

## What should employers do?

### Implement a harassment policy and procedure:

Have a clear, comprehensive, effective and accessible harassment policy and procedure that covers/includes complaints of harassment on grounds of sexual orientation. By implementing a harassment policy and procedure, employers outline to their employees and others how they can raise complaints of harassment and how these complaints will be dealt with.

**Provide training:** Provide training and guidance to all employees in order to ensure that they understand their responsibilities under the Employment Equality (Sexual Orientation) (Northern Ireland) Regulations 2003 and the Civil Partnership Act 2004.

**Examine internal policies:** Look at your benefits packages and internal human resources systems and processes to identify where changes are needed to ensure civil partnerships are effectively taken into account.

**Be aware of sensitivities:** You will need to bear in mind that employees who have a partner/ civil partner may not want others to know this for a variety of reasons.

**Communicate these changes to all employees:** Make sure that all employees know that these changes have taken place and how to claim benefits available to them or their civil partner.<sup>14</sup>

**Consider the rights of volunteers:** Volunteers are not covered by legislation like employees. However good practice can be adopted by employers to ensure that volunteers are treated fairly. Transparent selection procedures for volunteers should be developed by all

employers to encourage diversity and ensure equal opportunities are adhered to at all times.

### The members of the Diversity Works partnership involved in this publication are:

British Council  
Carers Northern Ireland  
Coalition on Sexual Orientation (CoSO) represented by the Rainbow Project  
Department of Enterprise, Trade and Investment (DETI)  
Disability Action (lead partner)  
Equality Commission for Northern Ireland (ECNI)  
Irish Congress of Trade Unions (ICTU) represented by the Belfast Unemployed Resource Centre (BURC)  
North West Forum of People with Disabilities  
Northern Ireland Chamber of Commerce and Industry (NICCI)  
Northern Ireland Council of Ethnic Minorities (NICEM)

### Our reference point organisations are:

Business in the Community  
Future Ways  
Organisation of the Unemployed Northern Ireland (OUNI)  
The British Red Cross Society



### Footnotes

- 1 HM Treasury website - [www.hm-treasury.gov.uk](http://www.hm-treasury.gov.uk)
- 2 Sexual Orientation Discrimination in Northern Ireland. The Law and Good Practice. March 2004
- 3 Police Service of Northern Ireland Statistical Report 1st April 04 - 31st March 05 [www.psnl.police.uk/main\\_report\\_2004-05.pdf](http://www.psnl.police.uk/main_report_2004-05.pdf)
- 4, 17 'An Acceptable Prejudice - Homophobic Violence and Harassment in Northern Ireland' - Institute of Conflict Research 2003
- 5 Lesbian, gay and bisexual participation in UK universities. Results from a pilot study' Association of University Teachers, November 2001
- 6, 7 Equality Commission for Northern Ireland - Sexual orientation discrimination law in Northern Ireland - a short guide 2004
- 8, 9 Lesbian Advocacy Services Initiative [www.lasionline.org/civil.htm](http://www.lasionline.org/civil.htm)
- 10 Civil Partnerships - What does it mean for you - [www.ofmdfmi.gov.uk](http://www.ofmdfmi.gov.uk)
- 11 New Equality Legislation Flyer 'Protection against discrimination, on grounds of sexual orientation in employment and vocational training' [http://www.dti.gov.uk/er/equality/sexor\\_flyer.pdf](http://www.dti.gov.uk/er/equality/sexor_flyer.pdf)
- 12, 13 The business case for diversity - [www.businesslink.gov.uk](http://www.businesslink.gov.uk)
- 14 Women & Equality Unit - [www.womenandequalityunit.gov.uk/lgbt/partnership\\_employers\\_advice05.doc](http://www.womenandequalityunit.gov.uk/lgbt/partnership_employers_advice05.doc)
- 15 Stonewall - The Employment Equality (Sexual Orientation) Regulations Guidelines for Employers [http://www.stonewall.org.uk/documents/Employer\\_English.pdf](http://www.stonewall.org.uk/documents/Employer_English.pdf)
- 16 The Rainbow Project - 'A guide to your rights' [www.rainbow-project.org/documents/GuideToYourRights\\_000.pdf](http://www.rainbow-project.org/documents/GuideToYourRights_000.pdf)

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# Partners and Employers

A factsheet looking at sexual orientation and related employment legislation

## Introduction

With the implementation of the Civil Partnership Act 2004 to Northern Ireland in December 2005, there has been an increased focus on the LGBT, the Lesbian, Gay, Bisexual and 'Trans' (transsexual, transgendered and transvestites) community and the legislation relevant to them.

This factsheet provides a general overview of the LGBT community in Northern Ireland and the legislative protections that are in place in relation to employment.

## Lesbian Gay Bisexual and 'Trans' (LGBT) Community in Northern Ireland

There are no official statistics in relation to the size of the LGBT community in Northern Ireland. However, research conducted by the HM Treasury revealed that 5 - 7% of the U.K. population belong to the LGBT community.<sup>1</sup>

The LGBT community is a diverse community like any other and there are many issues that impact on it. It is recognised that members of the LGBT community experience various forms of discrimination and harassment because of their sexual orientation. Experience of discrimination may be common, however not all personal experiences are the same. These experiences reflect individual life experiences including family and social life, patterns of health provisions, treatment at work and treatment by providers of public services.

## What is discrimination on the grounds of sexual orientation?

'Sexual orientation is defined as having a sexual orientation towards:

- persons of the same sex (lesbians and gay men)
- persons of the opposite sex (heterosexual)
- persons of both sexes (bisexual)<sup>2</sup>.

To be discriminated against means to be treated less favourably than others. Sexual orientation discrimination is discrimination against people because they either have or are perceived to have a particular sexual orientation.

According to the Police Service of Northern Ireland (PSNI) between 2004 and 2005 the number of homophobic incidents reported increased by 125 (176%) with a total of 151 homophobic incidents recorded during this period.<sup>3</sup>

A recent survey conducted by the Institute for Conflict Research in Northern Ireland found that 82% of lesbians and gay men had experienced harassment and 55% had been subject to homophobic violence. The most common place to experience harassment and violence was in the street, but many people were also harassed outside or leaving an LGBT social club or bar and in or near their home.<sup>4</sup>

Another survey conducted by the Association of University Teachers found that only 20% of gay men and 13% of lesbians felt comfortable being 'out' in their workplace.<sup>5</sup>

## Employment Legislation

### Section 75 of the Northern Ireland Act 1998

Section 75 came into effect on 1 January 2000. The provisions place a statutory obligation on public authorities to carry out their functions relating to Northern Ireland having 'due regard' to the need to promote equality of opportunity:

- between persons of different religious belief, political opinion, racial group, age, marital status or sexual orientation
- between men and women generally
- between persons with a disability and persons without
- between persons with dependants and persons without.

Under Section 75 of the Northern Ireland Act 1998, public authorities must undergo Equality Impact Assessments (EQIA) in order to determine the effect of their policies/legislation on the different communities of interest in Northern Ireland. This is done through formal and informal consultations with non-governmental organisations (NGOs). Any individuals who might be affected by these new policies may also respond to a consultation.

An example of this process in action is how The Criminal Justice (Northern Ireland) Order 2004 initially only covered hate crimes in relation to race and religious belief. However, after public consultation it was decided to extend the order to cover hate crimes in relation to sexual orientation and disability.

### The Employment Equality (Sexual Orientation) Regulations (NI) 2003

The European Union Framework Employment Equality Directive 2000, that covers sexual orientation discrimination, was implemented/transposed through the Employment Equality (Sexual Orientation) Regulation (NI) 2003. The duty to enforce this regulation rests with the Equality Commission for Northern Ireland.

This regulation makes it unlawful for employers and training providers to discriminate against people in the areas of employment and vocational training because of their perceived or actual sexual orientation. In addition, the regulation offers protection to people who suffer discrimination because of the sexual orientation of other people, for example family members or friends.<sup>6</sup>

An employer can treat a job applicant or employee differently on grounds of sexual orientation if possessing a particular sexual orientation is a Genuine Occupational Requirement (GOR) for that post. The GOR exception is likely only to apply in **very limited circumstances**. Employers must show that being of a particular sexual orientation is a genuine and important occupational requirement to the job in question.<sup>7</sup>

An example of genuine occupational requirement may be where a small organisation is formed in order to provide advice and support to members of the LGBT community. In its job advertisement for a co-cultural counsellor, the organisation indicates that the successful candidate must be a member of the LGBT community to effectively carry out the requirements of the post.

In these circumstances, the organisation is likely to be able to rely on the GOR exception.

### The Civil Partnership Act 2004

The Civil Partnership Act 2004 came into effect in Northern Ireland on the 5 December 2005. A civil partnership is not a marriage. However, it 'achieves parity with marriage in almost every respect'<sup>8</sup> and it will last until death, dissolution or annulment.

The aims of the Act are:

- To create a new legal status that will give same-sex couples formal recognition of their relationships.
- To create rights and responsibilities that reflect the importance of the commitment the partners are making.
- To address many of the inequalities faced by same-sex couples who have been unable to secure legal recognition of their relationships.<sup>9</sup>

The key areas covered by the Civil Partnership Act in relation to employment are: social security benefits, tax credits, pensions, taxation, statutory paternity/maternity pay and flexible working.<sup>10</sup>

### What are the business benefits?

Many companies already recognise that there are considerable benefits in adopting employment policies based on principles of equality. If an employer has a reputation for tackling discrimination this can help to attract, motivate and retain staff. It helps employers make the best use of skills and experience and can lead to a more diverse workforce, new ideas, access to wider markets and a better image.<sup>11</sup>

There are real benefits to employing a diverse workforce including:

- having a larger pool of potential candidates for job positions,
- having a wider range of resources, skills and ideas among your employees that you can tap into,
- improving staff retention, leading to lower recruitment and training costs,
- increasing employee efficiency,
- avoiding claims of unfair treatment or discrimination,
- building a reputation as a diverse business.<sup>12</sup>

Recruiting a diverse workforce has tangible business benefits. Many businesses find it helpful to have a workforce that reflects the community they work/trade in. This can help them tailor their goods or services so as to build trust and goodwill among customers and suppliers.<sup>13</sup>

### Things to think about

- By 2011, only 18 per cent of the UK workforce will be white, male, non-disabled, under 35 and heterosexual.<sup>15</sup>
- Nine European Union member states and some states in the US and Australia have now introduced a form of civil partnership registration.<sup>16</sup>
- A survey of 186 people from the LGBT community across Northern Ireland, conducted in 2003, showed that 50% are in full time employment with 35% educated to HND/Degree level yet 49% earn less than £10,000 per year.<sup>17</sup>