

EQUALITY MAINSTREAMING
Policy and Practice for LGB People

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Executive Summary

Section 75 of the Northern Ireland Act 1998 places a statutory duty on public authorities to have 'due regard to the need to promote equality of opportunity' between, among others, persons of different sexual orientation (SO). It also requires public authorities to produce an equality scheme stating how they propose to fulfil this duty, including screening of policies, consultations with representative groups and individuals and the carrying out of equality impact assessments. This research was commissioned by the Equality Directorate at the Office of the First Minister and Deputy First Minister with the aim of providing a 'broad evidence base to assist statutory bodies in effectively considering lesbian, gay and bisexual (LGB) issues in the development of policy and practice'.

The stated aim of the research project was to provide a broad evidence base to assist statutory bodies in effectively considering LGB issues in the development of policy and practice. The research, which took place between May and December 2006, addressed key issues identified by the organised LGB sector, by LGB individuals and by public bodies through interviews, focus groups and the circulation of a wide-ranging questionnaire. The research focused primarily on Northern Ireland, but was informed by developments in other jurisdictions.

Legislative Framework

The inclusion of SO in the Policy Appraisal and Fair Treatment (PAFT) guidelines in the early 1990s was an innovative development of the equality agenda in NI for LGBs. However, an apparent disinterest in equality grounds, which could not be monitored, inhibited its effectiveness, particularly in relation to SO. The placing of a mainstreaming duty on a statutory footing was itself a dramatic development, a then unique experiment in the enactment of a mainstreaming duty.

Whatever its success in relation to other section 75 grounds, it is not clear that the 'democratic-participative model', intrinsic to section 75, has produced the flow of qualitative data necessary to facilitate effective screening and EQIA processes in relation to SO. It appears to have been too easy for public authorities to tick the 'no adverse impact box' in relation to SO.

To the extent that a statutory duty may ultimately be judged by its enforcement, the inclusion of SO in section 75 has had very little impact. This is not to say that there has been negligible impact overall. Indeed it is clear that SO is seriously taken into account by many public authorities and significant developments both in legislation and on issues such as homophobic harassment can be seen.

Developments in Great Britain may hold lessons for the effectiveness of the SO ground in section 75. The establishment of a proactive duty on public authorities to produce an action plan under the gender duty targeting policies of particular concern to women and men, and the setting of time limited targets in relation to these policies, may provide a model for public authorities in NI.

Ultimately section 75 is about mainstreaming equality of opportunity into policy making and it is only with a clearer focus on which policies need to be addressed from an LGB perspective that the mainstreaming of SO as a section 75 ground is likely to occur. The major outcome of the recent Effectiveness Review is a shift in focus towards targets and action plans. This is anticipated in OFMDFM's Draft SO Strategy and Action Plan and indicates a more proactive approach towards the mainstreaming of SO equality in NI policy-making.

Survey Findings

A survey of the LGB population produced 193 responses. More than half of the respondents believed there were barriers between the LGB community and public bodies and there was a widespread belief in the strong presence of homophobia and heterocentric attitudes in society more generally. The main areas in which problems have been experienced were in work, the health sector and education.

- Half of all respondents had experienced problems at work associated with their sexual orientation, this was mainly in terms of verbal abuse, bullying and harassment.
- One in six people had experienced forms of discriminatory behaviour in receiving health care. This was mainly associated with non-specific forms of discrimination and rude or impolite treatment.
- Forty percent of those who had been in contact with the education system in the past year reported that they had received unfair treatment and in particular bullying and lack of assistance were identified as the problems.

Most people had not formally complained about the treatment they have received. Only twenty-six people surveyed had made a complaint about a public service and these complaints had been made to a broad range of bodies. Only half of those who had made a complaint were satisfied with the response they received.

People appear to have been reluctant to complain about receiving discriminatory treatment because they believed the complaint would be ignored, that no one would help or that the incident was too trivial.

It is also worth noting that when people were asked whom they would turn to for help if they had experienced a problem with a public service, most people favoured an LGB organisation over a statutory body.

LGB People and Public Services

Interviews with a diverse range of ten LGB people allowed more detailed consideration of the issues raised in the survey. The interviews identified a range of issues associated with the areas of education, employment and health, as well as a

range of more general issues related to legislation, section 75 and general barriers and discrimination.

Although there are specific problems associated with homophobic bullying and abuse in the education system and in the workplace, the overall perception of the problems being faced by LGB people is of a general indifference, insensitivity and lack of awareness about issues relating to sexual orientation across a broad range of sectors of Northern Irish society.

There was some acknowledgement of some changes in attitudes and responses and the Housing Executive was one body that was identified as having improved its response to problems associated with people's sexual orientation.

Only one interviewee had initiated a complaint against a public body, and there was a certain element of cynicism about the value and benefits of making a complaint. Many people highlighted the potential problems that could arise from making a complaint if this would result in people being outed about their sexual orientation.

Many people preferred to contact LGB groups for help and advice and the role of these groups was seen as vital in terms of support and help when facing discrimination by public bodies.

Public Bodies and LGB People

Discussions with representatives of government departments and public bodies indicated that there have been few formal complaints by LGB people of discrimination on sexual orientation grounds. The Equality Commission has also received only a small number of complaints under section 75.

The provision of training and awareness raising on LGB issues in general appears to have little urgency or any sense of priority, with many organisations responding on a needs basis rather than taking any proactive steps to challenge what many LGB people regard as widespread homophobia in Northern Ireland.

The discussions also indicated that many public bodies lack any depth of knowledge on the key issues that affect LGB people, and while any consultations with groups like CoSO remain vital, a greater range of both formal and informal contacts and dialogue needs to be encouraged to help create more understanding, and ultimately changes within public service bodies in Northern Ireland.

Conclusions

Public bodies in Northern Ireland have a key role in addressing the perceptions and realities of discrimination and inequality. However, the dominant perception among LGB people is that homophobia is too often tolerated and too rarely challenged. There is a perception among LGB people of inertia among public bodies in challenging homophobia and the issues that LGB people experience.

One example of some level of positive engagement with the LGB community has been the work of the PSNI, which had made some considerable moves to build relationships with the LGB communities and develop more effective policies and practice to address the concerns and issues faced by the communities.

There is a need for a broad range of action by public bodies to address the problems that have been identified and to develop better and broader relationships with the LGB population across Northern Ireland. However, the active and organised LGB community in Northern Ireland is still relatively small and relatively poorly funded and has a limited capacity to support or promote the work that needs to be done by public bodies. Balancing these contradictory positions will be a conundrum that the public sector must address. They should not be used as a justification for inaction.

We therefore offer the following general recommendations.

- 1. All public bodies should take steps to review their training provision on LGB issues and address any evident lack of training in this area and take steps to increase understanding and awareness of homophobia. This should be done in conjunction with key LGB organisations.**
- 2. All public bodies need to increase their awareness of the range and variety of problems faced and confronted by LGB people, to explore and investigate how their policies and practices may be homophobic and/or heterocentric. This should be done in conjunction with key LGB organisations.**
- 3. All public bodies should review their current procedures for consulting with the LGB population and engaging with LGB organisations. This should be done in conjunction with key LGB organisations.**
- 4. All public bodies should review their policies and practices to explore how they might be perceived by LGB people. They should adapt them where appropriate to be more LGB user friendly. This should be done in conjunction with key LGB organisations.**
- 5. All public bodies should prepare for a change in emphasis in their approach to section 75 by proactively considering what targets they should be putting in place in relation to SO equality, particularly homophobic bullying.**
- 6. The government should review the level of resources that are currently made available to support the work of the LGB community in Northern Ireland. It is very likely that these will need to be increased if the commitment to equality under section 75 is to be translated from an aspiration to reality.**
- 7. Public authorities should review their complaints procedures so that LGB groups and trade unions can make complaints on failures to comply with equality schemes rather than relying entirely on complainants by individual LGBs.**

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1. Introduction

Section 75 of the Northern Ireland Act 1998 places a statutory duty on public authorities to have 'due regard to the need to promote equality of opportunity' between, among others, persons of different sexual orientation. It also requires public authorities to produce an equality scheme stating how they propose to fulfil this duty, including screening of policies, consultations with representative groups and individuals and the carrying out of equality impact assessments.

However, although a report by the Northern Ireland Human Rights Commission (2001) noted the 'far reaching statutory duty to promote equality of opportunity' for lesbian, gay and bisexual (LGB) people, the report also concluded that 'laws, policies and practices in Northern Ireland discriminate extensively against lesbian, gay and bisexual people'. The report recommended that the government undertake further research into issues affecting LGB people.

This research report was commissioned by the Equality Directorate at the Office of the First Minister and Deputy First Minister with the aim of providing a 'broad evidence base to assist statutory bodies in effectively considering LGB issues in the development of policy and practice'. The research tender document notes the statutory requirements, but also acknowledges the findings of the research by the NIHRC and thus highlights the lack of appropriate evidence relevant to mainstreaming of section 75 in relation to LGB issues. The stated aim of the research project is therefore to provide a broad evidence base to assist statutory bodies in effectively considering LGB issues in the development of policy and practice.

The objectives of the research were to:

1. Outline current and developing legislation and policy contexts at local, national and European levels.
2. Summarise existing research and statistical evidence in respect of LGB equality issues.
3. Identify extant barriers, difficulties and challenges experienced with the public sector in relation to accessing goods facilities and services and identify examples of good or better practice within the public sector.
4. Gather and reflect the views of the LGB population, in its diversity, with regard to barriers, difficulties and challenges experienced with the public sector and identify good practice.
5. Explore the experiences and approaches of a range of public bodies to identify and assess both examples of good practice and factors that both facilitate and impede equality mainstreaming of LGB issues in policy and practice.

The research addresses the key issues identified by the organised LGB sector, by LGB individuals, and public bodies. The research focused primarily on Northern Ireland, but was informed by developments in other jurisdictions.

Research Methodology

Existing research has identified a wide range of issues affecting members of the lesbian, gay and bisexual community in relation to issues of discrimination and inequality (Chapter Three). This research project aimed to build upon the previous work to explore in more detail current experiences in relation to issues such as health, education, employment and housing. It did so by exploring the experiences of a diverse range of LGB organisations and individuals, and by consulting on the views of representatives of public sector bodies.

The research was undertaken between May and December 2006. It was supported by a steering group from within the Equality Directorate of OFMDFM, with additional guidance from representatives of the Coalition on Sexual Orientation (CoSO) who are working specifically with or providing services to lesbian, gay and bisexual individuals and groups. The research involved a variety of methodologies including a review of research and policy developments; a self-completion questionnaire; focus groups and interviews with lesbians, gay men and bisexuals, representatives of the main LGB organisations and representatives from the public sector.

Survey: The questionnaire was designed in conjunction with representatives of a range of LGB organisations including Lesbian Line, CoSO, Queerspace, Northern Ireland Gay Rights Association and the Gay Policeman's Association. It was launched at Belfast Pride on the 29 July 2006 and the research team attended several events during Pride distributing questionnaires and informing people of the research. A link to the questionnaire on the ICR website was circulated using the e-mail lists of CoSO, Northern Ireland Council for Voluntary Action and the Community Relations Council and it was also advertised on the web-sites of LASI, Gay Belfast and Queerspace.

Potential participants were contacted through umbrella and self-help organisations, which were selected because they had significant LGB members or service users. Posters and cards were distributed and displayed in gay venues to alert others to the process. One hundred and ninety three questionnaires were completed, of which seventy-nine questionnaires returned electronically. The responses were analysed by SPSS (Statistical Package for Social Sciences).

Focus groups and Interviews: Interviews were conducted with workers, users and individuals connected to the Rainbow Project in Belfast and Derry/Londonderry, LASI, Lesbian Line, CoSO, Gay and Lesbian Youth of Northern Ireland and Queerspace. Researchers also contacted the National Union of Students, UNISON and the Ministry of Defence LGBT group. A focus group with six participants facilitated by the Rainbow Project was held in Derry / Londonderry and another with seven participants facilitated by GLYNI was held in Belfast. Forty-six individuals also left their contact-details when completing the questionnaire. Attempts were made to contact all these people and as a result twenty-three people agreed to be interviewed. Of the remainder twelve said they did not have any more to contribute, while the remainder did not respond or could not be contacted.

Confidentiality and Sensitivity: ICR staff acknowledged some concerns in carrying out work with the LGB community. There was a need for sensitivity in relation to confidentiality, because while some people were ‘out’ and ‘open’ in all areas of their lives, others were only ‘out’ to selected individuals, or in specific situations. Meetings were therefore held in places and at times suitable for the interviewees and in some cases interviews were carried out over the phone or conducted via e-mail.

Public Bodies: Interviews were held with representatives of a number of public bodies, these addressed issues raised by LGB people and issues, problems and concerns for the organisations in addressing LGB needs. Contacts and/or interviews were held with the following organisations: Association for Northern Ireland Colleges; Community Safety Unit; Council for Catholic Maintained Schools; Department of Education; Department of Employment and Learning; Department of Environment; Department of Health, Social Services and Public Safety; Department for Regional Development; Department for Social Development; Local Government Staff Commission for Northern Ireland; PSNI; Royal Victoria Hospital; Staff Commission for Education and Library Boards. Information was also provided by the Equality Commission for Northern Ireland, however despite requests no one from the organisation was made available for interview.

Structure of the Report

The research is presented in six main sections. Chapter Two provides an overview of the development of legislation affecting equality issues for LGB people in European and UK contexts, while Chapter Three reviews the main themes from previous research on LGB issues in Northern Ireland. Chapter Four provides the perspectives of LGB people from an analysis of the questionnaire into their experiences while Chapter Five builds on this material by reviewing the perspectives from more detailed interviews with LGB people in Northern Ireland. Chapter Six presents the perspectives of representatives of a range of public bodies and government departments in Northern Ireland. The final chapter offers a brief review of the main findings.

2. An Overview of the Legal Context

‘Mainstreaming’ and a ‘Rights-based’ Culture at UN and EU Levels

‘Mainstreaming’ has been subjected to various definitions. The one adopted by the Equality Commission for Northern Ireland (ECNI) (Equality Commission 2005) was in turn adopted by the Scottish Parliament (Scottish Parliament 2001):

Mainstreaming equality is essentially concerned with the integration of equal opportunities principles, strategies and practices into the every day work of Government and other public bodies from the outset, involving every day policy actors in addition to equality specialists. In other words, it entails rethinking mainstream provision to accommodate the equal opportunities categories as identified in the Scotland Act. The concept of mainstreaming is based on the philosophy that the achievement of equality should inform all aspects of the work of all the individuals within an organisation as they go about their business. The mainstreaming of equality is the route to achieving an equality-based culture throughout an organisation.

The mainstreaming of equality into public policy making became a significant issue in the pursuit of equality following the Fourth World Conference on Women in Beijing in 1995. Until then, the focus of equality policy was on the creation of a rights-based culture, for example, at the global level, through the UN Convention on the Elimination of Racial Discrimination (CERD) and the UN Convention for the Elimination of All Forms of Discrimination Against Women (CEDAW) and through International Labour Organisation Conventions. At the European level, the European Convention of Human Rights (ECHR), in Article 14, provides for non-discrimination across a range of grounds in performance of Convention responsibilities and Protocol 12, which has yet to be ratified by the United Kingdom, gives directly enforceable rights to non-discrimination. So also, within the sphere of the Council of Europe, the European Social Charter has both a non-discrimination clause and also specific provisions on equal pay for women and issues such as integration of disabled people.

At the European level, the development of a rights-based culture has been strongly generated by what is now the European Union (EU). From the inception of the European Economic Community, equal pay for men and women was included in what was then Article 119 of the EEC Treaty and now Article 141 of the European Community Treaty as amended. This was followed by two significant directives in the mid-1970s, the Equal Pay Directive 1975 and the Equal Treatment in Working Conditions Directive 1976. It can be seen that these measures, emanating from what was initially a legal regime focussing on economic integration, were directed exclusively at the labour market. Although a weaker Equal Treatment in Social Security Directive was enacted in 1979, this labour market focus has been largely maintained. However the next significant development, following the inclusion of Article 13 in the EC Treaty through the Treaty of Amsterdam in 1997, which allowed for wider legislative competence over equality issues, including SO, was the enactment in 2000 of the Race and Ethnic Origin Directive. Here the scope went well

beyond the labour market and included the provision of goods and services and a range of issues largely particular to public service and, indeed, public policy making, namely housing, healthcare, social security, social protection and social advantages.

