

Implementing  
Equality for

Lesbians, Gays and  
Bisexuals



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## Foreword

This report appears at a time of significant focus on equality and the elimination of disadvantage and social exclusion. New legislation, new strategy, new policy mechanisms and new commitment provide a potent mix and are full of potential. This report seeks to chart an agenda that builds on this new context and sets out how its potential can be realized for lesbian, gay and bisexual (LGB) people.

This report acknowledges the hostility, prejudice and systemic exclusions that are all too often the experience of lesbian, gay and bisexual people. The equality agenda it establishes demonstrates that change is possible. Difference can be

acknowledged, valued and accommodated. Inclusion can be constructed on the basis of such a perspective on difference.

This inclusion is more than simply being counted in: it is the capacity to play an active part in the organisation and activities of society. Bringing about inclusion requires strategies to move us from the assumption that a generic service or provision will suit everyone equally, to adapting to the changes required to accommodate the diversity recognised in the Equality Acts of 1998 and 2000<sup>1</sup>. These strategies suggest that the public profile of an organisation or service deliverer be examined; likewise its policies

and procedures, the content and levels of professional development and training that are available, and finally, if necessary, the question of specific programmes targeting certain groups – in this case lesbian, gay and bisexual people who have been disadvantaged or excluded – also need to be examined.

This report proposes actions and approaches for all sectors of society, including the LGB community, to bring about the positive inclusion of LGB people in public life, in policy-making, in structures and practices. A number of recommendations reflect similar principles throughout the report which

are regarded as pivotal:

a) Mainstreaming where decision making takes account of:

- the need to contribute to equality for LGB people
- the potential impact of the decision on LGB people
- the specific experiences, situation and identity of LGB people

b) Strategic development of the LGB community to enhance capacities for community participation, supports and services

c) Training to enhance the understanding of the experience, situation and identity of the LGB community and the commitment to equality for this community among

decision makers.

d) Participation by LGB people and their organizations in decision-making that impacts on them.

e) Legal reform to bring about recognition of same sex partnership rights and entitlements.

These recommendations reflect the gradual evolution of Irish public policy and practice and seek to set an agenda for action to build on achievements made to date and to tackle the reality of exclusions still experienced by LGB people. They build on previous work undertaken by various bodies and contribute to the continuum for change. The recommendations need to receive the attention of the relevant departments and agencies, and we all need to work together to bring about their implementation and to establish agreed performance

indicators.

We are grateful to all the members of the advisory committee who contributed so generously of their time and expertise to this report, to Barbara Cashen of the Equality Authority who chaired the committee and the debates to such good effect, and to Marie Mulholland of the Equality Authority who served as secretary to the committee and brought her considerable expertise to bear in drafting the report.

We look forward with confidence and ambition in this period of change. We hope this report shapes the necessary change and realises a new inclusion for lesbian, gay and bisexual people.



**Niall Crowley**  
**C.E.O., Equality Authority**

# Executive Summary

## Background

The Employment Equality Act, 1998, and the Equal Status Act, 2000, provide protection against discrimination on the ground of sexual orientation. These Acts prohibit discrimination in employment and in the provision of goods, services, facilities, accommodation and education.

The Advisory Committee on Lesbian, Gay and Bisexual Issues was established by the Equality Authority under Section 48 of the Employment Equality Act. The committee started work in December 1999.

Members of the Advisory Committee included

representatives of lesbian, gay and bisexual non-governmental organisations, academics, social partners and representatives of a number of statutory bodies.

The terms of reference were:

- a) to identify examples of best practice, drawing from experience in other jurisdictions, in promoting equality under the sexual orientation ground
- b) to develop a perspective to inform policy making on equality in employment and service provision; and actions required to give effect to this perspective; and to propose a programme of action

- c) to recommend what role the Equality Authority should undertake

The committee held a consultative seminar on equality on the sexual orientation ground in September 2000. Workshops at the seminar looked at the various themes on which chapters are included in this report. These themes are:

- 1) Empowerment
- 2) Equality Proofing
- 3) Partnership Rights
- 4) Health
- 5) Education

- 6) Youth Services
- 7) Employment and Training
- 8) Services
- 9) Violence and Harassment

The text in each chapter comments on existing difficulties encountered by lesbian, gay and bisexual people and the recommendations identify changes that need to be made.

## Recommendations

### I. Community Development and Empowerment

#### Department of Social, Community and Family Affairs

- I.1 The Department should ensure that LGB people are a named and resourced target group in programmes and structures designed to support community development and to combat social exclusion and inequality, in particular, the Community Development Programme.
- I.2 The Department should ensure that the 2003 National Action Plan on Social Inclusion adequately addresses poverty and social exclusion amongst LGB people through the targeting of resources and

the inclusion of LGB people within mainstream initiatives to tackle disadvantage and exclusion. The plan needs to include awareness of the needs of the up to ten per cent of those who experience poverty who are lesbian or gay.

#### Area Development Management (ADM)

- I.3 ADM should promote a programme of pilot projects, building on the Waterford Area Partnership model, to address LGB disadvantage in different local contexts. The results of these pilots should be mainstreamed in the practice of other partnerships.

## **Department of the Environment and Local Government**

- 1.4 City and County Development Boards should address the inclusion of LGB people in all consultation, planning, implementation and evaluation mechanisms. This could involve using the equality-proofing template developed by the Equality Authority.

## **Combat Poverty Agency**

- 1.5 The Combat Poverty Agency should explore the option of funding an LGB Network, similar to other issue based networks, as part of their National Anti-Poverty Networks Programme.

## **National Economic and Social Forum and National Economic and Social Council**

- 1.6 The National Economic and Social Forum (NESF) and the National Economic and Social Council (NESC), as arenas of social partnership, should ensure a sexual orientation dimension to reports they publish and liaise with relevant LGB organisations about the most effective method of doing so.

## **Department of the Arts, Heritage, Gaeltacht and the Islands, the Arts Council and the Heritage Council**

- 1.7 The Department and the Arts Council should enhance the support given to cultural expression and celebration of diversity, by working with LGB cultural events to develop and

expand these events (e.g. Gay Community News, lesbian and gay film festivals, Pride etc). The Arts Council should also ensure that all state-supported cultural events implement equality policies and practices.

- 1.8 The Department, the Heritage Council and appropriate bodies such as the National Archives and National Library of Ireland should work with LGB organisations to establish the most appropriate mechanism for developing and maintaining the LGB history archives.

## **RTÉ and the IRTC**

- 1.9 RTÉ should examine their commissioning and scheduling procedures with a view to developing programmes aimed at addressing prejudice against LGB people and



promoting positive images of them in society.

- 1.10 The IRTC should explore ways to acknowledge and affirm equality/diversity throughout the independent radio network including setting guidelines for good practice.

## 2. Equality Proofing

### All Government Departments and Agencies

- 2.1 All Government Departments and Agencies should put in place programmes for equality proofing of policy and provision. In devising these programmes all nine grounds defined by the equality legislation should be included.

### Department of Justice, Equality and Law Reform

- 2.2 The Equality Proofing

Working Group currently being convened under the Programme for Prosperity and Fairness should ensure that there is a focus on LGB people within any pilot initiatives developed as part of the learning phase now being implemented.

- 2.3 On foot of the work of the Equality Proofing Working Group, the Department of Justice, Equality and Law Reform should identify an appropriate legal formula to underpin equality proofing in any revision of the current equality legislation.

### Department of Social, Community and Family Affairs

- 2.4 The National Anti-Poverty Strategy Unit of the Department of Social, Community and Family

Affairs should develop new approaches to the poverty proofing guidelines addressing inequalities leading to poverty, based on the research commissioned by the Equality Authority and Combat Poverty Agency.

### The Equality Authority

- 2.5 The Equality Authority should continue to develop a profile of the LGB community in terms of their experience, situation and identity in a manner that could be used within an equality proofing template.

### 3. Partnership Rights

#### Department of Justice, Equality and Law Reform

3.1 The legal and policy codes should be systematically reformed to ensure that references to the family recognise the diversity of family forms, households and couple relationships.

3.2 The Department should ensure that same-sex couples are treated in an equal manner by extending the right to nominate a partner with legal rights to same-sex couples, comparable with those recognised for a spouse. The outcome of which would recognise the right of same-sex couples to:

- a. nominate a partner or successor
- b. designate a next-of-kin for medical issues

c. nominate a beneficiary of pensions and inheritance

d. nominate a partner as a co-parent or guardian of a child

3.3 Legislation governing violence in intimate relationships should operate on an equal basis towards same-sex relationships as towards married relationships.

#### Department of Justice, Equality and Law Reform and Department of Enterprise, Trade and Employment

3.4 The Department of Justice, Equality and Law Reform and Department of Enterprise, Trade and Employment should establish appropriate mechanisms to accord equal rights of residency and work entitlements for

foreign partners of Irish citizens who are same-sex couples, or unmarried heterosexual couples as are accorded to married heterosexual couples.

3.5 The Department of Justice, Equality and Law Reform and the Department of Enterprise, Trade and Employment should ensure that leave entitlements (for example, parental leave) should be provided for same-sex couples, non-married heterosexual couples and married heterosexual couples on an equal basis.

#### Department of Finance

3.6 The Department of Finance should make the necessary recommendations for change to taxation systems in line with according equal rights to same-sex partners, unmarried

heterosexual couples and married couples.

### **Department of Social, Community and Family Affairs**

- 3.7 The Department should establish entitlement to welfare benefits in such a manner as to ensure that same-sex couples are not discriminated against, relative to heterosexual married and non-married couples.

### **Department of the Environment and Local Government**

- 3.8 The Department should ensure that all regulations and codes of practice governing the provision of, and support for housing should operate on an equal basis towards LGB people at national, regional and local level thus recognizing and going

beyond as necessary the provisions of the Equal Status Act.

### **Department of Health and Children**

- 3.9 Rights in relation to parenting, fostering and adoption should operate on an equal basis for same-sex couples, individuals, married and non-married heterosexual couples and should be based on the core principle of attaching rights to children and responsibilities to parents and carers.

### **Oireachtas Constitutional Review Group**

- 3.10 In the context of an overall review of the Constitution, the changed wording for the equality clause proposed by the Constitution Review Group should be adopted.

### **Employers**

- 3.11 Employers should ensure that workplace entitlements such as pensions and healthcare benefits that are extended to employee “spouses” are changed to a “nominated person” as designated by the employee.

## **4. Health**

### **Department of Health and Children and the Health Boards**

- 4.1 The Department and the Health Boards should ensure that LGB people’s needs are mainstreamed into the design, delivery and impact assessment of services with LGB interests represented in all consultative fora and structures that inform policy and service delivery.
- 4.2 In order to encourage best practice amongst

professional healthcare service deliverers, the Department of Health and Children, with the support of the Equality Authority and in conjunction with the relevant professional bodies, agencies and institutions, should develop a training strategy for health professionals. This should involve a survey of the role of professional health training in sexual orientation, and the production and piloting of a training module on sexual orientation and health designed in partnership with the relevant LGB interests, with a view to mainstreaming the training strategy across all professional healthcare courses.

4.3 Each Health Board should examine the health needs of LGB people and LGB

community services in their areas, and develop appropriate responses. The Health Boards should support and develop effective partnership interventions with LGB people, such as that established between the Eastern Regional Health Authority and community groups in Dublin.

4.4 Lesbian, gay and bisexual people should be a named service user group identified within mainstream programmes and services and the subject of specifically targeted initiatives within future national health strategies.

4.5 In developing a mental health strategy, specific attention should be given to the needs of LGB people. Appropriate consultation with LGB

interests should take place in the planning of the strategy and resources and services should be identified for the LGB community within any future comprehensive mental health strategy.

4.6 Methods of research and monitoring of the relationship between sexual orientation and suicide in Ireland should be developed. The National Suicide Review Group should establish the most appropriate mechanisms through which data, analysis and action can be developed.

4.7 To address the specific needs and gaps in health provision that currently affect lesbian women, there should be lesbian representation on the Regional Women's Health Committees.

4.8 The Health Promotion Unit of the Department of Health and Children should develop information materials for health workers and health professionals working with the LGB community.

4.9 The Health Promotion Unit should develop health promotion materials and initiatives for young LGB people and youth workers in liaison with LGB interest groups.

### **Commission on Assisted Human Reproduction**

4.10 The Commission should ensure that assisted reproduction services provided by either public or private agencies are provided and delivered in a non-discriminatory manner to all, thus recognizing the provisions of the Equal Status Act.

### **Women's Health Advisory Council**

4.11 The Women's Health Advisory Council should liaise with lesbian groups to develop specific initiatives in relation to lesbian health research and promotion.

### **5. Education**

#### **Department of Education and Science**

5.1 The Department should ensure that the needs of LGB people are mainstreamed into the design, implementation and impact assessment of education policy and that LGB interests are represented in all consultative structures which inform policy and service delivery.

5.2 The remit of the Equality Unit, established by the Department, should be

extended to engage with all nine grounds identified in the equality legislation and develop appropriate liaison with equality and diversity representatives and organisations.

5.3 The current approach to bullying and harassment should be reviewed with a view to eradicating homophobic bullying and providing for practical developments at school level with an emphasis on training for staff and information for students in order to comply with the provisions of the Equal Status Act.

5.4 Criteria and measurements should be drawn up for use in evaluating current RSE, CPSE and SPHE programmes to assess attitudinal change amongst students with regard to

differing sexual orientation.

- 5.5 A sexual orientation dimension should be included in all relevant future surveys, research and data collection by the Department and when devising and implementing initiatives targeting early school leavers using appropriate and accurate data collection methods.
- 5.6 Issues arising in the context of the sexual orientation of students and teachers should be covered in the training modules provided under the NDP In-career Development and Third Level Quality Assurance Measures as part of an overall equality element.
- 5.7 The Department should ensure that the Whole School Evaluation and

Departmental Inspections examine the success of schools in ensuring the inclusion and integration of young LGB people and the incorporation of their needs into school planning.

### **RSE Implementation Committee**

- 5.8 The Committee should ensure that those organisations with specialised knowledge and expertise in sexual orientation are involved at all levels of the RSE programme design, delivery and staff training.

### **National Centre for Guidance in Education**

- 5.9 The Centre should promote and ensure the coverage of sexual orientation issues within current training programmes, including the involvement of LGB

organisations in the design and delivery of such training and the development of support materials for schools and teachers.

### **Higher Education Authority**

- 5.10 The HEA should make sexual orientation a measure and objective for progress in undertaking a review of equity and access issues within higher and further education in Ireland.
- 5.11 The HEA should support the development of scholarship and research into LGB history, culture and theory amongst institutions, faculties and students, expanding the number of PhD research projects and providing funding for the further development of courses on LGB issues.

5.12 All training courses for service providers such as teachers, doctors, lawyers and social workers should include equality and diversity issues, including issues in relation to sexual orientation.

## 6. Youth Services

### **Department of Education and Science, Department of Justice, Equality and Law Reform, Department of Health and Children, Youth Services and Vocational Education Committees**

- 6.1 Addressing the needs of LGB youth should be an integral component of all policy design and service delivery by VECs, and the Departments.
- 6.2 The VECs and the Department of Education and Science should ensure that adequate provision for young LGB people is

included in the county-wide three-year youth service provision plans that will be prepared by the VECs under the terms of the Youth Work Act.

### **Department of Education and Science**

- 6.3 Assessments and evaluations carried out by the Assessor of Youth Work should have regard to the effect of the service on young LGB people.

### **National Youth Work Advisory Committee**

- 6.4 The provision of specific youth work services for young LGB people should be included in the National Youth Work Development Plan.
- 6.5 Local voluntary youth councils established under the legislation should include representation

from the LGB community.

- 6.6 Resources should be allocated for the development of youth work models that respond to the needs of young LGB people.

- 6.7 An audit of existing youth services and facilities, which specifically addresses the needs of young LGB people, should be undertaken in order to ascertain the current gaps in provision for this group.

### **Youth work organisations**

- 6.8 The development and mainstreaming of training modules for youth workers should be undertaken in conjunction with LGB organisations and youth service providers.
- 6.9 All existing and future youth service facilities and

centres should visibly promote an anti-homophobic environment, for example through posters, leaflets and projects.

- 6.10 Youth work organisations should develop anti-homophobic policies and procedures which would include a focus on harassment.
- 6.11 Lesbian, gay and bisexual community organisations and resource centres should be resourced by youth work organisations to provide alternative social venues for young LGB people.
- 6.12 The NYCI should ensure that issues of sexual orientation and the concerns of LGB young people are included in the initiative to develop a North-South youth work

equality programme.

## **7. Employment and Training**

### **Employment**

#### **Department of Enterprise, Trade and Employment**

- 7.1 The Department should ensure that all employment and training services mainstream the needs of LGB people from both an employment and service provision perspective.

### **Trade Unions**

- 7.2 The ICTU should review *Lesbian and Gay Rights in the Workplace: Guidelines for Negotiators* with a view to developing an action programme to promote the rights of LGB workers.
- 7.3 Each union should develop an action programme to promote the rights of LGB workers.

- 7.4 Education trade unions should conduct a consultation and survey of LGB personnel employed by schools and colleges operating from a religious ethos, to ascertain the extent of any difficulties arising from the presence of Section 37(1) of the Employment Equality Act 1998.

- 7.5 The trade union movement should continue to advocate the rights of gay workers at an international level through bodies such as the ILO and international trade union confederations.

### **Employers**

- 7.6 Employers should develop and implement comprehensive equality policies that name all grounds covered in equality legislation and that specifically address the



needs of LGB workers including policies and procedures on harassment. The Equality Authority Code of Practice on Sexual Harassment and Harassment at Work should be of assistance.

