



RESPONSE TO OFMDFM CONSULTATION QUESTIONNAIRE ON THE SEXUAL ORIENTATION STRATEGY JUNE 2014

Introduction

1. The Equality Commission for Northern Ireland welcomes the opportunity to respond to Office of the First Minister and Deputy First Minister's (OFMDFM) consultation questionnaire on the sexual orientation strategy. We also welcomed the opportunity to meet with OFMDFM in order to discuss our views in more detail.
2. Further details on the scope of the Commission's remit duties and expertise is contained in Annex 1.
3. Our response reflects the policy priorities and recommendations for action highlighted in our policy position paper [ECNI Promoting Sexual Orientation Equality: Priorities and Recommendations](#) in October 2013.
4. In responding, we have also drawn on the views raised by stakeholders with the Commission; including at two roundtable events we hosted in December 2013 and January 2014, as well as at a recent roundtable hosted by the Commission aimed at seeking views on the OFMDFM consultation questionnaire.
5. We look forward to engaging further with OFMDFM in relation to the development and finalisation of the Sexual Orientation Strategy.

6 June 2014

THE VISION FOR THE SEXUAL ORIENTATION STRATEGY

A potential vision for the Sexual Orientation Strategy is to "promote an inclusive society that tolerates diversity; enables equality of opportunity for all lesbian, gay and bisexual (LGB) people and their families; and recognises, protects and respects their human rights."

Q14. Do you agree with this vision as outlined above?

Please provide any further comment below

Response

We recommend:

- the inclusion of a **strong vision statement** with a clear reference to the creation of a society where people of different sexual orientations are entitled to the full enjoyment of all human rights, and a society that promotes equality of opportunity for LGB people and ensures that they are supported, understood, valued and respected.
- changes to the proposed vision statement. In particular, we are concerned that the proposed vision statement refers to a society that "tolerates diversity". This implies that the aim is create a society that 'puts up with' diversity; rather than a society that **welcomes, values or respects** diversity.

We note that the proposed wording is significantly different from the draft vision outlined in the OFMDFM consultation on the draft sexual orientation strategy in 2006¹. Critically, it is not in line with the vision statements in other OFMDFM equality strategies for other equality groups; none of which refer in their vision statements to 'tolerating diversity'.

For example, the *Racial Equality Strategy 2005-2010*² has a vision for a society in which racial diversity is supported, understood, valued and respected. In addition, *Together: Building a United Community Strategy* (TBUC)³ has a vision of a united community which is '**strengthened by its diversity**'.

¹ OFMDFM draft sexual orientation strategy in 2006 referred to a proposed vision of a society in 'which diversity, equality of opportunity and human rights of all LGB people and their families are safeguarded and enabled'. OFMDFM *draft Sexual Orientation strategy*, 2006, www.ofmdfmi.gov.uk

² The vision for the current *Racial Equality Strategy 2005-2010* is as follows: *A society in which racial diversity is supported, understood, valued and respected, where racism in any of its forms is not tolerated and where we live together as a society and enjoy equality of opportunity and equal protection.* *Racial Equality Strategy, 2005-2010*, OFMDFM
<http://www.ofmdfmi.gov.uk/index/equality-and-strategy/good-relations/race.htm>

³ The *Together: Building a United Community Strategy* outlines a vision of "a united community, based on equality of opportunity, the desirability of good relations and reconciliation - one which is strengthened by its diversity, where cultural expression is celebrated and embraced and where everyone can live, learn, work and socialise together, free from prejudice, hate and intolerance." *Together: Building a United Community Strategy*, 2013, OFMDFM
<http://www.ofmdfmi.gov.uk/index/equality-and-strategy/good-relations/together-building-a-united-community.htm>

Further, we note that some of the proposed actions outlined in the consultation questionnaire refer to 'promoting diversity'; for example, the proposed action under the theme of employment refers to 'promoting diversity and encouraging inclusion in the workplace'. In our view, an overarching vision that 'promotes' or values 'diversity' chimes well, and is consistent with, with these proposed actions.

- the vision statement points to the creation of a society that “**promotes**” or “**advances**” equality of opportunity for LGB people; rather than the current proposed wording which refers to a society that “**enables**” equality of opportunity for LGB people and their families. In our view, the word “promote” rather than “enables” , is in keeping with the proposed strategic aim for the draft strategy; namely to 'promote equality of opportunity for LGB people'.

We support the fact that the draft vision Statement refers not only to promoting an inclusive society for LGB people but also for their families. As set out in more detail below, it is clear that family members of LGB people can experience discrimination and harassment due to their association with a person who is gay, lesbian or bisexual.

EMERGING OBJECTIVES

Five objectives which, if adopted, would contribute to a supporting framework for the strategy are outlined below.

These emerging objectives would shape the delivery and review of policy relevant to any final Strategy.

For each of the proposed emerging objectives please tell us to what extent you agree that these are appropriate to the delivery of a sexual orientation strategy.

Q15. Countering homophobia, including homophobic harassment, hate crime, bullying, violence and abuse. (Objective one)

Q16. Adopting a positive and proactive approach to identifying, understanding and responding to the needs of LGB people and their families. (Objective two)

Q17. Ensuring that negative stereotypes of LGB people and homophobia have no place in policy development or decision making. (Objective three)

Q18. Recognising the multiple identities of LGB people (e.g. gender identity, ethnic origin, disability, occupation) as well as the impact of these other identities on individual circumstances. (Objective four)

Q19. Promoting a partnership approach to developing effective and inclusive policies and service delivery, enabling departments, agencies, statutory bodies, NGOs, trade unions, and voluntary and community groups to work productively together and share best practice. (Objective five)

Response

Subject to our comments set out below, we **support** the inclusion of the proposed objectives set out above.

