Equality and Human Rights Commission
Policy report

Beyond tolerance

Making sexual orientation a public matter

Equality and Human Rights Commission

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‘Traditionally, sexual orientation has been seen as a private matter... but without clearer evidence – on where lesbian, gay and bisexual people live, where they work, what their experiences and needs of public services are – we are missing a vital piece of the jigsaw. Evidence is the key to making services reflect everyone’s experiences and meet their needs.’

Foreword

It would be easy to be complacent about the developments in sexual orientation equality in the last 10 years. Employment rights, civil partnerships, changes to adoption law and the removal of Section 28 of the Local Government Act 1988 have all transformed the everyday lives of lesbian, gay and bisexual (LGB) people. Today, there are openly lesbian and gay politicians in each of the three main political parties: this would have been unthinkable even a few decades ago.

The path towards fair treatment and protection in the law has not been straightforward. That we have come so far is in part testament to the passion and sheer tenacity of campaigners who have been willing to stand up and say that the millions of LGB people in this country – students, employees, tax payers and parents alike – deserve better than to be treated like second-class citizens.

As is explored in this paper, this year is the 40th anniversary of the Stonewall Riots and the birth of the modern LGB rights movement. This presents an opportunity to reflect on the positive achievements of the past, but also to look forward to the challenges and issues that remain to be addressed.

Our groundbreaking new research shows that in 21st century Britain, despite legal advances, homophobia still has an unacceptable everyday impact on the lives of LGB people. Attitudes have undergone a sea change over the last few decades, with much greater understanding and tolerance. However, the fact that LGB people feel that they can't be open about their sexual orientation in their local neighbourhood, that LGB students still experience unacceptably high levels of bullying, and that LGB people would not even consider certain jobs for fear of other people's reaction, is a worrying sign that prejudice and discrimination still limit people's choices and chances in life.

The work we are publishing today calls for a new and radical approach. Traditionally, sexual orientation has been seen as a private matter, not the business of wider society. Of course, the private lives of individuals are not for public consumption, but without clearer evidence – on where LGB people live, where they work, what their experiences and needs of public services are – we are missing a vital piece of the jigsaw when it comes to making public policy. Evidence is the key to making services reflect everyone's experiences and meet their needs. Therefore we consider it vital to start collecting more robust data.

We are aware that the government and other public bodies may lack the confidence to ask for information about sexual orientation. Some people fear that they will be forced to reveal personal information they regard as private; many are concerned that it will fall into the wrong hands. Those are understandable anxieties. That is why our proposals are entirely voluntary – no-one will have to give information they would rather not. But if our society is to be fair to lesbian, gay and bisexual people, it's important to know the facts. Data matters – because injustice that goes unseen goes uncorrected. How can we expect care homes to be sensitive to the needs of older LGB residents, or schools to the needs of the children being brought up by same-sex couples, if they don't even acknowledge they're there? It's important to make the case so that everyone, straight and gay, feels comfortable about volunteering the information, safe in the knowledge that it will be used confidentially and in the interests of making public services work better for everyone. LGB people as tax payers, service users and employees should not be tolerated begrudgingly: they should have the same chances to flourish as anyone else, and greater transparency is one key to achieving this.

The Equality and Human Rights Commission, as the first public authority with a statutory remit for delivering on equality, human rights and good relations, will monitor the performance of bodies in addressing the issues we have set out in this paper. We will be ready to take action if significant progress is not made. We will continue our drive to push this up the public agenda, and to make sexual orientation a public matter.

Trevor Phillips
Chair
Equality and Human Rights Commission

Introduction

2009 is the 40th anniversary of the Stonewall Riots in Greenwich village, New York. The disturbances that took place, beginning with resistance against a police raid, are widely viewed as the start of the modern LGB (lesbian, gay and bisexual) rights movement in the western world, including Britain.

Over the past four decades the campaign for LGB rights has addressed a wide range of aspects of discrimination and prejudice including protecting people from dismissal from work on grounds of their sexual orientation, tackling hate crime, challenging homophobic bullying and removing discrimination in accessing services – from booking a hotel room to applying to adopt.

The Equality and Human Rights Commission (the Commission) was established in 2007 as the first public body in Britain with a mandate to protect, enforce and promote equality, reduce inequality, eliminate discrimination and build good relations for LGB people, as one of seven 'protected' groups. Much has changed for LGB people since 1969 and now is an ideal time to reflect upon what has been achieved and the challenges that remain.

This paper reports on the Commission's initial 18 months of research into the experiences of LGB people in Britain today, what needs to be done to tackle the damaging discrimination and disadvantage LGB people face and where organisations will need to focus in order to address the changes required.

'We want to go back to focusing on our lives, not fighting for our freedoms.'

LGB campaigner, 2009

Where we are today

‘Nearly four in 10 lesbians and gay men reported that they had been bullied, felt frightened and had suffered from low self-esteem.’

Ellison and Gunstone, 2009

What is the situation today?

A decade of progressive legislation has introduced unprecedented rights and protection under the law for LGB people in Britain including:

- the introduction of civil partnerships which give legal recognition to the relationships of LGB people
- the opportunity to adopt for openly LGB people
- rights of succession for same-sex couples under a housing tenancy when a partner dies, and
- protection in law against discrimination in employment, goods, facilities and services.

There has been a positive change in attitudes towards LGB people. In 1987 the British Social Attitudes Survey revealed that 75 per cent of people thought homosexuality was 'always or mostly wrong'. By 2008 this had substantially lowered to 32 per cent.[1]

A new online survey of over 5,000 people for the Commission revealed that the overwhelming majority (83 per cent) of heterosexual men and women would be happy or would feel neutral about the prospect of having a manager at work who was openly LGB. Eighty-eight per cent felt the same way about having close friends who were openly LGB and 84 per cent felt this about being treated by an openly LGB doctor.[2]

While this suggests greater acceptance of LGB people, prejudice still exists. For example, one in four (25 per cent) of heterosexual respondents to the survey said they would not be happy to vote for an openly LGB candidate for Prime Minister. One in five (21 per cent) of heterosexual men and women did not feel that lesbians could be equally good at bringing up children as other women and just over a quarter (27 per cent) felt the same about gay men's ability to bring up children as well as other men.

The challenges that remain are not just centred on public attitudes. New research for the Commission indicates that homophobia still significantly impacts on the lives of LGB men and women and remains entrenched within institutions and communities.

'55 per cent of gay men, 51 per cent of lesbians and 21 per cent of bisexual women and men said they would not live in certain places in Britain because of their sexual orientation.'

Ellison and Gunstone, 2009

[1] Ward and Carvel, 2008.

[2] Ellison and Gunstone, 2009.

