



## **Managing Equality and Diversity in the Public Services: Moving Forward on Lesbian, Gay and Bisexual Equality?**

Fiona Colgan, Tessa Wright, Chris Creegan and Aidan McKearney  
Comparative Organisation and Equality Research Centre  
London Metropolitan University  
Stapleton House  
277-281 Holloway Road  
London N7 8HN  
Tel: 44 (0) 20 7133 4239  
Email: [f.colgan@londonmet.ac.uk](mailto:f.colgan@londonmet.ac.uk)  
<http://www.workinglives.org/coerc.html>

Paper to be presented at Gender Equality and Modernization of Public Sector  
Employment, *Gender, Work and Organization Conference*, 27-29 June 2007

**Draft: not to be cited without the authors' permission**

## Introduction

This paper will discuss the experiences of lesbian, gay and bisexual (LGB) workers following the introduction of the Employment Equality (Sexual Orientation) Regulations (2003),<sup>1</sup> focusing on what public sector employers have done to develop and implement good practice in relation to sexual orientation. The paper considers both the impact of modernisation of public services on equality and diversity policy and practice in relation to lesbian, gay and bisexual (LGB) people at work<sup>2</sup> and the effect of the Regulations covering sexual orientation on this work, from the perspectives of managers charged with implementing equality and diversity, the trade unions, and, importantly, the LGB employees themselves.

The academic literature concerning progress in UK organisation equality and diversity policy and practice has pointed to the gap that too often exists between equality policy and practice (Jewson and Mason, 1986; Cockburn, 1991; Young, 1992, Dickens, 2005). Dickens and Hall (2006, p.352) suggest that there has been a significant extension in the legal regulation of the employment relationship in the UK, with 'fairness' being emphasised in the post-1997 legislative package, however they caution that 'the willingness to promote social justice, fairness and security' has been 'contingent on the extent that it can be argued to promote and support business interests and to underpin (employers' views of) economic efficiency'. Few studies, thus far have considered progress concerning the sexual orientation strand, with a few notable exceptions (Cockburn, 1991; Kirton and Greene, 2000; Dickens, 2005).

The limited research to date suggests that steps to tackle discrimination and include sexual orientation alongside other equality strands within the public sector has experienced two major drives (Colgan et al. 2007; Cooper, 2006; Monro, 2006). For many, the public sector led the way in this area during the late 1980s following a big push by LGB campaigning groups and employees within local authorities and within unions (Colgan, 1999). This led to the inclusion of sexual orientation within equal opportunities policies and the work of equality departments and units within local authorities on social justice grounds as early as the late 1980s (Cooper, 1994). However, following the election of a Conservative Government in 1987, lesbian and gay initiatives were downgraded. (Monro, 2006). Within local authorities, contributory factors included media hostility, decline in Labour held metropolitan authorities, plus financial pressures and conflicting and competing legislative demands on local government including the introduction of Section 28 of the Local Government Act (1988) which made it illegal for local authorities to 'intentionally promote homosexuality' (Cooper, 2006). The latter created a difficult political climate for those trying to progress work to ensure fair treatment of LGB people in the workforce and via service provision in local authorities, schools and voluntary sector organisations working with children and young people (Cooper, 1994; Epstein, 1994, 2000; Carabine and Monro, 2004).

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<sup>1</sup> These Regulations outlawed discrimination in the workplace on grounds of sexual orientation and provided protection against harassment at work for the first time in the UK.

<sup>2</sup> Thus the paper focuses on sexual orientation and not on transgender issues. However, some of the organisations participating in this research had chosen to adopt policies and establish groups that are inclusive of lesbian, gay, bisexual and trans people.

The second political impetus cited for change following the election of a Labour Government in 1997 has been the expansion of equality legislation with the specific inclusion of sexual orientation as an equality strand and changing social attitudes (Colgan et al, 2007). This 'second wave' of sexualities equality work has developed in the context of New Labour's modernization agenda. Carabine and Monro (2004) suggest the changes associated with this agenda required local authorities to consult and work with their LGBT constituencies. Existing equality legislation has been amended to give public authorities a new statutory duty to promote equalities. The race equality duty came into force in 2001. A similar duty was introduced for disability equality in December, 2006 and for gender equality in April 2007. The legislation to address discrimination in employment on the grounds of sexual orientation was introduced in December 2003 at the same time as regulations on religion and belief, and age discrimination law was introduced in 2006.

