



Getting Equal: Proposals to outlaw sexual orientation discrimination in the provision of goods and services

Consultation Response

Introduction - About us

Stonewall Housing exists to provide housing support, advice and advocacy, and to influence housing policy and practice in order to improve the lives of LGBT people. At the heart of our work is the aim to find safe and secure homes for LGBT people.

Stonewall Housing was set up in 1983 as the first Housing Association aimed exclusively at meeting the needs of lesbians and gay men. An initiative from within the lesbian and gay movement, Stonewall Housing found enthusiastic support from the Greater London Council (GLC) pioneering Lesbian and Gay Sub-Committee. The GLC provided initial start-up funding and Stonewall Housing's first residential project for 16 to 25 year olds opened in Islington in spring 1986.

Over the last two decades we have provided thousands of young lesbians and gay men with housing they feel safe in, giving them support and encouragement to express themselves and feel comfortable and confident in who they are. Many have found their way to our door having been rejected by family members because of their sexuality. Rejection from family members because of sexuality remains one of the most distressing reasons for homelessness among the young LGBT people we help.

In 1992 our pioneering Advice Service was set up due to growing demand for housing advice and information from the wider lesbian and gay communities, and in 2003 the Advice Service obtained the prestigious Community Legal Service Quality Mark. We offer free advice and advocacy on all housing issues through our daily telephone helpline, and our three weekly surgeries. Since 1992 the advice team has dealt with over 10,000 enquiries on an array of housing difficulties from LGBT people. Problems range from homophobic and transphobic harassment, domestic violence and family and relationship breakdowns, to substandard housing, issues with landlords and queries about housing benefit.

In 2001 we launched our ground breaking research project on the needs of young homeless lesbians and gay men. This found that

- being lesbian or gay can in itself cause some young people to become homeless
- even when not a direct cause of homelessness, a young people person's sexuality can be one of the causal factors
- being lesbian or gay could add to the housing difficulties a young person experiences
- young lesbians and gay men are completely invisible in most housing and homelessness services.

Q1 Do you agree that the new sexual orientation regulations should apply to goods, facilities and services?

Absolutely, it is vital that LGB people are offered equal protection under the law, as compared to other disadvantaged groups. LGB people are discriminated against in a number of ways, including within the housing sphere, and Stonewall Housing warmly welcomes the government's decision to outlaw this.

Q2 Should the concept of goods, facilities and services have the same scope as in other equality legislation, in particular Part 2 of the Equality Act 2006?

Yes. Stonewall Housing is firmly in favour of ensuring that the scope of these regulations is the same as for other equality enactments, and does not believe that a hierarchy of equality should be perpetuated by legislation.

Q3 Do you agree that we should provide an exemption from the prohibition on sexual orientation discrimination so that services to meet a specific and justified need can be provided separately to different groups on the basis of their sexual orientation? What specific activities would such an exemption need to apply to?

Yes, it is important that certain services can still be provided separately. Whilst this legislation takes further important steps in the direction of ending discrimination, it is still the case that LGBT people are discriminated against in many areas. This means that many LGBT people are fearful of approaching mainstream organisations for advice, housing or health services. Targeted services, from public bodies or charities, help to get past this problem. For example:

- Sexual health services for LGBT people
- Hostel accommodation for LGBT people (see answer to Q4 and Q14)
- Housing advice services for LGBT people
- Employment advice for LGBT people
- Mental health services for LGBT people

Q4 Do you agree that premises should be covered by the sexual orientation regulations?

Yes, Stonewall Housing strongly believes that premises should be covered by the regulations.

Stonewall Housing advises LGBT people of all ages about housing and homelessness problems. Approximately 50% of our clients experience housing problems, which are directly related to their sexuality. Clients' problems arise in the private sector, in hostels and temporary accommodation and in social housing. It would be vital that the regulations cover all types of tenure.

Case study

Juliet (now 24) spent most of her teenage years in residential care but decided that she could not come out in that environment because '*it was too dangerous...I would have gotten my head kicked in all the time*'. When Juliet left care she entered a mixed supported accommodation project where her sexuality '*just all came out*'. Though many of her peers were supportive, a staff member displayed severe discomfort with her sexuality. On one occasion she was told by him that it would be better if she found somewhere else to live because her '*difference*' was causing problems within the project.

Case study

Omar (25) approached the advice line after his landlord tried to illegally evict him. Omar shared a joint assured shorthold tenancy with two other housemates who were not gay. Omar's landlord visited the property and saw a copy of *Boyz*¹ magazine in his bedroom. Following this incident, Omar's landlord issued him with a section 21 notice ending his tenancy. This notice was not issued to the other tenants, and the landlord made it clear he wanted Omar to leave because he is gay. After Stonewall Housing became involved, the landlord realised he could not evict one of three joint tenants and he therefore re-issued the notice to all the tenants. In effect this meant that three people lost accommodation because of the landlord's homophobia. Because there is no defence to eviction under s.21 of Housing Act 1989, all three tenants were forced to move.