Over half (51 per cent) of gay men, 61 per cent of lesbians and a quarter (25 per cent) of bisexual people felt that they had experienced disadvantage as a result of their sexual orientation. The examples given were wide ranging, but the most commonly mentioned related to neighbourhoods, experiences at school and universities, problems with their family, having to live in secret or without as much freedom as they would want, and openly homophobic verbal and physical abuse.[3]

'I want to be able to be gay in my last days. I don't want to have to hide again and I particularly don't want to have to hide because the home help is coming round...'

Pugh, 2008

The legal and social achievements over the last 40 years have clearly improved the lives of LGB people throughout Britain. Despite this, it is still the case that as a result of prejudice and discrimination linked to their sexual orientation:

- a fifth of gay men (19 per cent) report having been physically assaulted and 6 per cent of lesbians report having been sexually assaulted as a result of their sexual orientation
- 63 per cent of gay men and 66 per cent of lesbians have experienced name calling
- nearly four in 10 lesbians and gay men reported that they had been bullied (37 per cent), felt frightened (38 per cent) and had suffered from low self-esteem (42 per cent).[4]

This research indicates unacceptable levels of discrimination adversely impacting on people's lives. It has significant implications for policymakers and employers alike.

[3] Ellison and Gunstone, 2009.

[4] Ibid.

Beyond tolerance

There is continued unease and inconsistency about discussion of sexual orientation in the public sphere, on both a formal and informal level. Often LGB people are tolerated as long as sexual orientation is a private matter.

We live in a society where heterosexuality is the norm and other expressions of sexuality are hidden and this in turn has affected confidence in public expression of LGB lifestyles. Assumptions perpetuate misunderstandings and people get treated differently as a result – sometimes unequally and unfairly.[5]

A radical rethink and change of approach is required. Whether people are single, married or living in civil partnerships, living alone or with others, sexual orientation will be part of their personal stories, however little or much they choose to share with others. And so sexual orientation matters in terms of people's sense of self, attitudes and behaviours.

There is a vital difference between privacy and invisibility. People have not been asked about sexual orientation until recently in official surveys and for public purposes, for example workplace and service monitoring. As a result LGB lifestyles have remained largely invisible.[6] This lack of visibility and awareness has meant that significant disadvantage and discrimination has gone unnoticed and remained unchallenged. In the past being LGB was classified as a medical condition and the public focus was on the sexual activities of LGB people. This meant that disadvantages in physical wellbeing, health, education, employment, and participation in leisure activities related to sexual orientation were ignored.

> 'It is still socially unacceptable to be affectionate with your partner in public...'
>
> 29 year-old lesbian. Ellison and Gunstone, 2009

[5] Botcherby and Creegan, 2009.

[6] Ibid.

Collecting the data is critical

Due to long standing nervousness and reluctance in dealing with LGB issues there has been little to no concerted effort to collect data on the size, location, or specific needs of the LGB population across sectors.

In their recent review of evidence on sexual orientation for the Commission, Mitchell et al. (2009) concluded that 'the absence of reliable statistical data on sexual orientation presents a major obstacle to measuring progress on tackling discrimination and tackling inequality'. The collection of public statistics or monitoring data on sexual orientation has been virtually non-existent in Britain to date.

Data collectors generally have been reluctant, uncertain or unconfident about asking questions on sexual orientation. We are, however, slowly beginning to see progress and increased confidence. For example, from this year British people will be asked a sexual identity question if they take part in the Integrated Household Survey (IHS).

Yet, despite this, the national Census for England and Wales will still not include a question on sexual orientation in 2011. As an indicator of invisibility, this has created the anomaly that sexual orientation and transgender status are the only legally protected equality characteristics which are not contained in the national Census.

The Census provides the biggest dataset on the overall population and sub-populations at national and local levels and so is used, for example, by all public bodies in developing their services according to user need. The decision to exclude a question on sexual orientation in the 2011 Census means that LGB citizens are denied this benefit.

'It all comes back to the evidence base, what's the evidence base, what's the need and what can be done about that need?'

Breaking the Cycle, LGF 2008

The majority of people in our survey sample (75 per cent) feel it is acceptable to ask questions about sexual orientation in large national surveys and there is no widespread opposition to the inclusion of a non-compulsory question on sexual orientation in the 2011 Census. Only 22 per cent would oppose its introduction.[7]

[7] Ellison and Gunstone, 2009.

So why is there reluctance to monitor sexual orientation?

There appears to be a vicious circle effect to the non-collection of data and action:

- Data collectors are not committed to collecting the data and, when they do, the practice is inconsistent. This is partly because they do not see the case for doing this, are reluctant to do so, or believe that some LGB people are reluctant to report their sexual orientation.
- This then leads to public bodies claiming they lack evidence and so do not see the case for taking action on LGB issues, meaning that action to tackle inequalities is weak or non-existent.
- LGB people experience discrimination and they see that there is little attempt to collect data on sexual orientation or take action. This fuels mistrust and suspicion regarding how the data will be used and a belief that nothing will happen. The circle continues and the situation perpetuates itself.

Data collection is not about intruding into the private lives of individuals. However, if sexual orientation remains a private issue the needs and experiences of LGB people are marginalised or ignored and it is left to individuals to challenge the discrimination, harassment and exclusion they encounter.

From our experience in tackling race, gender and disability inequalities, we know that relying on individuals taking discrimination cases is not enough. Tackling entrenched discrimination needs proactive leadership within institutions to build effective policies, practices and a strong internal culture of equality, dignity and respect.

People should be able to have the right and the choice to be open about their sexual orientation if they so wish, without the apprehension or fear that they will experience homophobia and disadvantage.

The absence of reliable statistical data is a major obstacle to measuring progress on equality for LGB people. A Commission priority is to populate the new Equality Measurement Framework with data on indicators, in order to map the changing face of equality. At present, there is no baseline data on LGB people. This means there is no way of determining whether LGB people experience inequality of economic outcomes and life chances, and progress cannot be monitored. Without reliable data, evidence as

to whether the recent legislative changes have actually achieved equality is largely anecdotal.[8]

Organisations should be increasingly confident in using data on sexual orientation in order to deliver appropriate services and in recognising difference. Without such data, public authorities cannot deliver services that fully meet the needs of LGB people in key areas such as education, health and criminal justice.

'People are just making assertions and basing policy on assertions... Even if we have data, we don't use it and if you don't use it, then you can't tell what you should be doing... People should start taking notice and doing more.'

Breaking the cycle, LGF 2008

There will need to be a concerted effort to address any concerns that people may have of providing data in a sensitive way.