Although equality law is not the only tool for tackling discrimination and harassment on grounds of sexual orientation in the workplace, it has been seen by LGB people and their campaigning organisations as an important stepping stone on the way. In addition to the Regulations covering employment, three important recent measures have included the repeal of the Local Government Act: Section 28 (2003), the Civil Partnership Act (2004) and the Equality Act (Sexual Orientation) Regulations 2007 which make it unlawful to discriminate on the grounds of sexual orientation in regards to access to goods, facilities and services. However, progress in the area has been subject to political, social and legal debate within the UK with some organised faith groups opposing the introduction of legislation in the sexual orientation area and arguing the need for exemptions to safeguard their right to freedom of conscience, religion or belief<sup>3</sup> (Department for Communities and Local Government, 2007). Notwithstanding clarifications reached thus far<sup>4</sup>, some remaining tensions concerning the rights provided by the sexual orientation and the religion and beliefs legislation may still need to be tested in court. The challenge now faced within the UK public sector is to progress work on sexual orientation in employment and service delivery together with work on the five other equality strands. This paper will consider the progress being made on LGB equalities work. In doing so it aims to contribute to the broader debate concerning the implications of the Labour Government's public services modernisation agenda for employment equality policy and practice within the public sector (Dickens, 1999; Cunningham, 2000; Conley, 2002; Carabine and Monro, 2004; Breitenbach et al, 2006; Cooper, 2006; Monro, 2006).

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<sup>3</sup> In January 2004, a number of trade unions applied for a judicial review of Employment Equality SO General Occupational Requirement Regulation 7 (3) which provides for a limited range of employers, in certain circumstances, to discriminate in relation to sexual orientation. The judicial review concluded that the exemption should be narrow, ie applying to employment 'for purposes of an organised religion' and not 'for purposes of a religious organisation.' (Dialog, 2004, p 43). Thus for example, Regulation 7 (3) was unlikely to be applicable to the employment of teachers and support staff in faith schools as they would not be employed for purposes of an 'organised religion' (NUT, 2007).

<sup>4</sup> Following government consultation on the provision of goods and services, 'where religious organisations enter into an agreement to provide social or welfare services to the wider community, on behalf of and under contract to a public authority, then the rights of lesbian, gay and bisexual people to have equal access to those services comes to the fore' (Department for Communities and Local Government, 2007, p.10).

## Methodology

The paper is based on in-depth interviews with 77 LGB employees within nine public sector case study organisations as part of a two-year study (2004-2006) funded by the Higher Education European Social Fund.<sup>5</sup> The public sector organisations included 4 local authorities, 2 schools and 3 fire and emergency services.<sup>6</sup> In addition, 29 in-depth interviews with management, trade union and LGB group representatives within the case studies provided information on organisational context, as well as equal opportunities policy and practice. Case study organisations also provided access to documentary material such as policies, reports, company and trade union websites and publications. Organisational experiences have, in turn, been contextualised through in-depth interviews with 25 key informants (2004-2007) within U.K organisations representing LGB people, government, employers, employees charged with disseminating advice on the Employment Equality (SO) Regulations (2003).<sup>7</sup> Within the broader study, 154 LGB employee respondents from across the public, private and voluntary sector were asked to complete a short survey questionnaire prior to the interview, which provides headline demographic and attitudinal data. It also included questions about who people disclosed their sexual orientation to at work, the impact of policies and practices on job satisfaction and the perceived impact of the Regulations: some results of which are presented in Figures 1-4.

Research on LGB issues is still a relatively new and ‘sensitive’ area of research in the UK and the ‘hidden’ nature of the LGB population within the public services raised a number of methodological issues. In order to overcome difficulties in negotiating research access, we identified ‘good practice employers’ with the assistance of employers’ organisations, trade unions and LGB groups. Five of the nine public sector case studies which agreed to participate in the research were members of the Stonewall Diversity Champion’s programme (Stonewall, 2006).<sup>8</sup> All of the case study organisations were unionised. To maximise the diversity of LGB respondents, we used multiple access routes via organisational newsletters, email or intranet sites, invitations via workplace LGBT groups and via local and national trade union and LGBT campaigning groups. This was supplemented by a snowballing approach to ensure an appropriate range of LGB interviewees from each case study organisation.

Despite undertaking the research within ‘good practice’ organisations, the study has experienced the same difficulties as other LGB studies in accessing a diverse LGB

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<sup>5</sup> This included 154 in-depth interviews with LGB respondents in 16 case study organisations drawn from the public (77), private (65) and voluntary sectors (12).