- 7.7 Employers should prioritise equality reviews of their enterprises and organisations and should develop action plans as an important means in developing actions that build inclusivity within the workplace and enhance equality outcomes in the workplace.

### **Framework Committee for Development of Equal Opportunities Policies at the Level of the Enterprise**

- 7.8 The Equal Opportunities Framework Committee should stimulate initiatives to promote effective

practice with regard to the inclusion of LGB people in the workplace.

### **Employment and Training Services**

#### **Department of Enterprise, Trade and Employment, FÁS and other State Training Agencies**

- 7.9 FÁS and other employment services should develop a strategy and programme of action to ensure that all aspects of their services are accessible and diversity appropriate and meet with their obligations under the Employment Equality Act and the Equal Status Act.
- 7.10 The recommendations regarding the provision of equality-based services set out in the Services Chapter should be implemented by the various training agencies and programmes.

### **Equality Authority**

- 7.11 The Equality Authority should recommend the removal of Section 37(1) when the Employment Equality Act is next reviewed.

## **8. Services**

### **All Government Departments and the Equality Authority**

- 8.1 All service providers should mainstream equality and diversity into the decision-making, design, delivery and implementation of their service provision.
- 8.2 The Equality Authority should develop equal status reviews as a mechanism to improve equality as a principle of service design and delivery.
- 8.3 All government

departments should co-operate and work with the Equality Authority to conduct equal status reviews as a means of ensuring that equality is central to their provision.

### **Service Providers**

- 8.4 All service providers should have equal status policies in order to ensure they comply with their responsibilities under the Equal Status Act, 2000 and to enhance their capacity to realise equality outcomes.
- 8.5 All public and civil service providers should use the Equality Authority's *Support Pack on the Equality/Diversity Aspects of Quality Customer Service for the Civil and Public Service* as a tool to improve equality practices in service provision.

### **Department of Environment and Local Government**

- 8.6 The Department should ensure that public authorities responsible for housing are issued with guidelines on the effective use of the Housing (Miscellaneous Provisions) Act, 1997 and its application in the protection of LGB tenants experiencing homophobic intimidation and harassment. A similar approach should be pursued in relation to the provisions of the Equal Status Act.

### **Homelessness Services**

- 8.7 All homelessness services should ensure that their responses to homelessness are sensitive to the particular circumstances of young LGB people and consult

with LGB support organisations as to the appropriate means of providing the specific resources needed by this target group.

## **9. Violence and Harassment**

### **Department of Justice, Equality and Law Reform**

- 9.1 A new Hate Crimes Act should be introduced, covering harassment and violence aggravated by prejudice against specific categories of people, including LGB people.
- 9.2 The Department should ensure representation of lesbian interests on the National Steering Committee on Violence Against Women.
- 9.3 Awareness training should be made available to legal and judicial professionals

on LGB issues.

- 9.4 The Department should make available resources to lesbian and gay support groups such as gay helplines and lesbian lines to develop their provision of victim support services within the LGB community.

### **Professional, Legal and Judicial Bodies**

- 9.5 The Law Society, Bar Council and the Judicial Studies Institute should engage in awareness training pertaining to relevant issues affecting LGB people as clients of the justice system.
- 9.6 The NUJ, the IRTC and the Press Complaints Commission should develop and/or strengthen guidelines and policies on the accurate representation of LGB

issues and individuals in the various media.

### **Garda Síochána**

- 9.7 The Garda Síochána should implement the outstanding elements of the plan agreed by the Minister, namely the appointment of a National Advisory Panel, research and further training initiatives.
- 9.8 The Garda Síochána should meet LGB community groups to discuss structures for developing communications between the LGB communities and the Gardaí, and those structures should permit the examination, reporting and advising on good practice models of policing policies and procedures with LGB people in both Ireland and other jurisdictions.

### **Local Authorities**

- 9.9 In the preparation of their strategies local authorities should include the development of initiatives on community safety, with a particular emphasis on the safety of minority groups who are the most vulnerable as victims of crime, and including the development of policies and procedures in relation to sexual harassment and harassment.

# Introduction

The Equality Authority commenced its work, under the Employment Equality Act, 1998, on 18 October 1999. Section 48 of the Act allows the Authority to appoint advisory committees to advise it on matters relating to its functions, for such period and subject to such terms of reference as it thinks appropriate.

Conscious of a need for it to be advised about equality on the sexual orientation ground, the Authority decided to set up an advisory committee to advise it on lesbian, gay and bisexual (LGB) issues. The committee started its work in December 1999.

The committee brought together relevant interests: representatives of the various groups: social partners, academia and state sector (see the Appendix for the full list of the membership of the Advisory Committee) to consider:

- a) how best to give visibility to LGB equality issues
- b) the equality agenda for lesbian, gay and bisexual people
- c) what steps the Equality Authority might best take under the sexual orientation ground

The terms of reference were:

- a) to identify examples of best practice, drawing from experience in other jurisdictions, in promoting equality under the sexual orientation ground
- b) to develop a perspective to inform policy making on equality in employment and service provision: and actions required to give effect to this perspective: and to propose a programme of action
- c) to recommend what role the Equality Authority should undertake

The initial work of the committee addressed the first term of reference. It focused on looking at examples of good practice. A background paper was commissioned, as an ideas stimulating document, to examine equality strategies that have created positive changes for LGB people in different countries (see bibliography for details.)

The committee proceeded with work relevant to the second term of reference. It held regular meetings at which issues were discussed and teased out. It hosted a consultation on partnership issues in April 2000, and commissioned a report on partnership rights (Mee and Ronayne, 2000) that outlined existing differences in treatment as between heterosexual and same-sex couples under Irish law.

The committee held another consultative seminar on equality

on the sexual orientation ground in September 2000 at which workshops facilitated by advisory committee members looked at the various themes on which chapters are included in this report.

The third term of reference forms the basis for this report.

## Context

With the enactment of the Employment Equality Act, 1998 and Equal Status Act, 2000, and the establishment of the Equality Authority, a new, more equal day has dawned for the many people who have, in the past, felt vulnerable or excluded in our society. Those who are lesbian, gay or bisexual (LGB) now enjoy the full protection of the equality legislation.<sup>1</sup> The evolution of policy that led to this legislative protection has taken place in Ireland since the 1980s.

A consciousness that discrimination in employment was a danger for LGB workers was highlighted by trade unionists. The ICTU 1982 Annual Delegate Conference adopted a resolution urging affiliated unions to resist any attempt to discriminate against their members in their employment on the basis of sexual orientation. Trade union policy on LGB rights was seen as an integral part of overall trade union policy to fight discrimination and protect workers' rights. Discrimination on the ground of sexuality was viewed as leading to isolation, abuse and victimisation of LGB workers. Underlying such discrimination was the view that LGB sexuality was unnatural or inferior to heterosexuality. While such a view was pervasive, it was open to challenge and could be challenged by unions on behalf of all their members. The ICTU policy *Lesbian and Gay Rights in*

*the Workplace* was adopted in June 1987.

Trade unionists also made representations to what was then the Employment Equality Agency. As a result, the Employment Equality Agency, as part of its statutory function of making proposals for amending the equality legislation, recommended in October 1986 to the Minister that a provision outlawing discrimination on the basis of sexual orientation should be included as an amendment to the Employment Equality Act, 1977. This Act was succeeded by the Employment Equality Act, 1998, which came into force on the 18 October 1999 and which prohibits discrimination in employment on nine grounds including the ground of sexual orientation. The Employment Equality Act will be further developed with the transposition in 2003 of the EU Framework Employment Directive (2000/78/EC). It has

been complemented by the enactment of the Equal Status Act 2000 which prohibits discrimination on nine grounds including sexual orientation in the provision of goods, services, facilities, accommodation and education.

Ireland, then, is at the forefront of countries that protect LGB people against discrimination. It has encouraged developments at European level and there are also compatible arrangements in Northern Ireland under the Belfast Agreement. The Irish Government has also lobbied for changes at international level.

## Key Themes

LGB people seek equality in and through many areas. This report is divided into topic chapters dealing with

1. Community Development and Empowerment
2. Equality Proofing
- 3 Partnership Rights
4. Health
5. Education
6. Youth Services
7. Employment and Training
8. Services
9. Violence and Harassment

This reflects the Advisory Committee's view of the need for actions to be taken to promote equality and to

address existing discriminations in these areas.

The text in each chapter comments on the situation encountered by LGB people while the recommendations at the end of the chapter identify changes that need to be made. There are a number of key themes that occur in the recommendations:

- a. the need to mainstream LGB people's situation, experience and identity into the design, delivery and implementation of social policy and services;
- b. the need to resource the participation of LGB people so that they can engage with policymakers and service deliverers and where necessary to target the LGB community with regard to capacity-building initiatives;
- c. the recognition of same-sex partnerships with regard to parenting, inheritance, property, healthcare, pensions and immigration.

# Chapter 1

## Community Development and Empowerment

### 1. Introduction

Considerable progress has been made by lesbian, gay and bisexual (LGB) people in Ireland in addressing prejudice and discrimination based on sexual orientation. They have been to the fore in contributing to far-reaching legislative and policy change including the decriminalisation of homosexuality and the equality legislation. LGB people have managed to build a wide variety of community support, activist and social organisations, often in the face of significant barriers and limited resources and opportunities.

However, many LGB people

remain very isolated, without access to or knowledge of LGB community organisations, supports or social outlets for meeting other gay people. This has consequences, both in terms of the impact on the individual's health, social well-being and personal development, and in terms of lost contributions to the broader community.

This chapter examines how social inclusion policies, programmes and equality initiatives could be used to support community development within the LGB community and build the capacity of their community organisations to meet the

diverse needs of LGB people, particularly those who are most disadvantaged.

### 2. Context

Over the past 20 years, the voluntary and community sector has played an important role in developing measures to address social exclusion. As noted in the recent *White Paper Framework for Supporting Voluntary Activity* (Sept 2000) the community and voluntary sector has a special role in and potential for:

- a. responding to pressing social needs quickly, directly and effectively



- b. improving services by feedback and monitoring of services by users
- c. identifying needs and appropriate responses tailored to the specific needs of local communities and neighbourhoods, and of specific communities of interests
- d. enabling people who are excluded to become involved in the regeneration process in their own communities and at a wider societal level

A number of programmes have contributed significantly to development of the community sector, in particular:

- a. The Department of Social, Community and Family Affairs through the Community Development

Programme has provided core funding for a range of groups throughout the country that are active in developing their communities. The programme also includes a support infrastructure that has provided ongoing assistance and resources to the local community development projects.

- b. The Local Development Social Inclusion Programme, administered by Area Development Management (ADM), within the overall remit of the Department of Tourism, Sport and Recreation. Thirty-seven area based partnerships and community groups are in place in designated areas of disadvantage. The areas covered by the partnerships provide important opportunities for addressing

disadvantage faced by lesbian and gay people. The most notable demonstration of this has been the Waterford Area Partnership programme of local development with the Waterford lesbian and gay community.

- c. Other important opportunities for addressing disadvantage include LEADER and CLÁR programmes, which have a role in addressing rural disadvantage, and as such provide important opportunities for addressing the disadvantage of lesbians and gay men living in rural areas. Similarly, the RAPID programme for urban areas has a potential in this regard.

Another important development has been the formation of a range of

structures and initiatives that have allowed the evolving community sector to influence policy at regional and national levels. Significant in this respect are the following:

- a) The community and voluntary pillar in Partnership 2000 and the Programme for Prosperity and Fairness.
- b) Consultation mechanisms set up by individual Departments and agencies.
- c) New arrangements emerging from the ongoing process of local government reform particularly the County and City Development Boards.
- d) National partnership bodies including the National Economic and Social Forum (NESF) and the National Economic

and Social Council (NESC).

- e) The National Anti-Poverty Strategy.

Involvement in these structures and programmes has contributed significantly towards organising communities that are disadvantaged and towards increasing their capacity to influence policy, that is relevant to addressing disadvantage. To date, with the notable exception of the Community Platform (which is part of the Community and Voluntary Pillar), LGB organisations have not been directly included or been resourced to participate in any of these mechanisms. This can in some cases perpetuate the apparent 'invisibility' of the LGB community. While there has been a reluctance in some cases to acknowledge the disadvantage faced by significant numbers of lesbians and gay

men, many community development agencies at local level can be genuinely unaware that they have a gay target group and so no action is undertaken to support the LGB community's development.

It should be noted that the community sector has in some cases raised issues of concern to the LGB community through the Community and Voluntary Pillar including in the negotiations for the Programme for Prosperity and Fairness.

### 3. Community Development in the LGB Community

The first most obvious point to emphasise is that we are talking about a community – one that has organised its own resources to meet the most immediate and pressing needs imaginable in what is often a hostile environment devoid of effective external support. (GLEN and Nexus 1995: 67)

Organised lesbian and gay community activity in Ireland dates from 1974 when the Irish Gay Rights Movement was founded. The struggle since then has been to survive and develop in a hostile environment, to provide basic community and social facilities, to help isolated people coming out, to campaign for law reform, to provide supports for lesbian and gay parents, to combat homophobic violence, and to respond to the

HIV/AIDS crisis. While considerable progress has been made, there are still great barriers that continue to undermine the development of the lesbian and gay communities in Ireland today. Even now, to ‘come out’ is to risk rejection or hostility from family, friends, community, work colleagues or employers. This severely limits the number who can get involved in public activity related to community development.

In addition, the lack of funding, with recent notable exceptions, has meant that LGB community activism has a heavy dependency on volunteers who are limited in their availability. This in turn restricts possibilities for participating in mainstream development activities.

Despite these difficulties, there is an established tradition of lesbian and gay community

development, for example Gay Switchboard Dublin, which has provided a continuous service since 1974. Such community support and social organisations provide a space for mutual support and friendship. They are instrumental in countering the impact of prejudice and discrimination in the lives of LGB people. The lesbian and gay switchboard services, although mainly based in urban centres, are essential lifelines for lesbian and gay people, particularly for those in rural areas who have no other access to support and affirmation. Most of these support groups operate with little or no official core funding.

The recent formation of a support group for LGB people with disabilities, DELICIOUS, is indicative of a heightened awareness within the LGB community to issues of multiple identity and multiple discrimination. Within the deaf community, GREENBOW, an

association of LGB deaf people has been an important presence at major LGB events. These support groups challenge the LGB community, the disability and deaf communities to recognise and constructively respond to diversity within their respective communities. They also contribute to the development of a deeper understanding of multiple identity whilst challenging convenient assumptions of homogeneity within all communities.

In the last few years, some progress had been made in obtaining state funding for LGB community development and service provision. OUTHouse, the LGB community centre in Dublin, has recently purchased premises that are core-funded by the Eastern Regional Health Authority (ERHA). Waterford Area Partnership has resourced and supported a community development project for the

lesbian and gay community in the Waterford area, which has led to significant local improvements, including the opening of a community space. The ERHA has begun a process of support to LGB community organisations, including an element of core funding, to build their capacity to respond to the challenges of HIV prevention. L.Inc in Cork has established a community development project focused on the lesbian community and the wider community in which it is situated, with support from the Equality for Women measure of the National Development Plan. The Other Place in Cork received funding in 2001 under the Social Economy Programme to develop its facilities and services within the gay community.

While these supports are extremely important developments, there is still a gap in replicating these approaches

across the range of policy implementation and public service bodies. Particular attention needs to be paid to facilitating the participation of LGB communities, as with other communities of interest, in decision-making structures at local, regional and national levels. Capacity building is essential, and this involves the provision of resources, ongoing development and training supports to local LGB communities, and linkages to the wider supports available.

#### **4. Media and Cultural Activities**

In addition to other policy making and service provision areas addressed in this document, media and cultural activities can play an important role in making the lives of LGB people more visible and accepted. Specific programmes on television and radio networks, the inclusion of

lesbian and gay events in mainstream media and explicit support for cultural events for LGB people would all contribute to an increased visibility of LGB life, interests and perspectives. It should be noted that some progress has been made. For example the Arts Council has funded the Dublin Lesbian and Gay Film Festival and OutArt, and Waterford Corporation sponsored a photographic exhibition of Irish gay and lesbian life. RTÉ commissioned a documentary on the history of lesbian and gay people in Ireland, broadcast in 2000, and TG4 has produced several short features on aspects of LGB life. Local radio stations such as Clare FM and WLR in Waterford have given coverage to LGB issues within their current affairs programmes. These events are an important means of contact between lesbian and gay people and between the LGB community

and mainstream society. They provide crucial opportunities to present positive and realistic reflections of lesbians and gay men that serve as a counterpoint to the stereotypes and prejudices that still exist in Ireland.

An important tool for providing information, contacts and an essential forum for debate is Gay Community News, the only Irish-based, free newspaper established by and for the Irish LGB community 13 years ago. The paper operates as a community-based initiative and is partly resourced through the operation of a FÁS Community Employment Scheme with some grant aid from the Eastern Regional Health Authority to provide specific coverage of HIV prevention and AIDS awareness. The paper has been an invaluable asset to the community both as a key LGB medium of information and as a workplace that actively

supports and encourages the development of LGB trainees.

Pride in one's identity and confidence as a community emanate from a range of sources but one of the most important is the knowledge of and access to a history, and a presence in society. For LGB people this is particularly pertinent, as almost every person who has struggled with their sexuality has at some time feared that they were the only one of their kind. This fear is fed by the neglect of LGB people in history, in education, in the media and in all the spheres of influence that shape and conserve society's image of itself.