We recommend:

- **objective one** specifically refers to **tackling prejudicial attitudes and behaviour**. We also recommend the objective makes it clear that this includes **homophobic bullying in schools or in educational settings**.
- the Strategy makes it clear that **objective two** is about meeting the needs of LGB people and their families across a wide range of areas, including health and social care. We particularly welcome the fact that the Objective proposes that a “**positive and proactive approach**” is to be adopted to identifying, understanding and responding to the needs not only of LGB people but also their families.

This proactive approach is consistent with the proactive nature of the Section 75 duty; which places a duty on public bodies to have due regard to the need to promote equality of opportunity between people of different sexual orientations.

We also welcome the fact that this objective proposes responding to the needs not only of LGB people, **but also their families**.

Family members, such as children or partners, can, for example, experience discrimination, homophobic bullying or harassment due to their association with a person in their family who is LGB. The need for LGB family members to be protected against unlawful discrimination by employers, service providers, etc, due to their association with a LGB person has been rightly recognised under equality law.

In addition, recent case law has highlighted the legal barriers that same- sex couples face when seeking to exercise family rights available to heterosexual couples. In particular, the decision of the Court of Appeal in Northern Ireland decision in June 2013,⁴ has made it clear that Northern Ireland law relating to the rights of same sex couples to apply to jointly adopt, was out of step with the United Kingdom's human rights obligations.

- **objective three** should **not be limited** to the proposed fields of “policy development and decision making”. There is a need to challenge prejudicial attitudes in **all spheres of life**, including amongst the general public and in the media.

We also **recommend** that objective three includes a focus on **promoting positive attitudes** towards LGB individuals; rather than only challenging negative stereotypes.

We consider that steps are required to proactively portray LGB people in a positive role; for example, through the media or increasing the visibility of LGB people in public life and society through positive role models. In our view, such steps should be taken **in addition to** challenging negative stereotypes.

Our recommendation is consistent with the approach adopted by OFMDFM in relation to other equality Strategies. For example, we note that OFMDFM's *Disability Strategy* refers to the goal of creating a culture where “positive attitudes are promoted towards disabled people”.⁵

⁴ Decision of the Court of Appeal for NI, 27 June 2013

[http://www.courtsni.gov.uk/en-GB/Judicial%20Decisions/SummaryJudgments/Documents/Court%20dismisses%20adoption%20appeal/j_j_Summary%20of%20judgment%20-%20In%20re%20NIHRC%20\(adoption\).htm](http://www.courtsni.gov.uk/en-GB/Judicial%20Decisions/SummaryJudgments/Documents/Court%20dismisses%20adoption%20appeal/j_j_Summary%20of%20judgment%20-%20In%20re%20NIHRC%20(adoption).htm)

⁵ OFMDFM *A Strategy to Improve the Lives of People with Disabilities 2012-2015*
<http://www.ofmdfmi.gov.uk/index/equality-and-strategy/equality-human-rights-social-change/disability/disability-strategy-2012-2015.htm>

- **objective four** makes it clear that the Strategy not only ‘recognises’ multiple identities, but importantly commits to taking **action to tackle the barriers** associated with these multiple identities.

Such actions can include incorporating multiple identity issues into equality and diversity training for employees; improved monitoring and data collection on multiple identity issues; and ensuring that services are reviewed with the aim of removing barriers experienced LGB individuals with multiple identities

In addition to the grounds of ‘gender identity, ethnic origin and disability’ listed as examples in the draft objective, **we recommend** that the Strategy explicitly references and tackles barriers experienced by LGB people of **different ages and gender**, and **religious belief/political opinion**.

This is to reflect the fact that, for example, there are a range of barriers that older and younger LGB people experience at certain stages in their lives. For example, we have previously highlighted the barriers experienced by older people in health and social settings.⁶

We have also highlighted that there are differences in treatment related to gender. For example, recently we have raised the lack of recognition of the nature and degree of sexual violence and abuse in same sex relationships, particularly as experienced by lesbian women.⁷

As regards multiple identities relating to disability, as outlined later, we ask OFMDFM to note a report into the experiences of LGB disabled people in Northern Ireland⁸ which has, for example, raised the need for greater awareness across all sectors of the particular needs of LGB disabled people and for specific action to address these needs.

We note the inclusion in the draft objective of multiple identities associated with ‘occupation’. We recognise that LGB people working in certain occupations are particularly vulnerable to homophobic abuse. Stakeholders have, for example, raised with us the need for **targeted action to support LGB teachers in schools**; some of whom are susceptible to homophobic abuse by pupils or, due to a non-inclusive culture within the school, are unable to disclose their sexual orientation due to a fear that it will not be accepted either by other staff or pupils.

⁶ See *ECNI Promoting Sexual Orientation Equality: Priorities and Recommendations*, October 2013

⁷ *ECNI response to DOJ/DHSSPS consultation on stopping domestic and sexual violence and abuse in NI*, 2014

⁸ *Multiple identity; Multiple Exclusions and Human Rights: The experiences of people with disabilities who identify as Lesbian, Gay, Bisexual and Transgender people living in Northern Ireland, Disability Action, Rainbow Project 2012*

<http://www.rainbowproject.org/assets/publications/Multiple%20Identity%20Multiple%20Exclusions%20and%20Human%20Rights.pdf>

It is therefore important that the Strategy recognises and addresses the particular barriers that LGB employees face whilst working in certain professions.

- **objective five** which relates to promoting a partnership approach, should be included as a 'way of working' or as 'a principle' underpinning the Strategy; rather than being listed as a separate 'objective'.

We agree that a partnership and co-ordinated approach is essential; **particularly with the LGB sector**. However, there is also a need to empower and build the capacity of LGB individuals and organisations. In particular, LGB individuals and representative organisations can play a key role in helping employers, service providers and others to implement strategic actions. They are able to provide a source of advice and training which reflects their expert knowledge of issues affecting LGB individuals.

