



SCOTTISH EXECUTIVE

Improving Policy and Practice for LGBT People

Guidance for Local Authorities

Social Justice



**Improving Policy and Practice
for LGBT People**

Guidance for Local Authorities

ODS

**December
2006**

1. About this guidance

This booklet provides guidance for local authorities in Scotland on how to improve policy and practice in relation to lesbian, gay, bisexual and transgender (LGBT) people. The content is based on information gathered from a research project commissioned by the Scottish Executive and published in 2005. The research involved collecting information from all 32 Scottish Councils in the form of questionnaires and, individual interviews with councillors, officers and local LGBT organisations in eight case study local authority areas.

The purpose of the booklet is to provide positive advice to assist Councils to assess their progress in developing their policies and practice in relation to LGBT people as well as some practical suggestions about good practice. Councils often experience more difficulty identifying and consulting with LGBT people than with other equalities groups, such as minority ethnic people or people with a disability. This is because most LGBT people have either experienced prejudice directly or have heard or read negative or homophobic opinions expressed about LGBT people. Therefore, many LGBT people choose not to reveal their sexual orientation. This presents a particular challenge to councils who have three responsibilities in this area. Firstly, councils must comply with the law and promote equality including LGBT equality. Secondly, they must ensure that services are fully responsive and provide best value; and, thirdly, they should ensure equality of opportunity in employment practices.

This guidance is in two main parts. The first part provides some ideas about how councils can be more responsive to LGBT people and the second part has a checklist which can be used to assess how your council has developed its approach to LGBT people.

The guidance provides advice and potential sources of support to councils who wish to develop their policies to encourage inclusion and challenge prejudice in relation to LGBT people. By doing this, they will make a significant contribution to Scotland becoming a more open and inclusive society. There are also other benefits which councils can achieve by being more aware of LGBT people. More inclusive recruitment and employment practices will encourage and retain the best talent. Training on LGBT issues will raise the awareness of employees and result in more inclusive and welcoming services which will improve performance by reducing mistakes and complaints. By becoming more aware of LGBT people, councils can become more effective in delivering services.

2. Why Councils need to be more aware of LGBT people

People are not equal, but all people can be treated with equity and fairness. If you recognise that some groups in the community may be treated less fairly or equitably than others, your council's equality policy should determine that a special effort is made to remove the barriers which prevent fair treatment or service provision.

'I can get called a poof or anything and the teachers won't do anything they just stay quiet, but if I am called a paki, they will do something, which is pretty appalling' (A gay man from *Something to Tell You: A Health Needs Assessment of Young LGBT People in Glasgow, 2002*).

LGBT people experience prejudice, abuse and rejection. The use of insulting and derogatory terms to describe LGBT people is still commonplace and used by some people who would not consider the use of similar discriminatory language to describe black people or people with a disability.

Councils are often one of the largest employers in their area and it is important that employment policies and practices attract and retain the best candidates. LGBT people should be confident that if they choose to reveal their sexual orientation, this will not be a barrier to promotion or a cause of prejudice in the workplace.

'I still have a problem being out as a teacher - I just think that it would be career suicide' (National Centre for Social Research (2003) *Sexual Orientation Research Phase Two: Scottish Executive: Scottish Executive Social Research*).

Councils are large organisations and despite some positive initiatives on equality and human rights, discrimination by the organisation and by individuals within it can arise due to

- a lack of vigilance
- a lack of awareness, which can include casual assumptions that policy statements are being effectively delivered throughout all services
- out of date processes and procedures which may have discriminatory effects
- unacceptable behaviour from employees, partner organisations or members of the public using council services.

When councils act positively to challenge discrimination, they can make a real difference to the lives of LGBT people in their areas.

3. Stocktake of local authority policies and practice in relation to LGBT people in Scotland

This guidance has been produced as a result of research commissioned by the Scottish Executive, and carried out during 2005 by ODS, a Glasgow based consultancy firm.

Some of the findings from a questionnaire sent to all Scottish local authorities (and completed by all 32 authorities) are:

- All 32 Councils have an equality policy; nine of which refer to sexual orientation - one has a separate LGBT policy
- LGBT issues are not often clearly stated in council equality policies
- Three councils monitor the effectiveness of their policies for LGBT people
- Every council said they had insufficient information about LGBT people in their areas
- 30 councils referred to sexual orientation in some way in employment policies
- One council monitored the sexual orientation of its workforce and no others indicated that they would follow this practice in the near future
- Ten social work departments referred to sexual orientation in their strategies and one has a separate LGBT action plan
- Five education departments refer to sexual orientation in their anti-bullying policies
- Six housing departments refer to sexual orientation in their housing strategies
- Six councils said they provided capacity building support to LGBT groups
- Asked to rank the priority given to the six equality themes, sexual orientation was ranked sixth highest (Disability was highest).

