



AN EQUINET PERSPECTIVE



EQUALITY BODIES PROMOTING
EQUALITY & NON-DISCRIMINATION
FOR LGBTI PEOPLE



VERSION FRANÇAISE AU VERSO

Equality Bodies Promoting Equality & Non-Discrimination for LGBTI People - An Equinet Perspective is published by Equinet, the European Network of Equality Bodies.

Equinet brings together 38 organisations from 31 European countries which are empowered to counteract discrimination as national equality bodies across the range of grounds including age, disability, gender, race or ethnic origin, religion or belief, and sexual orientation. Equinet works to enable national equality bodies to achieve and exercise their full potential by sustaining and developing a network and a platform at European level.

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Introduction

1 Equality bodies and LGBTI issues

Equality bodies are independent bodies established under statute to promote equality and combat discrimination. Member States of the European Union are required to establish equality bodies under the equal treatment Directives 2000/43/EC (addressing the ground of racial or ethnic origin), 2004/113/EC and 2006/54/EC (both addressing the ground of gender).

Equinet is the European Network of Equality Bodies. It brings together 38 equality bodies from 31 different countries. Equinet works to enable equality bodies to achieve and exercise their full potential by sustaining and developing a network and a platform at EU level.

30 Equinet member equality bodies have a mandate in relation to lesbian, gay, bisexual, trans and intersex people (LGBTI people) in employment and 22 in the provision of goods and services. This mandate includes providing support to victims of discrimination, conducting surveys, making recommendations and publishing reports on issues relating to discrimination.

2 Purpose

This *perspective* seeks to:

- Inform the policy debate on LGBTI issues at EU and national levels by identifying and extracting relevant lessons from the work of equality bodies promoting equality for and combating discrimination against LGBTI people.
- Enhance the work of equality bodies to promote equality for and combat discrimination against LGBTI people by examining the issues they face in this work and by identifying good practice in responding to these issues.
- Deepen the relationship between equality bodies and LGBTI people and their organisations by communicating the mandate, work and achievements of equality bodies in promoting equality for and combating discrimination against LGBTI people.

3 Approach

This *perspective* is informed by a workshop on the work of equality bodies on LGBTI issues that was held as part of a meeting of Equinet's Working Group on Policy Formation. The

group enables a policy dialogue between Equinet and the EU institutions based on analysis of the work of equality bodies at Member State level.

This *perspective* is based on a survey of Equinet members to explore the work being done by individual equality bodies in promoting equality for and combating discrimination against LGBTI people.

It was drafted and finalised with the assistance and input of the working group and the Board of Equinet.

The *perspective* has benefited from the assistance of the European Region of the International Lesbian, Gay, Bisexual, Trans and Intersex Association (ILGA Europe) whose staff met with the Equinet Secretariat to provide advice and information that assisted in the design and analysis of the survey questionnaire. The European Union Agency for Fundamental Rights also provided assistance in the drafting of this perspective by enabling access to its 2013 survey of LGBT people and providing some further and more detailed material from this survey.

This *perspective* addresses:

- The context for LGBTI people in the EU
- Key issues in the work of equality bodies on LGBTI issues
- The results of a survey of equality bodies on their work on LGBTI issues
- Action that could be taken by equality bodies to evolve their work on LGBTI issues
- Action that could be taken at EU level to enhance the context for the work of equality bodies on LGBTI issues

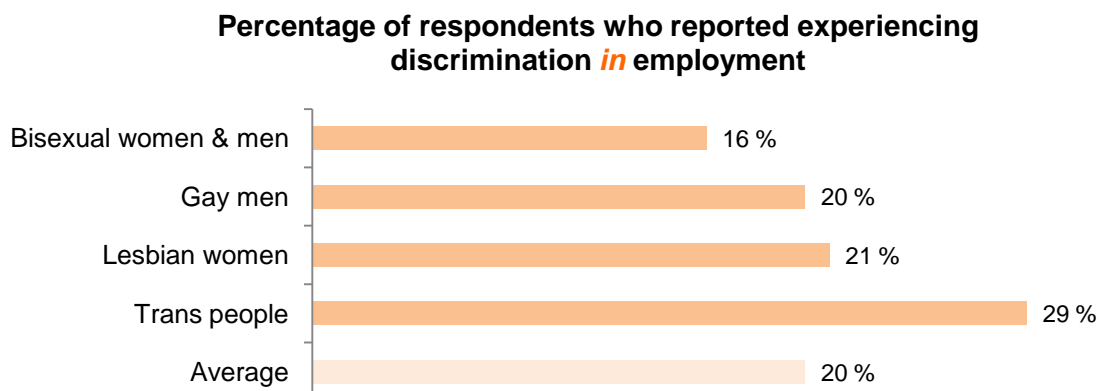
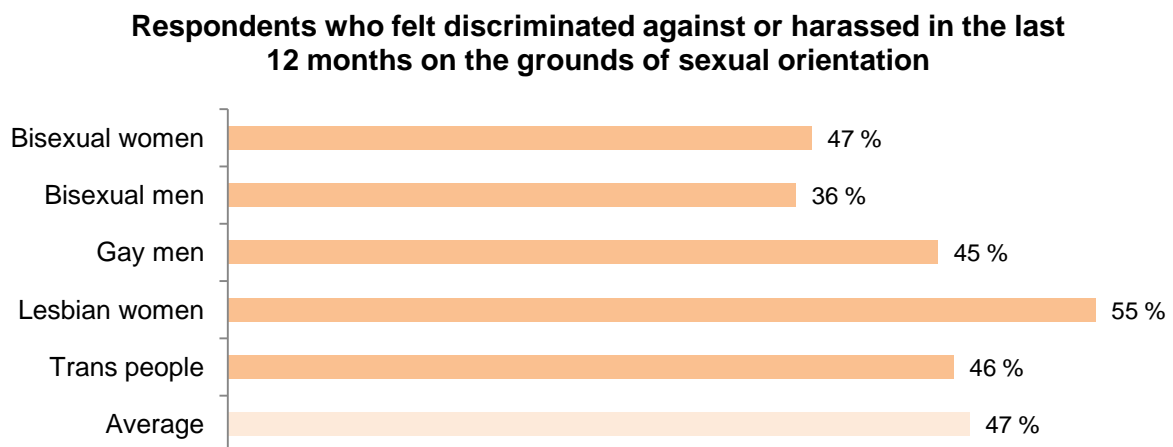
Chapter 1

Context: the situation and experience of LGBTI people

In May 2013 the European Union Agency for Fundamental Rights published a survey¹ of 93,079 lesbian, gay, bisexual and trans people from the 27 EU Member States and Croatia on their experience of discrimination, violence and harassment. The survey results provide the contextual backdrop for considering the work of equality bodies in relation to LGBTI people. The survey did not include a focus on intersex people.

It is important in understanding the survey to point out that while the survey is large it cannot be deemed representative given the lack of statistics on the size and proportion of the overall LGBT population. However, although thus the results cannot be considered as representative of all LGBT people in the EU, they constitute by far the largest collection of empirical evidence of its kind in Europe to date.

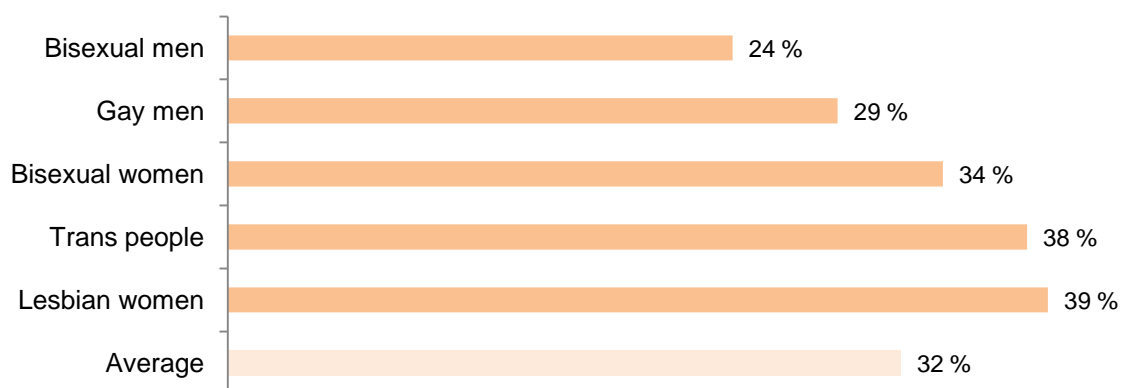
The survey results show high levels of discrimination reported by LGBT people in employment and in the provision of goods and services. Trans people report particularly high levels of discrimination in all fields. Lesbian women and bisexual women also report higher levels of discrimination.