Q5 Do you agree that an exemption should be provided for selling or letting of private dwellings as described in this consultation paper?

Stonewall Housing accepts the principle that there should be no hierarchy of discrimination, and that these regulations should therefore reflect the other main equality enactments, by providing the exemption above.

Stonewall Housing believes however that this exemption is out of date, and cannot be justified for any of the equality groups. There is a significant housing shortage at the present time, and this is felt most keenly in London. Our clients often struggle to find affordable accommodation, and are therefore forced to move regularly. Clients particularly struggle to find 'gay friendly' accommodation, and if they are open about their sexuality many landlords will not rent to them. Many of our clients find that they constantly have to move on, often because they are asked to leave by landlords (who they live with) when their sexuality becomes apparent. LGBT people who are on a low income frequently cannot find self-contained accommodation, and renting a room from their landlord is the only type of accommodation that is affordable to them. Homophobia therefore has a massive impact on their ability to find safe, secure accommodation.

In addition, the boundary between landlord and housemate is less clear than the consultation document suggests, particularly at this end of the private rented market. For example, landlords may rent out a property to a group of people, on a joint tenancy, and one of the group wishes to move on. In this case, the landlord often allows the remaining tenants to select a new tenant to move-in. In this case then, although the landlord does not live in the property, the remaining tenant's act in the role of landlord/agent, interviewing and selecting prospective tenants. The capacity for homophobia to have a negative impact here is clear.

Case study

Derek (55) contacted the advice line because he was desperate for some assistance in finding secure accommodation. Derek is single, and works but earns a low income; he can only afford to rent a room in a shared house. Derek told us that in the past 10 years, he had moved not less than four times a year, and often more. Derek stated that it was getting more and more difficult to find accommodation, many landlords simply told him the room was gone as soon as they met him, and others asked him to leave on a pretext, often when Derek wished to bring a partner to his home. Derek was becoming vulnerable as a result of constantly moving, and was at the end of his tether, feeling that effectively he was living his life out of a suitcase, never able to put down roots.

Stonewall Housing therefore urges the Government to take the opportunity that the current Discrimination law Review offers, to update all discrimination law and remove this exemption.

Q6 Do you agree that private members clubs should be included in the sexual orientation regulations?

Yes

Q7 What is your view on our proposal that both private members clubs and associations should be permitted to include having a particular sexual orientation as a membership criterion, but only where this criterion is explicitly connected to the purpose for which the club has been established?

Stonewall Housing believe that the wording of this clause must be very carefully drafted. We agree with the spirit of the consultation document on this point, however we believe that it is vital that in drafting there is a balance between ensuring that private members clubs which seek to discriminate are not allowed, however support groups for LGBT people must be allowed to continue their vital work.

Q8 Do you agree that the new sexual orientation regulations should apply to public functions as well as goods, facilities and services? Do you think that any specific additional exceptions might be needed from a prohibition on sexual orientation discrimination on the exercise of public functions?

Yes, it is important that public functions are included in the regulations; Stonewall Housing's clients have often experienced direct discrimination, for example, from staff in local authorities, and the response of the local authorities themselves can be patchy. It will be important to have legislative back up when challenging these acts. Stonewall Housing accepts the needs for the exceptions listed in the consultation document, but believes that these exceptions should be as limited as possible and should not be extended beyond the scope outlined in the consultation.

Case study

Ali (22) lives on a council estate, and has been homophobicly harassed by neighbours for over a year. When Stonewall Housing approached Ali's Estate Manager to complain about this, the Estate Manager stated that Ali should be 'less obvious' and he would not be harassed.

Case study

Patricia (17) approached a homeless person's unit because her parents had thrown her out after discovering that she is a lesbian. The local authority initially claimed that Patricia was intentionally homeless because she should have been able to pretend that she wasn't a lesbian in order to stay at home.

Q9 Do you agree that schools should be covered by the sexual orientation regulations?

It is of the utmost importance that schools are included in the regulations. Many LGBT young people are extremely vulnerable as a result of bullying which begins at school. Many schools do not adequately challenge this bullying, or the low-level hostility such as young people using the word 'gay' as synonymous with anything bad or wrong.

Research has shown that LGBT people are at risk of significant mental health problems, and many LGBT young people are prescribed antidepressants, have had suicidal thoughts and self-harm.² These difficulties begin at school, where LGBT people can be isolated, and bullied but also often go unsupported in their emerging sexuality.

It is imperative that schools begin to play their dual role of supporting LGBT young people, and those questioning their sexuality; whilst also teaching and challenging all young people about sexuality and homophobia.