Some of the findings from the interviews with councillors, officers and LGBT organisations in eight 'case study' local authority areas are:

- Councils said that LGBT people had a 'low visibility' and tendency not to seek help from the council
- Councils lack basic information about LGBT people in their areas
- Equality legislation focuses efforts on other equalities groups rather than on LGBT issues
- There is a less developed legislative framework in relation to sexual orientation than for some other equalities themes and many councils stated that they did not prioritise their efforts in the same way as they do for race or disability
- Some councils stated that they lacked resources to develop LGBT policies

- Training and awareness raising has been patchy and councils were making slow progress on providing specific LGBT training
- LGBT issues were frequently not included in key plans and strategies for example in community plans
- Councils were unsure about how to approach monitoring sexual orientation in the workplace and what its purpose was
- Employment policies in relation to sexual orientation were less well developed than for race or disability
- In general there was limited progress in monitoring the effectiveness or impact of any LGBT policies
- Councils recognised that they had been more effective in progressing other equality issues
- LGBT groups have had a varied range of experiences with councils and most identified that the councils had taken some positive steps - it was considered that progress was slow and LGBT people felt they were low on the councils' priorities
- Councils should be prepared to act on the findings from LGBT consultations - action plans need to be followed up with actions
- There are inconsistencies of service provision for LGBT people within individual councils and between different councils
- Councils often failed to capitalise on the positive images of LGBT people and events.

4. Guidance

The Guidance has been structured around six themes:

- Theme One: Leadership**
- Theme Two: Policy and planning**
- Theme Three: Service delivery**
- Theme Four: Consultation and communication**
- Theme Five: Employment**
- Theme Six: Training**

Legislating for equality is a reserved matter for the UK Parliament but the encouragement of equal opportunities is devolved to the Scottish Parliament and the Scottish Parliament has adopted the promotion of equal opportunities for all as one of its four key principles. The Scottish Parliament has devolved powers to require public authorities to conduct their functions with due regard to meeting the requirements of the Westminster equal opportunities legislation.

The Scotland Act 1998 defines equal opportunities in terms of the prevention or elimination of discrimination between persons on grounds of sex or marital status, on racial grounds or on grounds of disability, age, sexual orientation, language or social origin, or of other personal attributes including beliefs or opinions such as religious beliefs or political opinions. This definition is wider than in other UK legislation and, together with the devolution of the power to encourage equal opportunities has created a situation where the Scottish Parliament can direct other bodies to take positive actions to implement equal opportunities as part of legislation which it enacts through its devolved powers, for example, in local government, health, housing and the regulation of care.

It is proposed that a UK wide Commission for Equality and Human Rights (CEHR) will be established. The Scottish Executive is committed to legislating to establish a Scottish Human Rights Commission. In Scotland the CEHR is expected to deal with human rights as they relate to reserved matters, while human rights as they relate to devolved matters will be dealt with by the Scottish Human Rights Commission. Both Commissions are expected to start operating in 2007, and will have a key role in supporting and monitoring the equality and human rights performance of councils in Scotland.

Theme One - Leadership

- 1.1 Councils are frequently expected to take a leadership role in their communities and they are often successful in doing this. In relation to the development of equalities strategies, councils have been explicit in their support and actions for certain parts of the equality agenda, but the general approach to supporting and promoting LGBT equality has been much slower to develop.
- 1.2 LGBT issues can be challenging and present real tests of leadership, as the prejudices which LGBT people face are deep rooted. By taking the lead in their communities, councils can confront the prejudices which still result in many LGBT people choosing not to disclose their sexual orientation or gender identity.
- 1.3 Councillors can give leadership to their communities and to their councils and senior officers can also play a key leadership role by making sure that their council provides equality of services to LGBT people and promotes equality of opportunity in its employment policies and practices.

What councils can do to provide effective leadership?

- 1.4 A council can be an effective leader and challenge prejudice against LGBT people when:
 - Specific reference is made to LGBT people in corporate equality policies
 - A councillor has responsibility for promoting the equality policy
 - The council administration supports action on LGBT issues
 - Equality targets for LGBT people are set and monitored by a council committee
 - The corporate or senior management team of the council monitors equality performance
 - The council uses positive images of LGBT people in its publications
 - Directors of services implement actions to support corporate LGBT policies
 - Councils lead by example when working with other partners.