Therefore, **we recommend** that the objective explicitly refers to '**building the capacity of the LGB sector**'. This is in line with the approach adopted by OFMDFM in the *Racial Equality Strategy 2005-2010*.⁹

In addition to partnership working with the LGB sector, we also **recommend** a **co-ordinated approach** across all sectors to address barriers and promote and share good practice.

⁹ The *Racial Equality Strategy 2005-2010* includes the following strategic aims; *To eliminate racism, racial inequality and unlawful racial discrimination and promote equality of opportunity in all aspects of life, including public life, for people of different ethnic backgrounds in Northern Ireland. 'To build capacity within minority ethnic communities to develop a vibrant and sustainable minority ethnic sector at both local and regional level and to help minority ethnic people to fulfil the Government's aim of a shared future for Northern Ireland.'* www.ofmdfmi.gov.uk

Q 21. Are there any further objectives which you think should be included in a sexual orientation strategy but are not included here?

Response

We recommend:

- the Strategy contains the **additional objective of raising awareness of the rights** of LGB people; both amongst LGB people themselves and amongst those with responsibility under the sexual orientation equality legislation. We note that this currently included as a proposed separate ‘theme’ rather than objective.
- the inclusion of an **additional objective** that reflects the need to promote equality of opportunity for LGB people and ensure there is effective protection and redress against unlawful discrimination on the grounds of sexual orientation.

In addition, as noted later, we **recommend** that law reform is also included as a **separate theme** and that action is taken to ensure there is a robust and comprehensive legal framework that provides both protection and redress against unlawful discrimination on grounds of sexual orientation.

We consider that our recommendations are in line with the approach adopted by OFMDFM in the current *Race Strategy*.¹⁰

- the inclusion of a number of **guiding principles** that should underpin the Strategy and action plan and that these principles are based on the **Yogyakarta Principles**.¹¹

We are **disappointed** that there is no reference in the consultation document to the Yogyakarta Principles. These Principles reflect the application of binding international human rights law to issues of sexual orientation and gender identity. These Principles affirm binding international legal standards with which all States must comply.

We consider our recommendation is consistent with the approach OFMDFM has adopted in relation to other equality strategies. We note, for example, that OFMDFM in its recent consultation on the draft *Active Ageing Strategy*¹² has made it clear that central to the achievement of its vision in the draft strategy is the Executive’s commitment to the *UN Principles for Older Persons*. It has also proposed a set of five draft strategic aims based on these principles.

¹⁰ The *Racial Equality Strategy 2005-2010* sets out the strategic aim to combat racism and provide effective protection and redress against racism and racist crime.

¹¹ Yogyakarta Principles http://www.yogyakartaprinciples.org/principles_en.htm

¹² OFMDFM *draft Active Ageing Strategy 2014-2020*; consultation document, Feb 2014 www.ofmdfmi.gov.uk

Similarly, OFMDFM's *Disability Strategy*¹³ has also made it clear that this Strategy is developed on a rights based approach to fulfil obligations placed under the *United Nations Convention on the Rights of People with Disabilities* (UNCRPD).

- in addition to the inclusion of an underpinning principle relating to partnership working, as set out above, the Strategy should make clear that the following additional elements need to be present in order to ensure the successful delivery of the Strategy. These steps include the following:
 - visible political, civic and community **leadership** in order to achieve the vision and promote and sustain change; and
 - a focus on **improving outcomes** for LGB individuals, as well as a focus on the development of a **robust monitoring and evaluation framework** that will inform progress towards the longer-term vision of the strategic action.

¹³ OFMDFM, *A Strategy to Improve the Lives of People with Disabilities 2012-2015*, Jan 2013, www.ofmdfmi.gov.uk

STRATEGIC AIMS FOR A SEXUAL ORIENTATION STRATEGY

Proposed strategic aims for the draft Sexual Orientation Strategy are as follows:

- a) To promote an environment free from harassment and bullying and to tackle homophobia in all forms including violence and abuse*
- b) To promote equality of opportunity for LGB people*

Q22. For each of the proposed strategic aims please tell us to what extent you agree that these are appropriate to a sexual orientation strategy?

(a) To promote an environment free from harassment and bullying and to tackle homophobia in all forms including violence and abuse

(b) To promote equality of opportunity for LGB people

Please provide further comment if you wish to explain your responses above.

Response

Subject to our comments set out below, we **support** the two proposed strategic aims.

We recommend:

- the **first objective** refers to promoting **the creation of a society**, rather than the promotion of an environment, free from harassment and bullying.
- the **second objective** makes it clear that the aim of 'promoting equality of opportunity' for LGB people covers **all aspects** of life; including participation in public life, service delivery, employment, education and vocational training.
- for the avoidance of doubt, the Strategy should make it clear at the outset that the aims and objectives, which currently relate exclusively to 'homophobia', **equally apply to the elimination of phobia against bisexual people and lesbians.**

THEMES

It is envisaged that the Sexual Orientation Strategy will aim to address themes that directly and adversely affect the life chances of LGB people. An initial list of specific themes has been developed. These themes are included for comment below. This is not an exhaustive list.

Q25. Please indicate if you agree that the themes below are those that a Sexual Orientation Strategy should be focusing on.

- *Raising awareness*
- *Homophobic Violence, Harassment & Prejudice*
- *Education*
- *Health*
- *Employment*
- *Culture, Arts & Leisure*

Please provide any further comment on your responses, including why you may have disagreed with any of the issues listed.

