

LGBT Members Group Out in UNISON NTW Branch

**support for Lesbian, Gay, Bisexual and
Transgender members (LGBT).**



Workers face prejudice and discrimination when seeking work and once they are in a job. Every trade unionist has a responsibility to challenge this discrimination. It is part of UNISON's core agenda for workers' rights.

UNISON is an organisation that does not allow homophobia, biphobia or transphobia and actively campaigns for laws to be changed with regards to the provision of services to LGBT people.

Support for Lesbian, Gay, Bisexual and Transgender members:

The UNISON Northern Region **LGBT Self Organised Group (SOG)** is a group where members who self identify as Lesbian, Gay, Bisexual or Transgender are welcomed and encouraged to participate in a supportive environment.

The group meets at least four times a year and take part in regional events/meetings and the UNISON National LGBT Conference on an annual basis. The group works together to prioritise areas of work, identify development needs and provide support and networking opportunities. New members are always welcome and encouraged to take an active role in running the group.

In addition UNISON national office produces a quarterly **Out in Unison Newsletter** on LGBT equality in UNISON.

The LGBT Stewards can offer **individual support** for those members who are experiencing a workplace problem or need general support on an LGBT issue see the contact details below.

Contact details:

Contact: Michael Hood-Dodd/Jane Donoghue

Tel: Michael - 01670394017/ Jane - 07938590075

Lesbian, Gay, Bisexual and Transgender Members Group

What Everyone Needs to Know About Gays and Lesbians at Work

The Employment Equality (Sexual Orientation) Regulations came into force on 1 Dec 03. To help make sure that NTWs employees heard about the new regulations UNISON's LGBT representatives from NTW Health Branch have produced this information sheet .

- [Brief summary of the main points of the Regulations](#)
- [Two loopholes that still permit discrimination](#)
- [How complaints will be dealt with](#)
- [FAQs](#)

One thing every NTW employee already knows about us is we don't come to work to be lesbians, gays or bisexuals (LGB). We work as secretaries, cleaners, engineers, accountants, carers, teachers, librarians, social workers - you name it we're doing it.

But we've been guarded and silent about our sexuality. It's invisible, lost in the heterosexual culture of the workplace. We've lived invisibly for good reason. Up until 1 Dec 2003 we didn't have the same conditions of service protection.

At last, this situation is hugely improved. The Dec 2003 Regulations mean nearly equal protection and conditions of service in every place of work, including ours. The first purpose of the LGBT Group's fact sheet was to inform the UNISON member, both LGBT and heterosexual, that things had changed.

Secondly, the fact sheet asked important questions. 'After December 1st will it just be the relationship with our Employer that the Regulations change?' What about our working relationships with each other? Will those change? After all, having a sociable workplace, feeling comfortable with our colleagues, is an important part of enjoying our jobs.

When will we no longer feel that the only way to be accepted is to be invisible and silent? The fact is, the new Regulations will never be more than mere words on paper if every employee doesn't take them on board (including trades unions), professional bodies, employment agencies, providers of vocational training, and institutions of further and higher education.

Brief summary of the main points of the Regulations

Since 1 Dec 03, NTW NHS FOUNDATIONTRUST :

- Can't refuse to employ someone, or decide to dismiss someone, because of their sexual orientation.
- Cannot refuse access to training or promotion because of sexual orientation;
- Must act to protect employees against bullying or harassment because of their sexual orientation.
- Cannot deny to lesbian, gay or bisexual workers benefits (facilities and services) they offer to heterosexual workers

- Cannot give an unfair reference when someone leaves, because of their sexual orientation.

By 'sexual orientation' the regulations mean orientation towards people of the same sex, the opposite sex, or both.

In addition, NTW NHS FOUNDATION TRUST will be liable for discriminatory actions taken by anyone acting on the trusts behalf, whether or not it was done with their knowledge, unless the trust can show that it had tried to prevent such actions.

General exceptions:

An employer may still -

- deny a same sex partner access to a benefit if the employer specifies that the benefit is restricted to married partners only
- discriminate where there is an occupational requirement which is a genuine, determining and proportionate reason for requiring the employee to be of a particular sexual orientation

There is a general exemption for acts done to safeguard national security.

Positive action:

The regulations make it legal for employers and trade associations (such as trade unions) to take steps to encourage people of a particular sexual orientation to apply for particular work or training, if this is to compensate for disadvantages otherwise suffered by people of that sexual orientation.

Definitions:

- Direct discrimination: - less favourable treatment of an individual on grounds of sexual orientation
- Indirect discrimination: provision, criteria or practice which puts people of a particular sexual orientation at a disadvantage, where this is not a 'proportionate means of achieving a legitimate aim'
- Harassment: unwanted conduct which has purpose or effect of violating a person's dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment for that person. Perception of the person complaining of harassment must be taken into account when considering all circumstances and deciding whether harassment can 'reasonably' be considered to have taken place.

The law protects from discrimination on grounds of sexual orientation - this may be perceived or actual.

NTW Foundation Trust must act to protect employees against bullying or harassment because of their sexual orientation. The perception of the person suffering the harassment is important in defining this.