## 5. Recommendations

### **Department of Social, Community and Family Affairs**

- 5.1 The Department should ensure that LGB people are a named and resourced target group in programmes and structures designed to support community development and to combat social exclusion and inequality, in particular by the Community Development Programme.
- 5.2 The Department should ensure that the 2003 National Action Plan on Social Inclusion adequately addresses poverty and social exclusion amongst LGB people through the targeting of resources and the inclusion of LGB people within mainstream initiatives to tackle

disadvantage and exclusion. The plan needs to include awareness of the needs of the up to 10 per cent of those who experience poverty who are lesbian or gay.

### **Area Development Management (ADM)**

- 5.3 ADM should promote a programme of pilot projects, building on the Waterford Area Partnership model, to address LGB disadvantage in different local contexts. The results of these pilots should be mainstreamed in the practice of other partnerships.

### **Department of the Environment and Local Government**

- 5.4 City and County Development Boards should address the inclusion of LGB people in

all consultation, planning, implementation and evaluation mechanisms. This could involve using the equality-proofing template developed by the Equality Authority.

### **Combat Poverty Agency**

- 5.5 The Combat Poverty Agency should explore the option of funding an LGB Network, similar to other issue based networks, as part of their National Anti-Poverty Networks Programme.

### **National Economic and Social Forum and National Economic and Social Council**

- 5.6 The National Economic and Social Forum (NESF) and the National Economic and Social Council (NESC), as arenas of social partnership, should ensure a sexual

orientation dimension to reports they publish and liaise with relevant LGB organisations about the most effective method of doing so.

### **Department of the Arts, Heritage, Gaeltacht and the Islands, the Arts Council and the Heritage Council**

5.7 The Department and the Arts Council should enhance the support given to cultural expression and celebration of diversity, by working with LGB cultural events to develop and expand these events (e.g. Gay Community News, lesbian and gay film festivals, Pride etc). The Arts Council should also ensure that all state-supported cultural events implement equality policies and practices.

5.8 The Department, the Heritage Council and appropriate bodies such as the National Archives and National Library of Ireland should work with LGB organisations to establish the most appropriate mechanism for developing and maintaining the LGB history archives.

### **RTÉ and the IRTC**

5.9 RTÉ should examine their commissioning and scheduling procedures with a view to developing programmes aimed at addressing prejudice against LGB people and promoting positive images of them in society.

5.10 The IRTC should explore ways to acknowledge and affirm equality/diversity throughout the independent radio network including setting guidelines for good practice.

## Chapter 2

# Equality Proofing

### 1. Introduction

Equality proofing is emerging as a policy tool within a wider focus on mainstreaming equality, which is itself a relatively new but very welcome approach to the pursuit of equality. It still requires significant development – both conceptually and in its practical application – but it holds significant promise for the equality agenda.

There are four key elements to this mainstreaming approach. It requires:

1. a clarity of equality objectives allied with targets and timescales;
2. a capacity to assess the impact of a policy decision on a particular group experiencing inequality, such as lesbian, gay and bisexual (LGB) people. This assessment should explore the contribution of the policy decision to established equality objectives and the ability of the policy decision to accommodate difference. This is the essence of equality proofing;
3. the participation of the relevant groups experiencing inequality in this impact assessment;
4. the monitoring of equality outcomes from this mainstreaming approach including the collection and analysis of relevant data.

It is important to highlight that the mainstreaming approach is not a substitute for targeting resources at the LGB community. A coherent interaction is required between mainstreaming and targeting. Targeted initiatives should inform and shape mainstream initiatives and should contribute to effective outcomes for LGB people from the mainstream. Where monitoring demonstrates a failure to realise such outcomes from



mainstream initiatives, targeted initiatives should be triggered. The latter have a key contribution to make in addressing a past history of discrimination.

## 2. Policy Context

Since the mid-1990s, the policy-making system in Ireland has undergone a number of important changes. Policies have become subject to much greater scrutiny than in the past and their actual or potential impact have been subject to a range of different kinds of assessment. Impacts on poverty, on gender equality, on rural development and on the environment have been the most common assessment points for economic and social policies. Assessment systems have become more rigorous and more widely applied. Some of the key recent policy developments are poverty proofing, gender mainstreaming

and equality proofing.

### 2.1 National Anti-Poverty Strategy

As part of the National Anti-Poverty Strategy (NAPS), Poverty Proofing Guidelines were issued to all government departments in 1997. The required method for poverty proofing is for Government departments to address a range of questions on the effect or impact of the particular policy or programme on poverty. One of the questions requires policy makers to pay “particular attention” to inequalities that may lead to poverty. Sexual orientation is cited in the Guidelines as one of the “contexts” in which such inequalities can arise.

### 2.2 Gender mainstreaming

Mainstreaming is most developed in the Irish context in relation to gender. There is a requirement in the regulations

governing the EU Structural Funds that gender mainstreaming should occur across all funded measures. The Irish Government’s *National Development Plan 2000–2006* incorporates the EU Structural Funds alongside significant exchequer expenditure, and gender mainstreaming is to be applied to all measures. The Department of Justice, Equality and Law Reform has established a gender-mainstreaming unit to assist in the implementation of this commitment. An Equality and Social Inclusion Co-ordinating Committee reports to the Community Support Framework Monitoring Committee on, among other matters, progress in relation to gender mainstreaming. Those with responsibility for implementing measures under the National Development Plan are required to prepare gender impact assessments of these measures.

### 2.3 Recent equality proofing developments

The wider equality agenda, including LGB people, has also been a subject for debate in relation to mainstreaming and proofing. Under the *Partnership 2000* national agreement, the social partners and the Equality Authority contributed to a working group on equality proofing that was convened by the Department of Justice, Equality and Law Reform.

The report of this working group articulated a vision of a unified approach to proofing that would address gender, poverty and the wider equality agenda. It explored the potential in underpinning this approach by means of a statutory duty and identified the need for a learning phase for equality proofing with a range of initiatives to be taken.

A new and expanded working group is now being convened to

implement this learning phase and to develop equality proofing initiatives covering nine grounds. The Equality Authority is involved in developing three of these initiatives:

1. The Equality Authority has developed an equality-proofing template to be applied by the City and County Development Boards (CDBs) in the preparation of strategic plans. This project also involves the Directors of Community and Enterprise in the CDBs and PLANET (the representative organisation of the 38 area-based partnerships that work to promote social inclusion through the development of disadvantaged areas and communities).
2. The Combat Poverty Agency and the Equality Authority are involved in a
3. The Equality Authority is participating in the development and support of an equality and diversity principle as part of the Quality Customer Service initiative under the public service's Strategic Management Initiative (SMI). This project is being developed under the auspices of the Quality Customer Service Working Group. This Working Group was established to promote and support quality customer service under the SMI.

research project to explore how best to address the question of inequalities leading to poverty in the poverty proofing guidelines developed as part of the National Anti-Poverty Strategy.

## 2.4 Northern Ireland

A number of important developments with regard to equality proofing can also be identified in Northern Ireland. There is now a statutory duty on the public sector to promote equality on foot of the Belfast Agreement. Public sector bodies must prepare equality schemes approved by the Equality Commission for Northern Ireland. They will also carry out equality impact assessments on the basis of a template developed by the Commission. In keeping with the commitment to ensure consultation on all of the grounds covered, the Coalition on Sexual Orientation, (CoSO) has been formed and comprises representatives of LGB groups in Northern Ireland. All public sector equality schemes must be drawn up in consultation with bodies like CoSO. It is of interest that the Belfast Agreement provides for an equivalence of rights north and south.

## 3. Equality Proofing and the Lesbian, Gay and Bisexual Community

For the LGB community, the key problem is that it has rarely been explicitly included in this kind of policy assessment and monitoring. Where policies are being evaluated and reviewed, the issue of providing for people with minority sexual orientations has only been partially addressed. And yet policy developments in areas like education, housing, health and employment provide unique opportunities to ensure that all sections of society, including LGB people, are treated equally and taken into account in the policy process.

The lack of visibility of LGB people as service users or as employees is often presented as a reason for their lack of targeting in the policy system. However, as LGB people can be assumed to be part of all

populations it is entirely reasonable that this should be taken into account when policies dealing with such as poverty, health promotion, educational disadvantage, social housing and training are being designed and implemented. It is not necessarily an issue of identifying particular individuals or groups but of acting on the assumption that all populations comprise people and households of differing sexual orientation.

## 4. Practice

There is a need for the development of more comprehensive equality proofing mechanisms in relation to the sexual orientation ground. The inclusion of the sexual orientation ground in the “learning phase” of equality proofing under the Programme for Prosperity and Fairness will be important in this respect. However, there are a number of

practical steps that can be followed to ensure that the needs of LGB people are incorporated. The City and County Development Boards (CDB) are identified as a key arena for this learning phase. The Boards are taking up this challenge and should provide valuable lessons.

A research project currently being undertaken by Gay HIV Strategies focused on one dimension of taking forward an equality proofing approach. The project contacted every CDB to identify to what extent LGB issues were included in this planning process. A series of simple questions were asked in this respect:

a) Were gay people included in preparatory research on the circumstances and needs of different population groups? If so, what is known about LGB people in your area and

what difficulties were experienced in assessing their numbers, needs and circumstances?

b) Were LGB organisations or community groups included in your audit of service provision? What about gay commercial infrastructure, such as pubs, cafes etc.? Are there any specific services provided to LGB people through other community infrastructure such as Local Area Partnerships, CDP projects etc.?

c) Have community groups or organisations representing LGB issues been included in the on-going consultation process being followed in the preparation of your strategy?

d) Has sexual orientation been included in the

proofing mechanisms being developed for your strategy?

This simple approach could be modified to suit most situations and the central questions summarised as follows:

- 1) What do you know about the needs of your LGB clients or service users?
- 2) How do you currently respond to these needs?
- 3) How are the needs of LGB people included in the structures or processes for planning, implementation and review or evaluation of your service, programme or scheme?

As well as this focus on needs, the equality proofing template developed by the Equality Authority with the City and County Development Boards

points to three areas of examination within the proofing process:

- 1) the identification of and response to the specific needs of groups experiencing inequality including the LGB community (as outlined above);
- 2) the identification of difference as a relevant factor in the design of mainstream provision and processes to ensure this difference is taken into account;
- 3) the identification of measures to evolve a capacity to realise equality outcomes.

It is suggested this provides a relevant framework to establish the dimensions to be addressed in a proofing exercise.

Difference can be complex and is not always at issue in every policy proposal. It is important therefore to identify some core elements or characteristics of difference to inform the broader equality proofing process. A research project by the Equality Authority and the Combat Poverty Agency has done this in the context of the National Anti-Poverty Strategy. The project identified characteristics of groups experiencing inequalities, such as LGB people, that are likely to “trigger” the need for a proofing exercise in any particular policy area. A suggested LGB “trigger” is people who form same-sex relationships.

## 5. Recommendations

### All Government Departments and Agencies

- 5.1 All Government Departments and Agencies

should put in place programmes for equality proofing of policy and provision. In devising these programmes all nine grounds defined by the equality legislation should be included.

### Department of Justice, Equality and Law Reform

- 5.2 The Equality Proofing Working Group currently being convened under the Programme for Prosperity and Fairness should ensure that there is a focus on LGB people within any pilot initiatives developed as part of the learning phase now being implemented.
- 5.3 On foot of the work of the Equality Proofing Working Group, the Department of Justice, Equality and Law Reform should identify an appropriate legal formula

to underpin equality proofing in any revision of the current equality legislation

manner that could be used within an equality proofing template.

## **Department of Social, Community and Family Affairs**

- 5.4 The National Anti-Poverty Strategy Unit of the Department of Social, Community and Family Affairs should develop new approaches to the poverty proofing guidelines addressing inequalities leading to poverty, based on the research commissioned by the Equality Authority and Combat Poverty Agency.

## **The Equality Authority**

- 5.5 The Equality Authority should continue to develop a profile of the LGB community in terms of their experience, situation and identity in a

# Chapter 3

## Partnership

### Rights

#### I. Introduction

The relative invisibility of lesbian, gay and bisexual (LGB) people is perhaps most marked in the absence of official, statutory and legislative recognition of same-sex partnerships. Few of the rights, responsibilities, commitments and benefits assigned to married heterosexuals are available to same-sex couples and only a few are enjoyed by non-married heterosexuals. Unmarried heterosexuals may choose to postpone or reject marriage but for lesbian and gay couples, marriage is not an option. In Ireland, marital status impacts significantly on the extent of rights in relation to pensions, residency, property,

adoption, taxation and welfare entitlements.

Lesbian and gay couples have no guarantee of fair treatment under the law because legally their relationships do not exist. The vulnerability experienced by all couples during times of death or serious illness of a partner, the anxieties involved in child rearing and child custody are all exacerbated for same-sex couples. The LGB community has many examples of diverse families, partnerships, domestic arrangements and relationships.

The issue of parity for same-sex couples is currently receiving serious attention in several European countries.

Developments on this front in various jurisdictions have led to registration of same-sex partnerships in relation to inheritance, taxation, pension, and health entitlements, extension of marriage legislation to same-sex couples, immigration and adoption rights.

This chapter briefly explore the efforts made in the Netherlands, France, Denmark and Germany to recognise the rights of same-sex couples, the current legislative situation concerning same-sex partnerships in Ireland and, finally, recommendations for progressing equality for same-sex couples within Ireland.

## 2. European Responses

### 2.1 The Netherlands

The Equal Treatment Act 1994 prohibits discrimination on the ground of sexual orientation in labour, housing, medical care and access to goods and services. Since January 1998 same-sex couples have been able to register their partnership legally and have been accorded most of the rights previously reserved to married heterosexuals. Tax regulations are the same for registered partners as for married couples. Most pension schemes provide a surviving partner's pension in the case of unmarried or registered cohabitants regardless of sex. Equally, all couples and cohabitants, regardless of sex, have the right to succeed to a property lease of their deceased partner. In April 2001, the Netherlands opened up full civil marriage to same-sex

couples. In addition, lesbian and gay couples were legally enabled to adopt from April 2001.

Under the changed marriage law, section 1 of Article 30 of Book 1 of the Netherlands Civil Code now reads:

*“A marriage can be contracted by two persons of different sex or of the same sex”*

Consequently, the new marriage law in the Netherlands did not create a parallel relationship with heterosexual marriage, but changed the definition of marriage to include same-sex couples.

### 2.2 France

Discrimination in employment based on sexual orientation has been outlawed since 1985. Lesbians and gays have been able to serve in the armed forces and following a 1996 case when a gay man was excused from mandatory

military service to take care of his sick partner, same sex partnerships have been recognised by the military. In 1999 the Pact of Civil Solidarity (PACS) introduced a registered partnership for non-married couples whether same-sex or heterosexual, providing legal and financial protection. These rights include shared property rights in the event of a partner's death, joint income tax assessment three years after signing a PACS agreement, paid leave for partner commitments, pension and social security rights designated to the other partner where requested. A PACS can be used as evidence of close personal ties to obtain the right of residence and both married couples and single people are eligible for adoption and fostering. However, the PACS does not of itself confer eligibility to adopt.



## 2.3 Denmark

In 1989, Denmark became the first country to introduce a law on registered same-sex partnerships. This law has essentially guaranteed the same rights of marriage and divorce to a registered same-sex couple as to a heterosexual married couple with one exception: a registered couple cannot adopt children. The conditions are that a church wedding is not available and one of the partners must be a Danish citizen. However in 1999, the law was amended to allow a partner to adopt the children of her or his partner (except where the child is adopted from a foreign country) and to recognise the partnership rights of citizens of Norway, Sweden and Iceland and citizens from countries where similar legislation exists. Since 1999 also, non-Danish citizens resident in Denmark for two years have been able to register a partnership.

## 2.4 Germany

In Germany, same-sex *Eingetragene Lebenspartnerschaft* (registered life partnership) became legal in August 2001. It provides for the partners to take the same name if they wish; reciprocal maintenance obligations and rights in a partnership; limited parental responsibility granted to the partner (the right to be involved in decisions on matters of the daily life of a child brought into the partnership by the other partner). It also provides for a statutory right of inheritance of the surviving partner in the event of death of the other partner; the right of the surviving partner to succeed the deceased partner in a residential tenancy agreement; the right to refuse to give evidence against one's partner in a Court of Law; the inclusion of the partner in health insurance and nursing care insurance; the right of a foreign partner to join his/her

partner in Germany and the right of a foreign partner to naturalisation.

## 2.5 Other countries

Various other European countries, most notably Sweden, Finland, Norway and Iceland have accorded varying degrees of legal recognition to the rights of same-sex couples.

## 3. Irish Law Relating to Same-sex Couples<sup>2</sup>

### 3.1 The workplace

#### (a) Pensions

The size of pension contributions does not normally depend on marital status. However, the question of what benefits are paid out often does.

Since 1984, all public servants, married or not, must contribute equally to a specific "spouses and children" pension fund, from which payments are made when a person dies after

retirement. No payments can be made to an unmarried partner, or to any children of that partner.

Upon death after retirement trustees of private pensions funds can and do extend “relevant benefits” to same-sex partners and their children. Some companies based in Ireland do extend such benefits, so the practice could in theory become standard.

In the public service, the death in service benefit is a standard lump sum that goes to the estate of the deceased and thus a partner of either sex can be named in the will as the beneficiary. In the private sector, such benefits (e.g. pensions, direct payments, lump sums to beneficiaries) are subject to the discretion of pension fund trustees. There may or may not be discrimination against a same-sex partner.

Legal spouses inherit tax-free benefits, but same-sex partners (“strangers” in law) face two taxes: capital acquisitions tax (CAT) on the capitalised value of the pension and income tax on the pension itself.