<sup>6</sup> The organisations willing to be identified in the research are George Greens School, Leeds City Council, London Borough of Croydon, London Borough of Lewisham, London Borough of Tower Hamlets, London Fire and Emergency Service, South Yorkshire Fire and Emergency Service, West Yorkshire Fire and Emergency Service. The primary school wished its identity to remain confidential.

<sup>7</sup> National key informant interviews included interviews with ACAS, Black Gay Men’s Advisory Group, Black Lesbian UK, Citizen’s Advice Bureau, CIPD, DTI, FBU, Local Government employers Organisation/IdeA, Pace, Regard, NAZ, NUT, UNISON, Schools Out, Stonewall, TUC.

<sup>8</sup> Stonewall established the Diversity Champions Programme to bring together organisations ‘committed to tackling sexual orientation discrimination, and to sharing good practice’ (Stonewall, 2005). In June 2007, there were 223 companies signed up to this initiative (Stonewall, 2007).

population (McManus, 2003). The lack of statistical data regarding sexual orientation either in the general population or via monitoring in organisations means that probability sampling is not possible. In this paper, therefore, quantitative data based on the survey questionnaire responses is used to present a profile of the LGB respondents participating in the research across the 3 sectors. In doing so it does not suggest that the sample of respondents is representative (statistically or otherwise) of the LGB population within the case study organisations. We think it is important to acknowledge that the qualitative interviews with LGB respondents were inevitably with those who felt comfortable and/or able to participate in a research project on equality and sexual orientation within their workplace. We found administrative, manual, service and skilled trades workers and BME workers particularly hard to reach despite the multiple access routes described above. It was suggested to us by key informants within the case study organisations that those in these sub-groups were less likely to be 'out' at work and thus much less likely to participate in a research project on LGB issues. This illustrates the 'hidden' nature of much of the LGB population even within 'good practice' public service organisations where employers and trade unions have been striving to implement equality and diversity policies and practices in order to ensure a 'gay-friendly' workplace.

We conducted interviews with 77 LGB respondents within the public sector case study organisations. Of these, 43 were men (55.8%) and 34 were women (44.2%). The great majority of interviewees described themselves as having managerial or professional occupations, with 39.6% of male and 47.1% female respondents in managerial occupations and over a third of both male (37.2%) and female (35.3%) respondents working in professional occupations. Respondents ranged in age from 21 to over 60. Twelve per cent defined themselves as having a disability and 6.5% self-defined as black and minority ethnic (BME). Over half (55.8%) defined themselves as gay men, 39% as lesbian and 5.2% (2 men and 2 women) as bisexual.

### **Modernization of Public Service Employment and Equalities**

Public service modernization in the UK has been the topic of much analysis in terms of its underpinning ideology, implications for policy and consequences for managers, employees and service users (Newman and Clarke, 1994; Geddes, 2001; Ahmed and Brousine, 2003; Carter, 2004; Fitzgerald, 2005; Downe and Martin, 2006; Cochrane, 2004). Although a number of the changes initially discussed under the 'new public management' heading were first introduced by a Conservative government guided by a neo-liberal ideology, many ideas have been embraced and developed as part of 'New Labour's modernization agenda' (Poole and Mooney, 2006). Carter (1997) suggests that despite the commonality of the approach of government in different sections of the state, the ways in which the processes have worked themselves through have been significantly different. The case studies discussed in this paper include schools, local authorities and the fire service and we would agree that each service area has its own trajectory of modernization. Local authorities and schools have been subject to change over the last thirty years whereas the Fire Service was left relatively unscathed until 2002. It is worth outlining some of the major changes for the three sectors before we return to a consideration of the implications for LGB equality work.

In 1979, following the election of a Conservative government in the UK, a major programme of public sector reforms was introduced. Newman and Clarke (1994) have

outlined the transformation brought about by the 'New Right' agenda and the managerialization of public services. These changes hit local government (Cochrane, 1994) and education (Carter, 2004) during the 1980s. They sought to encourage the import of best practice from the private sector, the encouragement of new managerialism and the rigorous reassertion of the 'right to manage' interwoven with fiscal constraints, market testing and compulsory competitive tendering (CCT), quasi (internal) markets, devolution of budgets and managerial responsibility plus the development of new forms of contractual relationships. The Educational Reform Act of 1988 introduced the local management of Schools (LMS) which sought to establish governing bodies as representatives of local communities and limited local education authority (LEA) involvement in the management of schools (Carter, 2004). HRM functions were devolved to governing bodies and head teachers, who were legally responsible for the teaching of the national curriculum and the financial and operational running of the school. Although LEAs were still responsible for the overall direction of HRM policy, they have increasingly acted in an advisory capacity (Grieves and Hanafin, 2005). In addition, the Conservatives launched the Private Finance Initiative (PFI) in November 1992 whereby the private sector was brought in to build and/or refurbish schools, hospitals and other 'public' buildings, maintaining and operating them on lease to the local authorities, NHS etc (Poole and Mooney, 2006).