Theme Two - Policy and Planning

- 2.1 There is no accurate information about the number of LGBT people in each council area. Estimates vary between 4% and 10% of the population. LGBT people may not always be visible or vocal, but they form a significant minority group in every council area in Scotland.
- 2.2 A number of councils have developed methods for involving LGBT organisations in policy development and service planning, such as regular consultation with LGBT groups or establishing of forum which is linked to the council's strategic planning process. This provides a way of engaging LGBT organisations in the council's process of policy development and can also be used to make a link with individual services when they are reviewing their approach to LGBT equalities.
- 2.3 Increasingly, community planning partnerships are bringing together public sector agencies and community representatives to agree shared policies and joint service planning and they should incorporate equalities issues (and more specifically, LGBT issues) into their structures.

What councils can do to develop better policy and planning in relation to LGBT people?

- 2.4 In relation to policy and planning, councils can:
- Improve their understanding of the needs of the LGBT community in their area, working with community planning partners where this is relevant
 - Engage with local (or, as appropriate, regional or national) LGBT organisations in the development and review of council policies and assess the needs of LGBT people
 - Identify ways in which the council can provide capacity building support to LGBT groups
 - Ensure that corporate equality and LGBT policies have a tangible link to departmental or local delivery plans and that this is reviewed
 - Have a process in place to review the impact of the council's policies on LGBT people, for example by the use of policy impact monitoring

- The council's corporate management team should monitor equality progress and report to committee (or another public forum at which councillors are present) on a regular basis.
- Provide information on LGBT equality targets and actions in public performance reporting.

Theme 3 - Service Delivery

- 3.1 LGBT people expect their council to provide services, support and advice equally, not differently. Councils must make certain that services are delivered equitably and to the best of their ability. Councils must make certain that employees do not exhibit prejudice when providing services to LGBT people.
- 3.2 Service or development plans for each service should reflect issues relating to sexual orientation and gender identity. The nature of the service should determine the extent of the consideration given to LGBT issues. Do not simply assume that having a general equality statement which covers your service is sufficient. LGBT people are entitled to the best services you can provide and, if you do not have an understanding of what this means, neither the management nor employees working in a service will be aware of the issues which may need to be addressed.
- 3.3 Departmental management teams should review how they have implemented corporate equality policies and provide positive leadership as this is a tangible way to challenge prejudice and ensure that services are provided equitably.
- 3.4 The need to demonstrate that services are performing effectively increases the value of implementing a positive approach to equality and having a clear statement on LGBT issues. LGBT people may be less likely to choose to use a service which fails to promote inclusiveness. Poor equality performance has a cost in terms of complaints, lost time, lost income and a failure to include all of the community.

What councils can do to improve their service delivery?

- 3.5 In relation to service provision, councils can:
- Build sexual orientation and gender identity into service reviews
 - Have a clear system in place to deal with complaints or dissatisfaction with service delivery and make sure that LGBT people in the area are aware of the system
 - Develop service related action plans for LGBT people

- Challenge discrimination and prejudice
- Use LGBT forums or local groups to get feedback on services
- Identify how services can link more effectively with LGBT groups who provide support or information which could be used by council employees
- Recognise good practice and implement this across services
- Recognise the business and performance benefits of an effective approach to implementing equality for LGBT people.

Theme 4 - Communication and Consultation

- 4.1 Many LGBT people may choose not to reveal their sexual orientation or gender identity and councils should respect their privacy. While this makes consultation difficult, councils can still adapt their techniques to encourage participation. Consultation with every group in the community is not required for every service or policy but, as LGBT people make up between 4% and 10% of the population, identifying and understanding their needs is very relevant for councils.
- 4.2 Councils are also expected to consult widely with service users as part of best value reviews and LGBT people should be encouraged to participate in this process. Taking time to listen to LGBT people should be a starting point for councils when improving services and mainstreaming equalities policies.
- 4.3 LGBT people are liable to be more willing to communicate with councils who have promoted positive LGBT policies and taken a clear stand against discrimination.
- 4.4 Councils should also be prepared to communicate equalities policies to their workforce and to use team meetings and council communications such as employee newsletters and notice boards to reinforce the need to support diversity and remove prejudice.

What can councils do to improve their communication and consultation?