Q10 Are there any circumstances in which you consider that schools, or a part of the schools sector, should be exempted from the regulations?

Q11 Are there any areas of activity for schools for which you consider special provision needs to be made?

No, there are no circumstances or activities that should be exempted from the regulations in schools. LGBT children are just as likely to go to faith schools, and they have the same rights as all pupils to have their lives and experiences validated, and to have any homophobic bullying challenged. All children in faith schools will grow up to be members of society in which discrimination against LGBT people will be unlawful, it therefore important that all young people are given the opportunity to learn about sexuality in a positive environment, where they are taught that homophobia is as wrong as racism or sexism.

Q12 Do you consider that an exemption should be provided from the regulations for some of the activities or religious organisations?

Q13 Do you agree that these exemptions should be restricted to activities that are primarily doctrinal? If there are any other activities that you consider should be covered by an exemption, what are these and why should they be covered by an exemption?

Not answered as outside our area of expertise.

Q14 Do you agree that an exception should be provided by charities that provide services specifically to people because of/according to their sexual orientation?

It is very important that the regulations allow charities to continue to provide services specifically to people because of the sexual orientation; there are a number of vital services which current exist, and which help answer needs specific to the LGBT community. Examples include:

- Charities which offer support to isolated LGBT people
- Charities which support LGBT people with mental health difficulties, who have been discriminated against in mental health services
- Charities which campaign for equal treatment for LGBT people.

Stonewall Housing believes that the definition of charity suggested in the consultation document is too narrow, and could potentially exclude organisations doing charitable work, which are not registered charities.

For example, as explained below, Stonewall Housing is a charitable housing association, and is not therefore registered on the Charity Commission's register.

Case study

Stonewall Housing is an LGBT community organisation. We provide supported housing to LGBT young people who are homeless and have support needs. We also offer housing advice to LGBT people of all ages, on any area of housing law. Our statistics show us that about 50% of our client's have housing problems that are directly related to their sexuality.

Research has demonstrated that LGBT people have specific needs when homeless, and that sexuality can be a cause of homelessness.³ The service that Stonewall Housing provides is therefore vital, and unique. Because of the history of the organisation, we are not a registered charity, instead we are registered as a Charitable Housing Association under the Industrial and Providential Societies Act 1965.

LGBT organisations traditionally begin as grassroots organisations, and getting funding for these organisations is extremely difficult. This means organisations are run by volunteers, on shoestring budgets, existing in a sector with very little infrastructure.⁴ Registering as a charity is resource-heavy and bureaucratic - there are a large number of small LGBT voluntary sector organisations that simply do not have the capacity to do this, however their aims are charitable. It is important that the proposed exception in the regulations takes account of these organisations.

Q15 Do you agree that sexual orientation regulations should include direct and indirect discrimination as well as victimisation? Are there any particular considerations or situations that should be taken into account in how such provisions are drafted?

Yes

Q16 Do you agree that discriminatory practice should be included in the scope of the sexual orientation regulations?

Yes

Q17 Do you agree that discriminatory advertising should be included in the scope of the sexual orientation regulations?

Yes

Q18 Do you agree that instructions to discriminate should be covered by the sexual orientation regulations?

Yes

Q19 Do you agree that validity of contracts should be covered by the sexual orientation regulations?

Yes

Q20 Do you agree that the enforcement provisions for the sexual orientation regulations should match those for the other Equality Enactments?

Yes

Q21 Do you have any comments on the Government's plans for how the sexual orientation regulations will be enforced and supported by the CEHR?

Stonewall Housing strongly believes that the regulations should be extended to include discrimination against transgender people. In our experience, transgender people often experience virulent transphobia and homophobia, and it is extremely disappointing that these regulations have been defined so narrowly.

Case study

Patricia (30) lives on a housing estate. After many years of waiting, Patricia was accepted for gender reassignment. As part of the process, Patricia had to live as a woman for two years, whilst taking hormone supplements, but before undergoing any surgery. Patricia's status as transgender was therefore very obvious to her neighbours, as well as strangers such as bus drivers, and shop workers. Patricia experienced abuse on a daily basis, and approached Stonewall Housing after neighbours put faeces and petrol through her door, and set fire to the petrol. The next day she received a note stating 'you'll be next'.

¹ *Boyz* is a well known free weekly newspaper aimed at gay men

² *Count Me In: Findings from the lesbian, gay, bisexual, transgender community needs assessment 2000*; Dale Webb and David Wright, University of Southampton

³ *Hidden in Plain Sight: Homelessness amongst Lesbian and Gay Youth*, William O'Connor and Donna Molloy, National Centre for Social Research, 2001

⁴ See current 'Change Up' consultation of LGBT voluntary sector, commissioned by the Home Office and led by Kairos in Soho (<http://www.kairosinsoho.org.uk/pip/pip.asp>)