Although the political context changed following the election of a Labour government in 1997, the modernization agenda has continued, focusing on the provision of 'high quality public services' within strict financial constraints. New Labour 'Third way' ideology advocates a compromise between public and private, whereby 'public' services may be free at the point of delivery but delivered by public and private providers with the spread across the public sector of 'contractual, competitive and 'quasi-market mechanisms' (Geddes, 2001, p498). Thus the Labour government still requires the perceived 'failings' in the public sector to be addressed via the application of private sector principles, market testing and Best Value and the increased use of the public/private partnerships (Grimshaw, Vincent and Willmott, 2002; Downe and Martin, 2006). In addition, Coulson (2004, p.472) suggests that, the language of modernization provides a 'convenient smokescreen' for the government's 'centralising tendencies.' Labour policy has been implemented in local authorities and schools via the use of a range of performance targets, imposition of a national curriculum and standardized assessment, externally moderated indicators (eg OFSTED in Education and Social Services Inspectorate) and league tables (eg school league tables and the Audit Commission's Comprehensive Performance Assessment of councils and the fire service), whilst appearing to give managers 'freedom' to determine how improvements are achieved (Carter, 2004). There has also been a drive for 'responsiveness' and 'choice' in public service provision by focusing on the user rather than the provider of services (Falconer, 2005), plus an increased emphasis on widening public participation and democratic renewal (Carabine and Monro, 2004; Monro, 2006).

However, for those who work in the public services, there has been a mix of ambivalence, disenchantment and opposition to the purposes and impact of modernization (Ahmed and Broussine, 2003). Local authorities and schools have seen ongoing disruption, fragmentation and an attack on worker terms and conditions with an increase in temporary contracts and job insecurity (Conley, 2002). Although

Labour has replaced CCT with its Best Value regime, Geddes (2001) argues that the trend towards externalisation across a range of services remains. Further, it has strengthened the ability of management to restructure the labour process within local authorities, in order to achieve increased flexibility and productivity. Within schools, Carter (2004) suggests that there has been a sustained attack on the autonomy and professionalism of teachers. Started by the Conservative government and strengthened by New Labour, there has been central support not only for LMS but for further differentiation of schools through Education Action Zones, City Academies, Foundation Schools and the expansion of faith-based schools.<sup>9</sup> It has been argued that the modernization agenda creates a number of tensions for those trying to implement equality and diversity policies and practice in public sector organisations (Newman, 1994; Dickens, 1999; Cunningham, 2000). For example, devolved managerial responsibility for many personnel issues has meant that LEA personnel and equality units have found it increasingly difficult to resource and implement their equality and diversity policies in local authorities and schools and, following the fragmentation of bargaining, for trade unions to try to defend them (Cunningham, 2000; Conley, 2003).

The introduction of 'new public management' came later to the fire service than other parts of the public sector, in part because of its relatively low cost and the existence of a pay formula that avoided overt conflict (Fitzgerald, 2005). But since 2002 an explicit modernisation agenda has been pursued that linked improvements in pay with reforms to working practices (Burchill, 2004). An Independent Review of the Fire Service, led by Sir George Bain and therefore known as the Bain Report (2002) was published in December 2002, during the 2002-2003 fire service dispute, and contained recommendations on pay increases with elements only payable once reforms had been implemented. The review's author was also 'appalled' at the levels of bullying and harassment and very concerned at the lack of progress on equality, saying 'despite clear policies from management and the FBU in favour of diversity, in practice only lip-service is paid to it' (Bain Report, 2002: p.v). The report also cited the 'closed culture' of the watch system<sup>10</sup> as 'one of the barriers to progress in increasing diversity' (ibid: 66) and called for improvements 'in HR practices to improve the flexibility, inclusivity and family-friendly nature of the service' (Bain Report, 2002: p.67). Hence in this review, and the government's White Paper in response to it (Office of the Deputy Prime Minister, 2003), equality and diversity improvements are consistently associated with a reform agenda that links modernisation to pay increases, and includes proposals unpopular with employees, such as changes in shift patterns. It is in this context of employee disillusionment following the 2002-2003 industrial dispute, and union resistance to some elements of the modernisation agenda, that union and employer respondents in our case studies were attempting to implement equality measures around sexual orientation.