Response

Subject to our comments below, we support the proposed themes. We have made it clear that we consider that the following are **priority areas** for strategic action:

- **tackling prejudicial attitudes and behaviour**; specifically in relation to homophobic hate crime and violence; harassment both inside and outside the workplace and homophobic bullying in schools; and
- **promoting positive attitudes** towards LGB people; and
- **raising awareness of the rights of LGB people**; both amongst LGB people themselves and amongst those with responsibilities under the equality legislation.¹⁴

In addition to the above priority areas, we have also recommended, in our October 2013 policy paper entitled “*Promoting Sexual Orientation Equality: Priorities and Recommendations*”, strategic actions in order to promote sexual orientation equality in the **workplace** and **vocational training**, in **education**, when **accessing goods and services**, including health and social care, and by public bodies in the **exercise of public functions**.

¹⁴ See [ECNI Promoting Sexual Orientation Equality: Priorities and Recommendations](#),

Whilst we agree that targeted action is needed in relation to specific proposed areas, it is important to recognise that there are a range of areas which do not fall within the broad areas of 'education, health, employment, culture arts and leisure' which are listed as separate 'themes'. For example, **service provision** by the **retail, hospitality, voluntary and community sectors**, as well as **housing provision**, are not explicitly referred to under any of the themes.

The Commission has supported a number of complainants who have experienced sexual orientation discrimination in some of these sectors, and it is vital that the Strategy is inclusive of all sectors¹⁵.

We **recommend** that steps are taken with **service providers in these sectors** in order to raise awareness of responsibilities under the sexual orientation legislation and remove barriers to LGB equality.

Further, we **recommend**:

- the Strategy makes it clear that it also covers the area of '**vocational training**';
- the theme of 'Homophobic Violence, Harassment & Prejudice' is **extended** to make it clear it includes '**promoting positive attitudes**';
- the inclusion of the **additional theme** of **securing law reform**. As outlined above, we have made it clear that we recommend strategic action is taken to strengthen legal protections for LGB people against unlawful discrimination and harassment.

We have previously recommended that OFMDFM takes forward work to reform sexual orientation equality law; so that there is increased protection against sexual orientation harassment in the workplace, greater harmonisation of the sexual orientation legislation¹⁶, and in order to address significant gaps in the legislation.¹⁷

We have also recommended the introduction of **legislation that permits same-sex marriage** and provides heterosexual couples access to civil partnerships on the same basis as that available to same sex couples. Further we have called for changes that permit unmarried couples, those in civil partnership and same- sex couples to apply to be considered as adoptive parents.¹⁸

¹⁵ See, for example, *Craig v City Bus Ltd* and *Patrick McCarville v Gerry Callaghan t/a Rathmore Bar and Lounge*, Decisions and Settlements, ECNI, www.equalityni.org

¹⁶ For example, harmonisation with similar protections that exist under other equality grounds.

¹⁷ See [ECNI Promoting Sexual Orientation Equality: Priorities and Recommendations](#),

¹⁸ Ibid

THEMES (CONTD.)

Q27. Under the theme of Raising Awareness a number of possible actions are outlined below to what extent do you agree with these possible actions?

- *Cataloguing and analysing relevant data and research and filling any gaps. (includes data held to assess the equality impact of policies)*
- *Commissioning a new, longitudinal research project to produce a detailed profile of the LGB community and social attitudes towards it*
- *Developing a code of conduct for elected representatives, officials and public servants*
- *Identifying training needs among civil and public servants in relation to sexual orientation issues*
- *Including LGB issues as part of mandatory diversity training among civil and public servants*
- *Developing guidance for public authorities on how best to engage and consult with LGB people regarding policy, strategy and laws that affect them*
- *Working (in partnership with LGB reps) to raise awareness among LGB people of legislative changes over the past 15 years and how these impact on rights and lives*
- *Ensure equal access to funding for LGB groups*

Please provide any further comment on your responses including any possible actions you feel should be included and why you may have disagreed with any of the possible actions listed.

Response

- We support the proposed actions to both address gaps in data and further analyse relevant data and research; as well as the commissioning of longitudinal research.

It is essential that steps are taken to identify and address **gaps in data** relating to LGB individuals in Northern Ireland so as to ensure effective

delivery and monitoring of the strategic actions. Work in this area should not however, prevent prompt action being taken based on appropriate research and data already to hand.

As highlighted in a range of research reports on sexual orientation inequality, there is a **lack of reliable and comprehensive data** on sexual orientation. The absence of reliable data is a major obstacle to measuring progress on equality of opportunity for LGB individuals. Service providers and employers require this information in order to assess whether they need to take action to address inequalities facing LGB people

- As regards the proposed action outlined in the consultation document on a Code of Conduct, we are aware that that the Department of the Environment (DOE) is already currently progressing a code of conduct for elected representatives. We have recently responded to the DOE consultation on the draft Code, as well as the call for evidence on the Assembly Code of Conduct for Members, and we have made it clear that both Codes should contain **clear principles on both equality and good relations**.¹⁹ For example, we have recommended that the equality principle in each of these Codes prohibit discrimination on all equality grounds, **including sexual orientation**.

In addition to the development of a Code of Conduct for Councillors, we have made it clear that we **recommend** the additional action of **mandatory equality training** (to include LGB issues) for councillors in order to ensure effective application of the Code.

- We **support** the proposed actions aimed at identifying the training needs among civil and public servants in relation to sexual orientation issues, and to including LGB issues as part of mandatory diversity training among civil and public servants. We understand for there is already mandatory diversity training for civil servants and **recommend** that such training **effectively** raises awareness and understanding of LGB equality issues.
- We **recommend additional actions** aimed at raising awareness of responsibilities under the sexual orientation equality legislation and ensuring good practice amongst **private and voluntary sector employers**.²⁰
- We support the proposed action to work in partnership with LGB representatives to raise awareness amongst LGB people of legislative changes.