¹ EU LGBT survey - European Union lesbian, gay, bisexual and transgender survey (<http://fra.europa.eu/en/publication/2013/eu-lgbt-survey-european-union-lesbian-gay-bisexual-and-transgender-survey-results>)

Respondents who had experienced discrimination	in looking for work	at work
Bisexual men	9 %	16 %
Gay men	13 %	19 %
Bisexual women	6 %	17 %
Trans people	37 %	28 %
Lesbian women	12 %	21 %
<i>Average</i>	13 %	20 %

Percentage of respondents who reported experiencing discrimination *outside* employment



Respondents who reported discrimination	by an educational institution	by a health institution	at a café, restaurant, bar or nightclub	when looking for a house or apartment to rent or buy
Bisexual men	15 %	9 %	14 %	11 %
Gay men	17 %	9 %	17 %	12 %
Bisexual women	19 %	11 %	21 %	9 %
Trans people	24 %	23 %	23 %	19 %
Lesbian women	20 %	14 %	24 %	16 %
<i>Average</i>	18 %	11 %	19 %	13 %



The survey provides ample evidence of the need for strong equal treatment legislation and for effective equality bodies in ensuring its implementation. LGBTI people face a context of widespread and pervasive discrimination. This discrimination is experienced while at work, in school, attending health services, seeking accommodation and in places of leisure. Equal treatment legislation is required that covers all these areas. Equality bodies are challenged to develop a broad field of interventions if they are to be relevant to this experience. High levels of under-reporting accompany this experience of discrimination by LGBTI people. Any impediments to reporting that exist in equal treatment legislation need to be removed. There is a particular challenge to equality bodies to take specific actions that enable access to justice for LGBTI people. Finally, the survey identifies differences in the experience of women and men of differing sexual identities and particular difficulties for trans people. Any response to the findings of the survey must take account of this diversity and must go further to include intersex people.

Chapter 2

Key issues in the work of equality bodies on LGBTI issues

The preparation of this *perspective* began with a workshop at a meeting of the Equinet's Policy Formation Working Group. This workshop explored the purpose of the *perspective*, the strategy of the equality bodies in promoting equality for and combating discrimination against LGBTI people, and the challenges they faced in progressing this work.

The issues identified during the workshop were common to both predominantly promotional type equality bodies² and predominantly tribunal type equality bodies³. There were some differences identified in the capacity or approach of these different types of equality bodies in responding to the issues identified. In particular predominantly tribunal type equality bodies have fewer tools available to them. There was a particular challenge identified for these equality bodies to respond effectively to under-reporting of discrimination by LGBTI people.

Six core themes can be identified from the workshop. These are the themes of:

1	Societal context for the work of the equality body	2	Action to address under-reporting
3	Strategy developed by equality bodies	4	Tactics employed by equality bodies
5	Internal challenges within equality bodies	6	Diversity amongst LGBTI people

1 Societal context for the work of the equality body

Equality bodies operate in diverse contexts in relation to the political response to LGBTI people, the role and position of religious authorities, the attitudes and perspectives held by the general population, and the consciousness and activity of the LGBTI community itself. This has implications for what it is possible for equality bodies to do, for what it is useful for them to do, and for the manner in which they carry out their work. Three particular contexts were identified during the course of the workshop – an 'engaged' context, a 'tired' context and a 'hostile' context.

² According to a [European Commission study on Equality Bodies](#), predominantly promotional-type equality bodies "spend the bulk of their time and resources on a broader mix of activities that include supporting good practice in organisations, raising awareness of rights, developing a knowledge base on equality and non-discrimination, and providing legal advice and assistance to individual victims of discrimination" (page 44).

³ According to a [European Commission study on Equality Bodies](#), predominantly quasi-judicial or tribunal type bodies are "impartial institutions which spend the bulk of their time and resources hearing, investigating and deciding on individual instances of discrimination brought before them" (page 43).

An engaged context

This is a positive context where the situation and experience of LGBTI people is improving and is a subject for positive legislative and policy initiatives. This is particularly evident where progress is being made in legislating for civil marriage for same sex couples, for adoption by same sex couples, and for recognition of trans people in the gender with which they identify. It is evident in the development and implementation of national action plans or strategies for equality for LGBTI people.

This 'engaged context' enables equality bodies to contribute to policies that better enable them to fulfill their mandates. Equality bodies can help to shape policy responses to some of the core issues facing LGBTI people even where these issues do not fall directly within their mandate. National action plans or strategies can provide a fruitful agenda that enable equality bodies to go further in promoting equality for LGBTI people.

A tired context

This context can develop after LGBTI people have achieved some equality gains. A popular attitude emerges that is weary of LGBTI issues and the controversies that surround them. Myths grow that LGBTI issues are resolved once some progress has been made. An attitude of "Why do they still need so much attention" predominates. Public opinion minimises the issues facing LGBTI people on the basis that "they are sufficiently protected now".

This 'tired context' poses particular challenges to equality bodies if they are to effectively implement their mandate. Equality bodies have to be concerned with attitudinal change in such a context. Their communication work needs to directly address and challenge such attitudes. Their broader work, in particular their litigation work, needs to establish the lack of substance behind such attitudes.

A hostile context

In this context LGBTI people are the object of hate crime and hate speech. The political dispensation is hostile to LGBTI people. Religious authorities seek their exclusion. Discrimination and oppression of LGBTI people is deemed normal. This renders LGBTI people invisible, as they can be afraid to 'come-out'.

This 'hostile context' poses dilemmas for equality bodies. Equality bodies can choose to:

- Pursue their mandate on the basis of the legislation that established them and remain immune to context.
- Direct their efforts to prevent the context for LGBTI people from worsening.
- Work 'under the radar' so as not to attract retribution against LGBTI people while still achieving progress on LGBTI issues.
- Spearhead a particular focus on LGBTI people that aims to challenge the hostility faced by LGBTI people, affirm and protect the rights of LGBTI people, and build a supportive perspective among the general population.

2 Action to address under-reporting

Discrimination claims taken by LGBTI people do not rank high in the statistics of most equality bodies. Under-reporting appears to be particularly high in relation to discrimination against LGBTI people.

However, in some few instances claims of discrimination on the sexual orientation ground are among the highest grounds in complaints addressed by equality bodies. These instances demonstrate the scale of discrimination experienced by LGBTI people and highlight that it is possible to change the low rates of reporting of discrimination by LGBTI people.

Under-reporting can lead to a lack of focus on LGBTI issues by equality bodies. The lack of demand from LGBTI people on bodies that are busy and under-resourced can result in a failure to focus on LGBTI issues. It is important for equality bodies to be proactive in relation to under-reporting and to develop strategies that specifically seek to increase reporting of discrimination by LGBTI people.

Lack of trust is a barrier. LGBTI people can have low levels of trust in statutory bodies. The legal structure of the equality body can be at issue. If the equality body is part of Government and politicians are hostile to LGBTI people, action by equality bodies can be difficult and the lack of trust that can result aggravates under-reporting.

There can be barriers where the powers accorded to equality bodies are limited, for example not having powers to bring cases to the Courts or to make legally binding decisions.

What could be causing under-reporting?

Under-reporting can result from limitations in the provisions of equal treatment legislation. There can be barriers in the process required under the legislation including strict time limits or lack of protection for anonymity.

There can be barriers where the mandate accorded to equality bodies is confined to employment or where their mandate is not sufficiently broad to address the issues of LGBTI people in the jurisdiction.

The issue of under-reporting has been an ongoing focus for Equinet's work, most recently with the publication of 'Tackling the Known Unknown – How equality bodies can address under-reporting of discrimination through communications'⁴.

Five effective equality body strategies in responding to under-reporting were identified in the workshop:

- A. Understand under-reporting
- B. Develop a strategic response to under-reporting
- C. Relate with NGOs
- D. Build trust
- E. Seek change in the equal treatment legislation

⁴ Available at: <http://www.equineteurope.org/Tackling-the-Known-Unknown-How>

A. Understand under-reporting

Research on LGBTI perceptions on discrimination, reporting discrimination, and the equal treatment legislation can be a good starting point. This research is best carried out in partnership with LGBTI organisations. It offers the opportunity to better understand the particular barriers that face LGBTI people seeking to make use of equal treatment legislation and it opens up new ideas on how best to respond to these barriers.

GOOD PRACTICE EXAMPLE FROM IRELAND AND THE UK

The Equality Authority in Ireland and the Equality Commission for Northern Ireland commissioned research to establish the particular barriers experienced by LGB people in seeking access to justice in cases of discrimination and to identify strategies to enable their access to justice. This was published as “Enabling Individuals to Access their Rights under Equality Law” in 2007. Interviews with LGB people, representatives of LGB organisations, equality body staff and other stakeholder organisations were at the heart of this research. The research pointed to the need for equality bodies to:

- Address homophobia through training, public awareness campaigns and development of resources.
- Seek change in the equal treatment legislation, in particular to protect anonymity for complaints in particular cases.
- Develop specific initiatives to support access to justice for LGB people.

B. Develop a strategic response to under-reporting

Under-reporting and the issue of access to justice in cases of discrimination can usefully be identified as a priority area of work for equality bodies. This can encompass actions that are general in nature and address all grounds covered by equal treatment legislation. A number of equality bodies have taken initiatives to specifically respond to under-reporting by LGBTI people.