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<sup>9</sup> Sponsors/partners from business, higher or further institutions, charities or voluntary groups which may have a religious ethos are encouraged to play a role in the running of City Academies and Foundation Schools on the basis that schools will derive benefit from the partnership. Where schools become Academies, Department of Education and Skills (DfES) guidance suggests that although department policy is that TUPE Regulations should apply, 'the flexibilities that Academies have should allow them to be in the forefront in applying school workforce reform strategies.' (DfES, 2007).

<sup>10</sup> A watch is the shift on which the firefighter works, and is always the same team of people.

In 2005 the Audit Commission's Comprehensive Performance Assessment, previously applied to local authorities, was extended to the fire service. It concluded that 'slow progress has been made in delivering on equality and diversity in many fire and rescue authorities' (Audit Commission, 2006: 41). By March 2004 only 2.1% of the workforce were from black and minority ethnic groups, against its target of 7.7% and women accounted for 2.4% of the operational workforce, and increase from 2.1% in 2003 and 1.7% in 2002 (ibid: 41).

The public sector has traditionally sought to promote itself as in the forefront of equality and diversity employment policy and practice. However, a number of commentators on equalities in the gender and race areas have been critical of the impact of the drive for flexibility, reduced costs, reorganisation and restructuring on equality and diversity policy and practice in public sector organisations (Newman, 1994; Dickens, 1999; Cunningham, 2000, Conley, 2003). For example, Dickens (1999) suggests that increasingly public sector organisations have moved away from the 'long-established model' of the good employer' by aligning their human resource management interventions with business strategy and away from 'bureaucratic personnel-driven equal opportunities initiatives'. It has been argued that as modernization has progressed, equality issues have too often been treated as 'optional extras' rather than being 'mainstreamed' (Bailey and Jones, 2001) by busy line managers, many of whom feel besieged by the changes and cutbacks occurring within the public services (Newman, 1994; Cunningham, 2000; Creegan et al, 2003). More recently, others have argued that the political and constitutional changes in Britain since 1997 have created opportunities as well as difficulties for equality practitioners and activists within the public services (Breitenbach et al, 2006; Wright, 2006).

In light of these concerns, the question is to what extent is equality and diversity policy on sexual orientation being developed and implemented in this changing context? Here, the limited body of work on sexual orientation available, while not uncritical of modernization, is less pessimistic. This is perhaps because of the nadir experienced by sexual orientation equalities work during the 1990s and because the research to date has had a tendency to focus on citizenship and service rather than employment issues. For example, Cooper (2006) notes that it took the election of a Labour government in 1997 to give LGBT work 'a renewed boost of energy' in local authorities. Carabine and Monro (2004) suggest that new LGB initiatives have been developed in local authorities in response to modernization themes such as widening consultation and participation, democratic renewal, partnership and social inclusion. However, they also stressed the need for a clear central government policy supporting LGB equality in order to counter some of the barriers to these initiatives in local authorities (Carabine and Monro, 2004). Cooper (2006) and Monro (2007), despite some caveats, appear to remain upbeat about the potential for LGBT work within the post-1997 context, with Monro (2007) arguing that equalities work 'is increasingly supported by modernization.' For example, she argues that the inclusion of sexual orientation within managerialist systems of measurement such as the Comprehensive Performance Assessment can support the development of sexualities equalities initiatives, albeit within the parameters established by the modernization agenda (Monro, 2007).



## **LGBT Equality and Public Services: Employer Perspective**

This section draws on the national and case study employer key informant interviews to assess the progress being made on sexual equalities work within local authorities, schools and the fire service. The case study employers viewed themselves as ‘good employers’ and ‘ahead of the game,’ in terms of policy and practice on sexual orientation. The Local Authority and Fire Service case study organizations, as ‘good practice employers’, had taken a number of the steps outlined in the Stonewall Diversity Champion’s programme (summarized in Table I). The schools, as smaller organizations, had followed the first 5 steps.