¹⁹ [ECNI response to DOE draft Code of Conduct for Councillors](#), April 2014,

²⁰ As set out in our policy position paper, [ECNI Promoting Sexual Orientation Equality: Priorities and Recommendations](#), there is a role for a number of key stakeholders, including the Government, the Equality Commission, LGB representative organisations, trade unions, and Citizens Advice Bureau, in raising awareness of rights amongst LGB individuals and in raising awareness amongst employers, service providers and others of their responsibilities.

- We also support actions that encourage public authorities to effectively engage and consult with LGB people, as well as actions that encourage public bodies to **adopt and share good practice** aimed at promoting LGB equality, in line with their duties under Section 75.
- As regards the proposed action to ‘ensure equal access to funding for LGB groups’, we have made it clear above that we support actions that build the capacity of the LGB sector. We **recommend** that the proposed action reflects the need to ensure ‘effective resourcing’ of the LGB sector, as opposed to ‘equal access to funding’.

THEMES

Q28. Under the theme of Homophobic Violence, Harassment and Prejudice a number of possible actions are outlined below to what extent do you agree with these possible actions?

- An awareness raising programme for all criminal justice agencies focusing on the experience violence, discrimination and hate crime among LGB people
- A promotional campaign to raise awareness of homophobic harassment, hate crime and prejudice
- A promotional campaign to encourage LGB people to come forward and report homophobic incidents and hate crime
- Developing a multiagency hate crime awareness campaign in respect of LGB issues

Please provide any further comment on your responses including any possible actions you feel should be included and why you may have disagreed with any of the possible actions listed.

Response

Subject to our comments below, we support the proposed actions set out above.

We have made it clear that a **priority area for strategic action** is tackling prejudicial attitudes and behaviour including homophobic hate crime and violence, harassment both inside and outside the workplace and homophobic bullying in schools; as well as promoting positive attitudes towards LGB individuals.²¹

We have previously recommended that the Executive takes effective action to prevent, and detect homophobic hate crime; support victims of homophobic hate crime and encourage reporting of homophobic hate crime; and to increase awareness of LGB issues within key criminal justice agencies.

We recommend:

- in line with our recommendation that the theme of 'Homophobic Violence, Harassment & Prejudice' is **extended** to make it clear that it includes '**promoting positive attitudes**' towards LGB people, we recommend the inclusion of actions aimed at **promoting positive attitudes**.

²¹ See [ECNI Promoting Sexual Orientation Equality: Priorities and Recommendations](#),

We support, for example, the adoption of actions that encourage the media (local and national) to promote positive attitudes and challenges prejudice towards LGB people, or other steps aimed at increasing the participation of LGB people in public life and the visibility of LGB people in society.

- the inclusion of **additional** actions to **support victims of homophobic hate crime** in addition to those proposed, well as actions to **prevent and detect homophobic hate crime**.
- the inclusion of actions that address the lack of recognition of the nature and degree of **sexual violence and abuse in same sex relationships**, particularly as experienced by lesbian women.²²
- the inclusion of actions aimed at tackling homophobic violence, harassment and prejudice that includes **all relevant areas**; not solely in the field of criminal justice.

We recognise that some of these areas, such as homophobic bullying in schools and harassment at work, are included under other themes. However, we ask OFMDFM to note that at recent roundtable hosted by the Commission, stakeholders raised concerns that there are a number of areas which are not specifically listed in the consultation document; such as **addressing harassment within the youth sector**.

We also bring to OFMDFM's attention the views of stakeholders at recent roundtables hosted by the Commission who stressed the need for actions aimed at **promoting dialogue between different faith communities** and LGB individuals and representatives, with the aim of positive attitudes towards LGB people.

²² See [ECNI response to DOJ/DHSSPS consultation on stopping domestic and sexual violence and abuse in NI](#), 2014

THEMES (CONTD)

Q29. Under the theme of Education a number of possible actions are outlined below to what extent do you agree with these possible actions?

- *All educational institutions should explicitly welcome all students/pupils regardless of their sexual orientation and promote a learning environment in which all students can feel safe and respected*
- *All educational institutions should educate all students/pupils as to what constitutes homophobic bullying and make specific reference to homophobia in their antibullying and behaviour policies*
- *Antibullying policies should be reviewed periodically to assess their impact, including on LGB students/pupils*
- *Staff within educational institutions should receive sexual orientation awareness training in order to recognise and address homophobic bullying*
- *Governing bodies and senior management of educational institutions should receive sexual orientation awareness training*

Please provide any further comment on your responses including any possible actions you feel should be included and why you may have disagreed with any of the possible actions listed

Response

Subject to our comments below, we support the proposed actions under the theme of education.

We recommend:

- for the avoidance of doubt, that the Strategy makes it clear that the proposed actions for 'all educational institutions' apply to all schools (primary and secondary across all sectors), as well as **institutions of further and higher education**. If any actions are to be limited to certain sectors then this should be made clear in the Strategy. We also recommend the Strategy makes it clear that it applies to the area of '**vocational training**', and includes specific actions to promote LGB equality within vocational training.
- the inclusion of an action to undertake further **research** into the presence of LGB pupils in schools, as well as the experiences of LGB pupils and the effects of homophobia on educational attainment, together with clear actions to address these research findings.

We welcome the fact that the Department of Education (DENI) is undertaking a number of surveys to collect data on the nature and extent of homophobic bullying in schools under the Northern Ireland Young Life and Times and the School Omnibus Survey. As set out above, we recommend that research which **considers the effects of homophobia on educational attainment** is also undertaken.

- that steps are taken to ensure that **schools are supported** to deal with sexual orientation issues in a sensitive, non-discriminatory way, including when delivering Relationship and Sexual Education (RSE).