GOOD PRACTICE EXAMPLE FROM THE UK

The Equality Commission for Northern Ireland (ECNI) has developed a web-based resource to help it connect with LGB people. ECNI responded to its concern about under-reporting by working with LGB people and their representative organisations and gathered information to shape its strategy to reach out to people who could benefit from the advice, support, knowledge and experience that its staff can offer. The micro-site, So Me (www.some-ni.co.uk), is a hub for information and contacts. It is also a new way for people to report anonymously, to share their experiences, and to access information, advice, and support in a personalised and safe environment. So Me is linked to social media that are easily accessible to anyone and an online chat facility is available.

C. Relate with NGOs

Equality bodies are, and need to be, independent. However it is important for them to collaborate with LGBTI organisations when seeking to address under-reporting by LGBTI

people. NGOs provide a safe and trusted space to LGBTI people and can often be the first port of call for LGBTI people who have experienced discrimination. Equality bodies have established formal and informal relationships with LGBTI organisations to this end.

In some Member States NGOs are well-resourced and highly competent in defending the rights of LGBTI people. Equality bodies can usefully support the work of these LGBTI organisations by making statements of solidarity with them or publicly acknowledging their work. They can contribute to their capacity to support LGBTI people to take cases under the equal treatment legislation.

GOOD PRACTICE EXAMPLE FROM <i>GERMANY</i>	GOOD PRACTICE EXAMPLE FROM <i>SERBIA</i>
<p>In Germany the LGBTI community is represented through a countrywide and well organized body, the Lesben und Schwulverband Deutschland. This organisation has lobbied effectively for the community since it was founded in 1990. The German equality body, the Federal Anti Discrimination Agency (FADA), made use of its standing as a federal state body to achieve broad public acknowledgement of the work of the Lesben und Schwulverband Deutschland and to give official credibility to this work. FADA honoured the work of the leader of this organisation by awarding him the first ever FADA award for personal commitment to the fight against discrimination. FADA also supported and enhanced the prestige of a 'Festschrift' (essay collection) dedicated to LGBTI emancipation in Germany.</p>	<p>The Serbian Commissioner for Protection of Equality was appointed in a context where LGBT organisations were the only voice for LGBT rights. The support and acceptance of these organisations was important in developing joint efforts to fight discrimination against LGBT people. The Commissioner took part in events organised by the LGBT organisations, supported the Gay Pride parade, and was active in the media on the issues around this. The Commissioner supported the first model of the Draft Law on Registered Same-Sex Partnerships presented by LGBT organisations. Consultations with LGBT organisations are organised in relation to concrete cases of discrimination. One result of the joint efforts was the development of cooperation with the Ministry of Interior.</p>

In other Member States LGBTI organisations are under-resourced and excluded. NGOs for trans people and intersex people can be particularly under-resourced or even non-existent. Equality bodies can support the advocacy capacity of such LGBTI organisations. They can enable the development of the channels of communication that these organisations deploy within their own communities and they can subsequently avail of these channels.

GOOD PRACTICE EXAMPLE FROM <i>IRELAND</i>
<p>The Equality Authority in Ireland worked to support the visibility, recognition and organisation of trans people. In one instance, the Equality Authority provided funding to the Transgender Equality Network Ireland to develop an initiative to raise awareness among general practice doctors of transgender issues. The Transgender Equality Network Ireland was also supported to publish and disseminate information leaflets on 'Transgender and Gender Dysphoria' to psychiatrists, psychologists, and school counselors. These initiatives were supported with EU PROGRESS funding.</p>

D. Build trust

The relationship of equality bodies with LGBTI organisations will support trust building with LGBTI communities. Equality bodies can take other initiatives to further develop this trust. They can develop initiatives that have a specific focus on LGBTI issues such as providing information specifically targeted to LGBTI people or organising conferences that focus attention and debate on LGBTI issues. They can be present and visible at LGBTI events and can take public stands in support of LGBTI issues.

GOOD PRACTICE EXAMPLE FROM AUSTRIA

The Ombud for Equal Treatment in Austria responded to a survey on the situation of transgender people on the Austrian labour market by developing work on the issues of trans people and intersex people under the gender ground. A conference on discrimination against transgender and intersex persons was organised. Austrian transgender organisations participated. An information leaflet for trans people and intersex people was published by the Ombud for Equal Treatment to encourage them to get in contact. The Ombud for Equal Treatment took part in an NGO dialogue on trans and intersex issues organised by the Federal Ministry for Women. This allowed it to present its work and build their engagement with trans and intersex organisations. A recent successful case was highlighted to demonstrate the concern about the issues.

E. Seek change in the equal treatment legislation

Equality bodies can assess barriers that limit access to justice for LGBTI people that emerge from provisions in the equal treatment legislation itself or from the absence of necessary provisions in the legislation. They can seek amendments to, or further development of, the equal treatment legislation where these are a source of barriers to reporting.

GOOD PRACTICE EXAMPLE FROM FINLAND

In Finland the Ombudsman for Equality sought change in the Gender Equality Act so that specific reference would be made to trans people and to intersex people. Parliament has required the Government to propose amendments to the Gender Equality Act to include explicit protection for trans people and intersex people and the reform of the law is currently under way.

3 Strategy developed by equality bodies

The strategic plan of an equality body should establish what the equality body wants to achieve through its mandate to promote equality for and combat discrimination against LGBTI people. Objectives can be identified that will guide the priorities of the equality body, establish the initiatives to be taken and inform the methodology for implementing these. Some form of monitoring and review system needs to accompany such a strategy so that it achieves outcomes and remains up to date and relevant.

The absence of a strategy for the work of the equality body that takes into account LGBTI people leaves the actions taken by the equality body in a vacuum. Isolated actions are not followed up and built on. The impact of the work done will be diminished. The actions taken will predominantly be reactive rather than proactive.

4 Tactics employed by equality bodies

A number of particular initiatives taken by equality bodies were identified during the workshop as being effective in responding to LGBTI issues. These were:

- A. Creating a ripple effect from casework
- B. Engaging the key stakeholders with LGBTI people and organisations
- C. Using research on LGBTI issues
- D. Building partnerships with LGBTI organisations
- E. Following up casework recommendations
- F. Mainstreaming LGBTI people in multi-ground work

A. Creating a ripple effect from casework

Successful casework can be used to get a ripple effect that achieves benefit to LGBTI people beyond any individual claimant. A general case of discrimination can be followed up with action to change practice within the sector where the discrimination was found to occur. An LGBTI dimension to the follow up action can be identified and pursued.

GOOD PRACTICE EXAMPLE FROM GREECE

The Greek Ombudsman received a complaint from a trans woman attending night school about bullying and attempts by the school administration to force her to dress as a man. The Greek Transgender Support Association also intervened in the complaint.

The Greek Ombudsman established regular contact with the Greek Transgender Support Association and the NGO 'Homophobia in Education' to enable an effective intervention on the individual complaint, and a more systematic intervention on the issue by the Ministry of Education. The case resulted in ongoing cooperation with the two NGOs.

The Greek Ombudsman made recommendations to the school. A process was developed with the school to secure acceptance of the recommendations and to build a commitment to addressing homophobia and transphobia.

The Greek Ombudsman will now propose that this process be followed in all cases of transgender bullying in schools.

B. Engaging the key stakeholders with LGBTI people and organisations

The equality body can use its status to bring the stakeholders relating to a particular issue of discrimination to engage with LGBTI people and their organisations. This creates institutional spaces that empower organisations representing LGBTI people.

GOOD PRACTICE EXAMPLE FROM *FRANCE*

In France the Ministry of National Education, following the November 6th 1992 decree, can give authorization to associations seeking to intervene in schools. For the school, this label guarantees that the association will respect the principles of public learning and has demonstrated the quality of its activities. These interventions are organized in a manner that is complementary to school activities or related to pedagogic projects, possibly during school hours.

Headmasters often refuse the intervention of LGBT associations and their requests for authorization by the Ministry are denied. The associations affected alerted the HALDE, now known as the Défenseur des Droits/Defender of Rights, of these difficulties. Following the intervention of the HALDE, several LGBT associations obtained an authorization in 2009 and 2010. They are now able to intervene in public schools on questions concerning anti-discrimination and homophobia in schools, and to support young men and women questioning their sexual orientation.

C. Using research on LGBTI issues

Research can be conducted or commissioned by the equality body on issues of concern to LGBTI people. Research establishes the context for the ongoing work of the equality body on LGBTI issues. It communicates the commitment of the equality body to LGBTI issues, particularly to LGBTI people. It enables an authoritative equality body contribution to policy making on LGBTI issues.