- 4.5 In relation to communications and consultation, councils can:
- Communicate their specific LGBT policies through leaflets, posters, council web sites and by challenging prejudice when it is identified in the wider community
 - Promote a positive approach to employing LGBT people as part of the council's recruitment process
 - Establish effective methods of consulting with LGBT organisations and individuals in its area
 - Consider ways in which to support the capacity of LGBT groups in its area to improve consultation.

Theme 5 - Employment

- 5.1 Councils must by law operate fully inclusive employment procedures. Promoting LGBT positive employment policies should be considered as one of the ways to encourage the fullest and best qualified range of job applicants.
- 5.2 Individuals have a right to privacy in relation to their sexual orientation. One council has conducted monitoring of the sexual orientation of its workforce. This provides baseline information in the same way as the collection of data about disability, gender or ethnicity. If your council decides to carry out sexual orientation monitoring of job applicants or the workforce, it needs to be very clear about why it is being done and communicate this effectively, particularly to employees. The protocols which are currently in place to safeguard against the improper use of applicant equal opportunity information will provide the same safeguards for information about sexual orientation. If the workforce is being asked to provide this information and it is being linked to their employment records (in other words, it is not being collected anonymously), a very robust and effective secure data management protocol needs to be in place and enforced.
- 5.3 Sex Discrimination (Gender Reassignment) Regulations and the Employment Equality (Sexual Orientation) Regulations apply to councils and failure to implement fair employment practices can result in an Employment Tribunal.

What can councils do to provide equality in employment?

- 5.4 In relation to employment, councils can:
- Positively promote inclusive employment policies for LGBT people
 - Consider the most effective ways of supporting and developing LGBT staff
 - Consider developing a process to monitor the sexual orientation of job applicants and employees
 - Have in place clear procedures for dealing with bullying in the workplace on the basis of sexual orientation or gender identity
 - Display equality information in job advertisements and refer to these policies in application packs
 - Include clear guidance on the council's position in relation to discriminatory and abusive language and homophobic and transphobic behaviour in disciplinary and grievance procedures.

Theme 6 - Training

- 6.1 The time and resources available for all training in councils is limited. There is increasing pressure to keep employees at their workstations and councillors have considerable pressure on their time. Councils should use their induction process to inform new employees of the commitment which exists to equalities. There is not usually time to cover equalities policies in any detail but as a minimum, the induction training should clearly define the council's position in relation to discriminatory or abusive language, homophobia and transphobia.
- 6.2 The key issues for councils to address when developing their framework for LGBT training are, firstly, to recognise the benefits of providing clear information to counter prejudices and, secondly, to highlight the experiences which demonstrate the damage which prejudice and homophobia or transphobia can cause to individuals. Councillors have little time for classroom training formats but they have been receptive to short presentations given either by representatives of LGBT groups or by an officer with experience of LGBT issues.
- 6.3 Councils should target front line employees and conduct training which raises their awareness of LGBT issues. This should include training which raises awareness of terminology and language.
- 6.4 Officers who are involved in recruitment should also be provided with clear guidance on LGBT and equality issues.

What can councils do to deliver better training in LGBT issues?

- 6.5 Effective and targeted training can challenge prejudices and change attitudes. Training should include a focus on the need to provide knowledge and evidence to challenge prejudice as well as supporting the delivery of equality in service provision. It should:
- Include a clear statement on what the council's equality policy is during induction training
 - Recognise that effective equality training will be needed after the induction session

- Be specific about LGBT issues in any equality training
- Support front line employees with training that raises their awareness of LGBT issues
- Consider using LGBT groups and organisations to review the training package being used
- Consider involving LGBT groups in presentations during training sessions
- Ensure that when LGBT organisations support council training, they are paid appropriately for this
- Provide access to further information for trainees and make support available
- Include councillors in awareness raising sessions but avoid long 'classroom' style sessions
- Consider on site training using the internet or other techniques to reduce costs and increase participation
- Monitor the effectiveness of any training and consider testing the benefits.