Our recommendation is consistent with the recommendations of the Education and Training Inspectorate (ETI) which recommended ‘the implementation of further whole-school training through staff training to include training for staff in the handling of particularly sensitive areas, including sexual orientation.’²³

We welcome the proposed actions of providing sexual orientation awareness training for staff within educational institutions, as well as “governing bodies and senior management of educational institutions”.

As highlighted in *Every Child an Equal Child*²⁴, we make it clear that a strategic action that can be taken to embed equality and good relations in education is developing equality and good relations elements to the training programmes for student teachers, existing teachers, heads and governors.

The proposed training on sexual orientation issues should not only be included in the training of current educational staff, as part of their continuous professional training, but also in the **training programmes of student teachers**.

In general, we are of the view that actions should be taken to ensure a ‘**whole school**’ approach is adopted, so as to ensure that there is an **inclusive and welcoming culture** within the whole school towards both LGB pupils and staff.

- the Department of Education and other key stakeholders, in line with the aims and objectives of the Department’s CRED policy²⁵, takes steps to ensure that curriculum support materials and good practice guidance effectively embeds equality of opportunity for LGB pupils.

We welcome recent ongoing work being undertaken by DENI, in conjunction with CCEA, in relation to reviewing of Relationship and Sexual Education (RSE) guidance and guidance on bullying, with a view to addressing any

²³ ETI *Report of an evaluation of relationships and sexuality education in post-primary schools*: July 2011, www.etni.gov.uk.

²⁴ *Every Child an Equal Child. An Equality Commission Statement on Key Inequalities in Education and a Strategy for Intervention*, 2008

²⁵ <http://www.credni.org/contents/what-is-cred/>

identified gaps in provision; in relation to which the Commission is a member of the project working group.

- the inclusion of additional actions by schools and other educational institutions to promote tolerance and respect for all pupils/students regardless of their sexual orientation; for example, actions that encourage schools to **adopt and disseminate a good practice** approach to proactively tackling homophobia in schools.

We have made it clear that **school and education bodies can also significantly help to promote positive attitudes** towards LGB pupils through challenging negative stereotypes of LGB people, and promoting a greater understanding of LGB equality issues within the classroom.

We bring to OFMDFM's attention the proactive steps being taken in England by the National Centre for Social Research to help drive out homophobic, biphobic and transphobic bullying in schools.²⁶

In particular, this project seeks to understand the most effective ways to reduce this type of bullying and its impact among school age children and young people. It is also designed to help understand the issues, what works best in tackling this type of bullying and to develop effective, evidence-based tools and best practice that would help schools and others to stamp out this behaviour.

We also note that a number of schools in Northern Ireland are already adopting a good practice approach to challenging homophobic bullying in the classroom; for example, the recent *Northern Ireland Peace Monitoring* report in March 2014²⁷ highlights an example of good practice by schools in tackling homophobia bullying²⁸. We **recommend** actions that encourage schools to **adopt, share and disseminate such good practice**

We consider that our recommendations are in line with the **Yogyakarta Principles** which make it clear that:

- everyone has the right to education, without discrimination on the basis of, and taking into account, their sexual orientation and gender identity;
- States shall ensure that education methods, curricula, and resources serve to enhance understanding of and respect for *inter alia* diverse sexual orientations and gender identities, including the particular needs

²⁶ <https://www.gov.uk/government/news/homophobic-bullying-in-schools-project-gets-underway>

²⁷ *Northern Ireland Peace Monitoring Report*, March 2014 CRC, www.crc.org.uk

²⁸ In particular, the report notes that "and perhaps in one of the most telling developments in the past year, St Joseph's High School in Crossmaglen accepted an award from the Northern Ireland Teaching Council for its work on tackling homophobia following a nomination by the Rainbow Project."

of students, their parents and family members related to these grounds;

- States shall ensure that law and policies provide adequate protection for students, staff and teachers of different sexual orientations and gender identities against all forms of social exclusion and violence within the school environment, including bullying and harassment.

THEMES (CONTD)

Q30. Under the theme of Health a number of possible actions are outlined below to What extent do you agree with these possible actions?

- *Undertake research to assess the levels of alcohol consumption and drug use among LGB people*
- *Develop a targeted campaign of awareness for the LGB community focusing on the impact of drugs and alcohol*
- *Sexual orientation awareness training for medical and related professionals and health promotion specialists working with drug and alcohol problems*
- *A targeted campaign of mental health promotion on the LGB community*
- *Training for health professionals alerting them to the needs of LGB people*
- *A campaign to increase awareness of the specific health issues associated with LGB relationships*
- *Promote uptake of HIV testing among gay and bisexual men*
- *Monitor and promote uptake of all medical services by LGB people*
- *Ensure equal access of health treatment for LGB people*

Please provide any further comment on your responses including any possible actions you feel should be included and why you may have disagreed with any of the possible actions listed.

Response

Subject to our comments below, we support the proposed actions under the theme of health.

We recommend:

- the theme of “health” makes it clear that this covers **both health and social care**. We draw to OFMDFM’s attention the need to address the barriers

experienced by older LGB people in nursing and residential homes, as well as those receiving care in the community through domiciliary care.²⁹

In addition, whilst we strongly agree with the proposed action on “training for health professionals” on the needs of LGB people, this should be extended to both **health and social care professionals**, and ensure it includes health professionals in a hospital setting, as well as community based professionals, such as GPs.

- the inclusion of actions to promote the uptake of **other sexually transmitted infections**, not just HIV.
- the inclusion of actions that encourage health and social care providers to **review their policies and practices** so as to ensure that they are not homophobic and/or heterocentric.

The Commission, for example, raised concerns in relation to the current **lifetime ban on blood donations by MSM** (men who have sex with men) individuals resident in Northern Ireland. We are of the view that a ban on blood donations from any group, including LGB individuals, must be based on clear scientific evidence and the extent and duration of the ban must be appropriate to the level of risk identified. We are also clear that the current position is inconsistent with the Department’s practice of accepting donated blood from Great Britain.