Unsurprisingly, for some of the LGB population, the experiences of growing up in a society where being LGB was considered a mental illness, outlawed as a criminal offence and with cures that included electric shock aversion therapy, reluctance will be a significant barrier we will need to address.

There is already good practice we can draw on in the area of collecting critical but sensitive population data from the fields of mental health and religion or belief in order to address these concerns. Such data should be held and handled in a confidential manner and guarantees should be in place so that people will not be able to identify individuals by the data given.

'Wherever you have got monitoring in relation to other areas, such as race, disability etc. then we should be on par there.'

Breaking the Cycle, LGF 2008

However, the nervousness surrounding collection of sexual orientation data should not be used as an excuse to not collect the data. The collection of sexual orientation data should become part of the process of all data collectors and public bodies, alongside other equality monitoring data.

[8] Botcherby and Creegan, 2009.

Making LGB data collection the norm

The same principles should apply to the collection and use of information on sexual orientation, as they do to other characteristics such as gender, race and disability, through monitoring, administrative data and all government surveys.

This has implications for bodies that collect such data and the individuals who are asked to supply it. All public bodies should aim to establish a clear idea of LGB populations and service needs. The objective must be to make the non-collection of information the exception to the rule.[9]

'The objective should be to move to a position where the collection of such data is assumed and taken for granted, as is increasingly the case with gender, race and disability.'

Botcherby and Creegan, 2009

Invisibility must be addressed by proactive action. LGB people should have services that meet their needs and public bodies should make sure that this becomes an integral part of their service delivery. The inclusion of sexual orientation within the new single Public Sector Duty proposed in the equality bill 2009 will put new requirements on public bodies to consider and address the needs of LGB people. They will need to start now in collecting the vital evidence necessary to effectively monitor their services.

Although it will take time for data collectors and the public to become accustomed to asking and answering sexual orientation questions, this is not a reason for waiting until you get the evidence before you act. Consistency of approach, protecting anonymity and demonstrating how the evidence will be used to good effect are core principles that will reassure the public that their privacy will be protected.

This will require culture change in both public and private institutions so that it becomes the norm to collect data on sexual orientation, and education and awareness building will be needed to encourage the public to participate.

'Explaining the purpose of data collection, demonstrating the benefits and showing impact. The objective must be to promote people's rights to be and say who they are without fear of prejudice and reprisal.'

Botcherby and Creegan, 2009

[9] Botcherby and Creegan, 2009.

What needs to happen?

The Commission has a key role to play in making sexual orientation a public matter and in ensuring that service providers and employers recognise and address the needs of LGB people. We will:

- work with government, public bodies, stakeholders and other organisations in order to bring a harmonised and effective approach to collecting and using data on sexual orientation. This will include identifying where there are gaps, defining questions on sexual orientation, protecting anonymity, investigating how surveys are best administered and improving estimates of the LGB population at local and national levels
- continue to lobby for a question on sexual orientation to be included in the 2011 census
- finalise the Equalities Measurement Framework and prepare a landmark triennial review for delivery in June 2010
- investigate and take action where there are significant gaps in data on sexual orientation, in order to populate the Equalities Measurement Framework
- continue to co-ordinate the Commission's LGB research network to facilitate the dissemination of new evidence and provide a platform for debate and discussion on critical sexual orientation issues.

Throughout our research, some issues kept coming back up to the fore. Employment generally was an issue across our findings, including lack of employment monitoring and awareness about LGB employees, lack of confidence in being out at work and self-selection out from particular employers or, more worryingly, whole employment fields. Key sectors that created greatest policy concern included education, health/social care and criminal justice. These issues are considered in more detail in the following sections.

Employment

'Seven in 10 lesbians (69 per cent) and gay men (70 per cent) felt they could be open about their sexual orientation in the workplace without fear of discrimination or prejudice. This contrasts sharply with only around two in 10 (23 per cent) bisexual men and three in 10 (30 per cent) bisexual women who felt the same.

83 per cent of respondents would be happy or felt neutral about having an openly LGB manager at work.'

Ellison and Gunstone, 2009

Evidence suggests that the Employment Equality (Sexual Orientation) Regulations brought into force in 2003 may be bringing about equal rights and protection at work for gay and lesbian employees. The evidence is less compelling for bisexual women and men.[10]

However, the degree of occupational segregation of LGB workers in Britain is a cause for concern. A prior study of lesbian and gay workers in a local labour market in Britain found that sexual orientation affects decisions about employment routes, prior to a person applying for a job. Respondents stated that they had made deliberate choices not to enter certain professions because they perceived them to be homophobic.[11]

'Gay men in particular (40 per cent) felt that there are some jobs they had not considered, or would not consider because of their sexual orientation. A third of lesbians (32 per cent) felt the same way, as did 13 per cent of bisexual men and one in 10 bisexual women.'

Ellison and Gunstone, 2009

New research for the Commission has reported as a significant factor perceptions and experiences of homophobia, particularly in the police service and armed forces, teaching and manual trades, as reasons for avoiding particular professions for some LGB people. Working culture, organisational policies and perceptions of homophobia were cited as reasons for this. It is unknown whether the finding suggests under-representation in these key professions precisely because of the central issue our recommendations seek to address – a lack of data and monitoring.

Teaching and working with children in general was negatively associated both with public debates about the recognition of LGB lifestyles within school curriculums and the perceived reactions of parents and others to their children having a lesbian, gay or bisexual teacher.[12]

'My flatmate is currently doing very well for himself at work – he's got a fantastic wage and he's been identified as future management potential. However, he often comes back feeling low. He's not out, and believes that if he were to declare his sexuality, his promotion prospects would be instantly blighted.

He basically spends half his waking day pretending to be someone he's not, and he daren't raise the issue of the homophobic culture with his manager for fear of reprisal. I can't help but wonder how many other LGB people are succeeding in their jobs, but at the price of hiding their sexuality.'

Breaking the cycle, LGF 2008

[10] Ellison and Gunstone, 2009.
[11] Ryan-Flood, 2004.
[12] Ellison and Gunstone, 2009.

There is no comprehensive research to indicate how far sexual orientation is monitored in employment. The evidence that exists suggests it is the exception, rather than the norm.[13] In their Internet review of 76 NHS trusts and 113 local authority job application forms, Aspinall and Mitton found that sexual orientation was rarely asked relative to other equality strands such as gender, ethnic group/origin or disability.[14] There is anecdotal evidence that sexual orientation is seen as different to other equality strands and that employers do not want to collect this data as they are concerned about what they see as intruding into the private lives of individuals.