GOOD PRACTICE EXAMPLE FROM *MALTA*

In Malta the National Commission for the Promotion of Equality (NCPE) used an EU funded project to develop research on the experience of discrimination of LGBT people. This was prior to the recent development of the equal treatment legislation in Malta that gave the NCPE a mandate to deal with cases of discrimination on the ground of sexual orientation. The 'LGBT Discrimination Research Report: Qualitative Study' examined discrimination experienced by twenty five LGBT respondents. It explored this experience in the fields of work, housing, healthcare, education and the provision of goods and services. This research established a knowledge base for the organisation, added to its profile within the LGBT community, and gave prominence to LGBT issues in Malta.

D. Building partnerships with LGBTI organisations

Actions to promote equality for LGBTI people taken by the equality body can be done in partnership with LGBTI organisations. This enables an LGBTI input into the objectives and design of such actions. The knowledge held by LGBTI people and their organisations enhances the potential and impact of the work of the equality body. The relationship developed between the equality body and the LGBTI community enhances the credibility of the equality body and builds trust between the equality body and the LGBTI community.

GOOD PRACTICE EXAMPLE FROM THE UK

In Britain the Equality and Human Rights Commission (EHRC) has worked in partnership with LGBTI organisations. In Scotland the EHRC worked with Stonewall Scotland to deliver the 'FIT' DVD and teachers packs to all secondary schools in Scotland. In England the EHRC worked with local LGBT and disability organisations on a participatory research project to explore how disabled people and trans people who had been victims of hate crime could be empowered to improve criminal justice and community safety agency responses and the support provided to other victims of hate crime. This resulted in the guide 'Empowering People to Tackle Hate Crime'.

E. Following up casework recommendations

Predominantly tribunal type equality bodies can make recommendations that go beyond the individual act of discrimination complained of. Recommendations made by these equality bodies need to be followed up with the organisations concerned if they are to be implemented. The recommendations made could also require a policy response that needs to be followed up with Government. Follow up strategies can be valuable in securing progress on LGBTI issues.

GOOD PRACTICE EXAMPLE FROM THE NETHERLANDS

In Decision no. 2010-175, the Dutch Equal Treatment Commission is of the opinion that the University of Amsterdam discriminated on the grounds of gender in violation of the Dutch Equal Treatment Act. The University had refused to provide a man, who is a transsexual, with a new diploma with his current male first names. The Commission sent its opinion to the Ministry of Education and NGOs active in the field of LGBT rights. After the Ministry of Education in the Netherlands had received the decision, it ordered all universities to change graduates' diplomas when so requested by a transgender person.

At present, an amendment to the Act regulating sex registration is pending before parliament. Once adopted, educational institutions will be obliged to issue a diploma with the name and sex as requested by the transgender person. The explanatory memorandum to the legislative proposal refers to the decision of the Equal Treatment Commission.

F. Mainstreaming LGBTI people in multi-ground work

The work done by many equality bodies encompasses a wide number of grounds. Equality bodies can take an intersectional approach to some of their initiatives. This can bring forward and advance LGBTI issues as one of a number of grounds. This can be particularly useful from an LGBTI perspective where, if the actions involved were taken only in relation to LGBTI people, specific barriers might have arisen to block progress. Equality bodies can take account of the diversity of sexual and gender identity within other grounds they work on as a means of advancing LGBTI issues. However, in these multi-ground approaches it is useful to take concrete steps to ensure a visibility for the issues of LGBTI people and to develop initiatives that are specific to LGBTI people.

5 Internal challenges within equality bodies

A number of internal challenges were identified during the workshop. Each of these challenges needs to be addressed through adequate internal institutional processes within the equality body. These include:

- A. Making LGBTI issues a priority
- B. Sustaining a focus on LGBTI issues
- C. Establishing a formal relationship with the LGBTI community
- D. Ensuring coherence across the organisation on LGBTI issues
- E. Building organisational capacity

A. Making LGBTI issues a priority

Strategic planning processes can ensure that an equality body is proactive in addressing LGBTI issues even in situations of under-reporting or in contexts that are hostile to LGBTI people.

B. Sustaining a focus on LGBTI issues

It can be difficult to sustain a focus on LGBTI issues where equality bodies are working on a broad range of protected grounds. Over time this can get more difficult as the pace of change is slow. Strategic planning, engagement with LGBTI organisations and review processes help sustain a focus on these issues.

C. Establishing a formal relationship with the LGBTI community

Equality bodies value an engagement with LGBTI organisations. This engagement gives them access to the knowledge, information, experience and channels of communication developed by these organisations. This is important for the effectiveness of equality bodies. A number of equality bodies have formalised their relationship with LGBTI organisations in a manner that enables mutual education, trust building and solidarity.

GOOD PRACTICE EXAMPLE FROM FRANCE

The LGBT committee of the French Défenseur des droits/Defender of Rights enables a long-term connection with civil society. It is made up of 15 different LGBT organizations, meets twice a year to focus on issues concerning sexual orientation, homophobia and the transgender community. The objective is for the associations to share their observations, actions carried out, and obstacles encountered. It is also an opportunity to raise awareness of the commitment and involvement of the Défenseur des Droits in the area of LGBT issues.

Working groups can be created on specific issues. Two working groups have been established with LGBT organizations and other pertinent actors, dealing with homophobia in the workplace and the concept of gender identity.

The next committee meeting will present the work of service instructors on complaints related to sexual orientation and gender identity, as well as the prevention of homophobia in the workplace campaign launched in June of 2013.

D. Ensuring coherence across the organisation on LGBTI issues

Different parts of the organisation with different functional responsibilities can take different positions on LGBTI issues or on the approach to be taken to their work on LGBTI issues.

The potential for lack of coherence within bodies that have a mandate that goes beyond equality and non-discrimination is also significant. There can be tensions between the different mandates. There can be different traditions within the different mandates where pre-existing bodies have been merged.

Action and leadership for a shared value based across the equality body can assist coherence. Strategic planning can underpin this shared value base and translate it into practical and coherent responses to LGBTI issues. Leadership within the equality body can be important in resolving any potential incoherence and building coherence. Internal structures within the equality body can also enable coherence.

GOOD PRACTICE EXAMPLE FROM *BELGIUM*

The LGB working group of the Belgian Centre for Equal Opportunities and Opposition to Racism (CEOOR) brings staff together from different services within the Centre who are dealing with LGB issues in one way or another. The different aspects of the work of the Centre as an equality body are represented in the group with one person who deals with inquiries, one who is in charge of the case files related to sexual orientation, and one of the trainers who gives workshops on homophobia. The other members of the group focus on networking, research, promotional work, and policy related work.

The composition of the group is its main asset. This allows the group to pick up quickly on recurring problems in inquiries or case files, and act on these by, for example, drawing up an official recommendation, setting up a collaboration or starting up a project or campaign. The group draws up a yearly action plan, and meets regularly, about once a month, in order to follow up on the plan.

E. Building organisational capacity

Staff training can support staff in the equality body to develop the attitudes, confidence and skills to engage appropriately and effectively with LGBTI people, LGBTI organisations, and LGBTI issues.

GOOD PRACTICE EXAMPLE FROM *BELGIUM*

The mandate of the Danish Institute for Human Rights was recently expanded to include the ground of gender, which is understood to include the ground of gender identity. It became clear that staff were challenged by cases presented by trans people due their complexity and particular nature. The Danish Institute for Human Rights developed a Memorandum of Understanding with LGBT Denmark. LGBT Denmark has a unit offering

counseling to trans people provided by competent trans people with a legal background. LGBT Denmark, under the Memorandum, now receives the cases, provided the complainant agrees and they give feedback on the results of the legal counseling to the Danish Institute of Human Rights. This is a temporary arrangement and the Danish Institute of Human Rights is now engaging with LGBT Denmark to provide training for its staff, to provide some mentoring for its staff, and to enable their staff to observe the work done by LGBT Denmark.