- the last proposed action is to amended to reflect the need to **effectively target** health care services in order to address the specific health and social care needs of LGB people, rather than simply ensuring “equal access”.

We support the proposed action to undertake a targeted campaign of mental health promotion within the LGB community. We believe **additional action should be taken to address the needs of LGB individuals with mental health problems**. This is particularly important in light of the high rates of suicide amongst young LGB people.

For example, research carried out in relation to the mental health of gay young men in Northern Ireland has revealed that over one third (34.4%) of respondents had been diagnosed with a mental illness at some time in their lives and over one quarter (27.1%) had attempted suicide.³⁰

We also bring to OFMDFM’s attention, a report into the experiences of LGB disabled people in Northern Ireland³¹ that has, for example, raised the need

²⁹ [ECNI response to DOJ/DHSSPS consultation on stopping domestic and sexual violence and abuse in NI](#), 2014

³⁰ McNamee, H. (2006) *Out on Your Own – An examination of the Mental Health of Young Same Sex Attracted Men*, The Rainbow Project. 2006, www.rainbow-project.org

³¹ *Multiple identity; Multiple Exclusions and Human Rights: The experiences of people with disabilities who identify as Lesbian, Gay, Bisexual and Transgender people living in Northern Ireland*, Disability Action, Rainbow Project 2012

for greater awareness across all sectors of the particular needs of LGB disabled people and for specific action to address these needs.

THEMES (CONTD)

Q31. Under the theme of Employment, a number of possible actions are outlined below - to what extent do you agree with these possible actions?

- Promote awareness raising and other initiatives to target homophobia, promote diversity and encourage inclusion in the workplace
- Creation and facilitation of a LGB network for employees

Please provide any further comment on your responses including any possible actions you feel should be included and why you may have disagreed with any of the possible actions listed.

Response

Subject to our comments below, we support the proposed actions highlighted under the theme of employment.

We **recommend**:

- that the proposed actions **are broadened to include the following actions**:
 - the provision of additional support, advice and information to employers on making their organisations more LGB friendly, particularly Small Medium Sized (SMEs) businesses³²;
 - raising awareness of responsibilities under the equality legislation and sharing of good practice;
 - additional research on the business benefits of having LGB friendly workplaces;
 - encouraging employers to promote LGB equality in the workplace through the range of potential actions.

We have made it clear that we recommend the Executive takes such targeted action, working in conjunction with the ECNI and in partnership with the LGB sector.

We have also set out in our policy position paper, the range of proactive steps that employers can take to promote LGB equality and to tackle homophobic harassment within the workplace.³³

³² This is in recognition of the fact that due to their size, we consider that Small Medium Sized (SMEs) businesses, who do not always have specialised human resources teams/personnel, would benefit from additional support, advice and information on understanding their responsibilities under equality law.

³³ See [ECNI Promoting Sexual Orientation Equality: Priorities and Recommendations](#).

These include the following; diversity training for employees and office-holders on sexual orientation equality; ensuring policies relating to accessing benefits do not unfairly exclude same-sex partners; profile openly LGB role models within organisations; and undertaking partnership working with the wider LGB community. They also include creating and facilitating the setting up of an LGB network for employees, as proposed in the consultation document.

The need for employers to proactively tackle homophobic harassment in the workplace and take action to promote LGB equality in the workplace has been highlighted by the recent tribunal case of *Martin Sheil v Stena Line Irish Sea Ferries Ltd*; in which the Commission supported the complainant to bring his complaint.

In that case, the tribunal found that Mr Shiel was the victim of discrimination and harassment at work on the grounds of his sexual orientation, as well as being unfairly dismissed by his employer.³⁴

It is of note that in its decision, the tribunal was concerned that the respondent adopted a “far too passive approach” to the homophobic “banter” which Mr Shiel experienced and commented that although the respondent had policies in place that were designed and intended to discourage harassment, there was no evidence that the respondent had taken active steps to prevent such behaviour.

- the inclusion of specific targeted actions aimed at promoting the inclusion of LGB people working in certain occupations **who are particularly vulnerable to homophobic abuse.**

Stakeholders have, for example, raised with us the need for **targeted action to support LGB teachers in schools**; some of whom are susceptible to homophobic abuse by pupils or, due to a non-inclusive culture within the school, are unable to disclose their sexual orientation due to a fear that it will not be accepted either by other staff or pupils.

³⁴ *Martin Sheil v Stena Line Irish Sea Ferries Ltd*, May 2014. The case is currently being appealed. www.equalityni.org

THEMES (CONTD)

Q32. Under the theme of Culture Arts and Leisure a number of possible actions are outlined below to what extent do you agree with these possible actions?

- *Develop the annual Belfast Pride, including as a tourism asset and assess the tourism potential of other Pride events*
- *Develop a formal programme for the promotion of LGB history*
- *Conduct research to identify the nature and extent of homophobic attitudes in sport*
- *A policy to prevent homophobic behaviour in sport*
- *Development of a LGB sports participation strategy*
- *Development of a charter for sports clubs, committing them to combat homophobia in sport*
- *Sexual orientation training for sports clubs and organisations to raise awareness of homophobia and the needs of LGB people*

Please provide any further comment on your responses including any possible actions you feel should be included and why you may have disagreed with any of the possible actions listed.

Response

Subject to our comments below, we support the suggested actions under the theme of culture, arts and leisure.

We **welcome**, as recommended in our policy position paper, the proposed action to **conduct research** to identify the nature and extent of homophobic attitudes in sport.

We note that one proposed action is the development of a Charter for sports' clubs, committing them to combat homophobia in sport. We understand that Sport NI, in conjunction with Sport England, Sport Scotland, Sport Wales, and UK Sport have already signed up to a GEO³⁵ charter on homophobia and transphobia in sport.