When married couples separate or divorce, pensions are normally still partially allocated to the ex-spouse. No such rights accrue to non-married partners.

Social welfare pension rules allow for the payment of a supplement to any adult dependent. However, after death a survivor’s pension will be paid only to a legal spouse.

### **(b) Parental leave**

Parental leave is a statutory right for the biological parents of a child or for both adoptive parents, who must be a married couple. An unmarried partner of either a biological parent or of a parent who has an adopted

child does not have this entitlement.

“Force majeure leave” in cases of grave illness or injury to a partner’s child is available to those “in loco parentis”. This is broad enough to include same sex partners.

## **3.2 Taxation**

A legally valid marriage has tax advantages, but these are not available to a same-sex relationship which has no legal standing in the tax system.

### **(a) Income tax**

Joint assessment is not available to same-sex partners and neither partner can transfer their marriage allowance or avail of the double-rate tax band.

In cases where only one partner in a same-sex couple is working, she or he will be taxed on a single-rate tax band.

## **(b) Capital gains tax and capital acquisitions tax**

Capital gains tax benefits are restricted to married couples.

Under CAT, same-sex partners are treated as “strangers in blood”. Gifts are subject to tax, unlike married couples who are also exempt from stamp duty and from almost all probate tax on the transfer of any assets.

With the exception of a shared residence (see below), the surviving partner of a same-sex relationship must pay full CAT on the value of everything inherited. (A surviving partner from a marriage pays no CAT, no matter how large the inheritance.) Gifts or inheritances to the child of a same-sex partner attract full CAT, although such gifts from a biological or adoptive married parent are taxed only above the value of €243,790.

The new principal residence relief from CAT does, however, apply to a wide range of persons, including same-sex partners, with restrictions. A residence shared for a minimum three years may be inherited free of CAT if it is the inheritor’s only residential property, and if the inheritor continues to live there for a further six years.

### **3.3 Children and same-sex couples**

In addressing current rights and in the event of extending rights with regard to children and those not in a married heterosexual relationship, it is essential that the rights of the child underpin all related legislation and policy.

#### **(a) Adoption**

The right to adoption is restricted to legally married couples, or in certain circumstances to single people.

In any non-marital relationship, the adoption of a living partner’s child is prohibited.

In theory, one partner in a known same-sex relationship may apply to adopt a child in her or his own right, but it is unknown what the practice of the Adoption Board would be.

There is no guaranteed right of a same-sex partner to legal guardianship or custody rights over a natural or adopted child of her or his partner. The absence of adoption rights or guardianship rights means that a child has no automatic right to continue in a relationship with their second parent should their biological or legal parent become incapable of caring for them through death or serious illness.

## **(b) Fostering**

In theory, same-sex couples may be accepted as foster parents. The sole specified criterion is the “best interests of the child”.

## **(c) Custody and access**

Disputes over custody rights are determined by the courts. There is nothing specific in law to prevent the biological (or adoptive) parent from applying for custody of her or his child, while at the same time being in a known same-sex relationship.

There is no statutory reason to prevent access.

When a same-sex relationship ends, a former partner has no legal rights of access to the biological or adoptive child of her or his ex-partner. Equally, the parent can make no maintenance order against her or his ex-partner. The child in this situation, equally, has no right of access to somebody

who may have been a de facto parent and neither may have the right to be supported by this person, but a person in loco parentis may apply for access.

## **(d) Birth registration**

Only the biological parents of a child can be registered on a birth certificate. This is automatic in the case of a married couple, and by consent or application in other cases. A same-sex partner cannot be registered.

## **(e) Fertility services**

There is no Irish legislation on assisted reproduction, only Medical Council Guidelines. In the 1998 Guidelines, there is no reference to the marital status of the recipients. In practice, most Irish clinics do not make services available to same-sex couples. Treatment is usually confined to those with fertility or genetic problems, not to

those in a same-sex relationship.

## **(f) Surrogacy**

A surrogate mother is legally regarded as both the biological mother and guardian of the child. The biological father may apply to the court to become the guardian.

## **3.4 Housing and property<sup>3</sup>**

### **(a) Rented local authority housing**

Nothing in theory prevents a same-sex couple being allocated local authority housing, and the Equal Status Act outlaws discrimination. Housing authorities may provide, in relation to housing accommodation, different treatment to persons based on family size, family status, marital status, disability, age or membership of the traveller community, but not sexual orientation under the Equal Status Act.

When a tenant dies, it is only when her or his partner is a joint tenant that the partner succeeds to the tenancy; in other cases, it will be very difficult to succeed to the tenancy.

### **(b) Access to mortgages and mortgage protection**

Mortgages for houses and apartments are easily obtainable for same-sex couples. Mortgage protection insurance, however, for male couples may be difficult or highly expensive because of perceived HIV risks and lenders may insist on HIV tests.

### **(c) Succession rights**

Succession rights in a same-sex relationship depend entirely on a valid will being made by the deceased partner. Without such a will, the surviving partner will legally inherit nothing, and may even have to prove her or his rights to any validly shared possessions.

If the deceased partner was unmarried and childless, there are no restrictions on what can be inherited. However, if still alive, the deceased's spouse is entitled to half the estate or, if there are surviving children, to one-third of the estate, unless the couple were divorced. Surviving children (biological or adopted) can also claim a share of the estate, to be determined by the courts.

The surviving partner cannot contest the entitlements of the spouse, although the court may follow the provision of the will rather than allow the claims of children. If the surviving partner of a same-sex couple is left little or nothing in the will, then he/she has no grounds for any claim unless he/she can establish a "resulting" trust.

### **(d) Property rights in the event of separation**

In a marriage, the marital home cannot be sold by one spouse

without the written consent of the other. After a separation, the courts may decide on a range of financial transfers, accommodation needs, pension adjustments, etc. No such protection is given to unmarried couples, whatever their sexual orientation.

A partner in a non-marital relationship can attempt to establish a "resulting trust" in a property owned by the other partner. The procedure carries no guarantees, and is both complex and difficult. Cohabitation contracts have been mentioned as possible solutions, but have uncertain status in Irish law. It has not yet been tested whether the courts would accept such a contract for a same-sex relationship.

## **3.5 Other Points**

### **(a) Domestic violence**

Same-sex couples are protected under the Domestic Violence

Act, 1996, from some of the consequences of violence as they are in a “relationship the basis of which is not primarily contractual”. A same-sex partner can apply for either a safety order or an interim protection order. It is arguable that a same-sex couple could apply for a barring order.

### **(b) Hospital treatments, visits, grave illnesses and death**

Formal discrimination does not exist, as even a spouse has no legal rights in respect of treatment and instead Medical Council Guidelines apply. However informal discriminations can and do occur. A new patient in a hospital may nominate any other person to receive information about her or his illness, but in cases of patient unconsciousness, a same-sex partner would be in a much weaker position than a spouse or close relative, or may be

ignored entirely. Nor does a same-sex partner have any right, under Medical Council Guidelines to have any input into treatment decisions of seriously or terminally ill patients. Those rights are restricted to the legally defined next-of-kin.

Funeral arrangements are the responsibility of the executor of the deceased’s will. If the deceased has left no will, or has not made her or his partner the executor in the will, an unmarried partner has no rights.

### **(c) Immigration, work permits, nationality and citizenship**

All persons from the European Economic Area (the EU plus Norway, Iceland and Liechtenstein) can live and work in Ireland. When an Irish person wishes to bring her or his non-EEA partner to live or work in Ireland, immigration policy is

weighted heavily in favour of married couples. Although non-EEA spouses do not have automatic rights of residence and work, the rules ensure that barriers are rarely put in place. Same-sex partnerships are ignored, and applicants are treated as single immigrants. The right to Irish citizenship for a non-EEA spouse is also not automatic, but operates effectively as such. Again, no such rights accrue to same-sex partners.

### **(d) Discriminations in favour**

Many social welfare payments are means-tested, and the income of the spouse or “person cohabiting as a husband or wife” is taken into account. A same-sex partner may not appear to meet this definition, so her or his income is in practice ignored. This can be a distinct financial advantage, although in other areas (e.g., dependent allowances, family

income supplements) the rules can act against a same-sex relationship.

The rules of access to legal aid can similarly be of advantage to same-sex couples.

#### 4. Key principles for legal reform

A number of important principles should inform the process of establishing an appropriate social and legal framework for different partnership arrangements among lesbians and gay men. The present legal and policy framework, including the Constitution, statute law and social and economic benefits system largely privilege heterosexual marriage. Reform of this system would extend benefits to same-sex couples, unmarried heterosexual couples and individuals.

##### **(a) Diversity**

Any system of social and legal provision for LGB people (including those in same-sex partnerships) in Ireland must recognise and reflect the diversity of that community. The different rights and choices of individuals, couples and households need to be respected in a broadly based legal framework.

A legal framework should encompass a range of different kinds of partnership arrangements for which couples or households could opt. These should cover a range of different situations including legal marriage, registered partnerships and recognised households. Both formal and informal arrangements should be covered, based for example on shared living situations, nominated beneficiaries and legally registered couples. Agreements could cover taxation, property and pension

entitlements to the designation of beneficiaries, the nomination of next-of-kin and access to benefits and services, including assisted reproduction services. Providing for both the establishment and the dissolution of partnerships and agreements is an essential part of this process.

##### **(b) Equality**

Equality should be the core principle underlying any process of reform of the current laws and social provision with the aim of developing a legal and policy framework based on rights and responsibilities. Rights and responsibilities currently conferred on married heterosexual couples in relation to pensions, residency, property, adoption, taxation and welfare entitlements, etc., should be equally conferred on lesbian and gay couples as well as heterosexual unmarried couples. This type of focus might involve an exploration of

a legal framework based on individual rights and responsibilities.

### **(c) Accessibility**

Social and legal provision needs to be established to ensure that all sections of the community enjoy equal financial, property inheritance and social rights. It is necessary to ensure that the framework for all such legal agreements is simple, clear and comprehensible.

## **5. Recommendations**

### **Department of Justice, Equality and Law Reform**

- 5.1 The legal and policy codes should be systematically reformed to ensure that references to the family recognise the diversity of family forms, households and couple relationships.
- 5.2 The Department should ensure that same-sex

couples are treated in an equal manner by extending the right to nominate a partner with legal rights to same-sex couples, comparable with those recognised for a spouse. The outcome of which would recognise the right of same-sex couples to:

A. nominate a partner or successor

B. designate a next-of-kin for medical issues

C. nominate a beneficiary of pensions and inheritance

D. nominate a partner as a co-parent or guardian of a child.

- 5.3 Legislation governing violence in intimate relationships should operate on an equal basis towards same-sex

relationships as towards married relationships.

### **Department of Justice, Equality and Law Reform and Department of Enterprise, Trade and Employment**

- 5.4 The Department of Justice, Equality and Law Reform and Department of Enterprise, Trade and Employment should establish appropriate mechanisms to accord equal rights of residency and work entitlements for foreign partners of Irish citizens who are same-sex couples, or unmarried heterosexual couples as are accorded to married heterosexual couples.

- 5.5 The Department of Justice, Equality and Law Reform and the Department of Enterprise, Trade and Employment should ensure that leave



entitlements (for example, parental leave) should be provided for same-sex couples, non-married heterosexual couples and married heterosexual couples on an equal basis.

### **Department of Finance**

5.6 The Department of Finance should make the necessary recommendations for change to taxation systems in line with according equal rights to same-sex partners, unmarried heterosexual couples and married couples.

### **Department of Social, Community and Family Affairs**

5.7 The Department should establish entitlement to welfare benefits in such a manner as to ensure that same-sex couples are not discriminated against, relative to heterosexual

married and non-married couples.

### **Department of the Environment and Local Government**

5.8 The Department should ensure that all regulations and codes of practice governing the provision of, and support for housing should operate on an equal basis towards LGB people at national, regional and local level thus recognising and going beyond as necessary the provisions of the Equal Status Act.

### **Department of Health and Children**

5.9 Rights in relation to parenting, fostering and adoption should operate on an equal basis for same-sex couples, individuals, married and non-married heterosexual couples and should be

based on the core principle of attaching rights to children and responsibilities to parents and carers.

## Chapter 4

### Health

#### **Oireachtas Constitutional Review Group**

5.10 In the context of an overall review of the Constitution, the changed wording for the equality clause proposed by the Constitution Review Group should be adopted.

#### **Employers**

5.11 Employers should ensure that workplace entitlements such as pensions and healthcare benefits that are extended to employee “spouses” are changed to a “nominated person” as designated by the employee.

#### **I. Introduction**

There are particular lesbian, gay and bisexual (LGB) health needs that can be identified from both international and local research, for example HIV/AIDS and mental health in relation to young male suicide. In other cases, it is the invisibility of LGB people as a client group that requires specific examination, for example lesbian mental health. This chapter identifies a number of areas that require targeting of research, resources and initiatives needed to develop existing knowledge and to uncover hidden barriers and difficulties faced by LGB people in availing of health services.

The World Health Organisation defines health as

...a complete state of physical, mental and social well-being, and not merely the absence of disease or infirmity...a resource for everyday life, not the objective of living; it is a positive concept emphasising social and physical resources, as well as physical capacity.

There are a series of determinants for health status both economic and social. The National Health Promotion Strategy 2000-2005 recognises the need for a multi-dimensional and inter-sectoral

approach to health status – physical, mental and social wellbeing. The GLEN/Nexus study, *Poverty – Lesbians and Gay Men: The Economic and Social Effects of Discrimination* demonstrates the levels of economic and social disadvantage amongst LGB people. Their marginalisation indicates the need for a supportive, appropriate and accessible health service for LGB people. Anyone providing a service cannot treat lesbian, gays and bisexuals less favourably on grounds of sexual orientation under the Equal Status Act.

## 2. Context

The earliest health-related activity in the LGB community in Ireland pre-dates the emergence of HIV/AIDS. Gay Switchboard Dublin, established in 1974, has provided support to thousands of lesbians and gay men who were lonely, isolated, depressed or suicidal (*Out For Ourselves*, 1986). There are now twelve such helplines in six centres around the country. Some now receive State funding, but this is small and intermittent.

Factors outside the immediate health area will have a strong influence on the health and social wellbeing of LGB people. However, within the health field fear of prejudice and discrimination restrict access to health services by LGB people. Many more do not disclose their sexual orientation where relevant and so receive an inappropriate service response.

For LGB people, attitudes and judgments of some healthcare professionals can reduce the benefits of a range of health services.

The National Women's Health Plan 1997-1999 points out that the most serious health issue identified by lesbian women "...was the attitudes which they encountered when seeking care from the health services". The Galway Lesbian Line report, *Towards a More Inclusive Health Service* and the LEA report, *Lesbian Health in Ireland*, found that homophobia is the biggest barrier for lesbians and bisexual women in availing of healthcare services. Lesbian, gay and bisexual patients may withhold information and personal details for fear of prejudice or anti-homosexual bias. If the reaction they receive from a health professional is negative, they may be discouraged from seeking further treatment.

Lesbian, gay and bisexual people are part of every population group within the healthcare services – including older people, disabled people and in all aspects of treatment services. Invisibility of LGB people and assumptions of heterosexuality in service design and provision have debilitating consequences. The potential for misdiagnosis and mistreatment is a particular fear. The impact can be experienced in a variety of ways. Some doctors and nurses can be insensitive to LGB patients and exclude same-sex partners from diagnosis and treatment discussions. Lesbians who receive gynaecological examinations from GPs or consultants are often assumed to be heterosexual. If the patient is asked about contraception methods they use and the reply indicates that they do not use contraception, the examination may continue as if the patient is not sexually active.

Health professionals should ensure that they provide services that are appropriate for all their clients, and educate themselves in relation to health care issues for LGB people. It can be made clear that they are open and welcoming of LGB patients, for instance, through posters, leaflets and appropriate literature in waiting rooms. Such efforts would help to make LGB patients more comfortable and able to discuss their sexuality and health problems more openly.

Another issue affecting lesbians and gay men is the assumption that assisted reproduction and fertility services are relevant only to heterosexual couples. The LGB community is entitled to be treated in a non-discriminatory manner in relation to all forms of assisted reproduction services in the private and public sectors. The right to have and rear children should apply to all who can

demonstrate the capacity to provide and care for them, regardless of sexual orientation and artificial insemination (AI) and in-vitro fertilisation (IVF) services should be available to all.

One of the most pressing issues for gay and bisexual men is the impact of HIV and AIDS. As a result of lobbying, particularly by the gay community, the National AIDS Strategy Committee was established. This statutory/community partnership has continued to develop programmes and services in response to the needs of those with HIV/AIDS and in HIV prevention schemes.

The Gay Men's Health Project in the Eastern Coast Area Health Board has been operating in Dublin since 1992. It provides a sexual health clinic with medical screening and counselling and outreach services, and utilises community

space provided through OUTHouse, the LGB community resource centre in Dublin. The Gay Health Network, a voluntary body of gay men working on HIV and AIDS, has produced a range of materials on sexual health and HIV prevention. Gay Health Network is currently conducting a national study on the sexual behaviour patterns of gay and bisexual men. This study will highlight the key areas where further HIV and sexual health promotion initiatives are required.

### 3. The Potential for Progress

#### 3.1 The National Health Promotion Strategy 2000-2005

The National Health Promotion Strategy 2000-2005 of the Department of Health and Children is important because of the wide-ranging and

inclusive nature of its principles, approach and recommendations. Many of these are complementary to the needs and priorities of LGB people.

#### (a) Partnerships

The National Health Promotion Strategy acknowledges the importance of multi-sectoral partnerships in making successful health promotion interventions. It specifically advocates supportive environments and strengthening community action with a focus on the lesbian and gay community as a means of achieving “a holistic approach to health that addresses life-skills, self-esteem and positive mental health”.

#### **An example of good practice: Gay HIV Strategies**

The multi-dimensional approach to health promotion amongst

gay men was recognised in 1996 when the Department of Health and Children commissioned the Gay and Lesbian Equality Network to develop the report *HIV Prevention Strategies and the Gay Community*. This led to a partnership with the Department and the establishment of the Gay HIV Strategies project. This was set up to develop effective HIV prevention strategies for gay and bisexual men based on a partnership between the statutory sector, the gay community and other agencies. It has played an active role in both policy development and capacity-building across a range of policy areas including education and youth services.

#### **Resourcing partnership work**

The role of community action in health promotion and collaborative work with statutory bodies, local

development agencies and the mainstream NGO sector is well recognised by the Department. However, it is also well recognised that most marginalised communities do not have the organisational capacity or resources to engage in developmental work and partnerships. Building the capacity of the LGB community to participate in health promotion and partnership is key to a successful strategy for an equitable health service.

There are examples of good practice. The Eastern Regional Health Authority and Gay HIV Strategies developed a process where community organisations were financially resourced by Health Boards to engage in HIV and health promotion activities. This has led to sustainable growth in OUTHouse, Gay Switchboard, Dublin and Parents Support (an organisation consisting of parents of lesbian and gay

people), a strategic development report on LGB youth, and significantly improved HIV coverage in *Gay Community News*. The South-Eastern Health Board is replicating this process through support for the Waterford Lesbian and Gay Resource Group. The Southern Gay Health Project in Cork is supported by the Southern Health Board in providing sexual health promotion and HIV prevention work to the gay community there.

The most overarching recommendation put forward by the National Health Promotion Strategy is the establishment of an inter-sectoral National Health Promotion Forum with wide representation. Representation from the LGB community on the Forum would help include LGB health needs within mainstream delivery and support the community's capacity to develop partnership

initiatives to address gaps in their health provision.

### **(b) Research**

The National Health Promotion Strategy emphasises the need for research into the health and lifestyle behaviour of various groups to prioritise health promotion. This objective is particularly welcomed as a major necessity if healthcare services are to be appropriately delivered to this client group. The report *Lesbian Health in Ireland* highlights the lack of research on lesbian health. A number of outstanding areas in relation to LGB health issues require urgent research.

### **(c) Mental health**

There is little research in the Irish context into suicide prevalence amongst young lesbians and gay men. US research indicates that up to 30 per cent of suicide attempts and completed suicides are

made by young people struggling with their sexual orientation<sup>4</sup>. *The Report of the National Task Force on Suicide* is particularly cited in the National Health Promotion Strategy as in need of implementation. However, this Report contains no reference or recommendation on the relationship between sexual orientation and youth suicide despite the issue being raised with the Task Force by GLEN in 1996. The National Health Promotion Strategy sets out two other objectives in relation to mental health: research into models of best practice in mental health promotion and the development of a national positive mental health strategy. It is therefore relevant to explore the relationship between sexual orientation and youth suicide with a view to alerting professionals of appropriate preventive measures.

A national mental health strategy should also take account of the needs of LGB people and the marginalisation attached to homosexuality. The National Women's Health Plan draws specific attention to the additional stress and consequent depression that many lesbians suffer as a result of homophobia. GLEN/Nexus report found that lesbians and gay men dealing with the consequences of coming out or those who conceal their sexual orientation are particularly prone to psychological distress. Therefore, there is even greater need for additional resources with appropriate services and mental health strategies.

### 3.2 Addiction

The difficulties that the circumstances referred to throughout the report create for LGB people can often lead to substance and alcohol abuse. There is a particular need to resource those most vulnerable

in this context, and those voluntary LGB organisations supporting them, such as the lesbian and gay AA groups. Organisations addressing addiction issues, which are mainly within the voluntary sector, need to recognise and support their LGB clients, to help them address the underlying causes of low self-esteem and self-worth leading to their addiction.

### 3.3 Lesbian health

The LEA research highlights the difficulties of locating lesbians within overall women's health initiatives. It points out that research shows that because lesbians make less use of gynaecological services for birth control and ante-natal care, they are less likely to have cancers detected at an earlier, more treatable stage. Other medical research has found that lesbians are less likely than heterosexual women to have a cervical smear test, or

mammography or to examine their own breasts. There are indications that lesbian women are at greater risk of breast cancer (because of smoking and/or not using oral contraception) than heterosexual women are (Rankow, 1995). The prevailing invisibility of lesbians and lesbian issues can also lead to sexual health services that are not targeted or accessible to lesbian women.

### 3.4 People with disabilities

Many people with disabilities are in regular contact with the health services. Focus on the impairment tends to overshadow the needs of the person with the disability, such that people with disabilities can be regarded as asexual or without a sexual identity. This situation is exacerbated for lesbian and gay people with disabilities, thus imposing a double discrimination.

### 3.5 Training of health professionals

Many healthcare professionals make a genuine effort to be sensitive to the sexual orientation of their patients but some still do not. The provision of health services is underpinned by key principles of equity and quality of service (*Shaping a Healthier Future, 1994*). Achieving equity demands that service providers maintain quality standards of care for everyone regardless of status. An important step towards equity is a comprehensive training programme that recognises the diversity of clients. In this context, there is a need for a training module in sexual orientation for all health professionals.

It is important to establish the sexual orientation content of training programmes run by the various bodies who provide healthcare training. These would

also benefit from an external training unit to provide sensitivity and diversity training to healthcare students and trainers. A partnership approach to developing a pilot training module would combine best practice skills and experiences of both NGOs and healthcare professionals in its design and delivery. Additionally, GPs need specific materials to raise awareness of the needs and sensitivities of patients with minority sexual orientations.

Health Boards and health care service providers (e.g. hospitals and clinics) need to ensure a safe and supportive work environment for healthcare professionals who are themselves lesbian, gay or bisexual, so that their professional abilities are not undermined by adverse responses to their sexual orientation.



## 4. Recommendations

### Department of Health and Children and the Health Boards

- 4.1 The Department and the Health Boards should ensure that LGB people's needs are mainstreamed into the design, delivery and impact assessment of services with LGB interests represented in all consultative fora and structures that inform policy and service delivery.
- 4.2 In order to encourage best practice amongst professional healthcare service deliverers, the Department of Health and Children, with the support of the Equality Authority and in conjunction with the relevant professional bodies, agencies and institutions, should develop a training strategy for health professionals. This should involve a survey of the role of professional health training in sexual orientation, and the production and piloting of a training module on sexual orientation and health designed in partnership with the relevant LGB interests, with a view to mainstreaming the training strategy across all professional healthcare courses.
- 4.3 Each Health Board should examine the health needs of LGB people and LGB community services in their areas, and develop appropriate responses. The Health Boards should support and develop effective partnership interventions with LGB people, such as that established between the Eastern Regional Health Authority and community groups in Dublin.
- 4.4 Lesbian, gay and bisexual people should be a named service user group identified within mainstream programmes and services and the subject of specifically targeted initiatives within future national health strategies.
- 4.5 In developing a mental health strategy, specific attention should be given to the needs of LGB people. Appropriate consultation with LGB interests should take place in the planning of the strategy and resources and services should be identified for the LGB community within any future comprehensive mental health strategy.
- 4.6 Methods of research and monitoring of the relationship between sexual orientation and suicide in Ireland should

be developed. The National Suicide Review Group should establish the most appropriate mechanisms through which data, analysis and action can be developed.

- 4.7 To address the specific needs and gaps in health provision that currently affect lesbian women, there should be lesbian representation on the Regional Women's Health Committees.
- 4.8 The Health Promotion Unit of the Department of Health and Children should develop information materials for health workers and health professionals working with the LGB community.
- 4.9 The Health Promotion Unit should develop health promotion materials and initiatives for young LGB people and youth workers

in liaison with LGB interest groups.

### **Commission on Assisted Human Reproduction**

- 4.10 The Commission should ensure that assisted reproduction services provided by either public or private agencies are provided and delivered in a non-discriminatory manner to all, thus recognising the provisions of the Equal Status Act.

### **Women's Health Advisory Council**

- 4.11 The Women's Health Advisory Council should liaise with lesbian groups to develop specific initiatives in relation to lesbian health research and promotion.

# Chapter 5

## Education

### 1. Introduction

The ability to access and fully participate in education is of vital importance. The Equal Status Act, 2000 enshrines the right of people to access services, including education, without discrimination on the basis of nine grounds including sexual orientation. However, there is evidence that lesbian, gay and bisexual students are disadvantaged in education.

This chapter explores the difficulties and concerns of LGB students within different levels of the education system and the opportunities emerging in educational policy and practice to address these concerns. Particularly welcome

developments include moves towards equality of access and participation in education for minority groups such as the lesbian, gay and bisexual communities. Also welcome is the fact that the new equality legislation outlaws harassment of students and teachers based on their sexual orientation.

The frameworks and practices for developing equality of opportunity inclusive of sexual orientation that are proposed at the end of this chapter could also considerably benefit LGB staff and other staff who are supportive of LGB rights. (The employment issues of LGB staff in education are addressed in Chapter 7).

### 2. Context

There is a dearth of local materials and an absence of pertinent data on the experience of LGB people in Ireland. The lack of sufficient, relevant and contemporary materials indicates that LGB people have rarely been a focus of any officially generated surveys. It is important that research, which seeks to examine the experiences of people in education and particularly those most at disadvantage, include a sexual orientation dimension in order to ensure that LGB people are not overlooked. Despite the overall lack of research and analysis, there has been a growing awareness, both in

Ireland and internationally of the problems encountered by LGB people within the education system. Within Ireland, these have been documented in the GLEN/Nexus study and include bullying and harassment, isolation, depression and poor self-esteem. In some cases, this led to poor educational attainment and early school leaving. Some of the key findings are:

- (a) one-fifth of respondents were found to be living in poverty.
- (b) almost half became aware of their sexuality before the age of 15, when they were particularly vulnerable and dependent, especially in economic and family terms.
- (c) 57 per cent experienced problems in school – such as bullying, harassment and poor self-esteem.

(d) 8 per cent of those who experienced such problems left school and college earlier than anticipated.

(e) three-fifths of those who had gone to third-level education and a third of those who had been on training courses had experienced similar problems to those experienced at school.

(f) those who experienced harassment were unlikely to access school supports for help.

(g) 25 per cent had been punched, beaten, hit or kicked because they were assumed to be homosexual.

The limited materials available, including those commissioned and researched in Ireland, identify striking similarities in the experiences of LGB people

within the school and college systems. The most prevalent of these experiences is of an educational environment that presupposes the heterosexuality of all those who participate in it: students, staff and parents (Foyle Friend, 1999). For example, assumptions about parents are evident from the application or enrolment stage where registration materials request the names of mother and father positions within the family. This poses difficulties not only for the children of LGB parents but also those from a diverse range of family types. These assumptions inform school curricula and so children from a variety of family backgrounds find little representation or reflection of their family and domestic circumstances within the school environment.

The lack of positive LGB images within the curriculum has been noted in the *Report of the Second Commission on the Status*

of Women (1993) and is raised in several reports as contributing to young lesbian and gay people's isolation and lack of self-esteem (GLEN/Nexus, 1995; Trenchard and Warren, 1984). The failure or fear of educators to positively recognise difference increases the sense of being an "outsider" experienced by so many LGB students. The absence of positive images within the education system increases the difficulties for LGB students. It also increases the difficulties for children of LGB parents, where their family and domestic circumstances are not affirmed.

In such an environment, homophobic bullying and harassment occurs with depressing regularity. Both European and US studies confirm that levels of physical violence towards lesbian and gay youth are higher than those occurring towards the gay population as a whole and

higher than towards those young people who experience bullying overall. Perhaps the most pressing consideration is highlighted in the US Department of Health and Human Service's *Report of the Secretary's Task Force on Youth Suicide* (1989) which states that gay, lesbian and bisexual youth "are two to three times more likely to attempt suicide than any other young people" and "comprise up to 30 per cent of completed suicides annually". Although there has been no sexual orientation breakdown conducted in similar surveys on suicide in Ireland, the US statistics would suggest that such a focus of investigation is urgently required. The GLEN/Nexus research demonstrated the "absence or perceived absence" of staff within the education field who provide guidance and counselling services that is inclusive of issues arising from sexual identity in their

programmes or assistance strategies. This absence within the school environment leads to insufficient recognition of the difficulties faced by young people struggling with their sexual identity or of adequate responses in relation to homophobic bullying.

The Equal Status Act, 2000 puts the onus on the educational establishments to take steps to prevent harassment on any of the nine grounds in the Act. Where there is no clear anti-discrimination policy that is inclusive of sexual orientation in educational establishments and there are no procedures or programmes to protect LGB students from harassment then it is unlikely there will be staff available who can recognise and offer support to those students. Equally, the absence of a clear commitment to equal opportunities that is inclusive of sexual orientation leaves staff who themselves are lesbian, gay

or bisexual or who would wish to be supportive of LGB rights in a vulnerable position.

### 3. Primary and Second Level Education

#### 3.1 Legislative and policy context

This report notes the important and innovative developments that have taken place over recent years to mainstream principles of equality throughout educational policy and in developing awareness and respect for equality and diversity within the national curriculum through special educational programmes.

The foundation for this progress has been cemented by the Education Act, 1998 which establishes the principle of equality as a key objective “to promote equality of access to and participation in education

and to promote the means whereby students may benefit from education” (Section 6(c)). Schools are directed to “ensure that the educational needs of all students...are identified and provided for” (Section 99(a)) and to ensure “that students have access to appropriate guidance to assist them in their educational and career choices” (Section 9(c)). School boards of management are required to arrange for a “school plan” stating their objectives relating to equality of access and participation and stating the measures which the school proposes to take in order to achieve those objectives (Section 21(2)). The Act also emphasizes increasing consultation and partnership in the formulation and implementation of education policy. It provides the Minister with the authority to regulate liaison between schools, other statutory interests, voluntary bodies and “other bodies which

have a special interest in education” (Section 33 (j)(v)).

Respect for diversity and a commitment to equality should be a core part of the education curriculum from the earliest possible opportunity. The guidelines issued by the Department of Education and Science for Relationships and Sexuality Education (RSE) in primary schools gives one of the broad objectives of RSE as “to become aware of the variety of ways in which individuals grow and change and understand that their developing sexuality is an important aspect of self-identity”. Where relevant, and in an age appropriate way, there may be a need to deal with issues of sexual orientation, for instance in discussion on diverse family types, when responding to issues of bullying or intimidation, or when providing support to children of LGB parents. The skills required

to provide this support need to be included in programme guides and in teacher training courses.

Both the legislation and policy encourage partnership responses to mainstreaming equality within education. Current programmes and projects indicate there is a willingness to address inequalities and attitudes pertaining to sexual orientation. At present this is confined to particular programmes within the curriculum and has yet to be extended into the broader curriculum, school environment, systems and general practices. There are significant and important roles for the Department of Education and Science, other educational bodies, the Equality Authority and the LGB community to play in informing and supporting educational programmes and in extending the scope of equal opportunities.

In 2000, Gay HIV Strategies and Nexus Research published the report, *Education- Lesbian and Gay Students: Developing Equal Opportunities*. The report maps out the complex area of second level educational policy and programmes and identifies the considerable potential within the education system to support and resource lesbian and gay students.

### 3.2 Curriculum programmes and educational initiatives of relevance

#### (a) Social Personal and Health Education

A number of programmes are now in the main national curriculum with the common objective of promoting positive self-identity and self-esteem in pupils. Under Social and Personal Health Education (SPHE) these programmes are informed by key principles of respect and tolerance.

Relationships and Sexuality Education introduced at both primary and secondary level is the only core curriculum programme that specifically addresses the issue of sexual orientation. In second-level schools, it builds on the objectives of the RSE programme in primary schools and provides for the development of specific themes around human sexuality, particularly at senior cycle. These include the following themes: “awareness and understanding of sexual orientations”, “exploration of some of the issues pertaining to equality”, and “exploring the range of attitudes, values and beliefs regarding sexual behaviour in modern society”.

The LOT/LEA report, *A Queer Quandary: The Challenge of Including Sexual Orientation with the RSE Programme* (O’Carroll and Szalacha, 2000) identifies a number of shortcomings in the

preparation and implementation of RSE, including the exclusion of specialised NGOs in the preparation and delivery of the programme and the lack of resource materials on sexual orientation. Concerns relating to the training of teachers are also raised.

The consultation with parents on the content of the RSE programme generated both a large participation uptake and widely varying views, constraining the delivery and quality of the programme. The debate focused on two competing and equally compelling rights: the right of children to knowledge that supports their growth and acceptance of themselves and others, and the right of parents as final and ultimate arbiters over the value systems given to their children. Yet a necessary goal of the education system is to foster positive self-esteem for *all* individuals and the views

of parents, including LGB parents and the parents of LGB students, and of LGB students themselves need to be heard by the Department of Education and Science and school principals.

Teacher training on SPHE, the support structure for SPHE implementation and the school itself need to resource teachers to deal with issues of sexual orientation.

### **(b) Civic, Social and Political Education**

Civic, Social and Political Education (CSPE) was introduced into the core Junior Certificate Curriculum in 1997. This course aims to promote active citizenship by developing awareness and respect for human rights, social responsibilities and cultural diversity. Within this programme the emphasis is on active learning methodologies through action projects undertaken by

students and inputs from guest speakers on related areas of interest. This is an opportunity to develop linkages with LGB education and community groups.

### **(c) Gender equality programmes and Exploring Masculinities**

Since the 1990s, the Department of Education and Science's Equality Committee has been promoting gender equality with a view to addressing the prevalence of sex stereotyping. This included 1994 guidelines for teachers to "assist schools towards gender awareness of equality of opportunity and towards the elimination of inequality in the day to day business of schools". A further example of good practice is the groundbreaking pilot project, Exploring Masculinities, that was initiated by the Equality Unit and introduced into a small number of single-sex boys' schools. This



programme aims to promote “equality, understanding and respect for all” and includes sections on relationships, health and sexuality. There is specific coverage of sexual orientation, including a video exploring the issues that affect gay men, and sections addressing negative stereotypes of homosexuality. After a successful evaluation, this programme is now available to all single-sex schools on an optional basis.

#### **(d) Policies addressing bullying and harassment**

The Department of Education and Science issued, “*Guidelines on Countering Bullying Behaviour in Primary and Post Primary Schools*” in 1993, outlining the various forms of bullying behaviour that can take place in schools. In reference to “slagging”, the guidelines define this as harassment when it entails remarks that are “suggestive about a pupil’s sexual orientation”. The

Guidelines require all schools to develop and implement a counter-bullying policy in consultation with pupils and parents, including preventive measures and appropriate sanctions. However, teaching and guidance staff may be reluctant to confront homophobia if the school environment is not supportive, even presuming that there are trained staff available to fulfil that function. Although the guidelines are an important development, they are largely failing to protect LGB students. Under the Equal Status Act, it is advisable that schools take steps to prevent sexual harassment and harassment. Policies and procedures for this could be usefully included in school’s admission policies and codes of conduct.

#### **(e) Policies addressing educational disadvantage**

A number of initiatives within the National Development Plan

2000-2006 arise from concerns about educational disadvantage and include partnership efforts to establish both pilot and area-based projects. Many of these initiatives have direct relevance to meeting the needs of LGB students, given both the experiences of these students within the school system as outlined above, and the wider set of factors that can impinge on their educational performance, such as problems at home, and harassment and bullying experienced both inside and outside of the immediate school environment.

Some of the pilot and area-based projects aim to identify causes of educational disadvantage through research or strategic action and planning to redress or prevent recurring instances of disadvantage amongst under-resourced areas and groups. However, it must be pointed out that young LGB students at risk of early school

leaving are not confined to any specific geographical area. Targeting those at risk of early school leaving could provide an appropriate mechanism through which research on educational difficulties faced by young LGB people might be undertaken, and a specific project initiated under educational disadvantage criteria would allow this process to commence.

#### **(f) Guidance and psychological services**

School guidance counsellors provide career advice to students and advice and assistance to students in making difficult personal choices or dealing with problems that arise for them. They could be a very important source of assistance for LGB students, for instance by referring students to agencies or professionals outside the school in response to particular needs identified. They could also be an important backup to teachers in

courses such as RSE and Exploring Masculinities.

The educational psychologists are an important resource in addressing particular psychological problems faced by students. Their services are likely to be of particular relevance to LGB students given the link between anti-gay prejudice and discrimination and the incidence of psychological distress.

## **4. Higher Education**

### **4.1 Social, legislative and policy context**

Higher education is often seen as occupying the more liberal end of the education spectrum. Educational establishments at this level (universities and institutes of technology) may have staff who are openly lesbian, gay or bisexual or, on occasion, programmes including lesbian, gay or bisexual content.

Nevertheless, institutions that do not have sufficiently robust equality policies that are inclusive of sexual orientation and the structures to ensure their implementation will be unable to realise their equality commitments and responsibilities under the legislation. There are at present several positive developments in the higher education sector that enhance equality commitments and provide a framework to promote an inclusive equality agenda.

The Universities Act, 1997 places considerable obligations on the universities in relation to equality. The Act includes the promotion of gender balance and equality of opportunity as one of the objects of a university and asserts that, in performing its functions, a university shall have regard to the promotion and preservation of equality and access. While sexual orientation is not

specifically mentioned in the Act, it should be assumed to be included in references to “economically or socially disadvantaged people and by people from sections of society significantly underrepresented in the student body”.

Under the Act, the governing authority of each university and institute is obliged to issue a statement of its policies in relation to access and equality and to implement these policies. These published statements should include sexual orientation in order to comply with employers’ and service providers’ obligations under the equality legislation.

The Higher Education Authority (HEA), the body that oversees the universities has recently reviewed the current situation with regard to equity and access at third level in Ireland and made recommendations for future progress. Equality issues

in relation to sexual orientation are not explicitly included in this review. However, the broad scope of the review could be beneficial to LGB interests.

The Higher Education Equality Unit (HEEU) is a national unit that is funded and overseen by the HEA. The HEEU promotes equal opportunities in higher education in Ireland working on a broad-based equality agenda. Since its establishment in 1992, the HEEU has been active in raising awareness of the issues of concern to LGB students and staff and promoting and encouraging action in this area. The HEEU, through its staff and publications, networks with actors in this field and information resource centre provides a support for colleges wishing to address LGB issues. In a paper presented at a HEEU conference, Ide O’Carroll argued that, in spite of legislative advances that established the rights of lesbians

and gay men, little had been done by third-level institutions to acknowledge, appreciate, represent or respect this group and to discourage fear and homophobia. She pointed to the need for research on the position of lesbians and gay men in third-level colleges and to the need for a review of counselling services, as well as the need for workshops on homophobia for students and staff (O’Carroll, 1994).

The Union of Students in Ireland (USI) has been active in supporting LGB students. A position of LGB Rights Officer has been created in USI. This officer supports LGB students and societies in individual colleges and organises the annual Pink Training Weekend for LGB students.

## 4.2 Opportunities for development

### (a) The educational environment

Many students begin to explore and come to terms with their sexuality while at college. If equality is genuinely a core value in Irish society then educational equality is about more than the initial opportunity of access but also about the broader educational experience. Thus, it is important that a supportive and affirming educational environment for all students is created.

GLEN/Nexus report notes that, “Of those who experience problems in the course of their education there was a marked reluctance to talk to anyone about their problems, least of all official sources of help.” Staff working in student services, including college counsellors, doctors, personal tutors and others, need to receive training on homophobia, issues in

relation to ‘coming out’ and other concerns which confront LGB students if those services are to be relevant and effective for all students.

College LGB societies can provide an important point of contact and support for LGB students and it is important that these societies are supported and resourced by the colleges. Students’ Unions also need to take an active role in addressing discrimination and homophobia and providing active support for LGB students. College publications and promotional materials need to reflect and positively portray the diversity of students and staff.

LGB staff and students can be subject to harassment because of their sexual orientation. Often such cases are not reported because of the belief that they will not be taken seriously by the institution or

because of fears that reporting the harassment will mean the exposure of one’s sexuality. Both the Employment Equality Act, 1998 and the Equal Status Act, 2000 outlaw harassment on the basis of sexual orientation. Therefore, the onus is on the educational institution to ensure that measures are taken to prevent harassment occurring and to deal effectively and sensitively with cases that do occur.

Because identification with a role model is of great importance to individual development, educational environments must adapt to make it possible for LGB staff to be open about their sexual orientation, should they wish to do so. This would undoubtedly make the educational environment not only more comfortable for staff but much more welcoming and supportive to LGB students.

## **(b) Fields of study and research, course content and initiatives**

The contribution of LGB people to wider society and issues of concern to LGB people should be included in college curricula, in courses such as history, social science, law, politics and education. Colleges play an important role in the training of service providers, for example doctors, social workers, lawyers, teachers and others. Equality and diversity training modules that include sexual orientation issues should be included as core modules in such training.

Further development in the field of lesbian and gay studies and courses needs to be supported and resourced in Ireland. There have been a number of initiatives in this area with the first certificate course in Lesbian Studies and Queer Theory now offered by the Women's Education Research and Resource Centre in UCD.

Research on LGB issues needs to be recognised as a legitimate academic pursuit and should be taken into account in staff recruitment and promotion.

As part of the HEA's commitment to equality, a review of international best practice in relation to equity in education was commissioned. Entitled *Meeting the Equity Challenge in Higher Education* (Skilbeck and O'Connell, 2000) the report points out that:

...for tertiary education to be equitable, early childhood, primary and secondary education too, must be equitable – otherwise the pool of students is not available. Positive, constructive interest in achieving equity in higher education entails interest in the stages leading to it.

The report found that although universally the numbers of women in third-level education had substantially increased, their numbers in senior departmental and decision-making roles were minimal. A similar survey of openly LGB staff could also be included in statistics gathering in relation to minority representations at third level in Ireland as part of the review undertaken by the HEA.

Skilbeck and O'Connell emphasise that equity is increasing where there is a responsiveness and readiness to adapt the educational system "to the characteristics and circumstances of students". It is hoped that this conclusion will underpin future developments in the educational sector as a whole.

## 5. Recommendations

### Department of Education and Science

- 5.1 The Department should ensure that the needs of LGB people are mainstreamed into the design, implementation and impact assessment of education policy and that LGB interests are represented in all consultative structures which inform policy and service delivery.
- 5.2 The remit of the Equality Unit, established by the Department, should be extended to engage with all nine grounds identified in the equality legislation and develop appropriate liaison with equality and diversity representatives and organisations.
- 5.3 The current approach to bullying and harassment should be reviewed with a view to eradicating homophobic bullying and providing for practical developments at school level with an emphasis on training for staff and information for students in order to comply with the provisions of the Equal Status Act.
- 5.4 Criteria and measurements should be drawn up for use in evaluating current RSE, CPSE and SPHE programmes to assess attitudinal change amongst students with regard to differing sexual orientation.
- 5.5 A sexual orientation dimension should be included in all relevant future surveys, research and data collection by the Department and when devising and implementing initiatives targeting early school leavers using appropriate and accurate data collection methods.
- 5.6 Issues arising in the context of the sexual orientation of students and teachers should be covered in the training modules provided under the NDP In-career Development and Third Level Quality Assurance Measures as part of an overall equality element.
- 5.7 The Department should ensure that the Whole School Evaluation and Departmental Inspections examine the success of schools in ensuring the inclusion and integration of young LGB people and the incorporation of their needs into school planning.

## **RSE Implementation Committee**

5.8 The Committee should ensure that those organisations with specialised knowledge and expertise in sexual orientation are involved at all levels of the RSE programme design, delivery and staff training.

## **National Centre for Guidance in Education**

5.9 The Centre should promote and ensure the coverage of sexual orientation issues within current training programmes, including the involvement of LGB organisations in the design and delivery of such training and the development of support materials for schools and teachers.

## **Higher Education Authority**

5.10 The HEA should make sexual orientation a measure and objective for progress in undertaking a review of equity and access issues within higher and further education in Ireland.

5.11 The HEA should support the development of scholarship and research into LGB history, culture and theory amongst institutions, faculties and students, expanding the number of PhD research projects and providing funding for the further development of courses on LGB issues.

5.12 All training courses for service providers such as teachers, doctors, lawyers and social workers should include equality and diversity issues, including

issues in relation to sexual orientation.

## Chapter 6

### Youth Services

#### 1. Introduction

Youth services exist primarily to provide informal educational opportunities, ease the transition from childhood to adolescence and adulthood, and generally provide a range of supports to young people. However, most youth services have paid scant attention to the needs of young LGB people. A significant amount of youth provision is linked to church-based services. This presents particular difficulties in developing and implementing mainstream supports to young LGB people because views on homosexuality in these services can be influenced by church teaching.

In addition to all of the usual issues of adolescence, young LGB people face specific challenges, for instance difficulties coming out at school, peer group responses to homosexuality and particular vulnerability if parents react adversely to a young person's identity as lesbian, gay or bisexual. There is a clear lack of positive images and role models and unrelenting pressure from peers and society in general to be seen to be "normal". Individual young lesbian, gay and bisexual people may experience great difficulty in making contact with other young LGB people and consequently may be very isolated, particularly in rural areas. The adult LGB

community and scene may not adequately meet their needs.

Youth services are subject to the provisions of the Equal Status Act, 2000.

#### 2. Context

The absence of an independent, overarching, co-ordinating body for youth services makes it difficult to ensure the coherent application of policy and practice recommendations. However, there is a Minister of State and a dedicated Unit within the Department of Education and Science with specific responsibility for this area. In recent years the Department of Justice, Equality



and Law Reform and Department of Health and Children have also become increasingly involved in funding youth service provision at local, regional and national level.

The Department of Education and Science has established a comprehensive legislative basis for the development, resourcing, co-ordination, monitoring and assessment of youth work services (the Youth Work Act 2001). However, the youth services funded by the Departments of Justice, Equality and Law Reform and of Health and Children will not be subject to the provisions of the legislation.

The National Youth Work Advisory Committee (originally established under the Youth Work Act, 1997) is also preparing a five-year National Youth Work Development Plan. Work conducted under the Plan will include a comprehensive review of current youth work provision

in Ireland, the compilation of an inventory and the creation of a vision for the future of youth work based on the research findings and a wide ranging consultation process with youth work providers and practitioners. The review includes young lesbians and gay men as one of its target groups and the provision available to them as a particular element of its survey.

### 3. Barriers to Participation in Youth Services

In 1999, Gay HIV Strategies, in association with Waterford Regional Youth Services and the Southern Gay Health Project, produced an *Outline Curriculum Proposal for Professional Training for Youth Workers on Issues for Gay Youth*. The proposal was aimed at the needs of young gay men; however, many of the findings are pertinent to LGB youth generally. The *Outline Curriculum Proposal* provides details on the approach

and content of a training programme for youth workers that sets out to relay the following understandings to participants: the life circumstances of gay youth; the impacts on their quality of life and well-being and how that impacts on their relationship with youth workers. A number of barriers to the provision of services for gay youth were identified:

- (a) lack of training on gay youth issues within the youth service;
- (b) homophobia within the service, which particularly impacts upon LGB youth workers;
- (c) resistance to developing accessible and appropriate services for gay youth due to a lack of serious consideration of LGB issues and resistance to funding targeted services for gay youth;

- (d) the invisibility of gay youth, who are often isolated and whose needs are often unacknowledged;
- (e) difficulties raising issues around sex and sexuality when the ethos of the youth service is religious;
- (f) a lack of policies and procedures in relation to the legal implications of providing information on sex and homosexuality to young people;
- (g) a fear of negative parental reactions.

#### 4. Practice Initiatives

Some preliminary research and pilot development initiatives provide valuable contributions in raising awareness of the needs of LGB youth and designing appropriate responses to them. At local level, there have been several initiatives undertaken both independently by the LGB community and in partnership with local agencies.

##### (a) Gay helplines and lesbian lines

Help lines round the country regularly have contact from young people, for example Gay Switchboard Dublin received 6,000 calls during 1997 of which 35 per cent were from callers aged from 17-25 years of age and 10 per cent were from those under 17.

##### (b) Lesbian and gay youth groups

In response to the increasing

numbers of young people seeking support, contact and advice, the LGB community has provided social and support groups for young people. One example is OutYouth in Dublin, a social and support group for young people which was established over 15 years ago and has received support from the City of Dublin Youth Service Board. These community-based groups provide information on coming out, relationships, legal rights and safer sex, peer support, opportunities to meet and socialise with other young LGB people and build links with the broader LGB communities, including resources such as social organisations, publications and commercial venues.

##### (c) Local development

Waterford Area Partnership commissioned a project to examine social exclusion and disadvantage among lesbians and gay men in the Waterford area. The report *Local*

*Development: Lesbians and Gay Men* recommended that the Waterford Youth Services provide additional support to the local lesbian and gay group to expand its services to LGB youth. In addition, it recommended a pilot project to identify appropriate responses to the problems of lesbian and gay students that contribute to early school leaving. These recommendations have been implemented and Waterford Area Partnership has been proactive with regard to accommodating the needs of local lesbians and gays within its development work.

### **5. Potential to include LGB in youth service provision**

The Youth Work Act, 2001 provides for decentralisation of responsibility for local youth work services to the Vocational Education Committees (VECs). Of special relevance are the provisions relating to:

- (a) the implementation of conditions of grant-aid by the VECs and the Department;
- (b) the development of guidelines and regulations by the National Youth Work Advisory Committee;
- (c) criteria for the recognition of voluntary youth work organisations by the VECs and the Department;
- (d) the employment by the Department of an Assessor of Youth Work.

At the national level, the Department of Education and Science administers a Youth Service Grant Scheme directly funding national voluntary youth work organisations. The programmes are aimed at the social education of young people and seek to promote their development as

individuals, as members of their communities and as citizens. There appears to be potential for a more inclusive and affirming approach to the needs of young LGB people within the work of the national voluntary youth work organisations. The National Youth Federation has been very proactive in providing national seminars for youth workers to explore issues of working with young LGB people.

The National Youth Council of Ireland (NYCI) is currently involved in a joint North-South initiative to develop an equality programme within youth work that has the potential to embrace the full range of equality and diversity issues, including those related to sexual orientation.

A network of Youth Information Centres is under development. These provide young people with easy access to information

on rights, opportunities, benefits, health, welfare and other matters to help develop their abilities and overcome their problems. A large number of special projects for disadvantaged youth are also in operation. These facilitate the personal development and social education of those at risk of social exclusion, marginalisation, unemployment, early school leaving, etc. In particular they seek to realise the potential of young people and equip them with the knowledge, skills and attitudes necessary for their appropriate integration in society. Both the Youth Information Centres and the special projects for disadvantaged youth are now funded under the Regional Operational Programmes in the National Development Plan. They present valuable media through which the developmental needs of young LGB people can be met.