6 Diversity amongst LGBTI people

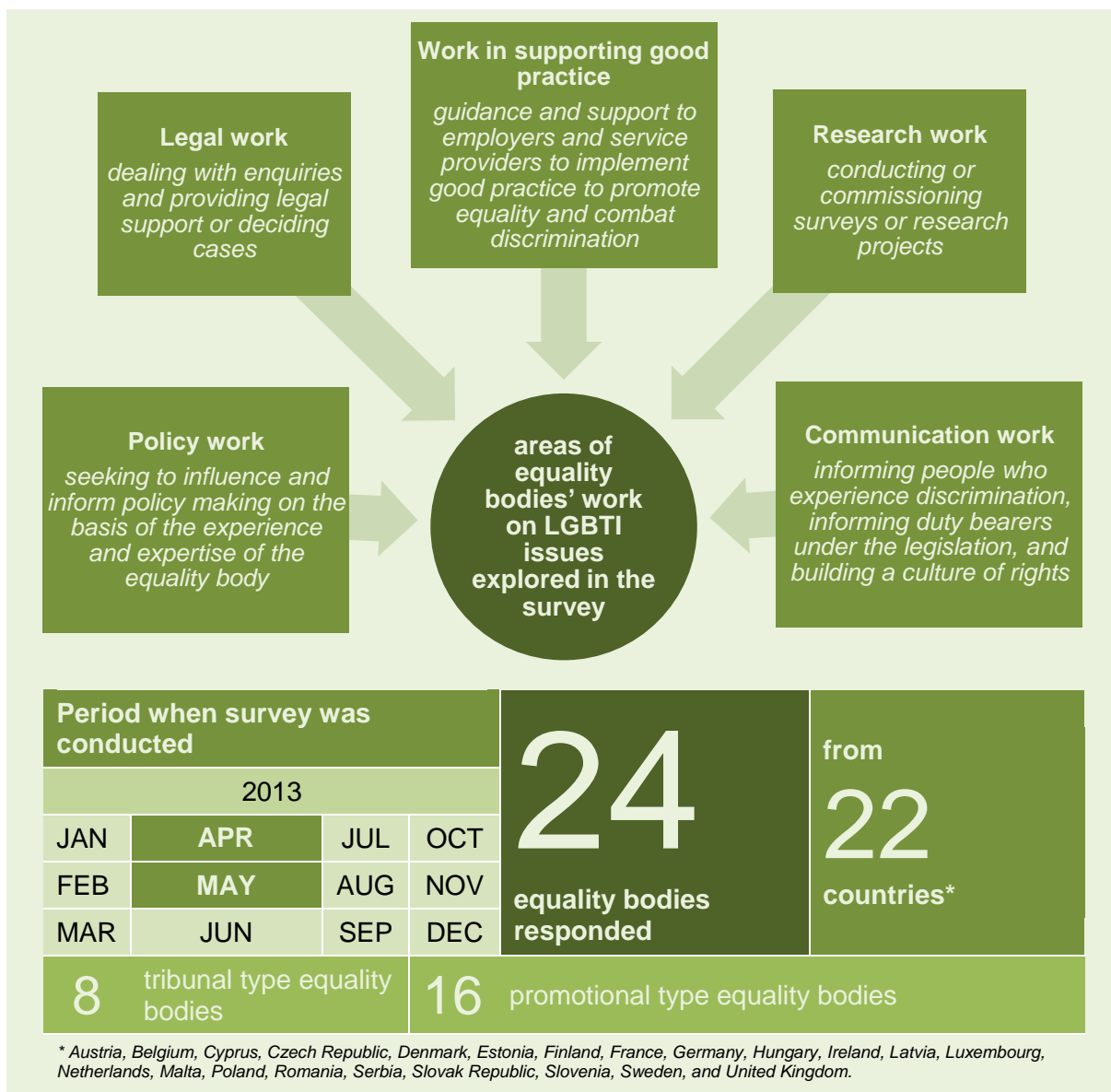
LGBTI people are not a homogeneous group. This diversity encompasses identity and situation. It needs to be taken into account by equality bodies in responding to under-reporting, in understanding discrimination experienced by LGBTI people and in promoting equality for LGBTI people.

In the workshop a number of key elements to this diversity were identified:

GENDER	TRANS PEOPLE	INTERSEX PEOPLE
<p>There is a need to focus on, understand and respond to the different experiences and situations of lesbian and bisexual women and gay and bisexual men.</p>	<p>There is a need to focus on, understand and respond to the particular situation of trans people and their specific experience of discrimination as trans people.</p>	<p>There is a need to focus on, understand and respond to the particular situation of intersex people and their specific experience of discrimination as intersex people.</p>
<p>LGBTI PEOPLE WHO EXPERIENCE MULTIPLE DISCRIMINATION</p>		<p>PEOPLE ON THE MARGINS OF THE LGBTI COMMUNITY</p>
<p>There is a need to address situations of multiple discrimination, where LGBTI people face additional disadvantage due to another dimension to their identity such as age, gender, racial or ethnic origin, religion or belief and/or disability.</p>		<p>There is a need to address the particular barriers of people who do not have ready access to support within the LGBTI community.</p>

Chapter 3

Survey: the work of equality bodies on LGBTI issues



It is important to note that the survey results can provide a qualitative rather than a quantitative picture even when numerical indicators such as those of casework are mentioned. The survey results are analysed in terms of:

1	Objectives for the work of equality bodies	2	Policy work
3	Legal work	4	Promotional work
5	Research work	6	Communications work
7	Factors that enhance, barriers that block and challenges to be met		

1 Objectives for the work of equality bodies

Most equality bodies responding to the survey have not set specific objectives for their work with LGBTI people. Most point to the functions and powers they have been given under statute as effectively being their objectives whatever grounds they might be working on.

In some instances equality bodies report that they have an objective to ensure that the issues of LGBTI people have parity with issues across all other grounds. This reflects a valuable stated concern to ensure a visibility for LGBTI people in implementing their functions and powers within a multi-ground approach to equality.

A number of equality bodies have developed more specific objectives for their work with LGBTI people. These equality bodies emphasise objectives of raising awareness of rights among LGBTI people and of addressing any barriers to the exercise of these rights by LGBTI people. There is also a focus on promoting positive attitudes towards LGBTI people and addressing systemic discrimination in some instances. In one instance there is an emphasis on building trust with LGBTI people.

In some instances the recent establishment of the equality body or the recent mandating of an equality body with functions in relation to LGBTI people has an influence on the objectives established. In such contexts, the priority reported is to secure awareness of the equality body itself and/or its new mandate in relation to LGBTI people. The focus on securing awareness is usefully coupled with a focus on securing accessibility by some equality bodies. In one instance there is a focus on building the internal capacity of the equality body in relation to the new groups covered by their mandate.

It is interesting that the purpose reported by one equality body has been set out in its founding legislation. This is set out as: “The Commission shall exercise its functions under this Part with a view to encouraging and supporting the development of a society in which (a) people’s ability to achieve their potential is not limited by prejudice or discrimination, (b) there is respect for and protection of each individual’s human rights, (c) there is respect for the dignity and worth of each individual, (d) each individual has an equal opportunity to participate in society, and (e) there is mutual respect between groups based on understanding and valuing of diversity and on shared respect for equality and human rights.”

This purpose encompasses all grounds and fields covered by the body.

2 Policy work

Equality bodies can be important and authoritative voices for equality for LGBTI people. Equality bodies report their engagement in a broad spectrum of valuable policy work at Member State level.

Policy issues

The policy issues being addressed by equality bodies include work to:

- Have LGBTI people fully protected from discrimination under law including having trans and intersex people named specifically in equal treatment legislation – reported by six equality bodies.
- Secure access to civil marriage for same sex couples and equality between civil partners and married couples emerges as a key policy – reported by nine equality bodies.
- Respond to homophobic bullying in schools - reported by one equality body.
- Access to making blood donations – reported by one equality body.

Specifically in relation to trans people the policy issues being addressed by equality bodies include policy work to:

- Secure access to relevant health services required by trans people – reported by two equality bodies.
- Secure legal recognition of trans people in the gender with which they identify and the right to change their personal data – reported by five equality bodies.
- Seeking removal of sterilization/infertility requirements prior to sex change operations – reported by two equality bodies.
- Seeking a review of legal provisions that are discriminatory for trans people – reported by one equality body.

Specifically in relation to intersex people the policy issues being addressed by equality bodies include policy work to:

- Express concern at early surgical interventions for intersex children without the child's participation – reported by one equality body.

National strategies

A national strategy at Member State level provides a valuable focus and framework for policy work by equality bodies. Such a strategy also provides a supportive and enabling context within which equality bodies can implement the full range of their powers and functions. One equality body reported that this strategy influences their approach to trans issues.

Five equality bodies reported some form of national strategy to improve the situation of LGBTI people at Member State level. Two equality bodies reported that such a strategy is in preparation. One equality body reported that such a strategy is expected to be developed on foot of the establishment of a new Governmental committee on LGBTI issues.

Two equality bodies reported a significant focus on LGBTI people in national anti-discrimination strategies. One equality body reported a significant focus on trans people and intersex people in the national gender strategy.

Four equality bodies reported policy work they had done in promoting the development of such national strategies.

3 Legal work

Mandate

Most equality bodies reported a mandate for their legal work that goes beyond the provisions of the EU equal treatment Directives. Twenty one equality bodies reported that their mandate encompassed both employment and the provision of goods and services. Three equality bodies had no mandate in relation to goods and services.

Six equality bodies reported that their mandate specifically named trans people. This is seen as valuable. Trans people are named in terms of 'gender reassignment' or 'gender identity' or 'gender identity or expression' or 'transsexual'. No equality body reported that their mandate named intersex people. This is a problem. Four equality bodies reported an 'open ground' feature in their mandate.

It should be noted that equality bodies do address the issues of trans people under the gender ground in their equal treatment legislation and some equality bodies have explored addressing the issues of intersex people under the gender identity and disability grounds. However this is reported as inadequate in seeking to enable trans people and intersex people to address their experiences of discrimination through the equal treatment legislation.