³⁵ Government Equalities Office

We **recommend** that the proposed action reflects the fact that the Charter is already in existence, and in line with the recommendations in our policy position paper, that the Executive in partnership with the sports sector introduces further initiatives designed to tackle homophobia in sport.

It is also important that any actions taken to address homophobia in sport also extend to combating **homophobia in sport in schools** and are not confined solely to sports clubs and associations.

Further, whilst we welcome the proposed actions in relation to the annual Belfast Pride and the programme for the promotion of LGB history, we **recommend** the inclusion of **additional actions** aimed at increasing the visibility of LGB individuals **within arts and culture**.

For example, we **recommend** the inclusion of actions that **encourages the media to promote positive attitudes** towards LGB people. We have made it clear that both local and national media, through the positive and supportive portrayal of LGB issues, can have a profound impact on promoting positive public attitudes towards LGB people.

This is particularly important in light of the findings of the *Leveson Inquiry* that reported that "there has been a significant tendency within the press which leads to the publication of prejudicial or pejorative references to race, religion, gender, sexual orientation or physical or mental illness or disability".³⁶

We have also recommended that consideration is given to **addressing gaps in equality data** in the area of culture arts and leisure.³⁷ For example, a number of surveys commissioned by the Department of Culture, Arts and Leisure (DCAL) which provide a valuable source of information on participation in the arts, **do not collect data across a range of Section 75 groups**; for example, the Continuous Household Survey (CHS) does not collect data on the grounds of sexual orientation, racial group, dependents, political opinion.

³⁶Leveson inquiry, 2012, <http://webarchive.nationalarchives.gov.uk/20140122145147/http://www.levesoninquiry.org.uk/about/the-report/>

³⁷ ECNI response to Arts Council's Section 75 audit of inequalities and action plans, October 2012, www.equalityni.org

THEMES (CONTD)

33. If you suggested any further themes that should be included in the strategy, please give details of any actions that you feel should be included under each particular theme.

Response

As set out above, we have recommended the inclusion of the **additional theme of securing law reform**. We have set out in our policy position paper the key areas of reform of the sexual orientation equality law which need addressed³⁸.

We have also set out in our position paper our recommendations as regards the introduction of legislation that permits same-sex marriage.

³⁸ See [ECNI Promoting Sexual Orientation Equality: Priorities and Recommendations](#).

EQUALITY IMPACT

Any strategy is likely to have impacts beyond the specific areas and issues it may be targeting. We would welcome views on how delivering a sexual orientation strategy may affect other groups in society.

Q34. Please describe any effect you think the delivery of a sexual orientation strategy may have on the nine groups contained within Section 75 of the Northern Ireland Act.

- *Religious beliefs*
- *Political opinion*
- *Racial groups*
- *Age*
- *Marital status*
- *Sexual orientation*
- *Gender*
- *Persons with a disability and persons without*
- *Persons with dependants and persons without*

Please provide further detail as to why you feel the Strategy will have negative/positive effects.

Response

We note OFMDFM's Equality considerations of this strategy within the policy consultation document at Paragraphs 1.11 and 4.1 and the consultation questionnaire at Question 34.

Our comments below are made in the context that it is unclear as to whether there will be further consultation on any equality considerations.

- **Screening:** OFMDFM equality scheme commits to screening at the earliest opportunity. The approach adopted in this consultation at Paragraphs 1.11 and 4.1 of the policy consultation document implies that the strategy itself does not require screening but that the relevant equality implications will be considered by other Departments etc in the context of any policies arising out of the strategy itself.

We welcome the commitment, as per OFMDFM equality scheme, to screen at various stages of implementation. However, it is also vital that high level strategies are screened and at the earliest opportunity and consideration given to EQIA where 'major' impact is identified. It is useful to note that good practice is that any EQIA consultation is conducted at the same time as consultation on the policy itself.

- **Screening data/ evidence:** Screening is the responsibility of a public authority. The consultation page on OFMDFM's website highlights research relevant to this consultation. It would have been helpful to present the research and any other information gathered so far in such a way, in a screening form, to enable understanding of OFMDFM's assessment of impacts so far (both positive and negative). This would provide an opportunity to consultees, either through responding to a screening exercise or an EQIA consultation to add any relevant information they may have.
- **Assessment of impacts**
It is also important to highlight that the purpose of screening and indeed EQIA are not only to identify whether there are adverse impacts in relation to the policy in question, but also an opportunity to actively seek opportunities to promote equality of opportunity and good relations.

Equality Commission
6 June 2014

Annex 1: The Equality Commission for Northern Ireland

1. The Equality Commission for Northern Ireland (the Commission) is an independent public body established under the Northern Ireland Act 1998. The Commission is responsible for implementing the legislation on fair employment, sex discrimination and equal pay, race relations, sexual orientation, disability and age.
2. The Commission's remit also includes overseeing the statutory duties on the Department to promote equality of opportunity and good relations under Section 75 of the Northern Ireland Act 1998 (Section 75) and to promote positive attitudes towards disabled people and encourage participation by disabled people in public life under the Disability Discrimination Act 1995.
3. The Commission's general duties include:
 - working towards the elimination of discrimination;
 - promoting equality of opportunity and encouraging good practice;
 - promoting positive / affirmative action
 - promoting good relations between people of different racial groups;
 - overseeing the implementation and effectiveness of the statutory duty on relevant the Department;
 - keeping the legislation under review;
 - promoting good relations between people of different religious belief and / or political opinion.
4. The Equality Commission, together with the Northern Ireland Human Rights Commission, has been designated under the United Nations Convention on the rights of Persons with Disabilities (UNCRPD) as the independent mechanism tasked with promoting, protecting and monitoring implementation of the Convention in Northern Ireland.