There are notable exceptions with large employers who provide an example of how monitoring can be done successfully on sexual orientation. This includes police forces who monitor sexual orientation in applications and staff surveys and the NHS has also demonstrated a commitment to monitoring sexual orientation. Private sector companies who have evidenced good approaches to monitoring on grounds of sexual orientation in the Stonewall Equality Index include Goldman Sachs, Barclays, Lloyds TSB and IBM.

Collecting data on sexual orientation will enable employers, trade unions and other intermediaries to further identify and take action on the levels of self-segregation of LGB people in their careers and the damaging effect on recruitment from the widest pools of talent.

Our evidence shows that disclosure is dependent on circumstances and feeling safe and protected against discrimination in the workplace.[15] It will take time to establish the trust of LGB employees in sexual orientation employment monitoring.

‘Monitoring applicants and the make-up of an existing workforce are essential elements in discovering whether some social groups are being disadvantaged and/or the impact of measures to promote equal opportunities.’

Mitchell et al., 2009

[13] Mitchell et al., 2008.
[14] Aspinall and Mitton, 2008.
[15] Mitchell et al., 2008.

Not all LGB employees feel safe to be open about their sexual orientation in monitoring exercises. In situations where they could be asked to complete a monitoring questionnaire when applying for a new job 25 per cent of gay men and lesbians and 34 per cent of bisexuals indicated they would not answer the question. When it came to completing a staff monitoring questionnaire, in confidence, in their current workplace 13 per cent of gay men and lesbians and 26 per cent of bisexuals would not want to answer the question.[16]

This demonstrates there is still a lack of confidence on the part of LGB people in being able to be open about their sexual orientation, particularly when applying for a new job.

Employers should benefit in terms of productivity if they take proactive steps in creating an atmosphere where people can be who they are without fear of prejudice or unfavourable treatment simply by reducing undue stress and perceived or real discrimination. They will also be in a position to identify discriminatory behaviour based on sexual orientation and address it at an early stage.

The impact of having to temper contributions to workplace discussions and having to be selective with what you disclose for fear of outing yourself is detrimental both to the individuals concerned and to workplace culture. Building trust, openness and integrity with respect for diversity as a core value will be critical to recruit and retain the best possible staff.

Specific actions that should be taken by employers include:

- introducing monitoring of sexual orientation, where this is not already in place, in recruitment, retention and development processes as well as monitoring of existing staff
- explaining to employees why the employer is collecting the data[17]
- ensuring that data will be kept confidential
- creating an atmosphere in the workplace that is conducive to people being able to be open about their sexual orientation, including taking a proactive approach on bullying and harassment
- understanding and addressing the reasons for the reluctance of some LGB people to enter certain professions such as the police service, armed forces and manual trades.[18]

Public sector employers will have a legal duty to address the needs of LGB people when the new single Public Sector Duty comes into force. Although private companies will not be covered by the new Public Sector Equality Duty, developing a workplace culture in which LGB employees are able to be open and comfortable makes good business sense in terms of productivity, company reputation and recruiting from the widest pool of talent.

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[16] Ellison and Gunstone, 2009.

[17] Stonewall has recently produced a concise guide called 'What's it got to do with you?' to help address concerns on monitoring sexual orientation.

[18] There are examples of good practice within these fields, for example in the many police forces that have been successful in the Stonewall Workplace Equality Index.

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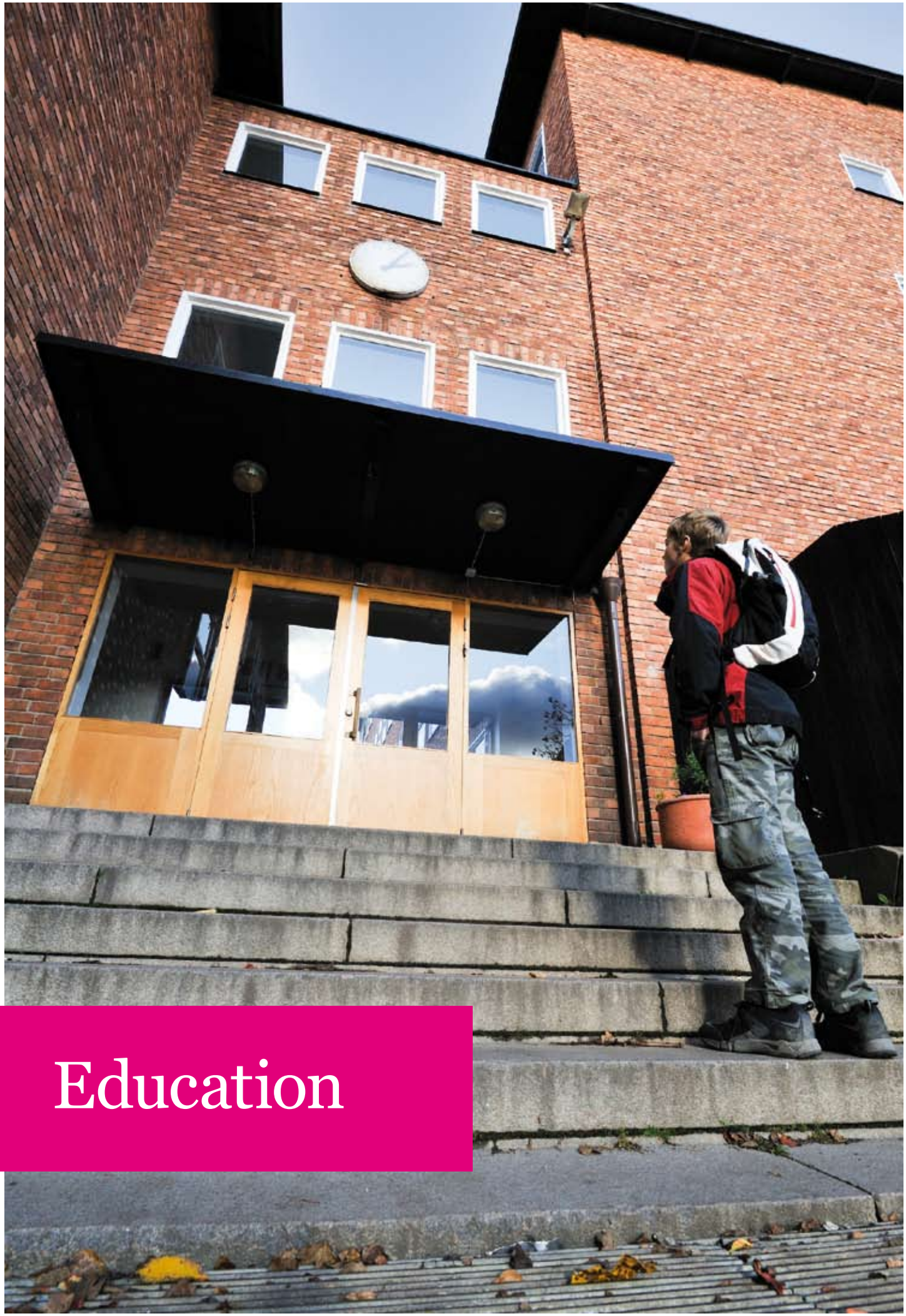

Education

‘Sexual orientation is notably absent from all of the information collected by UCAS about student applications, HEFCE about student satisfaction with courses, and HESA about enrolment and leavers’ destinations, as is data on religion and belief.’