Two equality bodies had no mandate on the sexual orientation ground and only had a focus on trans and intersex people under the gender ground. Another equality body did not have a gender ground mandate and, therefore, only had a focus on lesbian, gay and bisexual people. In this instance another equality body held the gender ground mandate.

Approach

No equality bodies reported an LGBTI specific litigation strategy, although many equality bodies reported having a broad litigation strategy. This was, in all instances, of a general nature with general criteria laid down for the selection of cases that applied to all grounds. In one instance, the general criteria went beyond broadly generic criteria to identify specific issues that the equality body wished to address in its legal work and the equality body was able to identify the issues among these that had a relevance to LGBTI people. In another instance specific emphasis was placed on targeting systemic discrimination.

Scale

Most equality bodies reported that their legal work in relation to LGBTI people is quantifiably less in scale than their legal work on other grounds. The low level of complaints being addressed is seen to directly reflect the low level of inquiries coming from LGBTI people to equality bodies.

The percentage of complaints from LGBTI people reported as being received by equality bodies ranged from 0% to 3% of total cases received by the equality body. The percentage of queries reported ranged from 1.1% to 2.8% of total queries dealt with by the equality body. Complaints involving lesbian, gay and bisexual people predominated with only small numbers of complaints reported as being made by trans people and none by intersex people.

There were five exceptions to this:

- One equality body reported that LGBTI people are among the most active and progressive group of petitioners accounting for 15% of complaints in 2012.
- Another equality body reported that 10.68% of the queries it dealt with in 2012 related to LGBTI people, with 51 out of these 234 queries relating to trans people and one to intersex people.
- A third equality body reported that 7.4% of the complaints that it addressed during 2012 and 5.35% of the queries that it dealt with related to LGBTI people. However, in this instance, all the complaints received were outside the scope of the equal treatment legislation.
- A fourth equality body reported that 5.7% of the complaints that it supported and 6.7% of the queries it received in 2012 were from LGB people.
- A fifth equality body, with a mandate confined to gender, reported that 10% of the complaints and requests for information handled by their legal unit in 2011 concerned transsexuality. They reported an increase for each year from 3 inquiries in 2005 to 29 in 2011.

Issues

There is a strong coherence between the FRA survey results and the issues reported in the legal work of the equality bodies.

In employment the legal work reported with LGB people has a significant focus on harassment in the workplace, terms and conditions of work (including workplace benefits for people in registered partnerships) and termination of employment.

Specific issues emerge as predominant for trans people including the right to transition at work, access to employment, harassment, and getting reference letters in their correct name. Intersex people hardly feature in the work reported.

In the provision of goods and services the legal work with LGB people reported has a significant focus on access to housing (both to rent and buy), access to health care, social protection and access to parental leave, harassment in education, renting venues for events, exclusion as blood donors, and access to hotels, clubs, and bars. Discounts restricted to married couples, tax treatment of people in registered partnerships, pension rights and harassment in public places are also at issue.

Specific issues that emerge in the legal work with trans people include access to relevant health services, changing personal details in relation to gender identity, access to fertility treatment, access to gender specific facilities, social insurance, and discrimination by insurance firms in certain reimbursements and in access to insurance. Intersex people hardly feature in the work reported.

Success rates

There was very limited information available on the success rate of cases involving LGBTI people. This appears to be due to lack of data. Where data was available it would appear that there is some evidence for low success rates in the cases heard or supported by equality bodies.

In cases where success rates were reported by equality bodies discrimination was established in four out of thirteen cases considered; none out of three cases considered; three out of ten cases considered; and one out of eight cases considered. In one instance the success rate in employment related cases involving LGBTI people during 2012 was 3.3% with a further 41% of the cases settled.

In contrast, one equality body reported a 60% success rate in LGB cases; another reported a 100% success rate in its six cases; another reported two out of three cases considered as successful; and another three out of five cases considered.

Multiple discrimination

Only four equality bodies reported in detail on the prevalence of multiple discrimination in their legal work. This appears to be due to lack of data collected by the equality bodies. These equality bodies reported the following intersections with their work on LGBTI complaints:

- Intersection with grounds of gender, age, religion and political opinion.
- Intersection with ground of gender.
- Intersection with grounds of gender, ethnicity and disability.
- Intersections with the grounds of national origin, religion, physical characteristic, health status and age.

Three other equality bodies provided some information on multiple discrimination with intersections covering grounds of age, membership of a national minority, race, gender, disability, health status, and parental status.

Barriers

Equality bodies reported a number of barriers to progressing their legal work, including:

- Trust and the lack of trust in statutory bodies.
- Under-reporting of discrimination by LGBTI people.
- Lack of knowledge of rights among LGBTI people.
- Lack of political commitment and resistance from the general public.
- Limitation in the scope of the mandate of the equality body so as to be able to deal with the issues brought forward by LGBTI people.
- Limitations in the powers available to equality bodies.
- Gaps in the provisions of the equal treatment legislation.
- Limitations in the definition of the ground relating to trans people such that those who have not made a transition are not covered.
- Backlog of cases due to insufficient resources.
- Lack of knowledge of anti-discrimination legislation among the judiciary.

On a more specific level some equality bodies report difficulties in gathering sufficient evidence to reverse the burden of proof, particularly in situations where there are few witnesses to issues of harassment. Others identify short time limits as an issue where people might initially be reluctant to report discrimination. A number of equality bodies identified barriers due to specific exemptions in their legislation, in particular exemptions that relate to protection of the religious ethos of organisations.

4 Promotional work

Promotional work involves equality bodies in activities to stimulate and support good practice in promoting equality, accommodating diversity and combating discrimination within organisations. Clearly, predominantly promotion type and predominantly tribunal type equality bodies pursue this work in different ways. This promotional work is particularly important in a context of high levels of under-reporting given its potential to prevent discrimination.

Some equality bodies report limited actions in this field and nine equality bodies report no such activity. In some instances this is partly an issue of the limited resources available to these equality bodies. However, it could also be a result of the culture of the equality body and the objectives it sets for itself.

Objectives

A number of equality bodies have established objectives for their promotional work. Some have done so in quite specific terms that enable an effective focusing of their scarce resources. These specific objectives include disseminating knowledge of good practice among employers, enabling employers and service providers to mainstream a focus on equality in their policies and practices, supporting the capacity and standing of LGBTI NGOs, and supporting the capacity of the judiciary.

Approach

Equality bodies tended to report that they include a focus on LGBTI issues in promotional initiatives that have a more general focus. However, the number and range of specific actions referring to LGBTI people and issues reported by equality bodies in their promotional work is of note.

A small number of these promotional activities have a specific focus on trans people. None are reported with a specific focus on intersex people.

The target groups that are most prominent in this work include civil servants, employers, trade unions public sector service providers, schools, the judiciary and the police.

Many equality bodies report a direct engagement with LGBTI NGOs in developing and implementing these activities. One equality body reported developing promotional work as part of an NGO established steering group. Some equality bodies have developed these activities in partnership with, or through, employer associations and trade unions.

EU funding has made an important contribution to this work in a number of instances.

Activities

A wide range of activities are reported in this field:

- Training provision and the development of training tools are predominant.
- The preparation and publication of guidance material is extensive. This includes guidance material for addressing workplace homophobia, employer self-assessment, conducting job interviews, broader recruitment strategies, supporting trade unionists to take up these issues in their workplace, dealing with homophobia in schools, legal analysis of homophobia and discrimination on the sexual orientation ground, and responding to hate crime.

One equality body contributed to the development of guidance materials developed by other institutions on issues such as homophobia in education, safe blood donation, and a sports charter.

- Seminars are organised as an effective means of delivering guidance.
- Case law has been published and disseminated to promote good practice.
- Monitoring activities to gather data on LGBTI people have been developed.
- Negotiating change with particular service providers has been pursued.
- Support to and engagement with the work of the Diversity Charter in the Member State.
- Formal collaboration agreements have been developed with the police which includes provision of workshops on homophobia and anti-discrimination legislation.
- Subsidies to civil society to set up networks (made up of general practitioners, lawyers and psychologists) to better meet the needs of trans people.

Barriers

A number of barriers to advancing promotional work were reported including:

- Reluctance among employers and service providers to address LGBTI issues. In some instances this reluctance is identified as hostility, in others it is seen as a product of stereotypes and prejudice in the ethos of organisations, and in others as a lack of equality culture within organisations.
- Limitations in the context for this work due to weak linkages by employer associations and trade unions with LGBTI NGOs.
- Capacity of the equality body, particularly for new equality bodies or equality bodies with a new mandate in this area.
- Lack of resources available to the equality body.
- Narrow mandate of the equality body.

5 Research work

Objectives

Equality bodies reported research commissioned to develop knowledge of, and to highlight, the situation of LGBTI people. In some instances this has been directed to influence and inform the development of public policy. Equality bodies have made use of research to inform and shape their own work on LGBTI issues. This is particularly relevant when they start to work on these issues.

Approach

Equality bodies reported including a focus on LGBTI people in their general research work. Equality bodies also reported a body of research work with a specific focus on LGBTI people.

