountable
- Providing training and awareness in the workplace

When the focus is on building an inclusive environment that is welcoming to people regardless of sexual orientation or gender identity, the following is a list of practical and supportive practices:

- Make reference to sexual orientation and gender identity in your workplace diversity policies
- Do not assume heterosexuality
- When you interact with a job seeker or new employee, ask inclusive questions that do not assume that the person has a spouse of the opposite gender
- Review your human resources orientation sessions to make sure they reflect more than just heterosexual examples
- Use the inclusive term "partner" • rather than husband or wife

- Extend employment benefits (if applicable) to same-sex couples including:
- Bereavement leave
- Medical and dental benefits
- Emergency leave
- Group life insurance
- Maternity/parental leave

Good practice

Remember that you should never reveal a LGBT+ person's sexual orientation or gender identity without his or her permission. Sharing this kind of personal information about someone shows a lack of respect and might, in some cases, create problems and even be considered a form of harassment.

Supporting a transitioning employee

In addition to the above ideas, here are some additional practices for supporting a transgendered employee through the transitioning stage:

- Open communication is important so learn as much as possible and educate your workforce about transsexuality
- Management needs to lead by example by demonstrating respect to the transitioning employee
- In a large enough organization, switching departments or taking on a new assignment may help staff and the transitioning employee adjust
- The issue of washrooms will need to be dealt with so that everyone feels comfortable. A solution, if available, is to have a single use washroom available instead of separate male and female washrooms
- If relevant, discuss how your workplace uniform/dress code will be handled
- The transitioning employee will need to be accommodated with time off for medical procedures
- Refer to the transitioning employee by their preferred name and pronouns
- Once the employee has completely transitioned to the other gender there will need to be an official name change for your human resources and administrative records (for example, pensions, medical and dental and government filing)

Resources:

<http://www.hrcouncil.ca/hr-toolkit/diversity-glbtc.cfm>

<http://fra.europa.eu/DVS/DVT/lgbt.php>

https://www.stonewall.org.uk/sites/default/files/line_managers.pdf

<http://cms.bsu.edu/->

</media/www/departmentalcontent/counselingcenter/pdfs/safezone%20out%20at%20work/creating%20an%20lgbt-friendly%20workplace.pdf?la=en>

<http://www.d5coalition.org/wp-content/uploads/2015/10/inclusive-workplace-toolkit-2011.pdf>