## 6. Recommendations

### **Departments of Education and Science, Department of Justice, Equality and Law Reform, Department of Health and Children, Youth Services and Vocational Education Committees**

- 6.1 Addressing the needs of LGB youth should be an integral component of all policy design and service delivery by VECs, and the Departments.
- 6.2 The VECs and the Department of Education and Science should ensure that adequate provision for young LGB people is included in the county-wide three-year youth service provision plans that will be prepared by the VECs under the terms of the Youth Work Act.

### **Department of Education and Science**

- 6.3 Assessments and evaluations carried out by the Assessor of Youth Work should have regard to the effect of the service on young LGB people.

### **National Youth Work Advisory Committee**

- 6.4 The provision of specific youth work services for young LGB people should be included in the National Youth Work Development Plan.
- 6.5 Local voluntary youth councils established under the legislation should include representation from the LGB community.
- 6.6 Resources should be allocated for the development of youth work models that respond to the needs of young LGB people.

6.7 An audit of existing youth services and facilities, which specifically addresses the needs of young LGB people, should be undertaken in order to ascertain the current gaps in provision for this group.

### **Youth work organisations**

6.8 The development and mainstreaming of training modules for youth workers should be undertaken in conjunction with LGB organisations and youth service providers.

6.9 All existing and future youth service facilities and centres should visibly promote an anti-homophobic environment, for example through posters, leaflets and projects.

6.10 Youth work organisations should develop anti-

homophobic policies and procedures which would include a focus on harassment.

6.11 Lesbian, gay and bisexual community organisations and resource centres should be resourced by youth work organisations to provide alternative social venues for young LGB people.

6.12 The NYCI should ensure that issues of sexual orientation and the concerns of LGB young people are included in the initiative to develop a North-South youth work equality programme.

# Chapter 7

## Employment and Training

### 1. Introduction

The Employment Equality Act, 1998 prohibits direct and indirect discrimination in employment on nine grounds including sexual orientation. All aspects of employment are covered including equal pay, access to employment, vocational training, conditions of employment, work experience, promotion and dismissal. The legislation applies to public and private sector employment, employment agencies, vocational training bodies, the publication of advertisements, trade unions and professional bodies, full-time and part-time workers and collective agreements. Harassment and

sexual harassment is also outlawed. Dismissal on the grounds of sexual orientation is already outlawed by the Unfair Dismissals (Amendment) Act, 1993.

### 2. Context

Many lesbians, gay men and bisexuals have experienced discrimination and prejudice at work, including experiences of hostility, exclusion and harassment, discrimination in relation to promotions and working conditions and, in a number of cases, dismissal solely because of their sexual orientation. As a result, LGB people are often reluctant to disclose their sexual orientation

at work, particularly in workplaces that are perceived to be hostile and in professions, such as those involving working with children and young people, where there is particular prejudice against LGB people. Under the Employment Equality Act, such discrimination is illegal. Employers need to ensure that workplaces are safe for LGB employees and that they are not treated less favourably than any other employees. Conditions of service, promotion and benefits should reflect this.

The GLEN/Nexus research found that of 101 lesbians and gay men surveyed only 42 were out at work. When asked about

previous employment experiences 53 per cent of respondents felt that disclosure of their sexual orientation would have led to discrimination. The findings of the study in relation to employment of lesbians and gay men are particularly discomfoting:

- (a) eleven respondents (out of 101) said they were dismissed from their job because of their sexual orientation
- (b) twenty-three resigned because they found it too difficult to reconcile their job with their sexuality
- (c) twenty-four people described their current workplace as hostile for lesbians and gay men
- (d) job opportunities for many respondents were restricted as they avoided

work for which they were qualified (21 per cent) or certain categories of work (39 per cent) through fear of discrimination.

Lesbian and gay workers in rural areas are often particularly isolated. They need access to information and support, especially in small businesses where trade union participation is less likely. With specific training and information, local trade union representatives can give appropriate support to LGB union members.

### 3. The Employment Equality Act

#### 3.1 Religious ethos – Section 37(1)

Section 37(1) of the Employment Equality Act, 1998 permits institutions with a religious ethos to give preferential treatment on the grounds of religion to an

employee or prospective employee where it is reasonable to do so in order to maintain the ethos of the school and to take action where it is reasonably necessary to prevent staff from undermining the religious ethos of the institution. The implications of this section are unclear but it is important to remember that the burden of proof rests with the employer who would have to prove that the less favourable treatment was reasonable in order to maintain the ethos of the school or that the action was reasonably necessary to prevent the employee from undermining the religious ethos of the school. Any such action will be subject to an objective test of reasonability. It is clear, however, that the inclusion of this clause has reinforced fears of discrimination against workers in religious-run institutions, for example in schools and hospitals, and makes it even

more difficult for such workers to be open about their sexuality.

### 3.2 Harassment

Harassment under the 1998 Act includes any act or conduct, spoken words, gestures or the production display or circulation of written words, pictures or other materials which are unwelcome and could reasonably be regarded as offensive, humiliating or intimidating.

The GLEN/Nexus study found that 54 per cent of respondents had experienced harassment at work, involving unwelcome comments about their person and dress, sexually explicit or discriminatory remarks, sexually derogatory remarks, repeated or unwanted advances, and being “frozen out” at work. For lesbians there is the added dimension of gender-based harassment.

The same study found that only a small percentage of lesbian and gay workers reported harassment. A number of reasons were given: no one to report the incidents to, a feeling that nothing could be done, fear that reporting the incident (s) would expose the complainant to further discrimination and fear that reporting harassment would widen the knowledge of their sexual orientation in a way that the person would have no control over. These issues need to be addressed by employers who have a responsibility to ensure that no employees have to work in a hostile environment. In harassment cases, it is the employers who would be sued if an employee were subject to harassment in the workplace, so it is important that they take both preventive and effective action in the form of appropriate policies and procedures. It is too early to ascertain if the presence of the 1998 legislation

has had a significant impact in the level of reported harassment on the sexual orientation ground or if, conversely, the incidence of such harassment has been reduced as a result of the legislation. The Equality Authority has developed an approved code of practice on sexual harassment and harassment in employment.

## 4. Employers’ Attitudes

The Irish Business and Employers Confederation (IBEC) has been supportive of the rights of LGB employees but little research is available on the attitudes of individual employers in Ireland to the employment of LGB staff. The number of employers with positive attitudes on sexual orientation may determine the scope for mobility and career advancement open to some LGB employees. Likewise, the absence of a positive response



to LGB employees could deprive employers of a pool of skilled workers that might otherwise be available to them.

## 5. Supports for Lesbian, Gay and Bisexual Workers

The U.K. Labour Research Department (1992) survey on lesbians and gays in employment identified six elements that encouraged and supported lesbian and gay employees to come out and stay comfortable within their workplace.

### **(a) The presence of other LGB workers**

This finding is also supported by experiences of Irish LGB workers. Lesbian and gay staff from Dublin City Council confirm that they have found it a positive experience to come out knowing other staff that were already out.

### **(b) Self-confidence and pride**

This element can also be related to the presence of other LGB staff but is also a product of other support mechanisms within the LGB community that individuals may have access to. The degree of safety that LGB staff feel in their working environment will also directly affect levels of self-confidence.

### **(c) Support of other colleagues**

The active support and acceptance by other colleagues was found to be invaluable. One gay man described his straight colleagues as his “main source of strength and encouragement” in coming out at work. Heterosexual workers can make a real difference to the environment by indicating that they firmly support lesbian and gay rights.

### **(d) Employers’ equality policies**

The protections and positivity provided by including minority sexual orientations within equality policies were found to be one of the most important contributions to LGB staff’s comfort and security in the workplace. An example in Ireland of an innovative employment policy is that of the private sector company Bausch & Lomb, a US manufacturer of contact lenses with a plant in Co. Waterford. The company has a Safe Space Programme for LGB and transgendered employees. This programme is company policy across its entire workforce and involves anti-homophobic staff training. Staff members can display a specially designed magnet on their workstations depicting a pink triangle in a green circle to indicate that they are actively committed to creating a safe and open workplace for their LGB and

transgendered colleagues. These staff reject homophobic jokes and comments, encourage the use of inclusive language and the inclusion of everyone's partner, promote the positive treatment of sexual orientation and gender diversity, respect individuals' privacy and are open to discussing sexual orientation and gender expression. The company also resources a support group, GLOB&L, Gays and Lesbians of Bausch & Lomb.

#### **(e) Union support**

The Labour Research Department found that in workplaces where unions had supportive policies on sexual orientation, confidence levels amongst LGB members were higher. Among these was the inclusion of lesbian and gay rights in negotiating equal opportunities policies, rights information publications for LGB workers, inclusion of partners of LGB members as

recipients of union benefits and services, and the active promotion of positive images of LGB people through union journals and educational materials. In Ireland, trade unions like IMPACT, ESBOA, MSF and the former IDATU (now part of Mandate) have been early and consistent campaigners for the rights of LGB workers. The support of trade unions and international and European -wide solidarity networks established by LGB trade unionists are regarded as key elements in establishing LGB employment rights.

#### **(f) Lesbian and gay friendly employment sectors**

As with the Labour Research Department findings, it is clear that there are certain sectors in Ireland where a more open-minded approach has always been present with regard to LGB people. In some sections of the public service, where equality agreements and equal

opportunities policies have been promoted by employers and unions, there has been notable progress.

## **6. Equality Reviews and Action Plans**

In its role as a promoter of equality, the Equality Authority encourages employers from all sectors to undertake a thorough review of current policies, procedures, practices and perceptions in the workplace with a view to identifying initiatives and changes in practice that can lead to greater equality in employment. The introduction of qualitative processes and tracking of candidates and employees, the widening of equality policies to encompass all nine grounds cited in the legislation, including sexual orientation, and the effective implementation of those policies will provide a more conducive employment

environment establishing and safeguarding the rights of vulnerable groups of employees. Equality reviews and action plans are a key element of the Equality Authority's developmental and promotional work with employers and trade unions. A scheme to resource enterprises to conduct such reviews has been established. They are the most comprehensive means of ensuring that all employees are able to develop their full potential and in assisting employers to harness that potential through comprehensive equality action plans in the conduct of their business.

The Equality Authority is also working as a member of the Framework Committee to Develop Equal Opportunities at the Level of the Enterprise to stimulate new initiatives on workplace equal opportunities.

## 7. Employment and Training Services

Issues of low educational attainment, poverty and prolonged periods of unemployment create barriers to accessing the labour market and these disadvantages can be further compounded when the individual also experiences discrimination because of sexual orientation.

For groups that are experiencing discrimination and inequality, access to the mainstream labour market is an issue. Ireland's employment policy focuses on a preventative strategy, which seeks to prevent the drift into long-term unemployment. While this is a welcome approach, there remain a number of factors to be addressed related to the specific needs of minority groups and LGB people in particular.

A background paper prepared by the Equality Authority (2000), *Discrimination and Inequality in the Labour Market*, identifies a number of specific measures to overcome barriers faced by discriminated groups in trying to access the labour market. These include:

- (a) access to appropriate employment guidance and counselling services;
- (b) evolution of mainstream services that are sensitive to the needs of discriminated groups.

In addition, given skill shortages generally, the paper notes that:

...addressing the skills deficit alone will not assist those excluded from the labour market on grounds of discrimination...  
[T]raining measures that are designed to combat skills deficits must take

into account the diverse needs of those that are labour market disadvantaged.

The re-structuring of employment services in Ireland will create a dual-stranded approach for the service. This will involve both vocational training and job referral services housed under one roof (arising from the linking of FÁS and local employment services). It would be timely to incorporate initiatives into the emerging new service structure aimed at enhancing equality and diversity practices generally and specifically targeting those groups whose access and development are impeded by particular barriers constructed around difference, such as those that LGB people experience.

There have been many improvements to employment services and a range of initiatives taken to increase

participation of those from the most socially excluded groups and areas. Nevertheless, it is clear that there is a need to ensure that services targeting discriminated groups are provided in a way which ensures that difference is not regarded as a barrier to employment.

Employment services need to seek to ensure that LGB clients are comfortable and feel accepted as service users. Failure of employment services to acknowledge the needs of clients of minority sexual orientation sometimes results in young gay men being referred to the kinds of unskilled, male-dominated, “macho” employments where their masculinity is questioned and threats made against them. Conversely, front-line staff without the necessary sensitivity and awareness training may also bring inappropriate value judgements

to bear about the suitability of applicants for particular employment despite the skills and interests of the applicant.

Within government training services like FÁS, trainers do not receive any specific professional training on LGB issues relevant to their work as part of their equal opportunities training and consequently may not always be equipped to support LGB trainees who join courses. It is necessary to clarify to trainees the chain of responsibility for ensuring protection against unequal treatment. It is recognised that certain disadvantaged groups in the labour market need special initiatives to bring them back into the workforce, e.g. women returners and older people. Chapter 8, on services, sets out a very useful series of recommendations to develop more accessible and appropriate services for LGB clients.

## 8. Recommendations

### Employment

#### Department of Enterprise, Trade and Employment

- 8.1 The Department should ensure that all employment and training services mainstream the needs of LGB people from both an employment and service provision perspective.

#### Trade Unions

- 8.2 The ICTU should review *Lesbian and Gay Rights in the Workplace: Guidelines for Negotiators* with a view to developing an action programme to promote the rights of LGB workers.
- 8.3 Each union should develop an action programme to promote the rights of LGB workers.
- 8.4 Education trade unions

should conduct a consultation and survey of LGB personnel employed by schools and colleges operating from a religious ethos, to ascertain the extent of any difficulties arising from the presence of Section 37(1) of the Employment Equality Act 1998.

- 8.5 The trade union movement should continue to advocate the rights of gay workers at an international level through bodies such as the ILO and international trade union confederations.

#### Employers

- 8.6 Employers should develop and implement comprehensive equality policies that name all grounds covered in the equality legislation and that specifically address the needs of LGB workers

including policies and procedures on harassment. The Equality Authority Code of Practice on Sexual Harassment and Harassment at work should be of assistance.

- 8.7 Employers should prioritise equality reviews of their enterprises and organisations and should develop action plans as an important means of developing actions that build inclusivity within the workplace and enhance equality outcomes in the workplace.

#### Framework Committee for Development of Equal Opportunities Policies at the Level of the Enterprise

- 8.8 The Equal Opportunities Framework Committee should stimulate initiatives to promote effective practice with regard to the

inclusion of LGB people in the workplace.

## **Employment and Training Services**

### **Department of Enterprise, Trade and Employment, FÁS and other State Training Agencies**

8.9 FÁS and other employment services should develop a strategy and programme of action to ensure that all aspects of their services are accessible, diversity appropriate, and meet with the obligations under the Employment Equality Act and the Equal Status Act.

8.10 The recommendations regarding the provision of equality-based services set out in the Services Chapter should be implemented by the various training agencies and programmes.

## **Equality Authority**

8.11 The Equality Authority should recommend the removal of Section 37(1) when the Employment Equality Act is next reviewed.

# Chapter 8

## Services

### I. Introduction

The Equal Status Act, 2000 moves the concept of the prohibition against discrimination beyond the workplace and into the public arena where people buy goods, use services, obtain accommodation and participate in educational establishments. The Act also prohibits harassment and sexual harassment in these areas. (A summary of the scope of the Act is contained in the Equality Authority publication *An Introduction to the Equal Status Act, 2000*).

Lesbian, gay and bisexual people can now avail of the protections where they apply to discrimination based on sexual

orientation. Under the Act, “services” include a broad range of services and facilities that are relevant to lesbian and gay men such as:

- (a) banking, insurance, credit and financing
- (b) entertainment and recreation
- (c) cultural activities
- (d) transport and travel
- (e) service or facility provided by a club (which is available to the public or a section of the public)
- (f) professional trade or service.

This list is not exhaustive and the legislation also covers services provided by the State such as health boards, local authorities and others. There are numerous detailed exemptions.

This chapter notes some of the issues relevant to LGB people in relation to a number of these services as a way of illustrating what can be done to promote more equal access to services.

### 2. Context

#### (a) Accessible and appropriate public services

A major problem in terms of service provision and take-up is that LGB people either will not

seek help or will hide their sexual orientation from various service providers because of fear of prejudice and discrimination. The resulting “invisibility” is a major problem in itself. Service providers can be genuinely unaware that they have LGB service users and so no remedial or LGB specific action is taken in terms of service provision.

This problem has been examined in the Waterford Area Partnership report *Local Development: Lesbians and Gay Men* (Gay HIV Strategies and Nexus Research, 1999). This report recommended a strategy to address the problem based on action in four key areas, public profile, policy and procedures, professional development and programme development. All four areas are inter-related. For example, LGB positive policies will not make a difference without training for the staff who turn them into

action; trained staff are constrained without appropriate programme development on related issues; and clients or customers may not be aware of an agency’s efforts to become more accessible to LGB people if the public profile remains exclusively heterosexual.

### **(b) Social venues**

An area of discrimination for LGB people and their community groups is equal access to social and recreational services and venues. This form of exclusion has been documented by GLEN/Nexus (1995) and Waterford Area Partnership (1999). Barriers to participation in such ordinary social and recreational activities can include direct refusal of access or harassment from staff or customers. These barriers can have a significant impact on people’s quality of life and the LGB community’s capacity to organise. Such problems are

particularly acute outside the main urban centres.

### **(c) Accommodation**

The particular conditions facing same-sex couples concerning inheritance and property rights are detailed in Chapter 3 on Partnership Rights. In the case of public rented accommodation, it is only where a partner in a same-sex relationship is a joint tenant, that the tenancy will pass to the surviving partner on the death of one of the partners, regardless of sexual orientation. Some LGB people have been intimidated in their homes because of their sexual orientation. Within the public sector, the Housing (Miscellaneous Provisions) Act, 1997 provides new powers to local authorities to counter anti-social activities of tenants. This Act could be invoked to protect LGB tenants and other minority tenants from intimidation by their



neighbours. The provisions on harassment under the Equal Status Act are also relevant.

#### **(d) Homelessness**

There are a number of reasons specifically related to sexual orientation as to why LGB people, and especially young LGB people, are at risk of homelessness. Rejection by one's family is unfortunately sometimes the penalty suffered by young LGB people when their sexual orientation becomes known. Traditional supports of family and friends are withdrawn; they may be forced to leave the family home and most often the area where they have lived. The anonymity of a large city and the possibility of making contact with other LGB people can also lead them to urban centres where they may have no secure accommodation or other supports. Some gay men, having emigrated in the past from Ireland because of their sexual

orientation, return in a depressed state of health to find that the networks they had left behind no longer exist or are unavailable to them.

The GLEN/Nexus report indicated that 32 per cent of respondents had left home because of difficulties as a result of their sexual orientation. The dangers identified for young homeless people are often exacerbated for young homeless LGB people. Homelessness is a key factor in young men selling sex in Dublin (Men in Prostitution Project, 1997.) HIV and other health issues are of particular concern and fear of divulging one's sexuality creates a reluctance to contact or avail of the necessary services.

It is important that homelessness services recognise this particular client group and make appropriate and effective responses to

them. Preventive strategies on homelessness need to be targeted on this group by developing supports for those young people coming out, for their families and parents and building the capacity of existing LGB community services to play their role in this area.

#### **(e) Insurance and financial services**

When seeking household insurance, LGB people are unlikely to be disadvantaged, either as individuals or couples. The practice of naming a spouse on insurance application forms is almost eradicated and where the term may still be in use, a designated partner is recognised in practice. The situation is less conducive with regard to mortgage protection insurance and some financial loans. Many financial institutions make a HIV test a condition of obtaining the insurance or in some cases, the bank loan where the applicants are a male

couple or is a declared gay man. A separate form with detailed questions about the HIV status of the applicant(s) will be forwarded where the company feels that HIV may be an issue. This is usually triggered when an application is made by two men. In some circumstances this may be in breach of the Equal Status Act 2000. For those who are HIV-positive, services such as mortgage protection and life assurance can consequently prove to be unobtainable or highly expensive.

### 3. Good Practice in Service Provision

There is a statutory requirement for service providers to ensure that their service does not discriminate, directly or indirectly or by association, on any of the nine grounds, including sexual orientation. Service providers should take steps to ensure that a service user does not suffer sexual or other harassment.

Service providers are liable for sexual harassment and harassment perpetrated by staff, unless she or he took reasonable measures to prevent the harassment or sexual harassment from occurring.

As outlined above, a useful strategy for implementing this legislation involves action in relation to public profile, policies and procedures, professional development, and programme development. One of the simplest and most effective ways of conveying a message of welcome and acceptance to LGB people is through the public profile the agency presents, including brochures, and through positive imagery used in promotional materials. For example, publicity material and advertisements could state that LGB people would be welcomed. Reception areas could contain LGB-positive posters or leaflets. Any negative reactions from staff or

other clients could be used as an opportunity for raising awareness. Finally, service providers could engage in outreach work in the LGB community.

As part of the Strategic Management Initiative, the Equality Authority in partnership with the Quality Customer Service Working Group has produced an aid to good practice entitled, *Support Pack on the Equality/Diversity Aspects of Quality Customer Service for the Civil and Public Service*. The pack identifies initiatives and actions that can be taken to develop improved access and effectiveness of those services in targeting discriminated groups, including LGB people. In addition, the Equality Authority is developing an equal status template in order to provide a means by which service providers can review and take actions to improve their design and delivery of services with a

view to mainstreaming equality throughout their practice and provision.

## 4. Recommendations

### All Government Departments and the Equality Authority

- 4.1 All service providers should mainstream equality and diversity into the decision-making, design, delivery and implementation of their service provision.
- 4.2 The Equality Authority should develop equal status reviews as a mechanism to improve equality as a principle of service design and delivery.
- 4.3 All government departments should co-operate and work with the Equality Authority to conduct equal status reviews as a means of

ensuring that equality is central to their provision.

### Service Providers

- 4.3 All service providers should have equal status policies in order to ensure they comply with their responsibilities under the Equal Status Act, 2000 and to enhance their capacity to realise equality outcomes.
- 4.5 All public and civil service providers should use the Equality Authority's *Support Pack on the Equality/Diversity Aspects of Quality Customer Service for the Civil and Public Service* as a tool to improve equality practices in service provision.

### Department of Environment and Local Government

- 4.6 The Department should ensure that public

authorities responsible for housing are issued with guidelines on the effective use of the Housing (Miscellaneous Provisions) Act, 1997 and its application in the protection of LGB tenants experiencing homophobic intimidation and harassment. A similar approach should be pursued in relation to the provisions of the Equal Status Act.

### Homelessness Services

- 4.7 All homelessness services should ensure that their responses to homelessness are sensitive to the particular circumstances of young LGB people and consult with LGB support organisations as to the appropriate means of providing the specific resources needed by this target group.

## Chapter 9

# Violence and Harassment

### I. Introduction

In terms of harassment and violence, the experience of Irish lesbian, gay and bisexual people reflect that of their counterparts throughout the world. European surveys have demonstrated that levels of violence directed against LGB people are up to three times higher than those experienced by the population as a whole. A pervasive fear of violence or intimidation is a reality for many LGB people, either throughout their lives or at periods of their lives when they are particularly vulnerable.

There are many sites for violence, harassment and

intimidation directed at LGB people: in schools, in the workplace, within the family, in the home and in places where people live and socialise. Like all hate-motivated violence, whether it is focused on ethnicity, gender or sexuality the trauma for victims is more intense than that associated with random crime. The violence is personal and targeted at one's identity and sense of self-worth. The intention is often to hurt, humiliate and injure. Homophobia fuels violent expressions of hatred towards LGB people. Social, legal and political structures fail to appreciate the threat, extent and impact of violence targeted

at LGB people, and thus many incidents remain unrecognised and unchallenged. Unchecked public anti-homosexual comment or behaviours reinforce ideas linking difference to deviance which can in turn fuel *further* violence and harassment.

However, both the changing legal and policy contexts that emphasise equality and the knowledge coming from research identifying the discrimination experienced by LGB people are creating an environment where much of this targeted violence can begin to be addressed.

## 2. Context

### 2.1 Research on violence

The GLEN/Nexus research found that:

- (a) 25 per cent of respondents had been punched, beaten, hit or kicked because they were assumed to be gay
- (b) half of those who reported such incidents of violence stated that they occurred in their locality

This research also identified many other locations and forms of violence and harassment including harassment and bullying at school, training courses and in work environments. Many respondents indicated signs of psychological distress. Measures that recognise and respond to the discrimination and marginalisation of LGB people

will also act to reduce violence targeted at them.

Indicative research by Superintendent Patrick J. McGowan of the Community Relations Section of the Garda Síochána in 1999 also reported very high levels of physical and verbal assaults on LGB people (McGowan 1999). This study found that 79 per cent of respondents had been either physically or verbally assaulted.

Non-reporting is particularly prevalent amongst LGB victims. The McGowan study found there was a reporting rate to the Gardaí of 35 per cent for physical assaults and 11 per cent for verbal assaults. This compares with the Central Statistics Office figure of a reporting rate of assaults to the Garda of 54.3 per cent for men generally (Central Statistics Office, 2001). Reasons cited by McGowan for not reporting include fear of Gardaí response

(64 per cent of physical assaults), fear of reprisal (28 per cent) and the victim felt it was not serious enough (58 per cent of verbal assaults). Many respondents also feared exposure of their sexual orientation through reporting. This is a particular issue where fear of exposure to family and friends would compound the trauma of the original attack. It is also worth noting from this study that 60 per cent of those who did report a physical assault were satisfied with the Garda response.

These findings are similar to those from research on violence against lesbians and gay men in Edinburgh and in England and Wales (Morrison and Mackay, 2000 and the National Advisory Group, 1999). Many cases in these reports were of sexual assault. There is a clear need for in-depth and specific research into violence and harassment

directed at LGB people in Ireland, the contexts in which it happens and the impacts on and supports needed by those affected.

## **2.2 Violence and institutions**

The revelations and investigations in recent years into abuse and ill treatment in institutional care facilities raise concerns for those LGB people in institutions for reasons of ill health, mental or emotional difficulties or disability. Evidence from those institutions that have been investigated shows that there is little if any respect afforded to the physical and sexual integrity of their residents. A measure of human dignity is the recognition and protection of each individual's self-defined sexuality.

Prisons and other state institutions of confinement have, because of sex segregation and other conditions common to a penal setting, commonly

been regarded as places where those who are “different” will be particularly vulnerable. This is especially true for LGB people whose sexuality often makes them targets for other prisoners' abuse and, at best, staff disdain. The response of prison authorities to the problems and difficulties of people of minority sexual orientations within the system has not been the subject of a comprehensive approach to diversity.

## **2.3 Violence and the media**

Much media treatment of sexual orientation issues in recent years has recognised the prejudice and difficulties facing the LGB community, and accordingly treats individuals and issues with appropriate respect. However, there needs to be vigilance to ensure that comment on LGB issues is done responsibly to avoid fostering an atmosphere in which violence is more likely.

## **2.4 Violence and public spaces**

Perhaps the most easily imagined example of anti-homosexual violence in public spaces is of two men or two women walking down the main street of any Irish town or city in the evening, hand in hand. The likelihood of being verbally or physically assaulted is quite high. Many assaults do occur near social or meeting places frequented by LGB people. The fear of being assaulted leads most LGB people to avoid certain places or actions which non-homosexual people take for granted.

## **2.5 Violence against lesbians**

Although gender disaggregated statistics are unavailable in relation to homophobically inspired assaults and attacks, the indications are that lesbians are doubly at risk of violence and harassment because of both their gender and sexual

orientation. Research in the USA has concluded that anti-lesbian violence needs to be conceptualised “as an extension of misogynistic violence” (Von Schulthess, 1992). Anecdotal evidence suggests male perpetrators may question a woman’s sexuality as a means of control.

It also suggests that threats and attacks on lesbians often take place in or around the home:

Seventeen years since I first became aware of my sexuality ... I have experienced violence, abuse and harassment from adults and teenagers ... I am sitting in my house with my partner preparing for this event when the local teenagers once again begin their evening’s entertainment of throwing stones, screaming abuse and smashing the windows. (Ward, 1999)

Where lesbians are also mothers, the violence and abuse can also target their children. Hence, the domestic environment for lesbians in particular, but also for LGB people in general, no longer becomes a refuge but the site of some of the worst infringements upon their privacy and safety.

Given the propensity for attacks on the home there is a need for specific procedures to be devised by the local authorities responsible for public housing, estate management and residential groups and by the Gardaí to ensure the safety of individual tenants, and of the community as a whole.

Lesbian Lines and Gay Switchboards would appear to be the most frequent point of support for LGB victims of violence. These services deal regularly with callers who have

been attacked seeking advice and the opportunity to talk about their experiences to a sympathetic listener.

## 3. Policy Developments

### 3.1 Legislation

Several pieces of legislation recognise and give protections to people of minority sexual orientation. The Prohibition of Incitement to Hatred Act, 1989 was the first Irish legislation to explicitly do so. However, the Act is currently under review because it has proved almost impossible to obtain convictions under this legislation due to the nature of its provisions. Stronger legislation is needed to combat hate crimes. Other legislation secures protection against violence for LGB people in certain circumstances, for example the Domestic Violence Act, 1996 and the remedies available within it use definitions that can be used to include

some same-sex relationships. The Refugee Act 1996, recognises persecution on the grounds of sexual orientation in the definition of a refugee.

### 3.2 An Garda Síochána

A submission to the National Crime Forum in 1998, and recognition in the final report of the Forum, began a formal process of consultation with the LGB community. An informal liaison and support has been in existence at Pearse St. Garda station in Dublin since 1996, and has developed very good relations with community groups, particularly Gay Switchboard Dublin. This was established in response to a spate of serious assaults at gay venues in Dublin city centre.

The Minister for Justice, Equality and Law Reform, Mr. John O'Donoghue T.D., in answer to a Dáil question in 1999, cited a number of initiatives to be undertaken by the Garda

Síochána in responding more positively and proactively to the concerns of the LGB community. These included the appointment of Garda liaison officers to the LGB community throughout the state, research on policing of the LGB community and the inclusion of an anti-homophobia and awareness module as part of Garda training.

There has been significant progress on these issues recently. Liaison officers to the LGB community have been appointed in a number of locations throughout the country. The initial training for these liaison officers was provided by the LGB community at the Garda College at Templemore. The remaining elements of the plan agreed by the Minister- the establishment of a National Advisory Panel, further training and research should be implemented now that the

liaison officers have been appointed. These measures will have a substantial positive impact on levels of confidence of the LGB community in the Gardaí.

### 3.2 Court System

Awareness training amongst legal and judicial professionals would help to combat prejudices or stereotypes which might negatively influence attitudes towards LGB people in the court system.

## 4. Good Practice

### 4.1 The UK

#### (a) Community safety partnerships

In Scotland, the Borders and Midlothian Police Force are key participants in a multi-agency Community Safety Partnership established in Edinburgh, involving local authorities and community organisations. The aims are, to mainstream



community safety in the delivery of public services, to reduce crime levels and specific crimes, to reduce harassment and intimidation, to support the victims of crime, harassment and intimidation and to promote safer communities. Within this partnership framework, there is an LGBT Forum in which representatives of lesbian, gay, bisexual and transgendered organisations and other agencies address the particular needs of their community and the environments in which they are vulnerable to attack, harassment and intimidation. The Edinburgh Community Safety Forum has identified safety in the home, safety in public places, safe learning (that is, in educational environments) and safety at work as the primary foci for its activity. This approach also provides for the needs of other minority groups that are prone to hate-motivated crime and becomes integrated into a city-

wide framework on community safety that all relevant agencies participate in and are committed to operating.

### **(b) Police forces in the UK**

Many UK police forces have established local forums with LGB community organisations and local authorities to develop policing policy and procedures supportive of and appropriate to the LGB community. The London and Manchester police forces, among others, actively recruit among the lesbian and gay community and have support organisations for the lesbian and gay members of their own Forces. The National Advisory Group (NAG) is a national forum of police forces, LGB community groups, the local liaison forums and the organisations that support LGB police officers. The NAG discusses policing issues, shares strategies and procedures and facilitates the development of new local liaison forums.

### **(c) International**

Many police forces throughout the world recognise and respond to the differing experiences of LGB people. Examples of forces that have taken a targeted approach are to be found in Ottawa and Toronto in Canada. Also in New South Wales in Australia a specialist advisor in LGB matters has been appointed to the NSW police service. These jurisdictions provide many examples of best practice. The key steps include building trust through communication and consultation, police training at point of entry, ongoing outreach work by the police service to the targeted communities, and wider government-supported programmes of public education in order to raise awareness and understanding of cultural differences and needs.

## 5. Recommendations

### Department of Justice, Equality and Law Reform

- 5.1 A new Hate Crimes Act should be introduced, covering harassment and violence aggravated by prejudice against specific categories of people, including LGB people.
- 5.2 The Department should ensure representation of lesbian interests on the National Steering Committee on Violence Against Women.
- 5.3 Awareness training should be made available to legal and judicial professionals on LGB issues.
- 5.4 The Department should make available resources to lesbian and gay support groups such as gay helplines and lesbian lines

to develop their provision of victim support services within the LGB community.

### Professional, Legal and Judicial Bodies

- 5.5 The Law Society, Bar Council and the Judicial Studies Institute should engage in awareness training pertaining to relevant issues affecting LGB people as clients of the justice system.
- 5.6 The NUJ, the IRTC and the Press Complaints Commission should develop and/or strengthen guidelines and policies on the accurate representation of LGB issues and individuals in the various media.

### Garda Síochána

- 5.7 The Garda Síochána should implement the

outstanding elements of the plan agreed by the Minister, namely the appointment of a National Advisory Panel, research and further training initiatives.

- 5.8 The Garda Síochána should meet LGB community groups to discuss structures for developing communications between the LGB communities and the Gardaí, and those structures should permit the examination, reporting and advising on good practice models of policing policies and procedures with LGB people in both Ireland and other jurisdictions.

### Local Authorities

- 5.9 In the preparation of their strategies local authorities should include the development of initiatives

on community safety, with a particular emphasis on the safety of minority groups who are the most vulnerable as victims of crime and including the development of policies and procedures in relation to sexual harassment and harassment.

## Appendix 1

### Members of the Lesbian, Gay and Bisexual Advisory Committee

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## Footnotes

i. The Employment Equality Act, 1998 and the Equal Status Act, 2000.

1. There is no definite data in relation to the size and composition of the lesbian, gay and bisexual communities. A range of different figures have been put forward in different contexts. This reports adopts the figure of 10% which has been used elsewhere in an Irish context.

2. This section is taken from *Partnership Rights of Same-Sex Couples* (2000) Dr. John Mee and Kaye Ronayne, Equality Authority.

3. It should be noted that within the private rented sector the Equal Status Act (2000) applies.

4. See the US Department of Health and Human Services' Report of the Secretary's Task Force on Youth Suicide (1989).