Valentine and Wood, 2009

LGB young people and staff face high levels of homophobic bullying and prejudice, both within and outside of schools.

Only half of lesbians (51 per cent), gay men (52 per cent) and 44 per cent of bisexual women and three in 10 bisexual men (30 per cent) felt they could be open about their sexual orientation without fear of prejudice or discrimination in schools, colleges or universities.[19] The needs and experiences of LGB parents and families are often not recognised or addressed.

'People call me "gay" everyday, sometimes people kick me or push me, they shut me out of games during school gym and they steal my belongings.'

James, 17, secondary school (South West). Hunt and Jensen, 2007

Research from Stonewall revealed that 65 per cent of LGB young people aged 18 and under had experienced homophobic bullying in schools.[20] Some of those experiences were crimes, including death threats and serious physical assaults.[21] Ninety per cent of secondary school teachers said that pupils in their schools are bullied, harassed or called names for being, or being perceived to be, gay.[22]

Half of teachers who say they are aware of homophobic bullying in school say the overwhelming majority of incidents are never officially reported or dealt with.[23]

'It is a subject which a lot of leadership teams dismiss or think isn't a problem in their schools. I think that we need to act urgently to prevent these problems.'

Elizabeth, teacher, secondary school (North West). Guasp, 2009

LGB pupils and staff deserve an environment conducive to learning and teaching as equals. All schools should put in place programmes of activity to recognise and challenge homophobia and bullying. This should be supported by providing robust mechanisms to safeguard and support LGB staff and pupils and including LGB issues in the curriculum.

The situation for LGB students and staff in higher education institutions (HEIs) is also a cause for concern. LGB students reported significant levels of negative treatment on the grounds of their sexual orientation from fellow students (49.5 per cent), from their tutors and lecturers (10.4 per cent) and from those who work in other areas of their HEI (10.6 per cent).

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[19] Ellison and Gunstone, 2009.
[20] Hunt and Jensen, 2007.
[21] Dick, 2009.
[22] Guasp, 2009.
[23] Ibid.

LGB staff reported significant levels of negative treatment on the grounds of their sexual orientation from colleagues (33.8 per cent), from students they teach (18.9 per cent) and those who work in other areas of their HEI (25.3 per cent). [24]

Valentine and Wood's research in 2009 about LGB staff and students' experiences of HEIs in England found that only 50 per cent of staff and students would be prepared to disclose their sexual orientation to their HEI.

'This reluctance to "come out" reflects a lack of trust in the sector because HEIs have yet to effectively demonstrate their commitment to LGB equality.'

Valentine and Wood, 2009

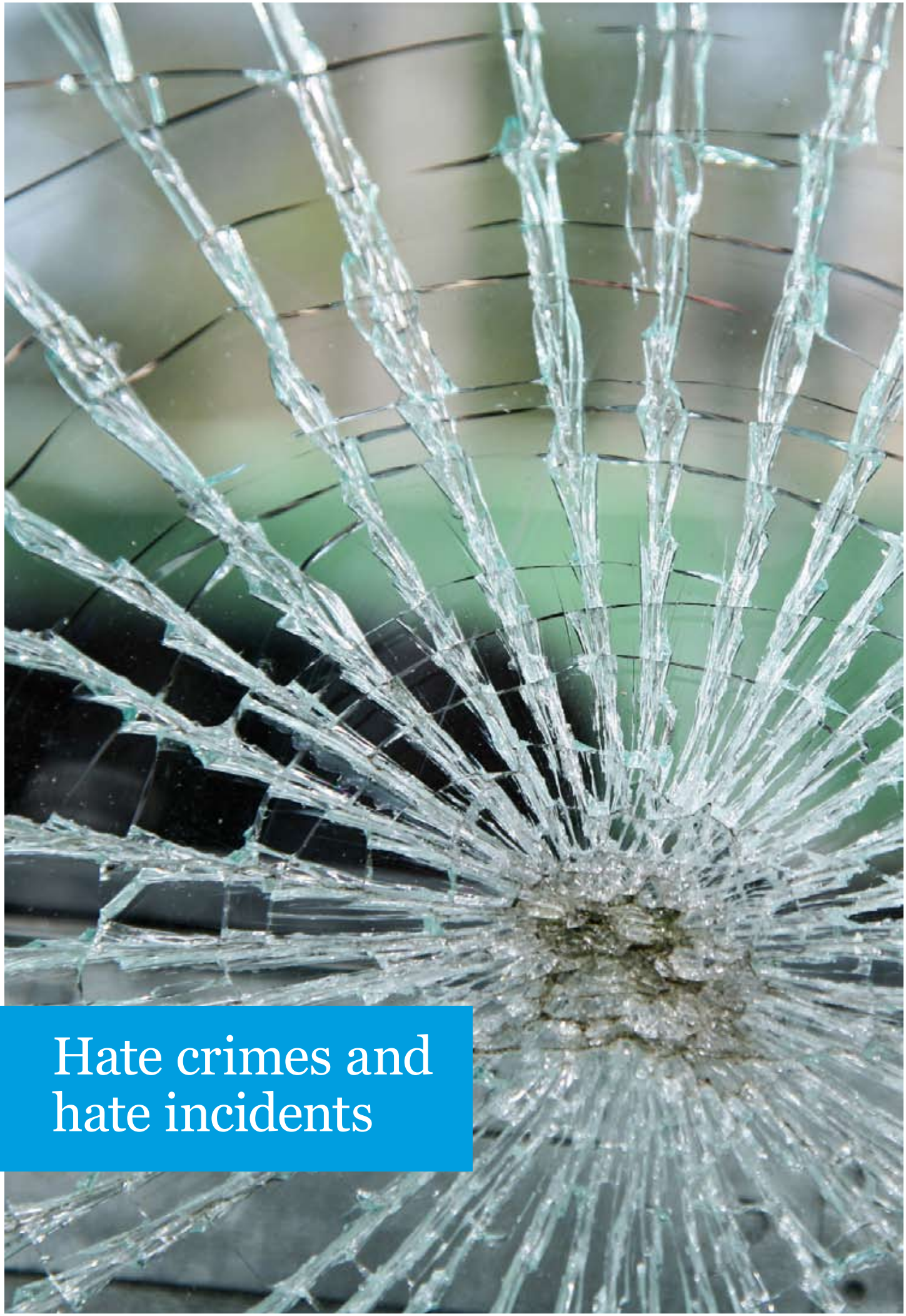
Discrimination and disadvantage of LGB staff and students is very real and is largely going unnoticed and untreated. Under the proposed Public Sector Equality Duty, public authorities in the education sector will have a legal duty to take action to address the bullying and exclusion of LGB students and staff.