Nonetheless, for the purposes of this project, the significant development of sexual orientation (SO) discrimination law, given the inclusion of SO in Article 13, occurred later in 2000 in the Framework Employment Equality Directive, which introduced a requirement to legislate for non-discrimination in employment and training across a range of grounds including sexual orientation. EU law also recognised SO non-discrimination in Article 21 of the European Charter of Fundamental Rights 2000 although its legal status within the EU legal system remains uncertain.

Three points may be noted at this stage. First, legal instruments at the international and Council of Europe levels have not been prepared to acknowledge formally a rights-based culture for LGBs. Even to this day, as a United Nations Convention on the Protection and Promotion of the Rights and Dignity of Persons with Disabilities is finally coming to fruition, a Brazilian proposal to develop a UN Resolution on the Rights of LGBs has yet to be introduced.¹ Nonetheless, a significant development from the NGO sector is the Yogyakarta Principles, which were launched on 26 March 2007 in Geneva. They are the product of the work of an international group of human rights lawyers and experts, convened by the International Service for Human Rights, the International Commission of Jurists and chaired by Professor Michael O'Flaherty. This group was supported by a secretariat representing international LGBT organisations including ARC International, Human Rights Watch, IGLHRC, ILGA and ILGA-Europe.² There are 29 Principles³ adapted from human rights instruments, including both civil and political rights but also economic, social and cultural rights, which may be more pertinent to the implementation of section 75. For example, picking up on the three subject areas, focused upon in chapter 1, Principle 16 (right to education) provides:

Everyone has the right to education, without discrimination on the basis of, and taking into account, their sexual orientation and gender identity.

Principle 17 (The Right to the Highest Attainable Standard of Health) provides:

Everyone has the right to the highest attainable standard of physical and mental health, without discrimination on the basis of sexual orientation or gender identity. Sexual and reproductive health is a fundamental aspect of this right.

At the level of the Council of Europe, the European Court of Human Rights (ECtHR) has recognised SO as 'any other status' under Article 14 of the ECHR (and hence in

¹ http://www.ilga-europe.org/ilga/publications/campaigning/2005/march_2005_n_117/lgbt_rights_at_the_united_nations_a_serious_omission.

² http://www.ilga-europe.org/europe/news/the_yogyakarta_principles_to_be_launched_on_26_march_in_geneva.

³ <http://www.yogyakartaprinciples.org/index.php?item=25>.

Protocol 12 and corresponding provisions of the European Social Charter) but, unlike the EU in relation to the Charter of Fundamental Rights, a deliberate decision was made not to lengthen the list of non-discrimination grounds either in Protocol 12 or in the Revised European Social Charter. However, it can be argued that the case law of the ECtHR brought issues of SO discrimination to the fore front of European equality policy and helped to precipitate the inclusion of SO in Article 13 of the Treaty of Rome.

The starting point for the development of ECtHR case law was *Dudgeon v UK*⁴ in which Jeffery Dudgeon successfully argued that his right to privacy under Article 8 ECHR had been infringed through a criminal prosecution based on his sexual behaviour.⁵ Privacy rights were significantly expanded in *Lustig-Prean and Beckett v UK*⁶ and *Smith and Grady v UK*,⁷ the Court concluded that LGBs in the UK military had suffered serious breaches to their rights to privacy both through intrusive investigations into their private lives and through their subsequent dismissal from the armed services. In the slightly later decision in *Salguero da Silva Mouta v Portugal*,⁸ the Court finally accepted the argument put by Dudgeon nearly twenty years before, namely that sexual orientation was an ‘other status’ ground under Article 14 ECHR (non-discrimination).

The second point to make is that concepts of ‘mainstreaming’ were not ‘invented’ in Beijing in 1995. Various forms of ‘positive action’ were permitted and indeed encouraged across these international and European instruments. Indeed, Government reports on implementation of international instruments such as CEDAW (Cabinet Office 1999⁹) indicate that Governments were being impelled to examine a wide range of Government policies and indicate initiatives being taken to promote gender equality. So also, as shall be discussed shortly, the idea of ‘equality audits’ of Government policy was already taking root in UK Government policy from the early 1990s.

This observation leads into a third point on the relationship between rights based and mainstreaming approaches. It is strongly arguable that, in order to avoid grievances and litigation over issues of direct and indirect discrimination, equality audits ought to be the norm, particularly for public bodies. In this sense, rights based and mainstreaming approaches should be seen as complementary as opposed to being radically different approaches towards the achievement of equality objectives. Nonetheless, it can also be argued that mainstreaming has developed, not as an alternative to a rights based approach, particularly initially on issues of gender equality, but at least as recognition of perceived inadequacies in total reliance on a rights based strategy.

⁴ (1981) Series A No 45.

⁵ As discussed below, it may be that *Dudgeon* effectively put SO on the equality agenda in Northern Ireland thereby precipitating its inclusion in the Policy Appraisal and fair Treatment guidelines (see below).

⁶ (2000) 29 EHRR 548.

⁷ (2000) 29 EHRR 493.

⁸ (2001) 31 EHRR 47.

⁹ http://www.womenandequalityunit.gov.uk/eu_int/CEDAW4.doc

Nonetheless, 'Beijing' represented a clear and unequivocal articulation of a concept of gender 'mainstreaming'.¹⁰ Hence Strategic Objective H.1 of the Platform for Action which emerged from Beijing is entitled 'Create or strengthen national machineries and other governmental bodies'. It is worth setting out H.1 in detail, as a template of actions involved in mainstreaming:

Actions to be taken

203. *By Governments:*

- a. *Ensure that responsibility for the advancement of women is vested in the highest possible level of government; in many cases, this could be at the level of a Cabinet minister;*
- b. *Based on a strong political commitment, create a national machinery, where it does not exist, and strengthen, as appropriate, existing national machineries, for the advancement of women at the highest possible level of government; it should have clearly defined mandates and authority; critical elements would be adequate resources and the ability and competence to influence policy and formulate and review legislation; among other things, it should perform policy analysis, undertake advocacy, communication, coordination and monitoring of implementation;*
- c. *Provide staff training in designing and analysing data from a gender perspective;*
- d. *Establish procedures to allow the machinery to gather information on government-wide policy issues at an early stage and continuously use it in the policy development and review process within the Government;*
- e. *Report, on a regular basis, to legislative bodies on the progress of efforts, as appropriate, to mainstream gender concerns, taking into account the implementation of the Platform for Action;*
- f. *Encourage and promote the active involvement of the broad and diverse range of institutional actors in the public, private and voluntary sectors to work for equality between women and men.*

Even in this Beijing template, we can see internal and external aspects, internal in the sense that mainstreaming involves putting equality at the heart of an organisation's policy making functions but also external in the sense that the organisation must gather information and also interact with the NGO sector.

In consequence of Beijing, the European Commission (European Commission 1996) produced its first Communication on gender mainstreaming in 1996. By the time of the enactment of the Treaty of Amsterdam 1997, gender equality, and a notion of mainstreaming, had become entrenched in the earliest articles of the EC Treaty. Article 2 provides:

¹⁰ It is paradoxical that strenuous attempts were made to include some references to sexual orientation in the Platform for Action which were only abandoned at the last moment due to implacable opposition from some States (Sanders, 2007)

The Community shall... promote... a high level of Employment and social protection, equality between men and women, the raising of the standard of living and quality of life, and economic and social cohesion and solidarity among Member States.

More explicitly, Article 3 provides:

In all activities referred to in this Article, the Community shall aim to eliminate inequalities, and to promote equality, between women and men.

Hence, gender mainstreaming enjoys a constitutional significance in the EU legal order and ought to be a key element in EU policy making. Indeed, this objective is now articulated in Article 1a of the Equal Treatment Directive 1976, as amended by the Directive of 2002, which provides:

1a. Member States shall actively take into account the objective of equality between men and women when formulating and implementing laws, regulations, administrative provisions, policies and activities in the areas referred to in paragraph 1.

And yet it is tempting to take an uncritical approach to mainstreaming initiatives. This was not the approach of the European Parliament (European Parliament 2000) in assessing the Commission's Annual Reports, 'Equal Opportunities for Women and Men in the European Union' for 1997, 1998 and 1999. It is concerned that the Reports only refer to gender mainstreaming in relation to EU Structural Funds and, more generally criticises the Reports for their uncritical and descriptive approach. At p 10, it is stated:

A general criticism of the reports is that they devote far too much space to describing new policy measures and far too little to analysing what we have in fact achieved with these policies. It is naturally a good idea to launch a large number of initiatives and the Commission and Member States are to be praised for having done this. Yet if we do not know what the outcome is, reports of this kind can very easily turn out to be so much hot air.

Hence, although an assessment of gender mainstreaming at the EU level in the late 90s, a pertinent critique of mainstreaming was already emerging, namely to what extent does mainstreaming involve a genuine focus on equality issues in policy-making as opposed to a list of 'initiatives', that is the 'process question' and secondly, to what extent does mainstreaming produce genuinely positive outcomes, that is the 'outcomes question'.

Gender mainstreaming at the EU level has matured through the Commission's Framework Strategy for equality between women and men for the period 2001-2005 (European Commission 2000) and its Communication from the Commission to the Council, the European Parliament, the European Economic and Social committee and the Committee of the Regions - A Roadmap for equality between women and men

2006-2010. There is also evidence, in light of the inclusion of Article 13 in the EC Treaty, and the enactment of the equal treatment directives, that mainstreaming initiatives are being extended beyond gender considerations. A recent review of non-discrimination mainstreaming (Centre for Strategy and Evaluation Studies 2007) states, 'Encouragingly, however, over the past five to ten years other equality strands, such as disability and race and ethnic origin are now being given increased consideration at policy formulation stage.' Significantly for this research, it proceeds to state, 'Going forward, there is a need to ensure that, where relevant, all equality strands covered by Article 13 are given equal prominence through non-discrimination mainstreaming.' Hence, there is not yet any evidence of SO mainstreaming at EU level and, indeed, in accompanying case studies of mainstreaming at national level, it is examples from Great Britain and Northern Ireland, which are forthcoming. Indeed, it is clear that this Report is heavily evidenced by the NI experience, which is not surprising as it is here in NI that a unique experiment has taken place in mainstreaming on a statutory basis.

'Mainstreaming' and a 'Rights-based' Culture in GB and NI

In the UK, there has been a well-established rights-based culture since the mid-1970s and a growing awareness of the need for a mainstreaming strategy. The Race Relations Act 1965 was very much an 'adjudication-based' approach, involving investigation of complaints by what was then the Race Relations Board (RRB). This was overtaken by the rights-based approach adopted in the Equal Pay Act 1970 (and its NI equivalent) and the Sex Discrimination Act 1975 (SDA) (and the NI equivalent, the Sex Discrimination (NI) Order 1976 (SDO)). Hence, in Great Britain (GB), the Race Relations Act 1976 (RRA) (not subject to an equivalent until 1997 in NI) moved to a rights-based approach towards race equality, focusing on individual litigation in the courts and tribunals and overseen by a freshly constituted Commission for Racial Equality (CRE) (which did retain investigative powers but not based on an individual complaints system). So also the SDA was overseen by the Equal Opportunities Commission (EOC) and the SDO was overseen by the Equal Opportunities Commission for Northern Ireland (EOCNI). Effectively, the introduction of a rights based approach converted the equality agencies from adjudication based to assistance-based agencies, also with strong promotional functions. Paradoxically, the development of religious discrimination law in NI was initially based on the RRB 'adjudication-based' model. The Fair Employment Act 1976 set up the Fair Employment Agency based on investigative powers to examine complaints of religious and political discrimination.

It was only in 1989, in response to what may be described as the First Report by the Standing Advisory Commission on Human Rights (SACHR) on Fair Employment (SACHR 1987), that a rights-based approach was introduced into the NI fair employment system through the Fair Employment Act 1989 (FEA), overseen by the reconstituted Fair Employment Commission (FEC). Hence, it was then possible for individuals to bring cases of religious and political discrimination to the Fair Employment Tribunal (FET) as individuals could bring cases of sex discrimination to the Industrial Tribunal system. Two contrasts between the FEA and the SDO were

that, on the one hand, the FEA, unlike the SDO, only applied to employment and training and not to the wider scope of goods and services, education etc in which the impact on public policy making may have been greater. On the other hand, the FEA set out provisions on monitoring of 'community background' and review and reporting on 'fair participation', with corresponding oversight and enforcement powers in the hands of the FEC. Hence, at least in the fields of employment and training, the 'fair employment' model required some elements of the 'mainstreaming' of religious and political equality into all aspects of employment and training in both the public and private sectors.

Before exploring mainstreaming strategies in more detail, it is worth identifying two aspects of a 'rights based' approach that encourage a mainstreaming approach. First, it is obviously the case that successful litigation has a significant impact of decision-making, whether in public or private sectors. Indeed, although the FEC and its use of its extensive range of enforcement powers had a substantial effect on employment policy in NI, it was also the case that a significantly higher maximum for compensation orders under the FEA allowed the FEC to impose very substantial compensation awards against employers, particularly in the public sector (Fitzpatrick 2004). There can be little doubt that it was this combination of medium-term strategic work by the FEC and the short-term shocks of substantial compensation awards, which accelerated the centrality of the fair employment agenda into the NI labour market.

Secondly, it is strongly arguable that, in order to avoid grievances and litigation over issues of direct and indirect discrimination, equality audits ought to be the norm, for both public and private sector bodies. Of course, obstacles to individual access to justice, difficulties of proving direct discrimination and the opacity of the indirect discrimination principle have impeded the full implementation of the rights based approach. Hence, it can be argued that mainstreaming has developed, if not as alternative to a rights based approach, particularly initially on issues of gender equality, but at least as recognition of perceived inadequacies in total reliance on a rights based strategy. Nonetheless, rights based and mainstreaming approaches should be seen as complementary as opposed to being radically different approaches towards the achievement of equality objectives.

The rights based approach on SO discrimination only came into effect in December 2003, by way of the Employment Equality (Sexual Orientation) Regulations (NI) 2003, at least in relation to employment and training. Now the Equality Act (Sexual Orientation) Regulations (NI) 2006 extend the labour market regime to goods and services, education and performance of public functions from 1 January 2007. However, while mainstreaming generally led on from the perceived weaknesses of the rights based approach in relation to the pursuit of sex and race equality, its emergence as a strategy, even in relation to SO equality in Northern Ireland, significantly predates the enactment of these Regulations.

It has already been commented that it is unwise to maintain too rigid a demarcation line between rights based and mainstreaming strategies. For example, although

CEDAW¹¹ is initially a rights based instrument, it has encouraged a form of mainstreaming in the sense that the UK Government has, since ratification of the 1979 Convention in 1986, reported regularly to the CEDAW Committee. At the time of writing OFMDFM has published its Gender Equality Strategy¹², which can be seen as the culmination of this process.

Hence, this somewhat detailed consideration of the development of gender equality policy is significant in two respects. First, there have been versions of 'equality audits' since the late 1980s, at least in response to CEDAW ratification and similar reports in relation to CERD ratification. Secondly, it is not surprising that gender equality was chosen in Whitehall as the basis for a formal equality auditing process (Osborne et al 1996).

Development of PAFT

However, what became known as Policy Appraisal and Fair Treatment (PAFT) was reissued in NI in 1994, partly in response to SACHR's Second Report on Fair Employment (SACHR 1990). A series of reports was produced by the Central Community Relations Unit (CCRU)¹³ between 1995-97. This history is set out in the First Report (CCRU 1995) as follows:

1.3 In 1990 a circular was issued giving advice to all Northern Ireland civil servants about the need to consider questions of direct and indirect discrimination in relation to religious affiliation, political opinion and gender. The circular also provided a broad outline of the existing legal position. A number of outside interests, including statutory bodies with responsibilities for equality issues and the trade unions, criticised the guidance on the grounds that other areas where direct or indirect discrimination might occur were excluded, for example, race, disability, age. The circular was also criticised on the grounds that it did not convey a sufficiently positive approach to the issues, nor give sufficient advice to Departments about the need for affirmative action, should issues of discrimination or differential impact emerge in policy reviews. In February 1991 the then Northern Ireland Minister responsible for the Economy, Richard Needham MP, undertook to have these guidelines revised in the light of the concerns which had been expressed.