Activities

Survey work has been used by equality bodies to identify, track and assess attitudes to LGBTI people and issues held by the general public. In two instances this is done through an annual survey. Survey work has also been used to identify and assess perspectives held by employers as well as actions taken by employers on these issues. Survey work has targeted trans people to establish the issues they face in different fields of life.

Research projects reported by equality bodies have focused on a range of issues including:

- Homophobia and discrimination in schools and higher education institutions.
- Discrimination at work against LGB people.
- The experience of LGB people in accessing health services.
- Access to health services for trans people.
- The labour market experiences of trans people.
- The experience of LGBT people in the field of housing.
- The rights of trans people and of intersex people.
- Hate crime.

Some of the research work of equality bodies has addressed methodological issues. Research initiatives have been used to develop monitoring tools for trans people and intersex people who can be invisible in larger survey populations and to assess the size and composition of the LGB community as a baseline. Equality bodies also report work done with national statistical bodies to promote data collection in relation to LGBTI people.

Barriers

- A number of barriers to this research work are reported including:
- Low response rates from those being researched/surveyed.

- Difficulty in identifying members of the LGBTI communities.
- Availability of data on LGBTI people.
- Lack of human and financial resources available to the equality body.
- Limited mandate of the equality body.
- Questioning of spending the equality body's budget on such a small group of people.
- Particular difficulty of drawing a random sample in survey work on trans people.

6 Communications work

Objectives

Equality bodies reported extensive work on communications. This work is mostly guided by general objectives such as raising awareness of rights, building knowledge of the equality body itself, and educating particular sectors on issues of discrimination and equality. A number of equality bodies reported objectives that relate specifically to LGBTI people. One equality body reported that this specific focus on LGBTI people was triggered by its concern at the level of under-reporting.

One instance of specific objectives reported captures the challenge of effective communication with LGBTI people and the importance of this communication being a two-way process. The objectives set are to encourage LGBT people to engage with the equality body, to improve recognition of discrimination against LGBT people, to build confidence of LGBT people to share their experiences of discrimination, and to deepen the understanding of the equality body of LGBT experiences so as to better shape its services.

Approach

Building relationships with LGBTI people and organisations is an important means of communication reported by equality bodies. A number of equality bodies reported formal arrangements:

- A long-term committee or advisory group on LGBTI issues established by the equality body.
- LGBTI organisations are included as members of a committee established by the equality body with a brief that includes but goes beyond LGBTI issues.
- Partnership arrangements based on formal agreements with LGBTI NGOs to act as contact points for complainants.
- The appointment of champions for LGBTI rights to the Board of the equality body.

More informal arrangements are reported that involve regular contact, meetings and dialogue with LGBTI associations and close cooperation on particular initiatives, including joint projects and events. The long-term nature of these relationships is stressed in some instances.

One equality body reported providing supports to civil society organisations in direct contact with trans people. A festival to show the continuum of genders and the various forms of intersexuality was supported. The equality body participated in workshops concerning trans people and financed monthly conversations for trans people and forums on a social website.

Activities

A wide range of channels of communication is reported including mainstream media, the equality body's own means of communication, and a recent emphasis on social media. One equality body reported specific work on building the capacity of the media in relation to equality and non-discrimination issues including LGBTI issues.

Equality bodies have supported and have had a visible presence at LGBTI events. Pride events have been a particular focus for equality bodies. A number of equality bodies have taken public stances on LGBTI issues both to promote action on these issues and to build trust with LGBTI people. Equality bodies have used social media to communicate their position on issues facing LGBTI people.

The publication of information brochures is common. Seminars on the rights of LGBTI people and on issues facing LGBTI people are regular. One equality body reported an extensive series of public education campaigns that included a focus on LGB people and used posters, flyers, television spots, brochures, seminars, booklets, videos, website and a short film.

Other actions reported include a public information campaign on homophobic bullying in schools, communicating about specific successful cases of discrimination, organising awards for people contributing to combating discrimination, a postcard campaign to raise awareness of rights, using the annual report of the equality body to focus on LGB issues, and developing a specific "transgender" section to its website.

Under-reporting

Under-reporting is identified as a significant issue in relation to LGBTI people by all equality bodies surveyed bar one. This is true even for the few equality bodies that reported a significant level of inquiries from LGBTI people. The work done in the field of communication has a particular role to play in responding to under-reporting. However, in most instances actions specifically dedicated to reducing under-reporting have not been developed.

Some equality bodies reported actions to address under-reporting in a general manner that encompasses all grounds. These activities include funding a number of law centres and voluntary and community organisations to support those experiencing discrimination, and transfer of expertise events with voluntary and community organisations to support their capacity.

A small number of equality bodies reported action to specifically address under-reporting by LGBTI people. These activities include:

- Research into discrimination experienced by LGBTI people.
- Research into the perspectives and experiences of LGBTI people on reporting experiences of discrimination.
- A dedicated LGBT website.

- Information brochures targeting trans people.
- Arrangements with LGBTI organisations to act as local contact points.

Two equality bodies reported the importance of direct contact with LGBTI people in communication work responding to under-reporting. One gave the example of the positive impact of leafleting a Gay Pride event. Another gave the example of setting up small exploratory meetings with intersex people.

Barriers

A number of barriers to this communication work are reported including:

- Lack of finances available to the equality body.
- Lack of knowledge within the equality body, in particular where this focus forms part of a new mandate for the equality body.
- Media stereotyping of LGBTI people.
- Lack of trust by LGBTI people in statutory bodies.
- Lack of knowledge about the equality body among LGBTI people.

7

Factors that enhance, barriers that block and challenges to be met

Overarching **factors reported that enhance the impact** of the work of equality bodies include:

- A progressive, capable and active LGBTI NGO sector. The particular importance of specific organisations bringing forward intersex, trans and lesbian issues is noted.
- Provisions in equal treatment legislation that impose a duty on public sector bodies to have due regard to equality of opportunity in carrying out their functions.

Overarching **barriers reported that undermine the effectiveness** of the work of equality bodies are:

- The lack of human and financial resources.
- The lack of trust in statutory bodies.

Challenges to be met that are evident from the survey include:

- The absence of a gender analysis in the work being done with LGBTI people.
- The lack of engagement with intersex people and intersex issues and the limited engagement with trans people and trans issues.
- The absence of internal procedures to ensure a focus on LGBTI issues and to ensure that this focus is coherent across the organisation.
- Gaps in the knowledge of some equality bodies about LGBTI issues.

Chapter 4

Evolving the practice of equality bodies on LGBTI issues

A self-assessment checklist for equality bodies of their work on LGBTI issues can be developed from the body of work reported by the equality bodies.

BROAD PERSPECTIVE	<p>Equality bodies could take an inclusive perspective on LGBTI people that includes all members of these diverse communities. This perspective would encompass different identities, different contexts and situations, and the potential for multiple discrimination faced by LGBTI people. It would recognise the specific experience of discrimination by trans people and intersex people based on their particular identity as trans people and intersex people.</p> <p>Equality bodies could identify the extent to which LGBTI people are covered by the equal treatment legislation in their jurisdiction and promote an inclusive coverage of LGBTI people in equal treatment legislation</p>
VISIBILITY	<p>Equality bodies could take steps to secure a profile in the public domain, particularly among LGBTI people, for their mandate and work on LGBTI issues. This would build trust and enable awareness of the support that LGBTI people can get from the equality body.</p> <p>Equality bodies could take steps to secure a visibility not just for their mandate and work but also for issues being experienced by LGBTI people. This would be important in a context where LGBTI organisations are weak and would strengthen trust from LGBTI people in the equality body.</p>
KNOWLEDGE BASE	<p>Equality bodies could build a knowledge base about LGBTI people, and their needs, aspirations, situation and experience. This would have both an internal and an external function. It would serve to inform and shape the work of the equality body. It could be used to inform the policies and practices of policy makers, service providers, and employers. It would serve to inform the perspectives of the general public and to challenge stereotypes.</p>
FORMAL ENGAGEMENT	<p>Equality bodies could create a formal institutional link with LGBTI people. This could take the form of:</p> <ul style="list-style-type: none">• A joint standing committee that engages the equality body with LGBTI people and their organisations.• The appointment of champions for LGBTI rights to the Boards of equality bodies.• A formal cooperation agreement between the equality body and LGBTI organisations. <p>This formal engagement would allow for mutual education and mutual support. It would underpin long-term links with the LGBTI communities that inform and enable the work of the equality body.</p>

STRATEGY	Equality bodies could identify specific objectives in relation to LGBTI issues that they will achieve through their work. Actions would be identified to achieve these objectives that make use of the full spectrum of powers available to the equality body. This strategic mix of interventions would involve policy, legal, promotional, communication and research work to promote equality for and combat discrimination against LGBTI people.
SPECIFIC ACTIONS	Equality bodies could implement a dual approach to promoting equality for and combating discrimination against LGBTI people. This would involve including a focus on LGBTI issues in the general work that they do alongside implementing actions that are specifically focused on LGBTI issues. These specific actions could be further broken down to include actions that have a specific focus on trans people, on intersex people and on lesbian women.
UNDER-REPORTING	Equality bodies could take specific steps to respond to the high level of under-reporting by LGBTI people of the discrimination they experience. Under-reporting is of a scale that presents a barrier to the effectiveness of the equal treatment legislation and to the impact of the equality body itself. Dedicated actions to address and reduce this under-reporting by LGBTI people would enable an understanding of its causes and an identification of the steps that are most likely to reduce it.
POLICY VOICE	Equality bodies could develop policy positions and take a public stand on policy issues of concern to LGBTI people. These issues would differ from Member State to Member State. They might not fall directly within the mandate of the equality body but they are central to creating the conditions for the effective pursuit of this mandate. This policy voice of the equality body would lend weight to achieving the change required for equality for LGBTI people and build trust in the equality body.
TRACK SITUATION	Equality bodies could commission or conduct surveys or research to track the situation and experience of LGBTI people on a regular basis. This would enable progress to be measured and the actions taken to advance equality for LGBTI people to be assessed. It would enable new issues to be identified and worked on. It would provide an evidence base on LGBTI issues for policy makers, employers, service providers and the general public.
PROCESS	<p>Equality bodies could use working methods based on collaboration with LGBTI people and their organisations. This process could involve joint endeavours, consultation in designing and implementing initiatives, and participation by equality bodies in initiatives developed by LGBTI organisations.</p> <p>Equality bodies could develop internal procedures to ensure that a focus on LGBTI issues is sustained in their work, to enable consistency in their approach to these issues across the organisation, and to include a gender perspective on all elements of this work.</p>

Chapter 5

Enhancing the context for the work of equality bodies on LGBTI issues

Seven steps could usefully be taken at European Union and/or Member State level to improve the work of equality bodies on LGBTI issues and, in turn, enhance the situation and experience of LGBTI people.

1

PROTECTION FROM DISCRIMINATION

Many equality bodies have a mandate that encompasses employment and the provision of goods and services. It is clear that this enables a more comprehensive response to the situation and experience of LGBTI people. Equality bodies, whose mandate is confined to employment, report not being able to deal with many queries that are addressed to them, because these queries fall outside their mandate. Other equality bodies note difficulties for their legal work and in relation to under-reporting where trans people and intersex people are not specifically named in equal treatment legislation. Comprehensive protection from discrimination in all fields that names trans people and intersex people in an appropriate manner needs to be further developed at EU level and in the Member States.

2

STRATEGIC FRAMEWORK TO ADVANCE EQUALITY

Equality bodies have identified the value of national strategies to advance equality for and eliminate discrimination against LGBTI people. Such strategies contribute to creating an enabling context within which to advance the work and goals of equality bodies. However only a small number of equality bodies reported the presence of such strategies. These could usefully be encouraged and developed at EU and Member State level.

The EU foreign affairs Ministers provided valuable leadership in this regard in adopting LGBTI guidelines in June 2013 to instruct EU diplomats around the world to defend the human rights of LGBTI people. The guidelines revolve around four priorities to – eliminate discriminatory laws and policies, including the death penalty; promote equality and non-discrimination at work, in healthcare and in education; combat state or individual violence against LGBTI people; and support and protect human rights defenders.

3

PUBLIC SECTOR DUTIES

Three equality bodies report on the importance and value of statutory duties on public sector institutions to promote equality of opportunity under equal treatment legislation. These equality bodies play key roles in supporting and ensuring the effective implementation of these public sector duties. These duties stimulate more planned and systematic approaches to equality for LGBTI people by public sector bodies. Such duties are particularly important in a context of under-reporting of discrimination by LGBTI people. This approach could usefully be promoted and developed at Member State level. Commitments in the EU Treaties to non-discrimination mainstreaming at EU level could form the basis for this. Further work could also be done on developing effective implementation of these commitments at EU level with regard to LGBTI people.

4

SPECIFIC FOCUS ON TRANS AND INTERSEX PEOPLE

The specific naming of trans people and intersex people in equal treatment legislation was identified as valuable in the work of the equality bodies. This recognises their distinct experience of discrimination in terms of their own identity rather than as an un-named or even named part of another ground. Initiatives specifically targeting trans people and intersex people could usefully be taken at EU level. This would set a leadership in responding to the issues of trans people and intersex people in a manner that recognises their particular identity. It would enhance the context within which equality bodies seek to take up the issues of trans people and intersex people.

5

FUNDING

A significant number of equality bodies highlighted the importance of EU funding in enabling their work on LGBTI issues. New approaches to EU funding are now being developed and coming on stream. It would be important that funding continues to be available to equality bodies to progress their work on LGBTI issues.

6

DATA

Many equality bodies identified data deficits with regard to LGBTI people. In particular, data deficits were found to hamper research and survey work by equality bodies. Equality bodies also communicated a concern to improve these data deficits by working on new methodologies and by working with bodies responsible for data collection at Member State level. Steps could be taken to address data deficits in relation to LGBTI people at Member State and at EU level, while fully respecting and guaranteeing the privacy rights of all people. In particular, annual reports that gather and update the data available on LGBTI people would be a valuable tool to enable the work of equality bodies. The work being done by the European Union Agency for Fundamental Rights is making a valuable contribution in this regard.

7

COOPERATION

Equality bodies highlighted the need for and value in greater cooperation between equality bodies on ground specific issues and in particular in relation to developing their work on LGBTI issues. A dedicated training event for equality body staff on working on LGBTI issues would be valuable to stimulate networking on these issues and to build capacity on these issues. Equinet would provide the most appropriate context for delivering this training.

Notes

EQUINET MEMBER EQUALITY BODIES

AUSTRIA

Ombud for Equal Treatment
www.gleichbehandlungsanwaltschaft.at

BELGIUM

Centre for Equal Opportunities & Opposition to Racism
www.diversite.be and www.diversiteit.be

BELGIUM

Institute for the Equality of Women and Men
<http://igvm-iefh.belgium.be>

BULGARIA

Commission for Protection against Discrimination
www.kzd-nondiscrimination.com

CROATIA

Office of the Ombudsman
www.ombudsman.hr

CYPRUS

Office of the Commissioner for Administration
(Ombudsman)
www.ombudsman.gov.cy

CZECH REPUBLIC

Office of the Public Defender of Rights
www.ochrance.cz

DENMARK

Board of Equal Treatment
www.ast.dk

DENMARK

Danish Institute for Human Rights
www.humanrights.dk

ESTONIA

Gender Equality and Equal Treatment Commissioner
www.svv.ee

FINLAND

Ombudsman for Equality
www.tasa-arvo.fi

FINLAND

Ombudsman for Minorities
www.ofm.fi

FRANCE

Defender of Rights
www.defenseurdesdroits.fr

GERMANY

Federal Anti-Discrimination Agency
www.antidiskriminierungsstelle.de

GREECE

Greek Ombudsman
www.synigoros.gr

HUNGARY

Equal Treatment Authority
www.egyenlobanasmod.hu

HUNGARY

Office of the Commissioner for Fundamental Rights
www.ajbh.hu

IRELAND

Equality Authority
www.equality.ie

ITALY

National Office against Racial Discrimination - UNAR
www.unar.it

LATVIA

Office of the Ombudsman
www.tiesibsargs.lv

LITHUANIA

Office of the Equal Opportunities Ombudsperson
www.lygybe.lt

LUXEMBURG

Centre for Equal Treatment
www.cet.lu

(FYRO) MACEDONIA

Commission for the Protection against Discrimination
www.kzd.mk/mk/

MALTA

National Commission for the Promotion of Equality
www.equality.gov.mt

NETHERLANDS

Netherlands Institute for Human Rights
www.mensenrechten.nl

NORWAY

Equality and Anti-Discrimination Ombud
www.ldo.no

POLAND

Human Rights Defender
www.rpo.gov.pl

PORTUGAL

Commission for Citizenship and Gender Equality
www.cig.gov.pt

PORTUGAL

Commission for Equality in Labour and Employment
www.cite.gov.pt

PORTUGAL

High Commission for Immigration and Intercultural Dialogue
www.acidi.gov.pt

ROMANIA

National Council for Combating Discrimination
www.cncd.org.ro

SERBIA

Commission for the Protection of Equality
www.ravnopravnost.gov.rs

SLOVAKIA

National Centre for Human Rights
www.snspl.sk

SLOVENIA

Advocate of the Principle of Equality
www.zagovornik.net

SPAIN

Spanish Race and Ethnic Equality Council
www.igualdadyndiscriminacion.org

SWEDEN

Equality Ombudsman
www.do.se

UNITED KINGDOM - GREAT BRITAIN

Equality and Human Rights Commission
www.equalityhumanrights.com

UNITED KINGDOM - NORTHERN IRELAND

Equality Commission for Northern Ireland
www.equalityni.org



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