Bodies such as the Universities and Colleges Admissions Service (UCAS), the Higher Education Statistics Agency (HESA) and the Higher Education Funding Council for England (HEFCE) need to take a lead on the monitoring of sexual orientation.

Specific actions that should be taken by the education sector include:

- a proactive and zero tolerance approach to homophobic bullying should be taken by the Department for Children, Schools and Families, Local Education Authorities (LEAs) and all schools, both public and private
- addressing LGB issues in the curriculum including within PSHE (Personal, Social and Health Education) classes
- providing more formal support for LGB students and training for staff about the type of issues that may affect LGB students' academic attendance, performance and participation rates
- providing more effective equality training within education institutions in relation to sexual orientation and the recent legal changes that have taken place
- establishing and maintaining effective support networks for LGB staff and for students
- including LGB issues in materials produced by educational institutions such as prospectus, website etc.

[24] Valentine and Wood, 2009.



Hate crimes and hate incidents

‘Efforts to tackle homophobic hate crime have been hampered by a lack of data and evidence on both the victims and perpetrators, with no clear picture regarding how to improve reporting and continuing low levels of community confidence. There has been no systematic baseline data collected on the extent and nature of homophobic hate crimes and incidents in England and Wales. Neither is there baseline information on the patterns or trends in crimes experienced by LGB people.’

Dick, 2009

Homophobic hate crimes and incidents are common but continue to be under-reported.

When asked about incidents of prejudice and discrimination that were related to their sexual orientation, the majority of gay men (63 per cent) and lesbians (66 per cent) said they had experienced name calling. Around four in 10 gay men (39 per cent) and three in 10 lesbians (31 per cent) reported that they had been bullied. Similar proportions had felt frightened (39 per cent gay men and 38 per cent lesbians), and had suffered from low self-esteem (42 per cent gay men/ lesbians).[25] Around one in five gay men (19 per cent) reported they had been physically assaulted and around 6 per cent of lesbians that they had been sexually assaulted on grounds of sexual orientation.[26]

According to Stonewall, one in eight lesbian and gay people and one in 20 bisexuals had experienced a hate crime or incident in the year to February 2008.[27]

'My friend was beaten and left unconscious in the road but the police did not record it as a homophobic crime because she was drunk and out walking alone at night. They gave the impression that she deserved what she got and no suspects were ever sought or caught. She needed hospital treatment and is now a nervous wreck.'

Micha, 44. Dick, 2008

An estimated 75 per cent of homophobic crimes are not reported, making official statistics on the prevalence of homophobic hate crimes and incidents unreliable.[28]

Only half of gay men (51 per cent), 43 per cent of lesbians, three in 10 (29 per cent) bisexual women and a fifth of bisexual men (20 per cent) believed they could be open about their sexual orientation in their local police station without fear of prejudice and discrimination.[29]

LGB people are often particularly concerned about potential prejudice in their local neighbourhood. Ellison and Gunstone found that only 29 per cent of gay men, 25 per cent of lesbians, 10 per cent of bisexual men and 18 per cent of bisexual women feel able to be open about their sexual orientation without fear of prejudice or discrimination while walking down the streets in their neighbourhood.[30]

'...can't walk along the street without comments. Don't feel I can hold hands with my partner like heterosexual couples can.'

36 year-old lesbian. Ellison and Gunstone, 2009

Hate crime is a major issue of concern for LGB people. Under the proposed Public Sector Equality Duty, public authorities will have a legal duty to address homophobic crimes and incidents proactively.

Better partnership work is needed to improve responses to homophobic hate crime and incidents. Voluntary sector partners often play a key role, acting as advocates for victims and a bridge between the community and statutory agencies. Partnership working

[25] Ellison and Gunstone, 2009.
[26] Ibid.
[27] Dick, 2009.
[28] Ibid.
[29] Ellison and Gunstone, 2009.
[30] Ibid.

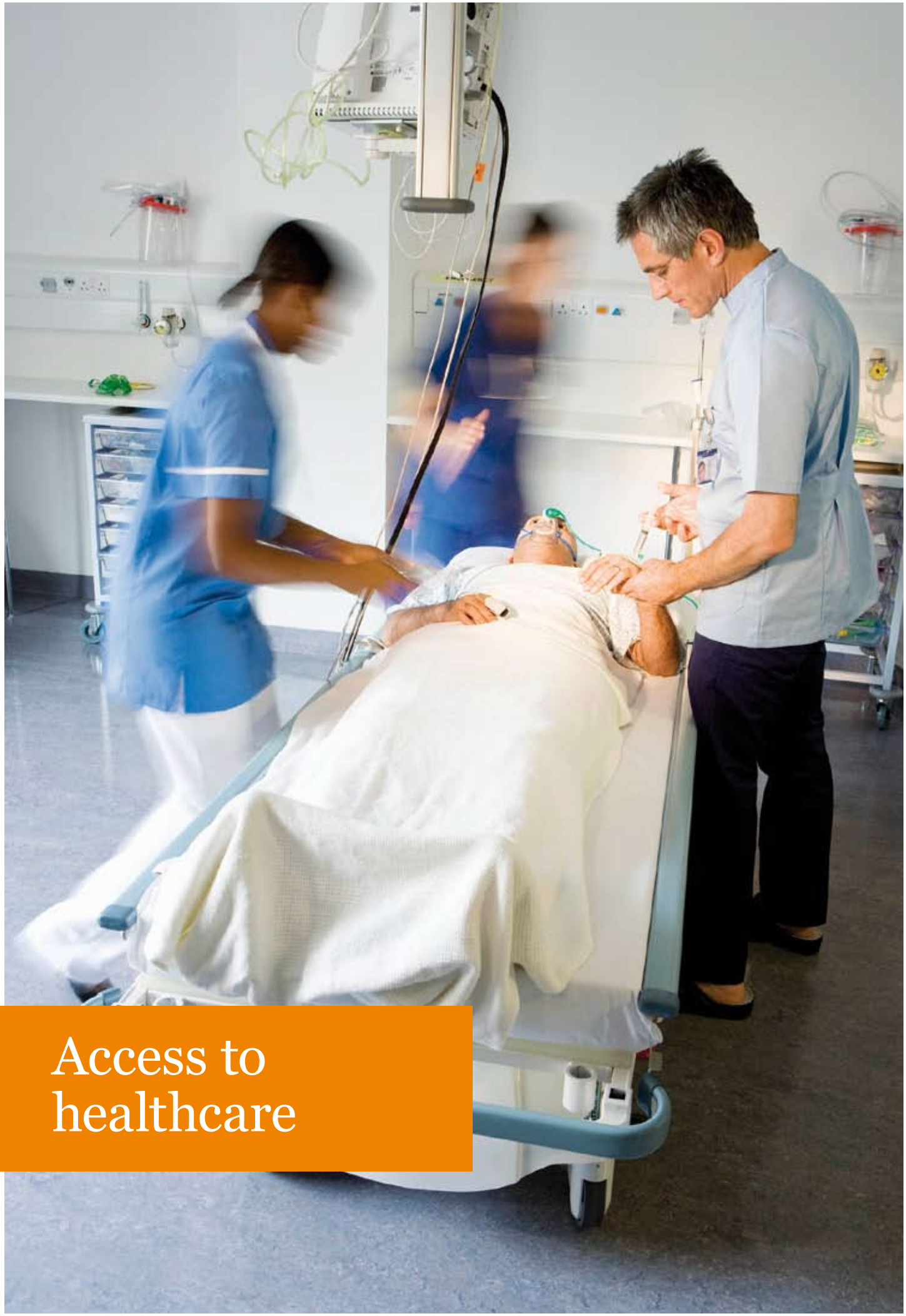
should aim to prevent repeat incidents, provide evidence that can help targeted prevention activity to address any themes/ trends that emerge and respond more effectively when incidents do occur.

Stonewall has highlighted that the majority of perpetrators of homophobic incidents are under 25. Prevention activity should be closely linked with wider work to challenge homophobia among young people, prevent homophobic bullying (in and outside of schools) and promote community cohesion.[31] The best examples of this work are partnership approaches (involving agencies such as schools, police, anti-bullying workers and voluntary sector organisations) that both educate and empower young people to challenge this prejudice or support their peers.

Specific actions that should be taken by the community safety and criminal justice sectors include:

- increasing understanding of the problem in each local area, for example by ensuring the annual strategic assessments of local community safety partnerships can assess and respond to the community safety concerns of LGB people
- ensuring that local community cohesion (or good relations) strategies collect evidence and include actions to address problems in relation to sexual orientation
- engaging with both LGB people and the wider community about homophobic incidents or crime
- undertaking prevention campaigns to challenge homophobic attitudes
- increasing the reporting of LGB hate incidents, for example by providing additional reporting avenues through LGB organisations
- providing information targeted at LGB people informing them that homophobic crime will be taken seriously and what to expect if they do report an incident
- ensuring that support is available for LGB people who report homophobic crime
- addressing incorrect classification of LGB hate crime incidents
- monitoring and analysing trends to identify patterns and hotspots and developing targeted partnership responses or prevention activity to address these
- taking non-criminal sanctions against perpetrators, for example using tenancy agreements to take action against perpetrators who are harassing their neighbours on grounds of sexual orientation
- embedding training and guidance on homophobia and the needs of LGB people within the justice system including the Police, Crown Prosecution Service, National Offender Management Service and the Courts
- taking concerted action to improve the arrest, prosecution and conviction rates of LGB hate incidents such as appointing homophobic crime co-ordinators, improving investigation and evidence gathering, providing better support to victims and challenging stereotyping and prejudicial language and material in court
- involving LGB organisations and individuals in arrangements to scrutinise performance.

[31] The Education and Inspections Act 2006 introduced a duty on all maintained schools in England to promote community cohesion and on Ofsted, to report on the contributions made in this area.



Access to healthcare

‘I felt it was important to tell my GP that I am a lesbian and the smile froze on her face. Her whole manner changed in that moment of disclosure and she remained frosty and inaccessible from then on. I changed my GP rather than be treated so harshly.’

Polari, 2008

Timely and effective access to health and social care is a right most of us take for granted in Britain.

However, our findings indicate that for many LGB people, this is often a hit and miss experience based on prejudice, stereotyping and invisibility.

Some LGB people have low expectations of health and social care services. Stonewall's *Serves You Right* reported that one in 14 lesbian and gay people expect to be treated worse than heterosexuals when accessing healthcare for a routine procedure or an emergency procedure, while 8 per cent have the same expectations about general practice.[32]

LGB people's perceptions of negative care may be matched by their experiences of accessing services. For example, half of respondents in Hunt and Fish's survey of 6,178 lesbian and bisexual women reported negative experiences in the health sector within the last year.[33] One potential cause behind these experiences is homophobia from staff.

Around half of lesbians (47 per cent), four in 10 gay men (42 per cent) and a quarter (24 per cent) of bisexual women and men reported that they had suffered stress in their lifetime as a result of prejudice and discrimination linked to their sexual orientation.[34] Ellison and Gunstone found that 9 per cent of gay men and 14 per cent of bisexual men in the survey reported a current mental health condition, as did 16 per cent of lesbians and a substantial 26 per cent of bisexual women. This contrasts sharply with just 4 per cent of heterosexual men and 6 per cent of heterosexual women.[35]

The majority of LGB people felt able to be open about their sexual orientation with health providers, signalling some success in opening up service provision. However, there are wide variations between different groups. Seventy-two per cent of gay men felt they could be open with staff at their local health practice or hospital without fear of prejudice or discrimination, compared to only 52 per cent of lesbians and 49 per cent of bisexual women. Bisexual men were the least likely to feel able to be open in this context (43 per cent).[36]

'Having told the doctor that I had been in a monogamous relationship for 11 years and that I hadn't had anal sex for 15 years, a growth in my anus was diagnosed as syphilis due to my lifestyle and the fact that partners aren't always faithful. The growth turned out to be rectal cancer but this hadn't been considered as it was presumed that as I was gay it must be related to sexual practices.'

Polari, 2008

A major step forward is the inclusion of a question on the sexual orientation of respondents in the 2009 NHS general practice (GP) patient survey. The survey will capture people's experiences of using GP services and their views on how they can be improved.

[32] Hunt and Dick, 2008.
[33] Hunt and Fish, 2008.
[34] Ellison and Gunstone, 2009.
[35] Ibid.
[36] Ibid.
[37] Hunt and Cowan, 2009.

In addition, the Department of Health commissioned Stonewall to write their comprehensive guide to monitoring sexual orientation in the health sector.[37]

Under the proposed Public Sector Equality Duty public authorities in the health sector will have a legal duty to address the needs of LGB people. Specific actions that should be taken by the health and social care sectors include:

- providing more effective equality training in relation to sexual orientation and more learning opportunities for staff on LGB health and equality issues
- developing involvement and consultation strategies with LGB people to inform policy and service delivery
- developing an environment within health and social care services that is conducive to people being able to be open about their sexual orientation
- encouraging health and social care staff to use language that respects LGB people, acknowledges same-sex relationships and does not make assumptions about sexual orientation
- considering the needs of LGB people in policy and practice from commissioning and planning through to delivery, including developing targeted LGB interventions where appropriate
- building an understanding of the impact of discrimination on grounds of sexual orientation in mental health services
- introducing monitoring of sexual orientation, where this is not already in place, and taking action as appropriate to address the differing needs of lesbians, gay men, bisexual women and bisexual men.

What the Commission will do

'These findings have provided critical evidence to the Commission. We have a duty to promote equality, human rights and good relations for all our protected groups, including LGB people. Based on this evidence we will press for change with all the tools available to us. We will ensure that public authorities improve. Wherever possible, we will encourage and enable with guidance and support. Wherever necessary, we will use enforcement and sanctions. And we will monitor progress.'

Generally, we will:

- Continue to influence legislation and utilise our enforcement and regulatory role to ensure homophobic policy and practice is tackled.
- Work with governments and other bodies, such as the ONS (Office for National Statistics) to include sexual orientation in major surveys and in administrative data.
- Encourage debate on relationships between sexual orientation and religion and how percieved tensions can be resolved in everyday life.
- Identify policies, procedures and practices that hinder the development of joint working between public bodies and voluntary sector LGB organisations.
- Continue to create high level dialogue and demonstrate publicly and nationally that LGB issues are central to the Commission's mandate and we will be monitoring progress on tackling homophobia in key areas.

Specific work we will undertake includes:

In Employment

- Work with employers on changing the culture of the workplace to create an environment that embraces difference, equality and diversity, including sexual orientation, and seeing it as a mainstream business objective.
- Address the contentious issue of collecting data on sexual orientation with employers by providing guidance and good practice on the rationale and business case for harmonising this area with other equality data collection.
- Use levers and tools available to us to promote good practice in inclusion in the workplace, challenging outdated cultural practices and promoting a work environment conducive to being out in the workplace.
- Continue to use legal and other levers to address homophobic bullying in the workplace.
- Work together with business to embed equality and diversity in practice, including sexual orientation, and target research to build our evidence base in this area.
- Engage with regulatory bodies, professional and employer institutions and trade unions to improve employment policy and diversity.
- Continue to engage with the Ministry of Defence to address sexism, homophobia and racism, to achieve cultural change in the armed forces, initially through a joint partnership agreement.
- Analyse and report regularly on the impact of the recession on the employment and prospects of equalities groups with the Department for Work and Pensions (DWP) and the Government Equalities Office (GEO).

In Education

- Building on the findings, and taking forward the recommendations from the Commission's 'Staying On' project, explore options for partnership working with key sector bodies in order to mainstream action on tackling homophobic bullying in all schools.
- In the lead up to the forthcoming single equality duty, we will work with Ofsted and the Higher Education Funding Council for England to ensure equality across all strands is central to monitoring and inspection frameworks and informs judgements on performance to improve outcomes for protected groups, including LGB pupils and students.
- Produce guidance to support the effective delivery of the Public Sector Equality Duty in the education sector to tackle inequalities in educational outcomes for key groups including LGB pupils.
- We will seek to work with public sector bodies including the Training and Development Agency and the General Teaching Council to proactively promote the teaching profession within the LGB sector, improve retention of LGB teachers and build equality knowledge and practice into the Initial Teacher Training and Continuing Professional Development curriculum.
- Monitor the action taken by the Department for Business, Innovation and Skills and other public sector bodies in response to the Equality Challenge Unit report on the issues faced by LGB staff and students in the higher education sector.

In the Criminal Justice Sector

- Identify the critical improvements the criminal justice system needs to make to address systematic discrimination and disproportionate effect, including sexual orientation and respect for human rights.
- Work in partnership with the National Policing Improvement Agency and Inspectorate of Constabulary to develop an inclusive equality standard for police services in England and Wales.
- Monitor progress on the identified 10 point plan from the position paper on homophobic hate crime: *Homophobic hate crimes and hate incidents*, Sam Dick (Stonewall).
- Encourage greater and more appropriate monitoring of homophobic hate crime and resulting actions to address these.
- Work with criminal justice agencies to build greater trust and engagement with LGB communities to increase reporting of homophobic hate crimes, including strengthening support mechanisms to victims of homophobic hate crime.
- Raise the profile of reporting homophobic and other hate crimes, in the workplace, in schools and elsewhere and the collective responsibility of everyone to stamp it out.

In the Health and Social Care sectors

- Work closely with the health service to ensure they develop strategies to embed the different requirements of lesbians, gay men, bisexual people and transgender people and to address the health inequalities they experience.
- Work with the health and social care sector to promote policy and practice reforms across public services to promote dignity, respect and fairness and deliver measurable and effective improvements in access to healthcare for LGB communities.
- Monitor progress on ensuring that equality and human rights start to become a central feature of day to day policy and practice from commissioning and planning through to delivery, including recognising and addressing the specific barriers faced by LGB service users.
- Push for development of an equality and human rights based regulation and performance management framework in the health and social care sectors, clearly focused on delivering outcomes that promote dignity, respect and fairness and maximise life chances of LGB people.
- Research older LGB people's experiences in accessing social care, identify the barriers to inclusion and work with social care providers to develop good practice.

In an International context

- Continue our policy and advocacy work on the EU's equal treatment directive, which would extend protection against discrimination on the grounds of sexual orientation (and age, disability and religion and belief) in access to goods and services to people across Europe.
- Argue for clarification of the obligations of EU member states regarding the recognition of same-sex couples and encourage the expansion of legal rights to protect same-sex couples and recognise the validity of same-sex partnerships across EU states.
- Continue to work with the EU's Fundamental Rights Agency in addressing the issues raised in their pan-European study on homophobia, and with the EU institutions to encourage more and better data collection.
- Through our membership of the Council of Europe working group on LGB rights we will continue to influence the recommendations which will be issued to European member states on how to better protect LGB human rights.
- Through our role as Britain's National Human Rights Institution, we will ensure that LGB rights are integrated into our monitoring of the United Nations human rights treaties and our work with the UN Human Rights Council, including supporting declarations on LGB human rights made at the UN.

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