1.4 The Central Community Relations Unit, a part of the Northern Ireland Civil Service which is outside the departmental structure and reports directly to the Head of the Civil Service, was given responsibility for the revision of the guidance. In doing so, CCRU embarked on a programme of external consultation, which was unprecedented in drawing up internal administrative

¹¹ <http://www.un.org/womenwatch/daw/cedaw/>

¹² <http://www.ofmdfmi.gov.uk/genderequalitystrategy2006-2016.pdf>

¹³ The CCRU was a part of the Northern Ireland Civil Service which was outside the departmental structure and reported directly to the Head of the Civil Service. It existed from 1987 to 2000. At this point the CCRU was renamed the Community Relations Unit (CRU) and it became part of the Equality Unit of the Office of the First Minister and Deputy First Minister.

guidelines. SACHR, the Fair Employment Commission, the Equal Opportunities Commission, Disability Action and the Northern Ireland Committee of the Irish Congress of Trade Unions were formally invited to comment on a draft of the guidelines. Constructive comments were received from all of these bodies and two other organisations offered their unsolicited views. As far as possible, the comments from external bodies were integrated into a substantial revision of the guidelines. In addition, the Northern Ireland Office and Northern Ireland Departments were consulted on the text. As a final step, the revised guidance received the endorsement of the Secretary of State and Northern Ireland Ministers, before issue as Central Secretariat Circular 5/93 on 22 December 1993. Copies were sent to those organisations that had contributed their views during the external consultation process. The Circular came into effect from 1 January 1994.

Although PAFT involved a reiteration of adherence to non-discrimination legislation, it set out a series of principles which focussed on policy review and, in effect, an audit on NI government policy across equality grounds. Further, as the Second CCRU Report states (at §2.14), '[o]ther forms of differential treatment are legally permissible and PAFT requires Departments to consider carefully the potential for rectifying them.' As the then Secretary of State stated in his forward to the Third Report on PAFT covering 1996, 'in many ways, our local initiative has shown the way for other parts of the United Kingdom public administration' (CCRU 1997). As each of the Reports state: 'The aim of the PAFT initiative is to ensure that issues of equality and equity inform policy making and action in all spheres and at all levels of Government activity, whether in regulatory and administrative functions or the delivery of services to the public. The guidelines identify a number of areas where there is potential for discrimination or unequal treatment and outline steps which those responsible for the development of policy and the delivery of services should take to ensure that they do not unjustifiably or unnecessarily discriminate against specified sections of the community.'

At that time, equality law in NI only applied to discrimination on grounds of religious belief, political opinion and gender. PAFT added a further range of equality grounds, many of which were to become part of the statutory framework over the following decade. Hence the categories included were 'People of Different Religious Beliefs or Political Opinions', 'Men and Women', 'Married and Unmarried People', 'People With or Without Dependants', 'People of Different Ethnic Groups', 'People With Or Without a Disability', 'People of Different Ages' and 'People of Differing Sexual Orientation'. Whereas issues of marital status were, to some extent, covered by the SDO, race relations legislation already applied in GB and disability discrimination law was anticipated across the UK, the inclusion of age and sexual orientation was innovative. The ECtHR had applied privacy rights under Article 8 of the ECHR to the criminalisation of homosexual acts in NI in the *Dudgeon* case. However the inclusion of SO predated the significant expansion of the application of rights to privacy and non-discrimination in the ECHR to contravention of LGB rights. This inclusion did not appear to invoke any controversy at that time.

PAFT and Sexual Orientation

Within the context of this report, the three CCRU Reports set out the impact of PAFT on each of these categories and it is instructive to see the impact (and indeed the lack of impact) in relation to SO. The First Report makes reference to the lowering of the age of consent in NI but also makes an interesting comment on the lack of monitoring on grounds of SO.

4.24 During 1994 Parliament amended the law on homosexual offences in Northern Ireland, lowering the age of consent for homosexual acts between males from 21 to 18. The same reduction was also made in Great Britain. Both changes were effected through Private Members' amendments to the Criminal Justice and Public Order Bill. Though the age of consent for homosexual acts remains higher than that for heterosexual acts, the differential of one year in Northern Ireland is half that in Great Britain. The maintenance of such a differential can be justified as a reflection of public and Parliamentary opinion.

Of all the categories covered by PAFT, sexual orientation is probably least amenable to effective monitoring. Individuals may not be willing to disclose their orientation. There are therefore no plans to develop monitoring under this category. In the Second Annual Report, the impact on the inclusion of SO was described as follows:

3.18 The Criminal Justice and Public Order Act 1994 reduced the age of consent for homosexual acts between males in Northern Ireland to 18. Since then, there has been no particular pressure for further changes to the law in this respect in Northern Ireland. However, there has been some private members' interest in Parliament in creating rights against discrimination on grounds of sexual orientation, and for giving legal recognition to the status of transsexuals.

The Third Annual Report for 1996 states:

3.19 European case law on the interpretation of the Equal Treatment Directive (76/207) developed significantly in April 1996 with the European Court of Justice's judgement in a case concerning the dismissal of a transsexual. This judgement held that, as the Directive established the right not to be discriminated against on grounds of sex, it extended to discrimination arising from gender reassignment. The implications of this judgement for UK domestic law remain to be seen.

The most significant element in these Reports is the lack of monitoring on grounds of SO. In the Second Report (at §2.12), an unsuccessful application for judicial review is chronicled. UNISON brought an application against *Down and Lisburn Health and Social Services Trust* on the grounds that it had not applied the PAFT guidelines to a market testing exercise. Although the court found against UNISON on the facts of the case (the HSST had never received the PAFT Guidelines), the court did indicate that

the Guidelines were a 'relevant consideration' for a public body to take into account. In the Third Report for 1996, a second Judicial Review, *Casey and the Department of Education*, is reported (at §2.11-12). This case concerned a student who wished to attend a private third-level college in Dublin. The Department of Education had revised its criteria for the award of student grants to exclude such colleges, depriving the applicant of the opportunity for a grant in the academic year 1996/97 when he intended to commence his studies. The application failed on the basis that the Department did not have adequate data on the number of NI Catholics, as opposed to Protestants, who attended third level institutions in the Republic of Ireland. Hence, while there were advances under PAFT in relation to other PAFT grounds, it is clear that its impact on persons of differing sexual orientation was negligible.

Development of Statutory Equality Duty

In the Third CCRU Report, a chronology of the lead up to the introduction of the statutory equality duty is set out. SACHR was invited by the Secretary of State to conduct a review of fair employment law and policy in NI in 1995. In §§4.1-3, this chronology is set out in some detail:

4.1 An important development in 1996 was the extent of interest outside Government in the implementation of PAFT and the future of the initiative. To a large extent this was stimulated by the Standing Advisory Commission on Human Rights ongoing review of employment equality. As last year's report noted, PAFT was a relevant Government policy within the scope of the review and SACHR commissioned research in 1995 on its implementation and impact ... The findings of this research were, on the whole, constructively critical. It noted that the development of equality proofing in Northern Ireland had proceeded well beyond equivalent action in Great Britain. However, it also found that the priority given to the guidelines varied between Northern Ireland Departments. The research suggested that there should be greater central direction to Departments, reinforcing the role of CCRU and the lead officers' co-ordinating group. On many of these points, administrative changes have been introduced since the period when the initial research was conducted, and these have been reported on in the current and previous annual reports.

4.2 Professor Osborne and his colleagues adopted an essentially incrementalist approach to PAFT, which did not challenge the general lines of the initiative. Subsequent discussion on its future development has, however, adopted a more radical tone. Some submissions to SACHR's consultation phase on the employment equality review had suggested that PAFT should become a legislative obligation. In November 1996 the Committee on the Administration of Justice published a discussion paper by Dr Christopher McCrudden, 'Mainstreaming Fairness?' Dr McCrudden proposed that PAFT should be transformed from administrative guidance on the identification and, if possible, avoidance of discriminatory impacts, to a legislative obligation to 'reduce material inequality'. Furthermore, all existing or future legislation should be interpreted in accordance with that obligation. Dr McCrudden also

proposed greatly extending the scope of external consultation on policy issues by the public sector, involving not only the statutory equality commissions, but non-governmental organisations and interested individuals.

4.3 Shortly after publication of Dr McCrudden's paper, SACHR published a further discussion paper on PAFT, 'Policy Appraisal and Fair Treatment in Northern Ireland: A Contribution to the Debate on Mainstreaming Equality' by Nigel Hutson, a researcher with the Commission. This developed further Dr McCrudden's proposal, placing yet more emphasis on external consultation and suggesting the establishment of an Equality Commission to oversee public sector application of equality proofing mechanisms. As a model for future assessments, Mr Hutson suggested the environmental impact assessment (EIA) system used in many jurisdictions. Both the Committee on the Administration of Justice and SACHR circulated these discussion papers widely and requested responses.

In response to the SACHR Report on Fair Employment, 'Employment Equality: Building for the Future' (SACHR 1997), the Secretary of State, Marjorie Mowlam, issued a White Paper, 'Partnership for Equality The Government's proposals for future legislation and policies on Employment Equality in Northern Ireland' (NIO 1998). As §4.6 of the White Paper states, 'The SACHR report endorses many of the criticisms which have been levelled against the implementation of the PAFT guidelines in Northern Ireland. It recommends incremental changes to the appraisal process, which will increase transparency and accountability. It also proposes that the PAFT guidelines should be given legislative form, including an obligation on the public sector to promote 'full and effective equality' in terms of the PAFT categories.'

Hence, at §4.9, the White Paper proposed a statutory framework to promote equality of opportunity. 'The Government's proposal would be based on a statutory obligation on public bodies (including District Councils and United Kingdom Departments operating in Northern Ireland) to ensure that, consistent with their other responsibilities, their various functions are carried out with due regard to the need to promote equality of opportunity in those areas covered by the current PAFT guidelines. Obligations in respect of categories where there is current legislation on discrimination may be stronger in character than for other categories.' It is also suggested that a statutory obligation might extend to the promotion of good relations between people of different religious beliefs and political opinions, and people of different racial groups.

However, in a previous paragraph (§4.7), the Government stressed that there were limitations to the statutory approach. 'PAFT is about a process of appraisal. It can highlight factors, which might not otherwise have been taken into account in decision making, but these can only inform, not determine, the final decision. This is also the case with appraisals for which there is statutory requirement, such as environmental impact assessments. As an administrative mechanism, the PAFT process is inevitably limited. It is unrealistic to expect it to carry the legal and constitutional weight which some have claimed for it.'

Finally, the White Paper proposed the creation of a single Equality Commission bringing together the existing Commissions to oversee enforcement of the statutory duty. Although other aspects of the SACHR proposals, in relation to fair employment, were incorporated into the Fair Employment and Treatment Order (NI) 1998, the opportunity of the enactment of the Northern Ireland Act 1998 to introduce section 75, as anticipated in the White Paper. Section 75(1) provides:

A public authority shall in carrying out its functions relating to Northern Ireland have due regard to the need to promote equality of opportunity-

(a) between persons of different religious belief, political opinion, racial group, age, marital status or sexual orientation;

(b) between men and women generally;

(c) between persons with a disability and persons without; and

(d) between persons with dependants and persons without.

Section 75(2) provides for a 'good relations' duty, which applied to issues of religion and race but not the other section 75(1) grounds. Hence, the category of 'persons of different sexual orientation' in PAFT survived into section 75. However there was very little discussion of this inclusion during this process. Indeed, it was only later in 1998 that CoSO was formed bringing together a wide range of LGB groups in NI. The NI Act also provided for establishment of the Equality Commission for NI and attention was obviously focussed on that development. Indeed, CoSO's first public activity was attendance at the launch in the Hilton Hotel in February 1999 of the Working Group Report on a Single Equality Commission.

The detailed statutory provisions on the statutory duty were set out in Schedule 9 of the 1998 Act. As anticipated in the White Paper, the duty was perceived to be a 'process' duty, involving the approval by the ECNI of equality schemes submitted by designated public authorities. The schemes would set out a 5 year rolling programme of the 'screening' of policies for possible adverse impact on any of the section 75 grounds, followed, if appropriate, by a full equality impact assessment (EQIA) of the policy in question. What is also significant about the Schedule 9 scheme was an emphasis on consultation with interested bodies at all stages of the process. For example, paragraph 5 of the Schedule provides:

Before submitting a scheme a public authority shall consult, in accordance with any directions given by the Commission-

(a) representatives of persons likely to be affected by the scheme; and

(b) such other persons as may be specified in the directions.

Paragraph 4 includes:

(1) A scheme shall show how the public authority proposes to fulfil the duties imposed by section 75 in relation to the relevant functions.

(2) A scheme shall state, in particular, the authority's arrangements-

- (a) for assessing its compliance with the duties under section 75 and for consulting on matters to which a duty under that section is likely to be relevant (including details of the persons to be consulted);*
- (b) for assessing and consulting on the likely impact of policies adopted or proposed to be adopted by the authority on the promotion of equality of opportunity;*

Finally, paragraph 9(2) provides:

In making any decision with respect to a policy adopted or proposed to be adopted by it, a public authority shall take into account any such assessment and consultation as is mentioned in paragraph 4(2)(b) carried out in relation to the policy.

In her important work, 'Mainstreaming Equality in European Union Law and Policymaking' (Shaw 2004), Shaw discusses models of mainstreaming, relying on the work of Nott and McCrudden:

In terms of models, Sue Nott's distinction between the so-called 'participative-democratic' and 'expert-bureaucratic' is particularly useful (Nott 2000). In brief, the expert-bureaucratic model 'relies heavily on a 'gender' expert(s) being located within the bureaucracy, such as a women's unit, and has been popular in countries such as Australia (both at federal and state levels), New Zealand and Canada. The participative-democratic model is more recently developed (and tends to be the model which is most likely to incorporate multiple equality areas). It relies primarily on the participation of civic community groups through a consultation process. It has been popular in the UK and is epitomised in the Northern Ireland model. (Donaghy 2004)

To put it another way, 'participative-democratic' mainstreaming can be construed as 'real' mainstreaming, for it encourages transparency and full participation in decision-making as an indirect benefit. It is also the only reasonable means for ensuring effective, legitimate and equitable trade-offs between sometimes competing interests. As Chris McCrudden (2001) puts it:

It is intended to be anticipatory rather than retrospective, to be extensively participatory rather than limited to small groups of the knowledgeable, and to be integrated into activities of those involved in policy-making.

It is not surprising that NI adopted this 'participative-democratic' model. The community and voluntary sector can be perceived as being particularly influential in NI. Indeed, it was through the cooperation of UNISON and the Committee on the Administration of Justice that McCrudden made his vital interventions in the statutory duty debate. This cooperation also spawned the Equality Coalition, effectively an umbrella group of section 75 umbrella groups, which had significant impact on the development of ECNI guidelines on equality schemes and the operation of equality schemes. Indeed, CoSO was an inaugural member of the Equality Coalition.

Although barely considered in these early stages of the development of the statutory duty, it is also necessary to mention the enforcement procedures set out in Schedule 9. In paragraphs 10 and 11, the ECNI is given both a duty to investigate complaints by ‘concerned persons’ that a public authority had failed to comply with its scheme and a power to conduct ‘any other investigation’ of its own volition.

Therefore, the emphasis between 1999 and 2001 was on the establishment of the ECNI and then upon the Commission’s Guidelines on Equality Schemes. Given the experience of PAFT in relation to SO, the approach of the Commission to consultative mechanisms, and particularly to issues of monitoring, would be vital for the effective impact of the duty on policy-making in relation to LGB issues. The original Guide to Statutory Duties (ECNI 2001) indicates (‘Explanatory Notes’ (‘Green Section’), §1.7), as an objective of ‘mainstreaming’, to ‘encourage greater openness in government, and greater transparency in decision-making since it requires consultation among affected interests at an early stage of policy-making, and to a greater extent than is currently usually carried out. In doing so, mainstreaming should enhance the crucial link between government and ‘civil society’, encouraging greater participation in government and leading to greater accountability in government decision-making.’

So also, at §1.8 of the Green Section, public authorities are required to provide ‘the allocation of necessary resources (in terms of people, time and money) to ensure that the Equality Scheme can be drawn up and implemented effectively on time’. Controversy would arise throughout the history of the statutory duty as to the extent to which some of these resources should be directed to community and voluntary groups so that they could perform their consultative role under equality schemes. In the early days of the duty, the Commission did allocate resources to section 75 umbrella groups, including CoSO, although the legality of the allocation to groups outside the remit of the Commission under other statutes was questioned. However, other than this grant, CoSO received no public resources and had to rely entirely on the work of volunteers to play a role in these consultative processes.

Much more detailed guidance is set out in the second part of the Guide, ‘Guidelines on the form and content of Equality Schemes’ (‘Blue Section’), which had been approved by the Secretary of State. In particular, Section 2(4)(c) sets out detailed advice on consultation. Appendix 4 of the Guide sets out ‘interested parties’ for the purposes of consultation including CoSO and a range of LGB groups. Under ‘Screening Procedure’, (Blue Section, p 35), screening criteria for existing policies are set out:

For each policy, the following criteria must be considered:

- *is there any evidence of higher or lower participation or uptake by different groups?*
- *is there any evidence that different groups have different needs, experiences, issues and priorities in relation to the particular policy?*

- *is there an opportunity to better promote equality of opportunity or better community relations by altering the policy or working with others in government or in the larger community?*
- *have consultations with relevant groups, organisations or individuals indicated that particular policies create problems which are specific to them?*

Crucial, therefore, to the ‘screening in’ of policies in relation to ‘persons of different sexual orientation’ is the availability of ‘evidence’ and the outcome of consultations. In Annex 1, ‘Procedure for conduct of equality impact assessments’, which forms part of the approved Guidelines, important guidance is set out on the collection of data. In §1.1, the Annex states:

Collect and analyse existing quantitative data by relevant characteristics as a minimum base from which to judge outcomes.

- *Use qualitative or evaluative research or information gathered by government and bodies such as voluntary, community and trade union organisations.*
- *Identify where more detailed data are needed in order to have the optimum information on which to base decisions.*
- *If necessary, commission new data (qualitative or quantitative). As outlined above co-operation within and between sectors should be considered.*
- *Relevant, reliable and up-to-date information is essential. Statistics alone do not provide reasons or explanations for differences. Public authorities must therefore institute a system of information gathering to supplement available statistical and qualitative research. While the collection of relevant data is important, public authorities must be aware that particular issues of sensitivity and confidentiality may arise in relation to disability and sexual orientation. **Public bodies must recognise the particular benefit of discussion and information gathering with groups representing people with disabilities and of different sexual orientations, in the absence of extensive data on these matters among their employees and recipients of services.** (emphasis added)*

From an LGB perspective, this advice, requiring a combination of quantitative but also qualitative data, represented an attempt to alleviate the inherent difficulties of statistical approach, which had been adopted under PAFT. However, to be effective, not only would public authorities have to take into account the outcome of consultations with a poorly-resourced LGB sector, they should also consider other forms of qualitative data collection, perhaps on a sectoral basis, in order to establish the evidence needed to conduct meaningful screening exercises, let alone EQIAs. It is also significant to note that the Annex makes specific reference to age and sexual orientation in relation to EQIAs (and, by implication, screening processes). In section 2 of the Annex, ‘Assessment of impacts’, at §2.4, the Commission states:

Even if the policy is not unlawful, policy makers need to consider what to do in light of the adverse impact identified. The following is provided as guidance by the Commission:

- *If the policy is intended specifically to address the needs of a particular group, it may well be justifiable, indeed necessary in order to promote the equality of opportunity of that group.*
- *If this is not the case, policy makers must consider whether there is any alternative measure which would achieve the aim desired without the differential impact identified. In this context, the Commission reemphasises the importance of very careful consideration of policies which adversely impact on those categories defined by sexual orientation and age (both the young and the old) which are not currently covered by anti-discrimination legislation in Northern Ireland.*

The Commission chose to issue Revised Guidance in 2005. Some of the revisions are pertinent to issues of resources, consultation and data collection. For example, in §1.12 of the Green Section, on ‘necessary resources’, it is stated, ‘Consideration should also be given to making available appropriate support to those Section 75 groups whose engagement is crucial to the effective implementation of the statutory duties.’ At §2.26, the Commission states, ‘Building the capacity of affected groups is key to such an approach and could ensure that public authorities make best use of resources available for Section 75 work, in terms of people, time and money.’

At §2.20, in relation to consultation, it is stated, ‘targeted consultation with representatives of those most affected by a policy has been beneficial to date, particularly if the engagement is early in the process. The formal consultation phase on schemes and equality impact assessments is more effective if earlier engagement with representative groups has taken place. For example, it enables adverse impacts to be identified and meaningful ways of mitigating such impacts can be discussed in the formal consultation document.’

It is not possible, in this report, to judge the success of section 75 in relation to mainstreaming SO into NI public policy-making. Indeed, the ECNI has conducted an ‘Effectiveness Review’ of section 75, following on from public authorities’ 5 year reviews of their equality schemes (ECNI 2007). Undoubtedly, SO has, to some extent, been brought into the mainstream along with the other grounds. However, in the Revised Guidelines, there is not a specific example relating to SO. Also, the Commission’s Report on examples of section 75 outcomes (Report on the Implementation of the Section 75 Statutory Duties 1 April 2002 - 31 March 2003) has very few examples which are specific to SO. For example, we are aware of very few EQIAs conducted in relation to SO, eg on civil partnership proposals.

Nonetheless, the placing of SO on the equality agenda has had significant outcomes, even prior to the extension of equality law to include enforceable SO discrimination rights in employment and training and now more widely in relation to the provision of goods and services, education and, significantly, the performance of some public functions. Martin O’Brien, then Director of CAJ, speaking at an ECNI conference on section 75 in September 2003, gave a couple of examples of positive outcomes for LGBs: ‘The Association of Northern Ireland Colleges (ANIC) ... have also produced a strategy for dealing with homophobic bullying and harassment. Also in relation to

sexual orientation, some Councils have changed their policies with respect to what constitutes a family ticket to accommodate same sex couples.’ Indeed, it is interesting that this was a suggestion put to local authorities in informal meetings with CoSO during 2001-02.

Significant developments in NI law and practice can be attributed, at least to some extent, to the inclusion of SO in section 75. NI hate crime law was reformed, to include a specific offence of inciting homophobic hatred, going beyond that provided for in GB. Any doubts that civil partnership law, and indeed SO GFS regulations, might apply to NI were confounded by the need to justify such an inclusion under section 75. So also the NIHE amended its harassment policy to give equal status to rehousing the victims of homophobic abuse as already applied to the victims of sectarian and racial abuse.

Various concerns have been expressed about the operation of section 75, in general terms, rather than directed at the impact on LGBs. The NIO commissioned a review of section 75, ‘The Section 75 Equality Duty: An Operational Review’, by Professor Eithne McLaughlin and Neil Faris in 2004. There is only one specific reference to SO in this Report. At page 33, it is commented:

There are particular difficulties for designated public authorities in regard to their duties in respect of some of the nine categories or dimensions within section 75. For instance, they find it difficult to address religious belief and political opinion beyond the established ‘community background’ criteria. Sexual orientation also presents difficulties because of the sensitivities and privacy issues involved.

An interesting criticism noted by McLaughlin and Faris is that there ‘is widespread non-compliance with the spirit of section 75 and avoidance of the letter of the law through ‘misuse’ of the screening process.’ Once again, the issue of resources is addressed. At §6.4, they state ‘there is a shortage of resources, expertise and capacity amongst the community and voluntary sector.’ Their major concern was that screening and EQIAs were degenerating into an adversarial process between public authorities and the community and voluntary sector. In their Conclusions, they state:

Equally, those in community and voluntary organisations should understand that the consultation process should not be used as their weapon of choice against designated public authorities and the policies which they oppose. It is essential for society that community and voluntary organisations put up robust opposition to policies, which they consider inimical to those whose interests they serve. But it is as much an abuse of the consultation process for them to use consultation solely for the purpose of attack, as it is for designated public authorities to engage in reluctant or superficial consultation.

It is difficult to contend that CoSO adopted an adversarial approach to consultations but it would appear to follow from the absence of any EQIAs on SO that public authorities successfully screened out SO, on many occasions, in the absence of

'reliable' data on the adverse impact on LGBs. Hence it might be argued that the weaknesses of PAFT may not have been fully addressed either by the greater emphasis on (under-resourced) consultation and an equal emphasis on the collection of qualitative, as well as quantitative, data.

Accompanying the McLaughlin/Faris Report was an important paper 'Mainstreaming Equality in Northern Ireland 1998-2004: A Review of Issues Concerning the Operation of the Equality Duty in Section 75 of the Northern Ireland Act 1998' by Christopher McCrudden. In Part IV: Conclusions and recommendations, McCrudden makes many general points on the effectiveness of section 75, some of which have pertinence to equality of opportunity for LGBs. Under 'Strategic Focus', he states:

The application of section 75 lacks an overall strategic focus, producing many individual initiatives but little overall focus on strategic objectives, and its implementation is too concentrated on process as opposed to outcomes. Implementation by government lacks an overall strategic goal to which the programmes of departments and their public bodies should contribute individually and collectively. Correspondingly, it lacks strategic targets, making it difficult to measure progress in promoting equality in Northern Ireland. There is a need to better understand what section 75 aims to achieve and for proposed actions to be more clearly linked to specific outcomes.

In relation to consultation, McCrudden states 'better targeting would be useful, as would increasing resources'. More particularly, he states 'As regards better targeting and the under-performance of civil society, the solution is partly in the hands of the public bodies themselves. As regards better targeting, there needs to be considerably better co-ordination; there is too much ill-digested material, and the more paper in circulation, the more likely it is that the consultation will be a wasted opportunity, and unlikely to achieve value for money. From the perspective of those being consulted, too much paper makes effective participation less rather than more likely, given that in general the more paper, the less attention is paid to it. Participating groups need also to be given considerably better and more timely feedback on the results of their participation than many now appear to receive. In addition, public bodies need to recognise that they either have a responsibility to provide resources directly to those that they are engaged in consulting, or some other body (such as the Equality Commission) needs to be funded to provide such support on their behalf.' In particular one of the Working Groups of the Task Force discussed above considered that:

[w]ith regard to Section 75 in particular, the need for support to enable the voluntary and community sector to properly engage in the process of policy making will need careful consideration. There is no easy answer to what the best means of support might be and this will need further exploration with the sector. While core funding is likely to be an issue, other support such as training in policy work to empower groups to be effective consultees and the provision of 'hard' resources such as computers may also need consideration.

On compliance, McCrudden states:

The Commission also needs to develop an enforcement strategy. When some of the worst examples of deficient equality impact assessments come into the Commission, or the Commission is alerted to the problem, they must develop the capacity and willingness to address the problem, indicating clearly what is acceptable and what is not, and this means that an efficient complaints handling and targeted investigations strategy should be adopted.¹⁴

McCrudden also recommends a litigation strategy through judicial review, raising a wider issue of compliance and enforcement to which attention will now be paid.

The Commission received seven complaints in relation to a failure to comply with an equality scheme on grounds of SO from 2004 to present. Three were made by LGB groups. Two of the individual complaints concerned a controversy over an attempt by Lisburn City Council to prevent civil partnership registrations in The Cherry Room, the usual setting for marriage registrations. The matter received considerable public and media attention. Eventually it was possible to identify two individuals willing to complain. In any event, the intervention of the Commission, and a range of other bodies including LGB groups, and legal advice to the Council, resulted in the policy being reversed. None of these complaints proceeded to the investigations stage within the Commission. Nonetheless, the mechanisms available for enforcement of section 75 are not conducive to complaint by LGBs.

Paragraphs 10 and 11 of Schedule 9 set out the primary, if not sole, enforcement mechanisms. Paragraph 10 provides for a duty to investigate complaints:

- (1) If the Commission receives a complaint made in accordance with this paragraph of failure by a public authority to comply with a scheme approved or made under paragraph 6 or 7, it shall -*
 - (a) investigate the complaint; or*
 - (b) give the complainant reasons for not investigating.*
- (2) A complaint must be made in writing by a person who claims to have been directly affected by the failure.*
- (3) A complaint must be sent to the Commission during the period of 12 months starting with the day on which the complainant first knew of the matters alleged.*
- (4) Before making a complaint the complainant must -*
 - (a) bring the complaint to the notice of the public authority; and*
 - (b) give the public authority a reasonable opportunity to respond.*

Paragraph 11 provides for 'any other investigation carried out by the Commission' and sets out the outcome of such investigations:

- (1) This paragraph applies to -*

¹⁴ Fitzpatrick expresses an interest here as he was responsible for section 75 investigations at the time of McCrudden's remarks.

- (a) investigations required by paragraph 10; and
 - (b) any other investigation carried out by the Commission where it believes that a public authority may have failed to comply with a scheme approved or made under paragraph 6 or 7.
- (2) The Commission shall send a report of the investigation to -
 - (a) the public authority concerned;
 - (b) the Secretary of State; and
 - (c) the complainant (if any).
- (3) If a report recommends action by the public authority concerned and the Commission considers that the action is not taken within a reasonable time -
 - (a) the Commission may refer the matter to the Secretary of State; and
 - (b) the Secretary of State may give directions to the public authority in respect of any matter referred to him.
- (4) Where the Commission -
 - (a) sends a report to the Secretary of State under sub-paragraph (2)(b); or
 - (b) refers a matter to the Secretary of State under sub-paragraph (3)(a),it shall notify the Assembly in writing that it has done so and, in a case falling within paragraph (a), send the Assembly a copy of the report.
- (5) Where the Secretary of State gives directions to a public authority under sub-paragraph (3)(b), he shall notify the Assembly in writing that he has done so.

For the purposes of this report, attention will be focussed on access to the complaint procedure. Obviously, it is always open to the Commission to undertake ‘any other investigation’ under paragraph 11 but it is under a duty to investigate under paragraph 10. There are certain institutional disincentives to paragraph 11 investigations. The present policy of the Commission is that only the full Commission can authorise a paragraph 11 investigation. There is an inevitable gravitation of resources towards dealing with external complaints, particularly where there is a duty to investigate under paragraph 10, albeit that some complaints may more appropriately be dealt with under paragraph 11. In order to generate its own investigations, the Commission has had to develop a procedure whereby Commissioners on its Statutory Investigations Committee are not involved, at Committee level, in the decision to initiate an investigation, which they will be required to carry out. It may also be the case that there are difficulties in having officers who develop close working relationships with public authorities being required to assemble a case for a Commission-generated investigation. In any event, there has been a dearth of paragraph 11 investigations on any ground, let alone sexual orientation.¹⁵

In this context, the litigation known as *Re Neill’s Application* takes on significance. The Children’s Law Centre complained to the Commission, under both paragraphs 10 and 11, that the Anti-Social Behaviour Order was unlawful, or *ultra vires*, as the

¹⁵ There have been 3 paragraph 11 investigations to date, none of which were on the SO ground. (Dickson and Harvey 2007)

Commission had concluded, in a paragraph 10 investigation, that the NIO had failed to comply with its equality scheme on a number of counts. Neill argued that this failure constituted a breach of section 75 itself and rendered the Order *ultra vires*. The High Court rejected this contention but, in the course of his judgement, Mr Justice Girvan commented upon aspects of the Commission investigation. The Commission decided, on the admissibility of the CLC's complaint under paragraph 10, that the CLC was a 'person who claims to have been directly affected by the failure' of the NIO to comply with its scheme. The Commission took the view that it did not have to decide upon the standing of a bona fides organisation representing a section 75 'constituency', in this case children and young people, members of which were unlikely to be able to complain themselves. It was open to it to filter out unmeritorious complaints by giving reasons not to investigate under paragraph 10(1)(b). The High Court disapproved of this course of action, although this conclusion does not form part of the binding elements of the judgment. The Court of Appeal approved the High Court judgment although this aspect of it was not addressed.

The outcome of this is that it is more difficult for the Commission to investigate complaints from community and voluntary groups, in our case, representing LGBs, even though it will be extremely difficult for individual LGBs to make complaints without making a public display of their sexual orientation.¹⁶ In light of the findings of this report, it must be a cause for concern that the Commission has received so few complaints on the sexual orientation ground during the course of this first five-year cycle of equality schemes. Other research (Hansson et al, 2007) indicates that loss of anonymity is a serious obstacle to litigation on grounds of SO. It is paradoxical that the statutory duty, which is seen as an alternative to a rights-based approach, should be enforced largely through an individual complaint procedure. Given that section 75 is built on a 'democratic-participative model', it would seem more appropriate to allow access to the complaints procedure to NGOs rather than make them rely on the Commission's very wide discretion whether or not to conduct a paragraph 11 investigation.

The Effectiveness Review has now thrown fresh light on the operation of the SO ground in section 75. At this stage, it can be said that section 75 is a significant improvement on PAFT.¹⁷ It has clearly brought SO on to the equality agenda, even prior to the enactment of SO rights-based legislation.¹⁸ However, it is not clear that, in practice, section 75 has had the dramatic impact of mainstreaming SO into policy-making, which was sadly lacking under PAFT.¹⁹ We are little further on in developing

¹⁶ The Commission (Equality Commission, 2007, p 53), in its Effectiveness Review, refers to the *Neill* judgment and indicates that it has changed its policy.

¹⁷ Bridge (Bridge, 2007, p 40) quotes an interviewee from a public authority as saying, "PAFT didn't do it. It was a significant predecessor but: 'statutory is the only way to get it done. PAFT taught us that.'"

¹⁸ In the Commission's Review (at p 29), it is stated, "The researchers found that inequality and discrimination related to sexual orientation are better understood, thus creating opportunities for the issues to be addressed."

¹⁹ Reeves (Reeves Associates, 2007, p 86). state, "In every sector bar education and library boards, almost half the public authorities reported no positive benefit for marital status and sexual orientation.

monitoring processes on SO, with all the difficulties of reliability and invasions of privacy which that entails.²⁰ It is not clear that the ‘democratic-participative model’ adopted in section 75 has delivered the qualitative data which was anticipated to augment quantitative data in screening and EQIA processes. Some examples of good practice emerge from the Effectiveness Review research programme and the Commission’s Annual Reports on the implementation of section 75. There has been considerable involvement by CoSO in training programmes (Reeves Associates 2006). In some public authorities, a good working relationship with CoSO has been established. There are some examples of innovative thinking in collection of qualitative data, such as anonymous staff surveys, including SO issues (Equality Commission 2006: 56). Nonetheless, in terms of positive outcomes, very few are outlined. One public authority altered its harassment policy to include homophobic harassment, a course of action strongly advisable in any event in light of the coming into force of the Employment Equality (Sexual Orientation) Regulations 2003 and the Equality Act (Sexual Orientation) Regulations 2007. A series of ELBs amended their Code of Procedures on Recruitment, Selection and Promotion (and internal trawl procedures) to take account of SO issues (Reeves Associates 2007: 94). Another public authority extended its paternity leave arrangements to include same-sex couples (Equality Commission 2006: 44). Of particular note is the setting up the Gay Police Association within the PSNI (Reeves Associates 2007).

There is at least some evidence in the McLaughlin/Faris Report of a more defensive approach to screening and EQIAs by some public authorities, placing responsibility on LGB groups to alert public authorities to potential adverse impacts on LGBs. It cannot be doubted that a lack of resources in the LGB sector has hindered the sector from performing this role.²¹

Developments in Great Britain

Reference should also be made to legislative developments in Great Britain. Largely as a result of the MacPherson Inquiry into the death of Stephen Lawrence, the Race Relations Amendment Act 2000 introduced a statutory race duty upon public authorities in Great Britain. The race duty has many similarities to the NI statutory duty in that public authorities are required to conduct impact assessments on their policies to identify adverse impacts on racial groups. There are general duties to eliminate discrimination and to show due regard to the promotion of equality of

... Marital status and Sexual Orientation are the two groups of individuals which are seen as having benefits from the least number of public authorities.” The more positive outcome in the ELB sector is explained by the close working relationship between CoSO and the Staff Commission for the ELBs and also the Association of NI Colleges (Equality Commission, 2006, pp 38 and 41)..

²⁰ Reeves also report (at p 129) that “Sexual Orientation (along with political opinion) has the biggest monitoring gap” and also that there is an absence of research into SO issues within NI.

²¹ The Commission reports (pp74-7), quoting Dickson and Harvey, “However, participants to the review reported a sense among the public that some categories or groups have benefited more than others. Public authority staff accepted the perception that some categories may have ‘done better than others’ but they attribute this perception to the legacy of the anti-discrimination legislation. However, they were also aware that some categories are perceived to do better because their representative organisations are well resourced and have the ability to ‘shout the loudest’.”

opportunity, together with more specific duties, in particular to produce race equality scheme. The general duties can be enforced through judicial review or formal investigation by the Commission for Racial Equality (CRE). The specific duties can be enforced through compliance notices issued by the CRE.

The race duty has now been augmented by a disability duty and a gender duty. Each sets out the general duties familiar in the race duty and also disability and gender specific duties. The gender duty is significant in that public authorities must not only screen new policies but must also produce an action plan setting out targeted policies of particular concern to women and men.²² This development is attributed to a perceived lack of focus in the operation of the race duty and it is interesting that this concern echoes that of McCrudden in his contribution to the McLaughlin/Faris Report.

It remains to be seen how these duties operate in Great Britain. There is still a heavy reliance on judicial review as an enforcement mechanism, although the CEHR may have greater power to issue compliance notices in relation to gender duty action plans. The Discrimination Law Review in Great Britain, considering a single equality act, may propose a single model for Great Britain across these existing duties and also their extension across the equality agenda including SO discrimination. So also the ECNI's Effectiveness Review has addressed these issues. The first, and arguably primary, recommendation of the Review is a shift of focus towards the setting and achievement of equality targets. The Commission states, 'The Commission will require public authorities to outline actions in their schemes for the promotion of equality of opportunity and good relations. Actions must be linked to outcomes, and indicators identified with which to measure progress' (Equality Commission 2007: 14).

This approach reflects the basis of the Draft Sexual Orientation Strategy and Action Plan prepared by OFMDFM and consulted upon in 2006. Reeves Associates (2006: 8) set out a range of SO specific issues:

- Prejudice
- Stereotyping
- Pensions
- Taxation
- Homophobic hate crime
- Homophobic comments
- Homophobic bullying of children in school
- Suicides

²² The English specific duties include, "To implement the actions set out in its scheme within three years, unless it is unreasonable or impracticable to do so.". The Scottish specific duties include, "Identify priorities and set gender equality objectives" and "Plan and take action to achieve gender equality objectives". The Welsh duties include, "Develop a gender equality scheme outlining their gender equality objectives and the action that is being taken to achieve them, in the interests of clarity and transparency." and "Priorities action to address the most significant gender inequalities within their remit and take actions that are likely to deliver the best gender equality outcomes."
(<http://www.eoc.org.uk/Default.aspx?page=19778>).

- Discrimination in goods and services
- Adoption fertility issues
- Heterosexual norms
- Nervousness /embarrassment
- Exclusion/silence
- Limited knowledge of issues
- Inappropriate language.

Hence an agenda already exists on the basis of which SO targets can be set. So also CoSO (2003) has set out priorities on a sectoral basis in its publication, 'Equality and Sexual Orientation'. It is clear that, whatever the normative effect of including SO amongst the section 75 grounds, the processes of screening and EQIA have not delivered the mainstreaming of So into policy-making in NI. A more targeted approach may therefore encourage a more proactive approach to SO equality.

Summary

The inclusion of SO in PAFT in the early 1990s was an unnoticed but innovative development of the equality agenda in NI for LGBs. However, an apparent disinterest in equality grounds, which could not be monitored, inhibited its effectiveness, particularly in relation to SO. The placing of a mainstreaming duty on a statutory footing was itself a dramatic development, a then unique experiment in the enactment of a mainstreaming duty. This review suggests that, despite the unambiguous inclusion of SO on the NI equality agenda, there may still be a predilection towards the collection of quantitative data, a factor that undermined the effectiveness of PAFT. So also, whatever its success in relation to other section 75 grounds, it is not clear that the 'democratic-participative model', intrinsic to section 75, has produced the flow of qualitative data necessary to facilitate effective screening and EQIA processes in relation to SO. The McLaughlin/Faris Report indicates that the application of section 75 has too frequently degenerated into a 'tick box' exercise. It appears to have been too easy for public authorities to tick the 'no adverse impact box' in relation to SO. The Effectiveness Review and its associated research programme has failed to provide tangible evidence of the mainstreaming of SO into policy making in NI, although there are some significant exceptions to this conclusion.

In this regard, developments in Great Britain, albeit outside the field of SO discrimination, may hold lessons for the effectiveness of the SO ground in section 75. The establishment of a proactive duty on public authorities to produce an action plan under the gender duty targeting policies of particular concern to women and men, and the setting of time limited targets in relation to these policies, may provide a model whereby public authorities in NI could be required to identify those policies of particular concern to LGBs and set out an action plan to amend such policies.

Ultimately section 75 is about mainstreaming equality of opportunity into policy making and it is only with a clearer focus on which policies need to be addressed from an LGB perspective that the mainstreaming of SO as a section 75 ground is likely to

occur. The Commission's Review indicates a clear shift of emphasis in NI to a targeted approach, an approach already evidenced in OFMDFM's Draft Sexual Orientation Strategy and Action Plan. It can be anticipated that this approach will accelerate the mainstreaming of SO equality into policy making in NI, producing positive outcomes which, by and large, have failed to materialise to date.

3. LGB Issues in Northern Ireland

There is a small, but growing, body of research on issues affecting the LGB population in Northern Ireland, which has highlighted a range of social and legal issues of concern (LASI 2002; NIHRC 2001; Rainbow Project 1998, 1999). Much of the literature makes reference to a belief among LGB people that homophobia and discrimination is still regarded as 'normal' and justifiable by many in Northern Ireland, and that it is still a 'respectable and acceptable prejudice' (Jarman and Tennant 2003). This has meant that it has been difficult for many LGB people to 'come out' fully because of potential repercussions to their families, work, and life in general (LASI 2002; Queerspace 2002).

The underlying 'respectable and acceptable prejudice' has led to growing levels of abuse, assault, harassment and intimidation towards LGB people due to their sexual orientation. Jarman and Tennant (2003) analysed homophobic incidents recorded by the PSNI from July 2000-December 2002 and found that a large proportion of LGB people had experienced harassment, verbal abuse, and violence. They argue that homophobic attitudes:

Have not been matched by a greater level of institutional and legal support or by a more demonstrative public condemnation of such attacks (2003: 10).

The authors also stress the need for a more diverse range of support agencies and services and a need for 'stronger institutional action' to respond to relatively 'unchallenged levels of homophobia'. Interviewees for this research believed that more attention should be paid to low-level harassment in the workplace, in schools and other educational establishments because such harassment was rarely reported to any formal authority and could thus be ignored (Jarman and Tennant 2003). McNamee (2006) also refers to problems of homophobia in the workplace and found that homophobic experiences at work were important in predicting whether a person had experienced a mental illness or had considered suicide. Loudes (2003) refers particularly to the difficulties for LGB staff working in the private sector where there are no enforceable protections. Other research has looked more specifically at the situation for lesbian women, especially those with children from previous relationships. The women voiced fears on such issues as the potential for losing custody because of their sexual orientation, limited access to sympathetic legal advice and a lack of available referral services (LASI 2002).

Research has also drawn attention to the impact that legislation, on matters such as pension rights, housing, bereavement, and child custody, may have on LGB people. Until the introduction of the Civil Partnership Act in 2004, same-sex relationships were not acknowledged in any of these arenas dealt with by public bodies, something, which affected lesbian, gay, and bisexual people's welfare benefits. LGB couples did not count as a couple legally until certain factors were evaluated, including whether they live in the same household, their financial arrangements, whether they have children, appear in public together, or have sexual relations. Breitenbach (2004) notes that within the UK and Ireland there is a growing debate about which groups of

people should be included within the scope of equality policies and strategies. She notes that there are on-going discussions regarding the experiences of discrimination and inequality within and between groups, and she highlights the need for further empirical evidence to enable the debate to develop further.

Section 75 of the Northern Ireland Act (1998) requires public authorities to have due regard to the need to promote equality of opportunity between (among others) persons of different sexual orientation in carrying out their various functions. Public authorities are also required to have regard to the desirability of promoting good relations between persons of different religious belief, political opinion, and racial group. The introduction of section 75 was welcomed by LGB organisations such as Queerspace (2002) and LASI (2002). LASI described the introduction of the legislation as 'a milestone' but also noted that without knowing the nature or size of the lesbian and bisexual community in Northern Ireland it was nearly impossible for public bodies to address inequality for lesbians and bisexuals while implementing their new statutory duties. A similar point was made by Breitenbach (2004) who argued for further research on LGBT people's experiences to facilitate an understanding of how legal and policy changes affected people's lives and how public bodies can better meet their needs.

The Northern Ireland Human Rights Commission's (NIHRC) review of law, policy and practice affecting LGB people argued that much discrimination was largely hidden because of insufficient awareness of the subject and a fear of being outed if an individual chose to complain. The report highlighted the need for further research in the areas of social work, health, housing, adoption, childcare, higher and further education and access to legal services (NIHRC 2001). Three areas where there has been some wider consideration of the issues affecting LGB people are health, mental health and education. We briefly review some of the main issues that have been identified in each of these areas.

Health

The NIHRC report (2001) stated that access to, and standards of, healthcare, are essential issues to be addressed as the law does not specifically address the healthcare needs of lesbian, gay and bisexual people in Northern Ireland. Loudes (2003) highlighted the central role in general healthcare played by GPs and a widespread fear amongst many LGB individuals of being 'outed' if they discussed their sexuality with their GP. This feeling was particularly strong amongst younger people who felt that their GPs would be judgemental about their sexual orientation and thus might 'out' them to their parents. The Rainbow Project (1998) found that the majority of respondents would not approach their GP for counselling in relation to being gay, while LASI (2002) found that lesbians also considered GPs to be ignorant of their needs and generally unsympathetic to them.

The NIHRC report also noted that the Blood Transfusion Service's ban on donations from men who have engaged in anal sex was disproportionate and unfairly discriminated against gay men. Loudes (2003) refers to the mixed messages being

sent out by health services: they refuse to accept donated blood from men who have sex with men, yet Genito-Urinary Medicine clinics offer open, non-judgmental advice on sexual health. Finally McNamee (2006) recommended that the government should fund training and resources on sexual orientation for people in health and social services, and Loudes (2003) also highlighted the need for more training for those in medicine to ensure that GPs and health professionals are able to create a welcoming environment to enable LGB people to discuss their sexuality openly.

Mental Health

A number of reports have highlighted mental health issues. Several studies highlighted the use of illicit substances and alcohol (LASI 2002; Rainbow Project 1998, 1999) and referred to the high levels of suicide, attempted suicide and psychiatric illnesses among young gay men (Rainbow Project 1998, NIHR 2001), while McNamee (2006) found that 'young same-sex attracted men' were more likely to suffer from mental health problems than their heterosexual counterparts. Loudes (2003) noted that young LGB people often feel invisible, isolated and excluded, and statistics for attempted suicide, self-harm, depression and eating disorders were much higher than among their heterosexual counterparts and LGB people are five times more likely to be medicated for depression than non-LGB people. The different studies also indicated the need to address issues of victimisation and advocated training for counsellors of gay and bisexual men, better provision of outreach support, and stronger attempts by public bodies to address substance abuse (Rainbow Project 2000).

Education

Research on the experiences of LGB people in the education system has identified problems of bullying and harassment (Foyle Friend 1998; Jarman and Tennant 2003, McNamee 2006; NIHR 2001; Rainbow Project 1998; Youthnet 2003). Most of this has focused on the experiences of young men, but the evidence also suggests that young women may be subjected to homophobic bullying. The Foyle Survey describes how LGB pupils adopt 'survival strategies' such as 'passing' as straight, denial, withdrawal from social life, becoming hostile and angry, being open about their sexuality, or joking about themselves. Bullying can have severe consequences and the evidence indicates that those who attempted suicide were more likely to have been bullied at school, received treatment for substance misuse and had psychiatric treatment (Loudes 2003; McNamee 2006; Rainbow Project 1998).

The research also identified a lack of policies in relation to homophobic bullying in the education system and recommended the creation of a task force in the Department of Education to address such problems (Loudes 2003; Youthnet 2003). McNamee (2006) argued for increased support for pupils and increased training and awareness within the educational sector. It has also been argued that there is 'institutionalised heterosexism' within the education system because of a strong religious ethos, and it has been noted some LGB pupils leave school early because of perceived institutional homophobia (Loudes 2003; Foyle Friend 1998; NIHR 2001). Research has also

highlighted difficulties faced by LGB parents within the education system (NIHRC 2001) and recommended that educational establishments need to acknowledge the presence of LGB pupils and develop sexual orientation policies, procedures and guidelines and encourage a pro-active attitude towards gay, lesbian and bisexual pupils (Breitenbach 2004; Foyle Friend 1998; McNamee 2006). The Shout Report (Youthnet 2003) advocated funding LGB training awareness programmes in the statutory and voluntary sectors, safe spaces for LGB youth and an increase in support and education for parents and guardians.

The existing body of research has thus clearly identified a number of key issues that have been regularly raised by members of the LGB communities in relation to perceived forms of discrimination in health and education; of harassment, bullying and abuse; and a general sense of having to live within a society which tolerates a degree of prejudice towards lesbian, gay and bisexual people. The following chapters explore the views and experiences of the LGB community in relation to these and other issues and the impact of section 75 of The Northern Ireland on their lives.

4. Findings from the Questionnaire

A total of 193 questionnaires were returned from members of the LGB community, of which seventy-nine (41%) were completed on-line. This included a number of transgender people who indicated their sexual orientation as lesbian, gay or bisexual. The LGB population is generally acknowledged as a hard to reach community, however the number of respondents to this survey is comparable to other pieces of research on the LGB population in Northern Ireland. As sexual orientation is not presently included in the Census of Population, there are no reliable estimates of the size and demographic profile of the LGB population in Northern Ireland therefore it is impossible to assess the representativeness of this sample.

Demographic Details

Just under half of the sample were aged under 36 with 19% aged 18-25 and 30% aged 26-35. Just 14% of respondents were aged over 50 and there were no respondents aged 65 or over.

Table 1: Age groups of respondents

Age group	Number	%
<18	1	-
18-25	37	19
26-35	57	30
36-50	71	37
51-65	27	14
> 65	-	-
Total	193	100

Thirty six percent of the sample identified as gay males, while 35% identified as lesbian and 12% as gay female and 15% as bisexual (Table 2).

Table 2: Sexual orientation of respondents

Sexual orientation ²³	Number	%
Gay male	69	36
Lesbian	68	35
Bisexual	28	15
Gay female	24	12
Other	4	2
Total	193	100

The other key demographic information includes the following:

²³ The questionnaire included an option for respondents to provide their own designation of their sexual orientation identity.

- Just over half of respondents (106 people or 56% of the total) were female while 44% (eighty-four individuals) were male. Three respondents did not answer this question.
- Twenty-two individuals described themselves as either transgender (eleven respondents), transvestite (three), male to female transsexuals (two), female to male transsexuals (one) or other (five people).
- Ninety four percent of respondents were white and 2% were of mixed ethnic background, while the remaining 6% described themselves as other (four people), Caribbean, Traveller or near Eastern (one each).
- Just over a third (35%) said they were Catholic, a similar number identified as having ‘no religious background’, and 22% said they were Protestant.
- Finally, 39% of respondents live in the Belfast area (BT1 to BT7), while a further 13% live in Derry/Londonderry, with smaller percentages living in Newtownards (6%), Newry (6%), Craigavon (5%), Holywood (6%), and Lisburn (4%).

Being ‘Out’

Respondents were asked to what extent they were ‘out’ about their sexual orientation in a variety of contexts. Table 3 indicates that respondents were likely to be more out to friends and less likely to be completely out within their wider community:

- Just over three-quarters (76%) said they were completely out with friends and just under a quarter (23%) said they were partly out with friends.
- Just over half (53%) said they were ‘completely out’ with family and 37% said they were ‘partly out’.
- Forty percent of respondents said they were completely out in their community and 48% said they were partly out and 12% said they were not out at all.

Table 3: How out respondents were in a variety of contexts

Out	Friends		Family		Community	
	Number	%	Number	%	Number	%
Completely	147	76	102	53	77	40
Partly	44	23	71	37	92	48
Not at all	2	1	19	10	22	12
Total	193	100	192	100	191	100

It is worth noting that bisexual individuals were less likely to be ‘out’ at all in a variety of contexts. Eight bisexual respondents (29%) were not out at all to their family compared to just 3% of lesbians and 6% of gay men; while nine bisexual respondents (32%) were not out at all in the workplace (see Table 5) compared to five gay males (8%) and six lesbians (9%).

Respondents were also asked about how they felt about the statement: **Northern Ireland is a tolerant environment for LGBT people?** Just over half (53%) disagreed with the statement while only 15% agreed with the statement.

Employment

One hundred and thirty five (70%) of the respondents said they were in full-time or part-time employment (Table 4). Twenty-five (13%) were in third level education and 28 (14%) were either unemployed or unable to work. Just over a third (36%) said that they worked in the private sector and just under a quarter (21%) worked in the voluntary sector. A small number (10%) indicated they were self-employed.

Table 4: Economic activity of respondents

Economic activity	Number	%
Working (full or part-time)	135	70
At university	16	8
Unemployed	16	8
At college of further education	9	5
Unable to work because of disability	8	4
Retired	6	3
Full time carer for family/other dependents	5	3
Unable to work because of illness	4	2
School	1	0
Other	9	5

Note: Percentages add to more than 100% as respondents could choose more than one option.

Table 5 shows that just over half of respondents (54%) were completely out at work and just a third (33%) were partly out, however one in eight (13%) were not out at all. More respondents within the voluntary sector were completely out compared to the private and public sectors. In contrast individuals working in the private sector and self-employed people were more likely to not be out at all.

Table 5: How out at place of employment

Out	Private	Public	Voluntary	Self-employed	Total
Completely	57	44	67	58	54
Partly	28	47	26	26	33
Not at all	15	9	8	16	13
Total	100	100	100	100	100

Half of all the people who responded to the survey stated that they had had some form of bad experience at work associated with their sexual orientation. Table 6 highlights the range of problems that they had experienced, one in five people referred to experiencing a verbal attack, whilst 14% had experienced bullying and 13% harassment. Smaller numbers said they had been refused promotion, been sacked, suspended or suffered disciplinary action. When comparing the different experiences in different sectors, verbal attacks were most common in all sectors apart from the self-employed where the majority of incidents experienced were forms of harassment. More individuals within the private sector (9%) had been refused promotion because of their sexual orientation than within the public sector (3%).

Table 6: Problems in employment due to sexual orientation

Problems experienced in employment	Number	%
Verbal attack	38	20
Bullying	26	14
Harassment	25	13
Refused promotion	9	5
Disciplinary action	8	4
Dismissed	5	3
Suspended	3	2
No experience	97	50
Other	18	9

Note: Percentages add to more than 100% as respondents could choose more than one option

Respondents were also asked who they identified as being responsible for the hostile behaviour (Table 7). Over half of the sample (54%) referred to colleagues, while just under half (44%) identified managers as the source of the problem. These figures are similar to findings in McNamee (2006) in which the largest number of respondents referred to other staff members as being responsible for homophobic behaviour, followed by clients and or customers. The majority of respondents stated that their negative experiences had taken place within the last three years (67%).

Table 7: Who caused the problems due to your sexual orientation?

Person(s) who caused problems	Number	%
Colleagues	33	54
Managers	27	44
Employers	15	25
Customer/client/user	8	13
Other	4	7

Note: Percentages add to more than 100% as respondents could choose more than one option

Forty-three people (42%) had made a formal complaint about homophobic experiences in the workplace: 38% had complained to an employer, while 34% had complained to a manager (Table 8). However, just under half of respondents (48%) stated that they had made a complaint to an 'other' body, organisation or individual. Most of these were unspecified but three individuals cited the Equality Commission and four people cited trade unions as the recipients of their complaints.

Table 8: To whom did the respondents complain

Person(s) to whom respondents complained	Number	%
Employers	21	38
Managers	19	34
Colleagues	10	18
Other	27	48

When asked about how satisfied they were with the employers' response, 53% of respondents were dissatisfied or very dissatisfied, compared to the 24% who were satisfied or very satisfied. One hundred and twenty six respondents (65%) provided written comments on what they saw as being the major issues in employment. These comments included references to 'lack of understanding and tolerance', as highlighted in the following statements:

I feel that a lack of understanding is the main issue. There has been training and awareness in the workplace in relation to minority ethnic groups, disability, etc. but little with regards to sexual orientation. I feel that managers let employees get away with using language and jokes about gay people that would not be tolerated of other groups. Stereotypes and derogatory remarks are passed off as jokes and to put oneself in the position of challenging them can mean 'outing' oneself. (Gay male, Belfast).

Many younger generation people are tolerant of LGBT colleagues, but there are still many older generation who are mostly in management who still hold onto sectarian discrimination practices, never mind accepting LGBT community. (Lesbian, Belfast)

Some respondents also referred to a fear of coming out at work:

Entrenched - and vocal - homophobia among colleagues makes people afraid to come out. (Gay female, Belfast)

Where I'm employed it would be impossible to be open about my sexual orientation. (Bisexual male, Enniskillen)

I am not out at work at all, because I don't feel like talking about my sexual orientation, the reasons being not only because I am reserved or shy, but some external reasons. I wouldn't want to cope with bullying or with harassment. (Bisexual female, Belfast)

There were also references to employers being slow to challenge harassment and homophobic behaviour:

My present employment is more tolerant and has introduced appropriate policies. Previously I worked for a health trust and they did not challenge the prejudice of my manager. (Gay male, Holywood)

Employers very slow to deal with bullying managers whatever the issues are - not only an LGBT issue. (Bisexual female, Derry Londonderry)

Individuals also referred to heterocentric policies and assumptions being made about sexual orientation:

Fear of repercussions, isolation, equal rights as partners (compassionate leave, maternity leave etc). In my experience one of the biggest problems has been the lack of understanding of the issues faced by the LGBT Community. For example – when I applied for the post I am in now, I had stated on my CV that I had done a lot of work in the LGBT community and also with the [company in question]. The members of the panel assumed I was gay and spread the word before I had even begun the job. Although it was positive that their assumption didn't stop me from getting the job, I felt that the lack of discretion had a large impact on how I was seen as a professional. I felt robbed of my choice to disclose that information and seen as [name of individual] the lesbian, not [name of individual] the project worker. (Lesbian, Caledon)

The LGBT community can feel uncomfortable and unable to share with other staff members details of their own private life if the work environment is not tolerant. Section 75 protection is rarely appropriate in workplace as LGBT individuals are rarely empowered enough to take up case. (Lesbian, Derry Londonderry)

Not enough protection for LGBT people with regards to harassment and discrimination. Although employers state that they have an 'equal opportunities' policy, very few people know what it actually means. Being discriminated on the basis of being gay is seen as 'normal.' For example, many heterosexual people find it perfectly acceptable to ask 'what is it like taking it up the ass', not only is this a completely inappropriate question to ask a colleague, but it is harassment. If I asked a female member of staff 'does she take it up the ass,' do you think it would be accepted? Definitely not! (Gay male, Belfast)

The issues in relation to employment are thus varied and individuals described a sense of alienation within the workplace, even though they themselves might not have experienced discriminatory behaviour.

Housing

Respondents had had limited contact with the Northern Ireland Housing Executive, only 19% (thirty-six individuals) stated that they had been in contact with the NIHE in the past year and only five respondents (14%) believed that they had been treated unfairly. They reported being 'refused help', feelings of being discriminated against and rude or impolite behaviour.

Respondents also referred to more specific problems they had experienced such as concerns about living in a particular area, which were not acknowledged or addressed by the Executive. In addition five respondents stated that they had problems with the allocation of temporary housing. However, none of the respondents provided details about experiences of discrimination by the NIHE.

Health

The overwhelming majority (97%) of respondents were registered with a GP. Half of the sample (50%) said they were completely ‘out’ to their doctor and 19% said they were partly ‘out’. However just under a third (31%) said they were not ‘out’ to their GP. As in other contexts, fewer bisexuals were completely out to their GP compared to gays, lesbians and gay females.

Forty-three respondents (17%) felt they had been treated unfairly by the health service due to their sexual orientation. Respondents identified a variety of examples of unfair treatment. These included employees being rude or impolite (25%) and forms of discrimination (25%), although the largest category ticked was ‘other’ (38%) which included references to ‘heterocentricity’ and of being ignored (Table 9).

Table 9: Experienced unfair treatment by the health service

Problems experienced	Number	%
An employee was rude or impolite to you	8	25
Discrimination because of your sexual orientation	8	25
An employee used homophobic language to you	5	16
They refused to help you	4	13
Discrimination because of your trans status	3	9
An employee used transphobic language to you	2	9
Other	12	38

Note: Percentages add to more than 100% as respondents could choose more than one option

When asked to identify more specific problems with the health service, the largest number of respondents (69%) referred to a lack of understanding or inappropriate advice, while other cited concerns of confidentiality (9%) and gender status (16%).

Respondents were asked to comment on the following statement: **Health workers, mental health professionals and social workers are adequately trained concerning issues of sexual orientation/gender identity.** Thirty-three individuals (17%) agreed or agreed strongly with the statement whereas ninety-six respondents (50%) disagreed or strongly disagreed with the statement. Forty-four respondents (23%) said they neither disagreed nor agreed.

Education

Over a third of respondents (37%) had had contact with the Northern Ireland education system in the past twelve months, with the largest number being students in higher and further education (15%), while the second largest group (12%) stated that they had contact with the education system ‘in their line of work’.

Of those who had had contact with the education system, twenty-nine respondents (40%) felt that they or their children had been unfairly treated due to their sexual orientation, with the largest number of respondents (37%) referring to either bullying

or not being helped (37%). The second largest group (26%) referred to problems regarding sex education in school followed by other forms of discrimination, such as harassment (17%). Of the twenty-six parents or co-parents who had experienced problems in the educational system, seven individuals (41%) referred to 'issues around LGBT' identity in schools and six individuals (35%) referred to their children being bullied.

Respondents were asked what they felt about the following statement: **The education system in Northern Ireland is free from discrimination of LGBT people?** Seventy two percent of respondents disagreed or strongly disagreed and only 4% agreed or strongly agreed with the statement.

In addition respondents were also asked what they felt about the following statement: **The education system in Northern Ireland takes a strong stance against homophobic/transphobic bullying?** The majority of respondents (69%) disagreed or strongly disagreed with the statement and only (4%) agreed or strongly agreed.

Culture and Leisure

A majority of respondents said they had not experienced any difficulties when accessing culture or leisure facilities, although nearly one in five (19%) said they had had some problems. Of those who had experienced problems, the majority referred to issues around safety of accessing a venue (69%), while others claimed that the 'activities were not reflective of LGBT issues/community' (40%), or of 'poor or limited information' on LGBT issues (34%). Other negative experiences included employees being rude or impolite (23%) and general forms of perceived discrimination because of their sexual orientation (23%). Of the thirty-six respondents who had difficulty accessing culture or leisure facilities, a large number of respondents (46%) had chosen not to raise their complaints with anyone.

Welfare Rights

The majority of respondents (62%) did not receive any benefits. Of those who received benefits the largest number of respondents (11%) received income support (Table 10). Ninety-one respondents (76%) referred to never having experienced any problems in relation to welfare rights and of the 24% who had, references were made to their relationship or partnership not being recognised (12%), gender status (4%), verbal attack (4%) and harassment (1%).

Table 10: Benefits received by respondents

Benefits received	Number	%
None	120	62
Income support	20	11
Child benefit	15	8
Job seekers	10	6
Occupational	8	5
Tax credit	7	4
Disability	7	4
Pension	1	1
Tax rebate	1	1
Other	12	7

Note: Percentages add to more than 100% as respondents could choose more than one option

General Issues

One hundred and three respondents (53%) said they felt they received the same treatment from public service providers as non-LGB individuals, but seventy-nine respondents (43%) said they did not receive the same treatment. Half of the sample were critical of the state of homophobic and transphobic harassment monitoring by public service providers, whereas 17% found it adequate and 6% good or very good.

Half of the sample claimed that there were barriers between the LGB community and public services, whereas 16% said that there were no barriers and 32% said they did not know. A large number of respondents, 88%, stated that they saw factors such as the lack of a proper dialogue between the LGB communities and society at large and in particular public bodies as the major problem. The following quotes highlight the lack of understanding that people believe existed:

It is a very small area of experience, as most people don't 'come out.' They are invisible. (Gay female, Belfast)

Still a lack of understanding and I would prefer to keep my sexuality confidential as a result. (Gay male, Derry Londonderry)

A general lack of understanding which goes unchallenged due to widespread institutional homophobia. (Gay male, Newtownards)

I don't think the general public has a realistic idea of what it means to be gay or transgender or bi etc, I think the attitude shown by officials and high profile personalities needs to be more positive in support of the LGBT community. An excellent avenue for this would be Belfast Pride. (Lesbian, Caledon)

Generally lack of understanding of LGBT issues rather than deliberate discrimination. (Gay male, Belfast)

Equality Mainstreaming and LGB People

Lack of understanding of the issues; no pressure on providers to adhere to legislation; fear of even using the word 'lesbian' or 'gay'. (Bisexual male, Enniskillen)

Lack of awareness of needs of LGBT people and hence lack of appropriate services to address needs – also homophobia based on ignorance. (Lesbian, Belfast)

There was also a sense of a general ignorance about LGB issues in society and respondents referred to the sense of 'heterocentricity':

Complete lack of awareness of our needs – assume that everyone is heterosexual. (Lesbian, Belfast)

People assume me and my partner are brothers and when you say partners, they think business partners. (Gay male, Belfast)

There is a heterosexual assumption/bias in all encounters. (Lesbian, Derry Londonderry)

Awkwardness talking about same-sex relationships. (Gay female, Belfast)

References were also made to what was seen as discrimination towards LGBT individuals in Northern Ireland:

Discrimination on a wide scale on LGBT community when trying to have children. Very little tolerance for gay parents. (Lesbian, Belfast)

Prejudice & ignorance. (Transgender lesbian, Belfast)

Sexism, racism, homophobia, sectarianism. (Lesbian, Belfast)

Ignorance, lack of understanding, disrespect and lack of willingness to do something to put it right. (Gay male, Limavady)

Depends often on the institution and its ethos. Some more aware and helpful-others are hostile or unhelpful. You end up relying on luck, i.e., that the public servant you meet is not a bigot. (Lesbian, Downpatrick)

Eighty-seven percent also stated reasons for why these barriers existed, with many commenting again on lack of education and awareness.

Lack of education, societal climate, lack of good diversity training. (Lesbian, Belfast)

Poorly educated intolerant individuals (I might add that I feel the treatment of immigrant workers is much worse). (Gay male, Belfast)

Equality Mainstreaming and LGB People

Cost, lack of adequate training. (Transgender lesbian, Bangor)

Not enough diversity training in relation to LGBT issues. Its all about Catholic/Protestant. (Lesbian, Coleraine)

I think NI has had so many issues and problems of its own, that issues such as LGBT, immigration, youth offending etc have really fallen by the way side. Now is the time to focus on the community needs. I think more research needs to be done to get a clear picture of who the NI public are, and those findings need to be made public and shouted out. (Gay female, Caledon)

Respondents also made the point that attitudes in Northern Ireland society were characterised by prejudice and homophobia:

Society creates and fosters homophobia and this infiltrates all areas of life – i.e. homophobia is institutionalised in Northern Ireland. (Gay male, Belfast)

Traditional homophobia and lack of awareness of rights legislation. (Bisexual female, Derry Londonderry)

Religious bigotry and intolerance for alternative families. Ignorance passed on from religious leaders. (Lesbian, Belfast)

LGBT people find it safer to hide identity because of fear of discrimination. No positive advertising makes this fear go away. (Gay female, Holywood)

References were also made to what was described as ignorant attitudes. Some individuals referred to the need to be out in order to know whether or not they were being treated differently or not:

In relation to some previous questions, these are difficult to answer as you have to be 'out' to know if you are being treated unfairly or discriminated against on the basis of sexual orientation! (Lesbian, Newtownabbey)

It is still a taboo issue, gay/lesbian are afraid to come out and there is little obligation on the part of public bodies to increase their own understanding. (Lesbian, Belfast)

Other comments referred to the lack of funding for LGB groups and organisations and also what they saw as a lack of consultation with the LGB communities:

Government underspend and lack of joint up strategy on LGBT health, education etc. (Lesbian, Derry Londonderry)

Lack of effective leadership, bad consultation practice, no investment of resources. (Lesbian, Larne)

Section 75 and Making a Complaint

The questions on section 75 indicated that one hundred and twenty-eight respondents (67%) were aware of section 75. The largest number of respondents (34%) said that they were aware of it through information at work, while others identified the news media, family or friends, various consultation processes or the work of LGBT organisations (Table 11). These findings indicate a higher level of awareness of section 75 than in the wider general public, a Northern Ireland wide survey carried out by the Equality Commission (2006) indicated that 28% of respondents were aware of section 75.

Table 11: Awareness of Section 75

How became aware	Number	%
Through work	46	34
In the news	29	21
Family/friends	24	17
Consultation process	24	17
Other	32	23

Note: Percentages add to more than 100% as respondents could choose more than one option

Table 12 shows that respondents would contact a variety of bodies and organisations if they experienced a problem with a public service. The largest number of respondents (44%) referred to an LGBT organisation followed by the Equality Commission for Northern Ireland (25%). A small minority (7%) referred to not asking anyone for help (Table 12).

Table 12: If you had a problem with a public service, whom would you contact for help?

Who to contact for help	Number	%
LGBT organisation	85	44
Equality Commission for Northern Ireland	48	25
Family member/Friend	40	21
Citizens Advice Bureau	30	16
Solicitor	23	12
Northern Ireland Human Rights Commission	18	9
Local councillor	15	8
Trade union	15	8
Wouldn't ask anyone for help	14	7
Police Ombudsman	10	5
Northern Ireland Ombudsman	5	3
Other	14	7

Note: Percentages add to more than 100% as respondents could choose more than one option

Only a small number, twenty-six respondents (14%), had made an official complaint about a public service. Of those who had made an official complaint, the largest

number, nine respondents (32%), had each contacted the Equality Commission and the police (Table 13).

Table 13: To whom respondents had complained

Complaint made to	Number	%
Equality Commission for Northern Ireland	9	32
Police	9	32
LGBT organisation	5	18
Trade Union	4	14
Solicitor	3	11
Police Ombudsman	2	7
Northern Ireland Human Rights Commission	2	7
Northern Ireland Ombudsman	1	4
Other	3	11

There were also a variety of reported outcomes, with seven respondents (26%) referring to their case being followed up and six respondents (22%) stating that nothing had happened (Table 14). Of those who complained, the level of satisfaction with the outcome of the complaint was divided, with 50% very satisfied/satisfied compared to 46% who were dissatisfied/very dissatisfied.

Table 14: Outcome of complaint

Outcome of complaint	Number	%
Followed up on	7	26
Nothing happened	6	22
Some other outcome	5	19
Complaint was filed/put on record	3	11
The matter is still ongoing	3	11
Told I had no case	2	7
Don't know/can't say	1	4

The reasons most frequently given by respondents who had not complained was the fear of being ignored (28%) or a belief that the incident was too trivial (27%). Nearly a quarter (23%) thought that nobody would be willing to help them and one in five people thought that nobody would be interested in their complaint (Table 15). More worryingly one in seven people said they did not complain for fear of provoking a reprisal of some kind.

Table 15: Reasons for not complaining

Why no complaint	Number	%
Thought would be ignored because of sexual orientation or gender identity	33	28
The incident was too trivial	32	27
You felt that nobody would help	27	23
You felt that nobody would be interested	23	20
You were scared of provoking reprisal	16	14
You had a poor experience when reporting a previous incident	16	14
You didn't know how to complain	15	13
You didn't know to whom to complain	12	11
You were too upset	13	11
You felt that nobody could help	10	9
People discouraged you	9	8
Other	28	24

Note: Percentages add to more than 100% as respondents could choose more than one option

Summary

More than half of all respondents indicated that they believed there were barriers between the LGB community and public bodies and there was a widespread belief in the strong presence of homophobia and heterocentric attitudes in society more generally. The main areas in which problems have been experienced were in work, the health sector and education.

- Half of all respondents had experienced problems at work associated with their sexual orientation, mainly in terms of verbal abuse, bullying and harassment.
- One in six people had experienced forms of discriminatory behaviour in receiving health care, this was mainly associated with non-specific forms of discrimination and rude or impolite treatment.
- Forty percent of those who had been in contact with the education system in the past year reported that they had received unfair treatment and in particular bullying and lack of assistance were identified as the problems.

In many cases people do not appear to have complained about the treatment they have received. Only twenty-six people surveyed had made a complaint about a public service and these complaints had been made to a broad range of bodies. Only half of those who had made a complaint were satisfied with the response they received.

In general people appear to have been reluctant to complain about receiving discriminatory treatment because they believed the complaint would be ignored, that no one would help or that the incident was too trivial.

But it is also worth noting that when people were asked whom they would turn to for help if they had experienced a problem with a public service, most people favoured an LGBT organisation over a statutory body.

5. LGB People and Public Services

Interviews were held with representatives of ten LGB organisations, while two focus groups involving thirteen people and twenty-three individual interviews were also held to identify the key issues in relation to the LGB community and public services. These interviews and discussions were designed to expand on the themes being explored by the questionnaire. Many participants initially expressed a sense of disengagement or lack of interest towards public bodies, feeling that issues, such as section 75 and accessibility were of no relevance to them. However, in the course of the interviews many of the participants indicated a variety of experiences in relation to their interaction with various public bodies and identified potential benefits that would flow from stronger appropriate relationships between the LGB community and public bodies. The interviews identified a range of issues associated with the areas of education, employment and health, as well as a range of more general issues related to legislation, section 75 and general barriers and discrimination.

Education

Lesbian, gay, and bisexual people indicated that they encountered numerous issues within the education sector. Interviewees highlighted that education was not solely a relevant issue for current or past pupils, students at institutes of further or higher education or university, but also for gay teachers, non-gay teachers who receive homophobic abuse, gay and lesbian parents, counsellors, and school officials. Experience of bullying and harassment were prominent in discussions of being gay at school, with experiences including exclusion, name-calling and physical beatings:

When I told everybody that I was gay, I used to get stones thrown at me ... someone punched me in the eye and I ended up in hospital. (Young gay male, focus group member, Belfast)

I wasn't liked in school because I looked like a lesbian according to, you know, everybody in my class. Now I'm in another training organisation, and some of the girls know that I'm gay, but the boys I would be absolutely terrified to tell them. I remember when I was 15 I was at a children's home, and when I got back to school I was bullied, 'oh your mum and dad doesn't want you because you're a lesbian', because I had really short hair and I looked like a boy and all, and like I got really bullied. (Young lesbian, focus group member, Belfast)

*I got called names like f***ing lesbian or rug muncher along those lines and even got physical abuse a few times, pushed about the corridors in between classes and that. There was one time in particular I remember some of the younger students got a fire extinguisher and set it off in the corridor and all the powder went everywhere all over me and people that were walking behind me while they laughed just calling me a stupid dyke and the school didn't even send me home it was an "accident". (Lesbian, Coleraine)*

Others referred to the desire to keep their sexual orientation anonymous and feared that coming out in school would result in bullying. This was compounded by a fear of not being supported within the school. Current and former pupils had little faith in teachers and counsellors to address their complaints:

They [teachers] just pushed me to the side, saying he's gay. I stayed in school, being taunted every day. (Young gay male, focus group member, Derry Londonderry)

One female interviewee reported being questioned in some detail by a male form tutor about her sexuality:

I said to him, this is what I am, I know what I am, and I don't need to actually have slept with a boy, he says 'no, no, no,' trying to get himself out of it, 'no, that's not what I meant.' And I said, 'no actually sir, I completely understand what you mean' because he had said it before to a girl, that was a couple of years ago. (Young lesbian, focus group member).

Another person had experienced considerable bullying from classmates and eventually left school due to the abuse, but she also noted a lack of sympathy from teachers:

I also overheard a teacher of mine discussing it with other teachers like it was some big joke.

She found little help or guidance from the school and a counsellor did not officially report the harassment to the head of the school, as the following account explains:

When I explained everything to the school counsellor and that I was getting abuse everyday about being gay he looked genuinely shocked like he'd never heard of anything like it before. I just felt so embarrassed and so did he. I went back to him a few times after that and he didn't really know what to tell me and nothing was ever reported or anything like that. Then I just stopped attending the school all together because I didn't know what to do and nothing was getting any better. I missed my exams and I had to be hospitalised because I tried to kill myself because things were just at an all time low. I spent 2 weeks inside the psychiatric ward where I received further counselling and nurses that I actually felt I could talk to, they were very helpful. (Lesbian, Coleraine)

This former pupil's story shows the importance firstly, of schools developing and proactively implementing anti-homophobic bullying policies and, secondly, of adequate training of school counsellors. This student's positive experience with counselling at a hospital highlights the fact that there are counselling strategies for LGB youth that schools could learn from and implement.

In contrast to the negative school experiences above, one pupil reported that she had one teacher who was supportive and directly addressed homophobic bullying at school:

I've had one positive experience in school. [A teacher] helped me a lot when my little sister was getting bullied because of me. She went and sorted that out straight away. She went to the principal, she went to everyone and got it sorted. She spoke to the girls who were bullying my sister as well. (Young lesbian, focus group member)

The interviewee was impressed by the rapid response of this teacher, and her willingness to address the problem at all levels by talking to the principal, the pupils doing the bullying, and the pupil being bullied as well as the interviewee herself. A student at an institute of further and higher education also found the actions of one of his tutors supportive when he put a rainbow flag on his door indicating he was LGB friendly. In addition the tutor offered support when needed:

My tutor at tech was supportive, saying well, 'is youse having safe sex?' to me. But you see in school, they never asked me at all how I'm having safe sex. They're just portraying it with a fella and a girl. (Gay male, Belfast)

Another participant in a focus group also referred to a positive experience when entering further education:

It was a different attitude and staff was more open like and people were more grown up. (Gay male, Derry Londonderry).

Sex education was another pertinent issue within the education system. Interviewees commented that sex education was often avoided, dealt with quickly and with little detail, or directed only at heterosexual pupils. Few people had received information specifically about safer sex for LGB individuals when they were pupils and those who did noted that teachers encountered considerable resistance from their classmates.

At my school, it was a Catholic school, a Catholic all-girls school, and the only time we learned anything to do with sex was in biology class, there wasn't even a sex education. We learned in personal development about safe sex and stuff, but that was it, it wasn't even, you know, the birds and the bees and all that there rubbish. (Young lesbian, focus group member)

One interviewee said that their teacher did include safer sex for LGB people and he attempted to educate pupils on stereotypes, which exist:

I thought he dealt with it very well, and then later on he did a true or false quiz. One of the questions was 'does gay men and women have more, enjoy sex more than straight people do?' but like he just said the answer is equal because everyone was saying how can gay people enjoy sex? (Young lesbian, focus group member)

In contrast, some schools left students feeling severely judged about their sexual orientation, especially within certain subjects such as religious studies:

The first time I heard the word homosexuality in my school was in religion class, I was in third year, and I remember going to my mum, 'am I going to hell?' (Lesbian, Belfast)

In third year, you're twelve or something, and if they're telling you that in school, and you've come out and you're gay and you know you're gay, and they're teaching you, oh, you're going to hell. (Young lesbian, focus group member)

One respondent felt that schools should not just focus on sex but should also discuss relationships:

They should do it more relationship-wise, not about sex and having babies and stuff, it should be all different sorts of relationships, like girls and boys, and focus on the relationship part, rather than on the sex education part. (Young lesbian, focus group member)

Interviewees agreed that improved education was required both for LGB individuals on safer sex and other pupils to overcome bias against LGB people. A gay teacher felt that the exclusion of LGB individuals in sex education discussions was a serious issue and he felt educational bodies should take the first step and consult with LGB organisations to improve the situation. One current pupil agreed, commenting:

It's just down to education in schools, like even in sexual health issues, cover everything and not just heterosexual. Because even people who are heterosexual they probably want to know as well. (Young lesbian, focus group member)

The key problem areas in education identified by interviewees were related to first, the prevalence of homophobic bullying and the apparent limited capacity or willingness of schools to respond positively to the problem; and second the lack of any acknowledgment of homosexuality in sex education. Both of these issues have been highlighted in other LGB research and this study reaffirms the need for greater awareness of LGB issues among adults working at all levels of the education sector.

Improving the Educational Sector

Individuals were asked to state what they felt would improve the situation for LGB people in the education system. Some felt that schools and education establishments must first acknowledge gay, lesbian, and bisexual pupils' needs, with regards to bullying, sex education, and other manners of supporting pupils. One woman made the point that the existence of LGB pupils is sometimes ignored:

Schools and education system refuse to acknowledge that there is such a thing as LGB...particularly church schools, but even in state schools it is ignored. (Lesbian, Belfast)

Another interviewee stated that the awareness of LGB issues in education was poor:

Governing bodies [in education] are not sexually orientated aware...they have not had that kind of training about vocabulary...as far as the church is concerned, of course it is an abhorrent sin, this is the way they look at it in their school structures and within their own churches. (Lesbian, Belfast)

This, in the view of one interviewee, led some young people to have difficulties accepting their sexuality. This person felt that students needed to be taught to accept themselves, no matter what their identity is:

You have to start young with people and giving them a positive role model and letting them know that actually they're not sick, and that their identity, whatever it is, is o.k. (Young lesbian, focus group member)

Many interviewees stated that school offered a degree of protection and on leaving school and entering the real world people sometimes found it a shock. One woman said:

I was like oh my god you know, what kind of world am I in? People who take drugs, and there's Catholics and Protestants, and gays and who wear women's clothes, and I was really shocked. But see, if they had taught you that at school, it would've been fine. Because you would know all that, because if people have never met a gay person and don't know anything about gay people and then they leave school or university, and they're like, 'oh my god.' (Young lesbian, focus group member)

There was also a sense amongst interviewees of feeling excluded when teachers in lectures made reference to 'traditional family set-ups'. One interviewee stated that the work in university was based on the stereotypical family:

Definitely case studies or assignments are all very based on an assumption of somebody's family set-up it is not just about LGBT but also about single parents. My experiences of education as a learner are very much based on that, that it's still very much the stereotypical family when that is not the world that we live in (Gay female, Belfast).

Furthermore, in addition to the type of work creating feelings of exclusion, the forms that students are required to complete can be an inadvertent source of 'outing'. These forms are based on divulging information such as next of kin, which for many interviewed was their partner, but revealing this would also reveal their sexual orientation:

The paperwork even, you know sitting filling in your forms at the beginning of every term, who's your next of kin, what relationship are they to you, you know and I realise that while I'm someone who's quite happy to deal with that, there's an awful lot of other people out there who will put down their next of kin as being one of their parents because they would be too embarrassed because of the way this system addresses it. (Gay female, Belfast)

A number of interviewees were disappointed that schools are not individually designated for the purpose of section 75. A representative for a young people's LGB organisation noted how young people had approached the organisation about their experiences in schools, which led the organisation to believe that schools did not do enough for LGB pupils and indeed often did nothing. The representative also stated that many individuals who experienced problems found these to be exacerbated by the fact that they could not discuss them at home as they were not out to their parents.

Dealing with Bullying

Several interviewees felt that homophobic bullying, harassment, abuse, and name-calling of students and teachers were not properly addressed and acknowledged by schools and other educational establishments. In the view of one interviewee, schools had failed to recognise how big a problem bullying of LGB individuals was:

Bullying is a major problem for gay people at school and I think more needs to be done about schools' approach to this. I feel that often bullying of gay people in school is often ignored unless it is serious. In particular verbal abuse seems to be blanked and often teachers go along the lines of ignoring what they hear being said I think more needs to be done to educate children from an early age that being gay is normal and that it is ok to be accepting of gay people. (Gay male, Belfast)

Some of the interviewees claimed that while schools and educational establishments had developed mechanisms and policies for dealing with racism, they had not done the same for homophobic bullying. Many felt this was unfair:

They need to have something, because if a child was being bullied for being of a different race or something, they would have someone to send them to, but they don't see homophobia as important. So people would get reprimanded more if they were giving racial abuse or something than if they were calling someone gay everyday, then it wouldn't be. (Lesbian, Belfast)

They wouldn't tolerate racial abuse in school. Like if you had a Pakistani teacher and you called her a name, like 'Paki,' you'd be expelled straightaway, but if you call a teacher a queer or a faggot, nothing's said about it. (Young lesbian, focus group member)

Ways of helping with bullying included sharing experiences with those who had also been bullied. One interviewee who had a particularly bad experience referred to how

sharing experiences had made her feel less alone and not the only one who was suffering:

Now that I am older and hopefully a bit wiser I have been talking to a lot of other LGB people about the different experiences they have had too and have found out that a lot of them used to self-harm and were in hospital like me too. It made me realise that I wasn't just the only one and it's so much easier to open up and talk to those who have experienced the same because they understand. (Lesbian, Coleraine)

Teachers, Training and Awareness

Several interviewees felt that teachers within the educational system needed to be made more aware of issues affecting LGB individuals. One interviewee felt that this should start at teacher training level with awareness of LGB issues being raised and in particular the impact of homophobic bullying on pupils:

They should train the teachers first, they do not have enough information, they need to know and understand that homophobic bullying is unacceptable. (Gay male, Derry Londonderry).

Other interviewees also referred to the importance of teachers and other staff offering support. However, it was felt that this support could not be given if staff were not aware of the issues that affect LGB pupils. One interviewee suggested that if all staff did not receive training at least one representative from each school should:

Even if they're not going to train every single individual teacher, they should have someone at least who knows, if someone goes to that teacher and says, 'look I'm being bullied for being gay, or people are perceiving that I'm gay,' they should have someone, like a specific teacher they can go to who happen to be, happen to have some sort of counselling, or something, or even get a counsellor in from outside. (Young lesbian, focus group member)

Interviewees also commented that pupils needed role models and teachers should therefore be open about their sexual orientation if they were gay; lesbian or bisexual. Some individuals claimed that if more teachers came out it would help pupils who were maybe struggling to come to terms with their sexuality:

They should encourage teachers who are gay to come out because it would help. (Lesbian, Coleraine)

If the educational system made it easier for people to come out, because, like, most schools probably do have a gay teacher, and if they feel they can come out, then that would be someone for kids to go to. (Young lesbian, focus group member)

One gay teacher referred to how former pupils told him that he, as a gay teacher, had made a difference to them as the first gay person that they had met within the education system. But there was also a view that teachers who were open about their sexuality might also be subjected to negative reactions:

People might say, 'oh he's a perv.' But that person could actually help that young person, and be like a mentor to that person who's going through that trouble, do you know what I mean? (Young lesbian, focus group member)

Parenting

LGB individuals who also were parents were asked about their experiences within the education system. They raised concern about the safety of their children, enforcement of bullying policies, and the support given to pupils of LGB parents. One interviewee referred to her and her partner's experiences:

Since we enrolled our son at school last year, one of the biggest things we had about choosing a school was a school where we knew we'd get support, we went round we went to probably nine schools before we decided on the one that was right for us and our son. We looked at the school's anti-bullying policies, we talked to the schools, so we immediately had to make an appointment with the heads and tell them about our family set-up so we could gauge whether or not we thought it was the right place where we as a family would be accepted and where our son would be safe. If he was bullied by other children, we wanted to ensure that this was a school who would be prepared to face this off.

When she was asked about best practice regarding anti-bullying policies, the parent emphasised the need for policies to be actively enforced. Furthermore, LGB parents, like most parents, wanted their child, not their relationship or sexual orientation, to be the schools' priority:

We weren't interested in it being about us, as a couple. We were interested the priority being our son, that no matter what, if a discussion happened, if it was ever felt at some stage that my son was uncomfortable because of our family circumstances that they didn't want both of us going up to parent/teacher evenings, then that's fine if that comes from him. I wanted whatever was in the best interests of him. (Lesbian, Belfast)

Parents also referred to the deliberations and considerations placing their child in a particular school. Many families are increasingly non-traditional, with a single mother or father, or children who live with relatives other than their parents. While children with LGB parents may have specific needs, their needs also dovetail with the needs of other children of non-traditional families. Parenting, adoption, and legal guardianship all arose as issues that gay, lesbian, and bisexual people are facing, particularly in terms of how they are treated by public bodies regarding their rights. One interviewee referred to her experiences:

My partner and I, we have a son and that has opened up a whole world of public services from access to doctors and the 'who are you' syndrome. Now I am his legal guardian, we've gone to court, we're the first couple in NI who have joint residence, so therefore I have legal guardianship. (Gay female, Belfast)

Her comments reflect the challenges faced by LGB parents who are not the biological parent of the child. Furthermore, she and her partner are in the process of adopting a child, and she feels that the adoption and social services systems have not been trained and educated in how to address the question of same-sex couples adopting.

The whole [adoption] system doesn't know how to deal with anybody who is not married, church going with 5 children already, so you can imagine what it was like for us coming into the system, but even the paperwork, let's go back to the very basics, it's not even person one, person two; it's 'Mr.' and 'Mrs.' from the very, very beginning. So when you go into the system, you don't fit, the whole system, the whole template.

She felt that the paperwork was not adapted to fit the needs of LGB persons, or even of single parents. The theme of 'not fitting' arose once again. As well, she found that she and her partner faced stereotypes and assumptions about their family during this process:

The public service set up within the social services meant that they made assumptions left, right, and centre, which we had to correct them about. So assumptions are made about same-sex couples with regard to their ability and their family set ups. People assume that you are not connected or supported by their families, people assume that gay men have double incomes and have disposable incomes, there are a lot of assumptions made about stereotypes, and our experiences of challenging those assumptions have been a mixture of surprise and genuine acceptance to complete disbelief, a complete un-openness to accepting that what they assume is the norm is not the norm.

Additionally, she and her partner found that they had to be perfectly prepared for any question that might arise. Though they succeeded in being added to the list of potential adopting families, she had been told that a heterosexual couple would be considered preferable. Though this couple was comfortable and confident enough to pursue the route of legal guardianship and adoption, another mother commented that she would not reveal to her fellow students that she is gay and has a son from a previous relationship.

And another thing, I won't tell them that I have a son, because if I decide to tell them I'm gay, I think that we're even worse. Oh, a gay mum. I think that would just be hilarious to straight people, not straight people, but people who are straight and don't have clue. (Young lesbian, focus group member)

These interviews illustrate some of the problems LGB people experience within education and highlight how some issues, particularly those associated with childcare and parenting affect not only education but the interaction with a potentially much wider range of public services.

Employment

The majority of interviewees had little or limited experience of difficulties at work associated with their sexual orientation. But among those who had had difficulties, references were made to harassment and discrimination, while some people also raised concerns about forms of exclusion and failure to get promoted because of their sexual orientation.

Discrimination

Interviewees referred to experiences such as discrimination and harassment in the workplace. One union representative referred to homophobic bullying in the workplace which is sometimes viewed as an 'acceptable prejudice':

There's also a tacit acceptance that if you're gay and if you're maybe even out a bit, you've got to take a certain amount of slagging. Which, if it was a black person, would be considered racist abuse, but if you're gay, it's like, can you not take a joke? So again, they don't want to lose their job... there's a presumption and assumption that a lot of gay people put up with an awful lot before they'd be willing to take a case.

Experiences of discrimination and harassment ranged from exclusion, name calling, verbal abuse, and in some cases physical abuse. This involved a range of work colleagues, managers and employers. Needless to say, these experiences can severely impact one's working life, as reported by this interviewee who referred to being continuously harassed by colleagues:

Three male colleagues continuously harassed me verbally, and some used bully tactics that seriously affected my work performance and general life - most affected was my ability to think and retain information. These three men also encouraged others to join them as they would lead a homophobic and hate saga against me directly or gay men in general - making rude and derogatory comments and saying things like - not real men - referring to gay men in a female role - and laughing at comments like 'shirt lifter'. Over time, people who knew me (friends) at work witnessed this behaviour and how it was affecting me negatively. I was openly gay to most of my family and friends and held and still hold the view that my and other gay men's sexual orientation is a private topic not to be played with by suspecting employees. Eventually the constant negative remarks and slow co-operation got too much for me and I broke down. I reported everything to my employer. (Gay male, Limavady)

A woman from Belfast referred to an incident five years ago when she was told that her sexual orientation would be a problem for her working as administrative staff. Her boss bullied her, and she stated that this had a definite impact on her self-confidence and self-esteem. As a result of her experience, she decided to become self-employed. Subtle and more obvious forms of discrimination were reported, some interviewees referred to experiences of name calling in their place of work, while others referred to exclusion and being ignored in the workplace because of their sexual orientation. One interviewee recalled her experience:

When I first went to that office, nobody talked to me, you know. I was quite out, when I say I was quite out, in the context of my work, people are always talking about their personal lives and what have you, and I thought, well, I'm not going to be silenced just because I'm a little bit different, so I've always been kind of out (Lesbian, Belfast).

One individual found it took at least a couple of years before she was fully accepted in the office:

Well, you know, I'm really popular, actually I am really popular now. It's like, fuck you, fuck the management, I've actually got loads of people on my side now. They just like me for me, nothing to do with queer, nothing to do with blahdy-blah, but just how I get on, how I am. So it's really turned, but it's taken a couple of years, you know. (Lesbian, Belfast/Lisburn)

Individuals also referred to other forms of exclusion such as when assumptions were made about an individual's sexual orientation or where derogatory comments were made about LGB individuals. One interviewee referred to her experience:

The senior [manager] was doing a presentation, and within the team, there is another closet lesbian, and basically, this senior was congratulating the girl who got engaged, and then went right through the team, and said 'and such and such will be next.' But she made a presumption about the closet lesbian and said she would be the next to have a man on her arm, as if that makes you complete. It's kind of sexist as well, you're only half a person if you don't have a man. Things like that happen all the time. And she completely omitted to talk about me. (Lesbian, Belfast/Lisburn)

Promotion

In some cases individuals referred to the feeling that promotion was not an option for them because of their sexual orientation. One individual stated how she was told she had been promoted too high in the organisation:

I was told that I had gone further than I was ever meant to have gone. (Gay female, Belfast)

These comments were echoed by another interviewee, who believed that she had been passed over for promotion because of her sexual orientation:

And then when the post was advertised, I was asked if I was going to go for it and reminded that, first of all there was a lot of competition in for it, because I was in the organisation, I knew there has not been one application in. I was told that basically maybe I was not meant to work in the area, that it was the wrong place for me (Lesbian, Belfast).

When questioned further about this she also felt her gender had also inhibited her chances:

Well, I think it was my gender as well, it's a traditional community. But saying that, there's a double whammy going on. I've already been open about my sexuality, and it's nothing to do with my work as far as I'm concerned. (Lesbian, Belfast)

Other interviewees felt they were excluded from promotions because of their sexual orientation, with their exclusion communicated in subtle ways. Several interviewees commented that they did not 'fit the boxes' due to their sexual orientation, and, for some women, due to their gender as well. This led to job dissatisfaction and, at times, served as the main reason for leaving their employment.

I'm self-employed, and part of the reason for being self-employed is that I felt I was hitting a blank wall by being, by working for a company. . . . [it] just got to the point where there was nowhere else to go and was very clearly indicated to me that I did not fit the boxes (Gay male, Belfast).

Reporting Problems

When LGB people face discrimination, harassment, or bullying at work some choose to report it, while others do not. Individuals referred to the desire to keep their sexual orientation anonymous, preferring not to come out in their place of employment for fear that this would result in bullying or not being supported. Making a complaint could lead to their sexual orientation being revealed and they preferred this to remain confidential. One interviewee explained how her sexual orientation had nothing to do with her ability as an employee:

To complain would have meant possibly outing myself which I did not want to do as my sexual orientation has nothing to do with my abilities as an employee (Gay male, Belfast).

Many interviewees felt that some people might not report incidents or make a complaint due to the lack of knowledge on how to pursue a case against an employer or what was involved in the process. There was also a sense that individuals might be uncertain about the financial cost, time and personal cost involved. References were also made to the fact that individuals were rarely empowered enough to bring a case