The Trust cannot deny to lesbian, gay or bisexual workers the benefits (facilities and services) they offer to heterosexual workers, e.g. insurance schemes, travel concessions, social events. This also covers any benefits offered to an employee's same sex partner if such benefits are available to unmarried opposite sex partners;

The regulations also outlaw discrimination by trade associations (including trade unions), professional bodies, employment agencies, providers of vocational training, and institutions of further and higher education.

Two loopholes that still permit discrimination

- Section 25 of the Regulations allows our pension scheme to continue to discriminate against same sex partnerships in favour of opposite sex marriages.
- Regulation 7 (3) will exempt religious organisations that wish to continue to discriminate against people working for them in a religious capacity.

UNISON and five other powerful unions worked through the TUC to challenge Regulation 7 (3) in the High Court. Although the case was lost UNISON is satisfied with the judgement as it left a very narrow interpretation of which posts are exempt. The narrowness means it is very unlikely that any UNISON member can be lawfully refused employment, or sacked, by a faith employer because they are lesbian or gay.

How complaints will be dealt with

If you have a complaint and your steward is unsure of how to handle it please get in touch. The Branch has a copy of the Regulations (with the LGBT Officer) and it sets out the process, including forms.

Under the Regulations complaints will be heard by Employment Tribunals, (or county courts in England and Wales, if the body complained against is a college). Complaints have to be submitted within 3 months (6 for a county court). Same remedies and rules apply as for other complaints to such bodies.

The person claiming they have been discriminated against may submit a questionnaire to their employer. Appropriate inferences may be drawn from a failure to respond.

The burden of proof lies on the Trust to show that they have not broken the law, once the complainant has made a case to show they have been treated differently because of their sexual orientation.

Frequently asked questions

1. Do you have to prove your sexual orientation to take a case?

No - The law protects from discrimination on grounds of sexual orientation - this may be perceived or actual. The Regulations cover eg harassment because someone mistakenly thinks you are gay or because you have lesbian friends.

2. Do employers now have to monitor their workforce?

No - Monitoring of individual workers is not required by the regulations. The pros and cons of monitoring workers' sexual orientation is a live and

contentious issue. This will be covered in the new UNISON negotiating guide.

3. Do the regulations cover transgender workers?

No - Transgender workers are protected under the **Sex Discrimination (Gender Reassignment) Regulations 1999**. The UNISON briefing ***Transgendered People's Rights at Work*** is stock number 1938, available from UNISON.

What can you do?

Ignorance breeds fear - fear prompts intolerance - intolerance ensures ignorance - ignorance breeds fear ... how can the vicious circle be broken?

Since June 1969, when the Stonewall Rioters first demonstrated the power to be gained by being open and honest about sexuality, recent history has shown that the more we are out and open about our lives the more everyone else realises how much we are a part of the fabric of society. We're people's relations - sisters, cousins, uncles, parents and children. We're doctors, street sweepers, lawyers, factory workers, pilots, singers, fire-fighters - in other words we're as ordinary and interesting as the next person.

But it's still a Catch 22 situation. Say nothing and the world will assume you're heterosexual. Speak out, or dress and act in a way that has become stereotyped, and who knows what degree of backlash, including assault, you might meet? No wonder that 'coming out, being out' is a subject of immense meaningfulness to us.

First you have to come out to yourself. Then maybe to a close friend. Do you tell your parents? And if you do - how? Do you announce it dramatically, or will your family and friends cope better if you allow their awareness to grow at their pace? And even when you're out to family and friends the rest of the world will go right on assuming you're a heterosexual. Unless you make it obvious ... and then you end up being accused of 'flaunting it'. You have your sexual orientation become the first and sometimes only thing about you that people see.

When do we (both heterosexual and LGBT) reach the point where it's no big deal?

Socially there has already been a degree of movement away from ignorance, fear and prejudice. One intent behind the December 1st Regulations is to make employers and workers accept that degree of progress in the workplace. The hours spent at work are a huge part of everyone's life. What the Regulations mean is that those workers who continue to express their ignorance and prejudice about us will be called to account by their line management for it. Since 1 Dec 03 it must no longer be us who feel obliged to be silent and secret.

The legislation has opened the door. Here we are. The culture of our workplaces has to stop being solidly heterosexual and reflect our existence

too. There is no magic formula. The development of a comfortably inclusive work culture needs a commitment from each of us. Your Union and your Employer are saying - please make that commitment.


NTW HEALTH BRANCH

Lesbian, Gay, Bisexual and Transgender Members Group

Organising and campaigning for equality at work and in our Communities

Contact

You don't have to be out to get in touch. We know how important the issues around confidentiality and coming out are to our lives.

-  e-mail me at michael.dodd@ntw.nhs.uk
- Jane.donoghue@ntw.nhs.uk


-  Write to:

Michael Hood-Dodd
c/o Unison Office
Northgate Hospital
NE1 3BP

Mark it Confidential.

It will be given to the LGBT Steward unopened.

If you aren't yet in UNISON then you can join through the contacts above,

 tel. Michael Hood-Dodd **01670394017/ Jane Donoghue 07938590075**