**Table I: Organisational approaches to equality and diversity: sexual orientation**

Developed and promoted a written equality/diversity policy barring discrimination and specifically stating ‘sexual orientation’
Developed a working group/diversity team that included LGB issues
Established a lead person for LGB issues at senior level
Audited policies and procedures for employees in line with Employment (SO) Regulations 2003 & Civil Partnership Act (2004) etc
Ran diversity awareness training that referred to ‘sexual orientation’ and drew on concrete examples
Established an LGBT network group for support, consultation and to inform policy at work (school staff could join NUT, UNISON or LA LGBT groups)
Sponsored or supported an LGB organisation or event (although neither school had done so nor had they participated in LGBT history month thus far)
Recruited staff or advertised products or services in UK LGB media
Introducing appropriate systems for monitoring LGB issues and attitudes

Source: Adapted from Stonewall Diversity Champion’s Programme (2006)

Human Resource and diversity managers within the public sector case study organisations were clear that the recent developments in the law had assisted and empowered them to make progress within the equalities area, particularly where political or managerial opposition or inadequate resources had stopped them from developing LGB initiatives in line with other strands.

I think it’s fair to say the authority, like the vast majority of other public bodies, views its response and investment in equality work based on our statutory responsibilities. (Equality manager, Local Authority, 2006)

However, it was also acknowledged that resources within the public services were limited and that legislation acts as a means of prioritising resources.

As a manager with responsibility for work, my first priority is to make sure that my employer doesn’t break the law. So we’ve got a law that requires us on race, not just to avoid discrimination, but we also have to screen all our policies and functions for relevance to race equality and to produce proactive action plans and to be involved with community engagement. ... we have to prioritise meeting our statutory responsibilities ... So if you were to ask me what proportion of our overall resources were

devoted to LGB issues, it is actually, the honest answer is less than on disability. (Equality manager, Local authority, 2005).

The four local authorities had sought to adopt a comprehensive and systematic approach to dealing with equality and diversity issues as outlined in the Equality Standard for Local Government (Dialog, 2001). The Standard was developed primarily as a tool to enable local authorities to mainstream race, gender and disability into council policy and practice at all levels, but the case study authorities had sought to extend this approach to anti-discrimination policies for age, sexuality and religion or belief. The revised Equality Standard now includes these strands and is used as a voluntary Best Value Performance Indicator (Dialog, 2007). Indeed, one authority had decided to act as if it had a positive legal duty in relation to sexual orientation, in order to ensure that this area also gets resources:

We plan in the next eighteen months to start to behave as if we have got a positive duty on sexuality... we should put our money where our mouth is and some of the things that are done routinely like screening policies and decisions for relevance to particular aspects of equality, it's not that difficult to amend. By law now on race, any significant decision or spending priority has to be accompanied by an impact analysis, we encourage, as an act of best practice, to look at developing in terms of other aspects of equality [...]. But in terms of the recommendations, they are intended as a starting point to encourage areas to think about designing out inequality rather than waiting till problems of discrimination arise. (Equality manager, Local authority, 2005)

The Audit Commission's Comprehensive Performance Assessment was also thought to provide further support for implementing equality and diversity measures, including those strands not covered by a statutory duty to promote equality. The head of equality in a local authority said:

Inspectors ... expect a lot of information about work that is done on diversity and, although they will focus on the strongest areas of statutory responsibility, I find that they comment positively on voluntary inclusions around other measures. (Equality manager, Local authority, 2005)

And the lack of inclusion of these strands in the fire service was noted as an omission in the Audit Commission's Comprehensive Performance Assessment, which observed that fire authorities had focused mainly on women and BME communities in efforts to address equality and diversity, but that attention also needed to be paid to sexual orientation, religious belief and age (Audit Commission, 2006).

Managers within the case study organisations were keen to stress that equalities was no longer 'optional' or an 'add-on'. For example, one senior manager said that the 'modernisation and diversity agenda had been mainstreamed'. However, 'mainstreaming' as discussed by the managers seemed to be primarily focused on planning and delivering services. The case study managers interviewed did not perceive the modernisation agenda as a barrier to equalities. Rather, they 'rarely talked about the modernisation agenda, it's just part of what we do' (Senior manager, Fire Service, 2007). However, it was acknowledged that following the dispute

concerning modernisation in the fire service, 'morale had never been lower', which was affecting the authority's ability to be proactive around some equality work. There was concern, for example, that a new staff attitude survey would simply provoke a negative backlash. Although committed to mainstreaming equality, managers across the case studies also talked of the need to find ways to provide high quality services and work more efficiently and the pressures this created to make savings through reorganisation and more flexible ways of working. This could be difficult when faced with continual opposition and disillusionment from staff. One manager, for example, said: 'Our staff need to get real, quite frankly, about what the situation is in local and central government for everybody' (Senior manager, