

SUPPORTING

Lesbian, Gay, Bisexual and Transgender Workers

Good Practice for Trade Unions

STUC LGBT Workers' Committee

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Supporting Lesbian, Gay, Bisexual and Transgender (LGBT) Workers

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Contents

Introduction	3
Purpose of this guide	4
Inset box: Scottish Attitudes survey (Stonewall analysis)	5
STUC LGBT Workers' Conference	6
Union structures.....	6
Inset box: self-organisation.....	7
Union policies	7
What unions can do	9
Workplace Policies.....	10
Understanding the L & the G & the B & the T.....	10
Inset: Trans workplace issues	12
LGBT and Scotland.....	13
Legislation.....	13
Tackling the consequences of discrimination and inequality	14
Working and building alliances with NGO and community based LGBT organisations	14
Useful Sources of Information.....	15

Introduction

Very few people doubt that the treatment of lesbian, gay, bisexual and transgender (LGBT) people in Britain has improved significantly over the past three decades. Trade unions have played a major role in winning the improvements gained in recent years, whether in the workplace or in the wider community.

Legally, with a few exceptions highlighted in this guidance, LGBT people now enjoy the same protection and the same rights as any other citizen, consolidated through the 2010 Equality Act, in employment, and in access to goods and services. The public sector equality duty requires all public bodies to promote equality on grounds of sexual orientation and gender reassignment just as for any of the other protected characteristics.

The Marriage and Civil Partnership (Scotland) Act 2014 covers the introduction of marriage for same-sex couples: giving humanist and other belief celebrants the same rights as religious celebrants; specifying the arrangements for authorising celebrants to solemnise mixed-sex and same-sex marriages; allowing same-sex couples in civil partnerships the opportunity to change their civil partnership to marriage; and allowing all civil marriage ceremonies to take place anywhere agreed between the couple and the registrar, except for religious premises.

The fact that two thirds of Scots agree on gay marriage reflects a dramatic change in attitudes and surveys of public opinion have reported a continuous reduction in popular prejudices.

However, a significant minority of public opinion remains hostile. Just as we recognise that, despite improvements in attitudes, racism persists as a major problem in Scotland and the UK, we must remember that homophobia and transphobia continue and must be challenged at every turn.

Sections of the media continue to promote homophobic and transphobic attitudes; bullying continues to be common in areas of the education system; being 'out' in the sporting community continues to be the extreme exception; and homophobic and transphobic hate crimes have not abated. There were 890 crimes against LGBT people recorded in Scotland in 2013/14 – 22% more than in 2012/13.

A priority for action for trade unions is to protect members and challenge homophobia and transphobia in the workplace – challenging discrimination at work can have an important impact on wider society. But unions also have a

wider campaigning role, both domestically and internationally to ensure that diversity is promoted and discrimination is challenged in all walks of life. For unions this must mean far more than simply arguing for tolerance and/or tackling discrimination, it should include an understanding that being Lesbian, Gay, Bisexual or Transgender is a positive way of being – something to be celebrated.

Purpose of this guide

It is not the purpose of this guide to undertake an in-depth analysis of the legal framework relating to LGBT, either within or outside the workplace. Many unions have produced their own guides and links are provided in the final section to a range of resources which are available.

This guide explores the potential for unions to strengthen their approach to promoting participation, widening knowledge amongst reps and members and sharing best practice.

Inset box: Scottish Attitudes survey (Stonewall analysis)

- **Three in five** (62 per cent) people say there is public prejudice against lesbian, gay, bisexual and transgender people in Scotland today.
- **More than four in five** (83 per cent) people believe it is right to tackle prejudice against lesbian, gay, bisexual and transgender people where they say it exists.
- **Two thirds** (65 per cent) support the Scottish Government's proposals to extend civil and religious marriage to same-sex couples.
- **Fifty eight per cent** of Scots aged 18 to 29 say there was homophobic bullying in their school.
- **Almost four in five** (78 per cent) of people of faith believe that it's right to tackle prejudice against lesbian, gay, bisexual and transgender people.
- **Three quarters** (76 per cent) of people think the media still rely heavily on cliched stereotypes of lesbian, gay, bisexual and transgender people.
- **More than four in five** (85 per cent) people would be 'very comfortable', 'comfortable' or 'neutral' if the first child - and heir to the throne - of Prince William and the Duchess of Cambridge grew up to be lesbian, gay, bisexual or transgender.
- **Seven in ten** (71 per cent) people believe Scotland has a moral and social responsibility to challenge human rights abuses against lesbian, gay, bisexual and transgender people abroad.
- **Almost two thirds** (61 per cent) of people believe Scotland has a responsibility to protect people who come to the UK fleeing persecution in their home countries because they are lesbian, gay, bisexual or transgender.
- **Six in ten** (60 per cent) people think that lesbian, gay, bisexual and transgender people are most likely to conceal their sexual orientation or gender identity in sport.
- **Almost seven in ten** (68 per cent) people now believe that lesbian, gay and bisexual people should be open about their sexual orientation, no matter what.

STUC LGBT Workers' Conference

The need for an annual STUC LGBT conference and a formal STUC LGBT structure was established by a conference held in 2010. Following this event, an STUC LGBT network and steering group was created to guide the STUC General Council in the creation of formal structures.

The inaugural STUC LGBT conference was held in 2012 and marked the creation of a formal LGBT equality structure within the STUC. The conference elects an LGBT equality committee annually to work on priorities for LGBT workers throughout the year. The conference also elects two representatives to sit on the STUC's General Council, to ensure the voice of LGBT workers is heard at the highest levels of the trade union movement. The inaugural conference was attended by 35 delegates from 11 Scottish trade unions, including the seven largest affiliates.

In 2014, the number of unions sending delegates had increased to 14, and the overall number of delegates had doubled to nearly 70. Proof, if it were needed, that creating appropriate structures can lead to increased participation and a growing voice for LGBT members.

Union structures

The STUC LGBT Committee strongly supports the creation of structures to provide a voice for LGBT members and to ensure that issues are raised, discussed, campaigned for and mainstreamed into trade union activity.

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

Therefore where unions have LGBT networks, contact details need to be displayed where members can see them without necessarily revealing their interest; and if approached by a member asking for such details, representatives

should be able to provide the information as well as confirming the confidentiality of the enquiry, if that is requested.

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

Inset box: self-organisation

Self-organisation is where members organise in solidarity around common experiences, providing help and support for each other in the face of prejudice and discrimination. Due to the deep-rooted nature of prejudice and discrimination in our society, women members, black members, disabled members and lesbian, gay, bisexual and transgender members have traditionally been less visible in trade unions and under-represented in democratic structures. Self-organisation offers a way to address this.

Self-organised groups often can be the first point of contact with the union for members and potential members. Many members who become involved via a self-organised group go on to hold senior positions at branch, regional and national level. Self-organisation can and should be a vibrant and dynamic part of a union's activity welcoming new activists, encouraging participation and helping members take on other roles in the union.

Self-organised groups also play a key role in supporting unions' 'mainstream' activities, giving insight into how issues affect real workers on the ground and ensuring a richness in the unions' view of the world.

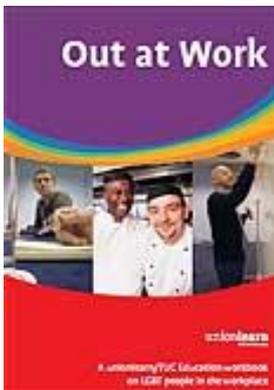
Whether or not any LGBT network is making the recommendation, unions should also impress on the employer the benefit to all of organising training for managers and staff – not just in personnel/HR, but to all line managers everywhere, as that is where the problems faced by most LGBT workers will lie.

Union policies

The TUC's audit of union equality policies and actions has shown that the number of unions producing their own guidance and policies on LGBT issues has increased– the proportion of unions having such policies stood at 44 per cent in the 2012 audit and covered the large majority of trade union members. In the

same audit, unions were asked separately about policies on trans workers for the first time, and (again) 44 per cent responded positively. Clearly, there is still some way to go before complete inclusion of LGBT issues is achieved in trade unions, but the progress has been substantial.

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



What unions can do

The Irish Congress of Trade Unions published a 10 point guide for unions and union branches in promoting LGBT issues and structures. Many unions will already have some or all of these in place.

- 1** Show that the union is committed to LGBT equality by making a policy statement to that effect.
- 2** Put in place measures to raise the union's profile and visibility so groups and individuals can see that joining a union could have positive benefit.
- 3** Create a climate in the union that enables LGBT workers to 'come out' in the union; this will be important in engaging LGBT people to help the union promote LGBT rights at work. Provide opportunities for LGBT members to meet and network.
- 4** Work closely and build alliances with NGO and community based LGBT organisations and reach out to people at local levels.
- 5** Put in place a union policy on LGBT rights and get this mandated in all union decision-making bodies and at all levels of the union.
- 6** Publicise union policies and commitments to LGBT equality in union journals, newsletters and in the general and LGBT media.
- 7** Produce campaigning materials on LGBT equality issues that can be used in organising and recruitment.
- 8** Participate in LGBT and community based campaigns, for example, for legislative changes, or specific events such as International Day Against Homophobia and Transphobia or local campaigns for community facilities and services.
- 9** Attend, fund and publicise union activities at annual Pride parades and other LGBT events. This could include providing sponsorship for a Pride parade and having a presence at Pride with banners, campaigning materials and union information.
- 10** Put in place resources and a named officer to support LGBT members.

Workplace Policies

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

A growing number of employers have been persuaded to include LGBT in their organisation's policy. This is particularly so in the public sector. Although some employers have taken this step on their own initiative, or in response to the initiative of a staff LGBT group or an "out" senior person, unions have continued to play the major role.

Unless senior managers in an organisation are aware of equalities issues, it will be hard for the organisation as a whole to respond positively to the equalities agenda. The STUC has, therefore, always called for leadership to start at the top. At a time when many employers have recognised that if they want to recruit and retain the most talented workers, being seen as a progressive employer has become accepted as a necessary step. That means being seen as "LGBT-friendly" in a clear and public way: explicit inclusion of LGBT equality in the organisation's policies and recruitment materials, clear statements from the top – and actual good practice that will enhance the organisation's reputation.

Understanding the L & the G & the B & the T

Because they recognise that there are shared issues of discrimination, the majority of Lesbian, Gay, Bisexual and Trans people have chosen to campaign together. This is why the STUC, unions and most other campaigning create structures for and use the term LGBT. It is important, however, to be aware that LGBT issues should not be compartmentalised to the point of overlooking the overlap with other equality issues. It is also vital that the specific differences between the L, G, B and T are recognised and supported. A common problem is that the concerns of one group might be drowned by those of another – most commonly gay men can be the most visible (and audible) presence, and there is a risk of making invisible or drowning out the concerns of lesbians and bisexuals. For lesbians, the same issues will arise as do for all women in environments and

organisations that are male-dominated. Unions must recognise and tackle anything that gives undue prominence to one section of those covered by “LGB”.

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

For people who identify that their birth gender is not the gender in which they wish to live, whether or not they choose to undergo the whole process of gender reassignment, the single term transgender can be used without causing offence. Some people, who have undergone reassignment, will identify as transsexual, and that term can be used if the individuals prefer it.

The short term “trans” can happily apply to either group and will usually satisfy everyone. There is a particularly high level of misunderstanding about what it means to be trans and trans workers face high levels of prejudice and discrimination. Of course, some trans people are themselves lesbian, gay or bisexual, but there is a frequent tendency to conflate being trans with a particular sexuality. The terms "homosexual" and "heterosexual" are problematic for transgender people who do not identify as male or female.

It is essential to allow space for each of the component parts of LGBT to have their voice, so that particular issues for one group are not lost. For the union, appreciating the diversity of the LGBT communities means that LGBT equality policies should be specific, where they need to be. But they should also be mainstreamed, insofar as all the organisation’s policies may have an impact on LGBT people. There may be for example specific lesbian angles to policies affecting women workers, and these should not be forgotten during a consultation between the union and women members generally.

Inset: Trans workplace issues:

The STUC LGBT Workers' Committee recommends the use of the term trans as a commonly used umbrella term to cover the diverse ways that people find their gender identity differs from the gender they were labelled at birth. Trans people include:

- Intersex people
- Cross-dressing people
- Non-binary gender variant trans people
- Transsexual people

The process of changing gender is slow and arduous, with significant consequences beyond the purely medical for the individual undergoing it. These facts may have significant consequences in the workplace, for which union representatives will need to be prepared. The timings of the various stages vary significantly between individuals, and each situation will be unique.

In any situation where a trans member approaches the union for support, one principle needs to underlie the approach adopted by union representatives. At every point in the process, the steps to be taken must be agreed with the member, and the maximum confidentiality must be observed for as long as the member wishes that to be the approach. Each individual situation will be different, but requires the same respect for the wishes of the member if their transition to a new gender is to be brought about successfully in a workplace. Key considerations will include

- How to best provide support during the transition and provide information and training of others
- Whether the member wishes to remain in post or seek redeployment
- Negotiating time off for treatment
- Alterations to records because of the changeover
- Ensuring harassment policies include gender identity
- Pensions negotiation
- Disclosure & references

For more information see the STUC LGBT Workers' Committee Trans Guide

<http://www.stuc.org.uk/about/equalities/lgbt-committee>

LGBT and Scotland

The approach of unions to LGBT equality in Scotland will depend on a range of factors including their size, structure and whether they are UK or Scotland-only organisations. Many of the societal and workplace issues, as well as the legal-framework are the same. But there are differences too, which should be considered in framing a suitable approach to supporting and protecting LGBT members. Unions should, therefore, be aware of the campaigning and lobbying activities which are available.

Legislation

Scotland has a separate legal system from the rest of the UK, however LGBT rights in Scotland are generally in line with the rest of the United Kingdom and have evolved extensively over time.

Equalities legislation, most notably the 2010 Equality Act, is reserved to Westminster, as is all employment law, and equal opportunities was specifically set out as a reserved matter in the Scotland Act. Therefore only the UK Parliament can pass laws designed to prevent, eliminate or define discrimination. However, the Scotland Act also gives the Scottish Parliament the power to promote equal opportunities and to encourage compliance with equality law. In addition it has the power to impose duties on Scottish public bodies or cross border bodies with responsibility for devolved matters and in this way the Public Sector Equality Duty in Scotland is the responsibility of the Scottish Parliament and there are now significant differences between the duty that applies in Scotland and that which applies in England.

Same-sex sexual activity has been legal since 1980 and the age of consent has been equalized since 2001. Same-sex marriage was approved by the Scottish Parliament in February 2014, whilst civil partnerships for same-sex couples have been legal since 2005. Same-sex couples have also been granted joint and step adoption since 2009 and discrimination on the basis of sexual orientation and gender identity have been banned since 2005.

In 2009, the Scottish Parliament passed legislation to better protect disabled people and those from the lesbian, gay, bisexual and transgendered communities from Hate Crime.

Tackling the consequences of discrimination and inequality

The Scottish Parliament has devolved power in education, health and a range of other key public services. It also has powers in respect of public sector procurement and public sector Equality Duty regulations. Such powers provide the opportunity to promote equality and introduce policies to tackle the consequences of discrimination and inequality.

The Scottish Government has an Equality Unit, the Scottish Parliament has an Equality Committee and the Equality and Human Rights Commission has a devolved function in Scotland.

Working and building alliances with NGO and community based LGBT organisations

The most significant gains we have achieved in the treatment of LGBT people over recent decades has been achieved through the range of self-organised autonomous organisations who have fought for those rights, either in opposition to government and policy makers, or with government and policy makers where we have been successful in convincing them of the rightness of our cause.

Many LGBT people also feel most able to play a part in achieving LGBT rights through the space that such organisations provide.

Unions can work with LGBT and wider equality groups to bring their influence to bear on political process through joint campaigning and lobbying.

Unions can also support public events, such as Pride celebrations through ensuring a visible trade union presence.

Unions can also work with organisations who work towards achieving greater equality and positivity in education, public services by bring their expertise to bear and playing a part in changing the culture and attitudes of members who deliver key services, whether in the public, private or voluntary sector.

Useful Sources of Information

Equality and Human Rights Commission

<http://www.equalityhumanrights.com/>

and in particular the EHRC's Statutory Code of Practice on Employment

<http://www.equalityhumanrights.com/sites/default/files/documents/EqualityAct/employercode.pdf>

Stonewall Scotland

<http://www.stonewallscotland.org.uk/scotland/>

Equality Network

<http://www.equality-network.org/>

LGBT Youth Scotland

<https://www.lgbtyouth.org.uk/>

Scottish Transgender Alliance

<http://www.scottishtrans.org/>

Leap Sports Scotland

<http://leapsports.org/>

The Kaleidoscope Trust

<http://kaleidoscopetrust.com/>