Glossary

- **Bisexual** – a person who is sexually and emotionally attracted to people of both sexes
- **Equity** – being fair, reasonable and just in all areas and activities
- **Equality** – taking positive steps to remove disadvantage. Creating equality involves the recognition that certain groups may be subject to particular disadvantages and therefore require actions which are specifically targeted to assist them
- **Gay** – refers to a person whose primary sexual and emotional attraction is to people of the same sex. The term is more commonly applied to men who self-identify as same sex attracted, rather than men who have sex with men but do not self-identify as gay. While many women identify as gay, the term lesbian is commonly used to describe same sex attracted women
- **Gender identity** – a person's subjective sense of being male or female
- **Gender reassignment** – a medical procedure which enables people to match their bodies with their chosen gender identity
- **Harassment** – includes comments, actions, suggestions or physical contact which may be considered intimidatory or offensive by an individual. It may be intentional like bullying or less obvious and subtle
- **Heterosexism** – the belief that heterosexuality is naturally superior to homosexuality or bisexuality. This belief justifies domination and the imposition of values and beliefs
- **Homophobia** – an irrational fear and dislike of lesbian, gay and bisexual people, which can lead to hatred resulting in verbal and physical attacks and abuse
- **Indirect Discrimination** - occurs when an apparently neutral response or practice would put people at a disadvantage compared to others. Indirect discrimination can only be justified if it can be demonstrated that it has a legitimate aim

- **Lesbian** – a woman whose primary sexual and emotional attraction is to other women. This term often refers to women who are same sex attracted rather than women who have sex with other women but do not self-identify as lesbian
- **Transgender** - transgender is an inclusive umbrella term used to describe the diversity of gender identity and gender expression. The term can be used to describe all people who do not conform to common ideas of gender roles, including transsexual people, transvestite people, intersex people and bi-gendered people
- **Transphobia** - an irrational fear and dislike of transgender people, which can lead to hatred resulting in verbal and physical attacks and abuse
- **Transsexual** – transsexual is a term used to describe people who are born into the wrong physical sex – this includes pre-operative, post-operative and non-operative female-to-male (FTM) and male-to-female (MTF) transsexuals.

Checklist

The checklist is intended to provide support to councils by highlighting where actions may not have been taken or where actions may assist in providing the council with a more inclusive approach to developing policies and service for LGBT people. The checklist can be applied at both a corporate or service level and councils can adapt or amend the checklist to use with Best Value or impact assessment tools.

Leadership Checklist - What progress has our council made?

Activity	Yes	No	Comment
Our equality policy specifically refers to LGBT people			
Councillors receive specific reports on LGBT issues			
A councillor represents the equality interests of LGBT people			
Policy outcomes for LGBT people are monitored by Councillors			
Our senior management team get equality performance information			

Policy and Planning Checklist – What progress has our council made?

Activity	Yes	No	Comment
We can estimate the number of LGBT people in our area			
We have methods of learning about the needs of LGBT people in our area			
We consult with LGBT people in the development of our services			
Our corporate policies in relation to LGBT people are delivered through our services			
We review the impact of the council's services on LGBT people			

Employment Checklist – What progress has our council made?

Activity	Yes	No	Comment
We comply with sexual orientation and gender identity employment regulations			
We have prepared LGBT guidance for all employees who are involved in recruitment			
We have considered the possibility of monitoring the sexual orientation of our workforce and the applicants for our jobs			
We provide support to employees who are LGBT people			
We have clear procedures for dealing with bullying in the workplace on the basis of sexual orientation or gender identity			

Communication and Consultation Checklist – What progress has our council made?

Activity	Yes	No	Comment
We provide communication guidelines which encourage the use of inclusive language and positive images of LGBT people			
We use Council newspapers to raise awareness about LGBT polices			
We are in contact with LGBT organisation in our area			
We promote a positive approach to employing LGBT people in our job adverts			
We communicate our specific LGBT policies through leaflets, posters and our council web site			

Service Delivery Checklist – What progress has our council made?

Activity	Yes	No	Comment
Our service departments consult with LGBT groups about how services are provided			
Our service plans reflect issues relating to LGBT people			
Our Best Value reviews of services challenge how responsive the service is to LGBT people			
We develop specific action plans to provide guidance to our staff and LGBT people			
We encourage people to tell us about poor service and provide guidance about how to complain			
We actively promote equality of access and service provision			
We use positive images of LGBT people in our service promotional material			
Our managers will challenge prejudice among employees delivering services			

Training Checklist – What progress has our council made?

Activity	Yes	No	Comment
We include equality issues in our induction			
We provide detailed equality training, including sexual orientation and gender identity, to all councillors			
We provide detailed equality training, including sexual orientation and gender identity, to all staff			
We have consulted with LGBT groups in preparing our training material			

ISSN 0950 2254
ISBN 0 7559 2892 X
Price £5.00

www.scotland.gov.uk/socialresearch

The text pages of this document are produced from 100% Elemental Chlorine-Free material.
The paper carries the Nordic Ecolabel for low emissions during production, and is 100% recyclable.

Astron B44932 1/06

ISBN 0-7559-2892-X



9 780755 928927