

Lesbian, Gay and Bisexual Equality at work

A guide for
UCU members
and reps

This document deals with lesbian, gay and bisexual equality at work. L, G, B organising is often linked, formally and informally, with trans and non-binary people (hence LGBT+). Whilst recognising and supporting this manner of organising this document covers only sexual orientation as the rights of trans people are recognised in their own right under the Equality Act 2010 (the protected characteristic of gender reassignment). Therefore, when this document is about organising it refers to LGBT+ and when about rights it only refers to L, G and B (sexual orientation).

Introduction

Lesbians, gay men, and bisexuals have become more visible throughout society since sex between two men in private was legalised in 1967. Valuable support for equality and advancing the needs and aspirations of lesbian, gay men and bisexuals has been forthcoming from sections of the wider community. However society at large still promotes the view that heterosexuality is the norm, this is known as heteronormativity. Heteronormativity and heterosexism (opinions and actions that treat heterosexuality as normal and result in favouring normative heterosexual lifestyle) results in lesbians, gay men, and bisexuals suffering discrimination and prejudice in many aspects of life, within and outside the workplace. Prejudice and discrimination against lesbians, gay men and bisexuals have for many years been termed 'homophobia'. Homophobia is widespread and can take many forms, from derogatory remarks and insulting 'jokes' to outright physical abuse, and many points in between.

Within the workplace at least some lesbians, gay men, and bisexuals fear that being open about their sexual orientation may lead to harassment from management, colleagues and students.¹ There may also be fear of exclusion from promotion or even of dismissal. Sometimes these fears can be evidenced, other times they are felt but either way they are regarded seriously in law as well as by the individual experiencing the feeling of prejudice and discrimination.

Equality Act 2010

In 2010 the UK Government brought in the Equality Act covering 9 protected characteristics including sexual orientation and gender reassignment. It is the inclusion of sexual orientation equality which of particular interest to lesbian, gay and bisexual people. It is, of course, quite possible that any lesbian, gay, or bisexual person may also have one or more other protected characteristic.

Aims of the General Duty

To comply with the general equality duty in the exercise of their functions public authorities must have due regard to the need to:

- ➔ **Eliminate unlawful discrimination**, harassment and victimisation and other conduct prohibited by the Act
- ➔ **Advance equality** of opportunity between people who do and do not share a protected characteristic
- ➔ **Foster good relations** between people who do and do not share a protected characteristic

Measures for advancing sexual orientation equality in the workplace

Several common features for developing equality can be helpful in advancing sexual orientation equality in the workplace

Organisations should:

- ➔ have recruitment procedures that do not discriminate on the grounds of sexual orientation and take some positive action e.g. advertising in the gay press
- ➔ ensure that lesbian, gay and bisexual employees access to training, staff development and promotion is specifically included
- ➔ have a policy of reviewing the curriculum and its publicity material for negative images of LGB lifestyles, and encouraging positive images of diversity
- ➔ include sexual orientation in equality training
- ➔ annually monitor policies and practices ensuring that sexual orientation equality is advanced

The creation of a culture that supports sexual orientation is crucial and the following can have considerable impact:

- ➔ explicit promotion of means by which staff and students can take up cases where they feel they have been subject to any detriment because of their sexual orientation.

¹Equality Challenge Unit (2009) 'The experience of lesbian, gay, bisexual and trans staff and students in higher education'

- a policy of zero tolerance of homophobia and how it will be dealt with whether the guilty party / parties are staff and / or students.
- demonstrable action taken against the circulation of homophobic material or graffiti

If these measures are not in place you could approach your Union, perhaps an Equality and Diversity manager or some other leader within the organisation who may be able to push some ideas forward.

How can homophobia be challenged?

Homophobia is a serious issue. It has been experienced by many lesbian, gay, and bisexual people in the workplace and in learning environments.² Under the 2010 Equality Act harassment is unlawful. Bullying can also be homophobic.

ACAS lists the following as examples of workplace bullying and harassment

- Constantly criticising competent staff, removing their responsibilities, or giving them trivial tasks to do
- Shouting at staff
- Persistently picking on staff in front of others, or in private
- Obstructing professional development / blocking promotion
- Regularly making the same person the butt of jokes
- Constantly attacking a member of staff in terms of their professional or personal standing
- Setting up a person to fail by overloading them with work or setting impossible deadlines
- Regularly and deliberately ignoring or excluding individuals from work activities
- Ignoring staff views and opinions
- Different rules for different people
- Criticism and threats
- Excessive monitoring
- Unrealistic expectations

The crucial point is that the behaviour is unwarranted and unwelcome by the recipient.

Bullying and harassment need to be dealt with.

Do not ignore it

If you feel that you are being subjected to bullying or harassment do not feel that it is your fault or that you have to tolerate it. If you witness harassment, you can report it, reporting is

²ECU (2009) and CEL (2006) 'Equality and sexual orientation ? the leadership challenge for further education'

supported by the Equality Act, don't leave it up to the person being harassed. Harassment can affect the whole workplace environment.

Some people may ignore bullying and harassment but it is unlikely that the conduct will stop if you ignore it. The bully is often doing this to try and exert control, so silence may be interpreted as acquiescence.

Check if your institution has a policy on bullying and harassment and read it

Get a copy of your employer's published policy on bullying and harassment or on dignity at work. It should be on their web site – or your local rep will have a copy. Read carefully what it says about all managers' responsibilities, and how concerns should be raised. Check whether the agreement or policy has been agreed with UCU.

If you feel unable to directly tackle the person concerned, this does not imply that you consent to the behaviour nor will it prejudice any complaint you may wish to bring.

Get support

Talk about the problem with a friend, a colleague and UCU representative. Do not hesitate to contact someone even when an incident occurs only once. They may be able to suggest ways of resolving the problem.

Collect evidence of the bullying or harassment

It is important to keep a note of all relevant incidents including dates, times, places. This will be invaluable in proving your case if you make a complaint. Wherever possible get witnesses to provide factual evidence. If there are no witnesses to an incident, tell a colleague or representative and make a note. Make sure you keep copies of any relevant documents including emails and other electronic information.

Find out if the same person is bullying or harassing anyone else

Often a bully will have a history of such behaviour. You will gain confidence from discovering you are not alone.

Some UCU branches have carried out institution-wide surveys. These can be very effective in demonstrating that there are wider issues which the employer must address – and will make your claims more difficult to dispute.

Complain to your UCU representative

Report the problem to a branch representative. Even if you decide not to pursue the case, it is important that the union is aware of any incidents of bullying or harassment.

There will be informal and formal procedures for dealing with the situation. The decision on how to progress the complaint rests with the complainant.

If the person responsible for the bullying or harassment is a union representative, discuss with another branch officer the best way to proceed.

Any discussions will be confidential and further action involving you will not normally be taken without your express permission. Nor will the person you are complaining about be given your name as complainant without your permission.

You should contact your branch secretary, branch chair, branch equality officer in the first instance. In the rare situation that you feel there is no branch officer that you can approach, perhaps because they are implicated in the bullying or harassment, you should contact your regional office.

Members are advised to bring their concerns to UCU first rather than approaching, for example, outside organisations such as the Equality and Human Rights Commission (EHRC).

Make a formal complaint

If you or your UCU representative cannot resolve the problem by asking the person to stop, you or your representative should make a formal complaint, which should then be investigated by management.

If formal disciplinary proceedings are to be taken against the person responsible for the bullying or harassment, you will be required to give evidence. It may be difficult for you to undertake this but it would not be in your best interests for the case to be considered in your absence. The Union will support you through this difficult process. Once the complaint becomes formal, UCU should insist that management conducts a risk assessment about how any continued bullying may affect the workplace.

Remember: if bullying persists it is appropriate to insist on treating the bully as a workplace hazard and insisting on a risk assessment. This is particularly the case if it is not an isolated incident and other staff have been bullied.

UCU has published guidance on bullying and harassment which can be found at http://www.ucu.org.uk/media/pdf/f/O/bully_harass_toolkit.pdf

FAQs

Some of these questions are answered elsewhere in this publication but a ready answer to a common question can be very helpful.

How about data collection?

There has been a lot of discussion about whether or not to collect data on the basis of sexual orientation. Whilst it is not a legal requirement it can be helpful to know how many lesbian, gay, and bisexual people are working and studying in the organisation and how this relates to the local or national statistics. Many of the same issues apply to sexual orientation as with 'hidden' disabilities and much work may be needed to be done for people to feel safe to disclose / 'come out'. Monitoring is likely to be most effective when it is well thought through, action is undertaken to accompany monitoring and people feel sure about what they are doing and why.

How can an institution / branch be welcoming / supportive?

Developing a supportive environment is a key tool in achieving good data collection. Work on disability equality has often shown that taking tangible steps to be supportive can increase the amount of reliable information gathered.³ Leadership on equality initiatives taken by

³CEL, UCU and UNISON (2007) 'The Disability Equality Duty'

organisational leaders, student leaders, and / or local branch officers can have significant impact. Also mandatory high quality equality training (including sexual orientation) and support for the development of networks such as LGBT+ staff groups may be seen as being significant features of a supportive organisation.

What to do when someone wants to talk about sexual orientation?

‘Coming out’ about sexual orientation may be a process that people repeat many times in their lives in different settings. Questioning ones sexual orientation might be for some even more challenging. The reactions of colleagues, friends and family can be difficult to predict and some people try to work through their feelings for many years.

Coming out is a very personal decision for anyone. It is for the individual concerned to decide when, where, how and to whom they come out. When someone comes out it should be treated confidentially and it is for the individual to decide whether they want others to know. Local community organisations may be of considerable support.