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[Blog article](#) by **Geraldine McGahey, Chief Commissioner, Equality Commission NI**

Promoting Inclusion for LGBT People

I was recently invited to speak on equality protections for lesbian, gay, bisexual and trans people as part of LGBTQIA+ week. I thought it would be useful to also blog about this as equality laws are often complex and difficult to understand.

This area of equality law is no less complex than others as there are several legislative provisions relevant to the promotion of equality for lesbian, gay, bisexual and trans people. Legal interpretation is made even more difficult by the lack of case law.

However, it is worth saying, at the outset, that equality laws provide protection against unlawful discrimination for everyone, including LGBT people, on a wide range of grounds and across a wide range of activities.

Also, when developing or reviewing any of their employment and service-provision policies, public authorities in NI have a duty, under Section 75 of the Northern Ireland Act, to pay due regard, or in other words, to give appropriate consideration, to the need to promote equality between people in nine specified categories. This includes between people of different sexual orientation and between men and women generally.

Looking first at sexual orientation, discrimination because of a person's sexual orientation is prohibited in employment and when providing services. The allegation most frequently made against employers is that gay, lesbian or bisexual people have been subjected to harassment by co-workers. A common feature of industrial tribunal cases is employers' failure to take reasonably practicable steps to prevent such behaviour from happening, which can lead tribunals to hold such employers liable for the discriminatory actions of their employees.

Secondly, in relation to gender reassignment, discrimination is also prohibited in employment and service-provision under the sex discrimination legislation. Trans people are protected against unlawful discrimination on that ground if they intend to undergo, are undergoing or have undergone gender reassignment. That terminology is important because statutory law doesn't refer to other terms that are in common usage, such as "transgender" or "non-binary" or "gender identity". Legal cases relating to gender reassignment discrimination are less common than those relating

to sexual orientation, but they are no less serious. They also offer an opportunity to explore the scope of the law's protections against unlawful discrimination and may help to inform law and policy-makers about how to reform the law.

Thus, there is a wide array of clear protections against unlawful discrimination available to LGBT people. There are also some areas where peoples' legal rights deriving from different legal provisions interact.

For example, employers and service-providers usually maintain some single-sex spaces, such as male-only or female-only toilets, changing rooms or hospital wards. Sex discrimination law allows this because it recognises that some spaces and situations exist where women may suffer serious embarrassment, or where they may reasonably object, if they were obliged to share the same facilities with men at the same time, and vice versa. This may have implications for some trans people in some contexts, should they wish to use the facility that corresponds to their acquired gender. In situations like this, it is important for employers and service-providers to try to find the appropriate balance that protects the dignity of all.

Another example is that, among the various philosophical beliefs that are protected by equality law in the field of employment, the Employment Appeals Tribunal has determined that so-called 'gender critical beliefs' may be protected too, similar to how religious beliefs and many political opinions are protected. A person with a 'gender critical belief' usually holds a view that someone's sex - whether they are male or female – is biological and immutable. However, no matter what an employee's beliefs are, all employees are protected by the law from harassment in the course of their employment and have a right to be treated with dignity and respect. In that respect, there are limits on how far a person who holds gender critical beliefs may manifest those in many situations, such as when engaging with work colleagues or when delivering services to the public in the course of their work.

I know that employers want to get it right, they will want to do what is required of them by the law and to create really inclusive workplaces. In order to do this, employers need to make clear the standards of behaviours that are expected of all of their employees. This can best be done by ensuring that they have equality and diversity policies in place, that all staff are aware of these policies and their own roles and responsibilities within these. If you're a service provider, it is also important that you have relevant policies in place, that staff are trained and that you listen to the needs of your service users. There's a real positive of getting it right –you will please your service users and its good for business too.

The Commission provides ongoing advice to employers and recently we updated our employer guidance, with the Labour Relations Agency, on promoting inclusive workplaces and we also provide training on this.

Download the pdf publication: [Harassment and Bullying at Work - promoting an inclusive workplace](#) (pdf)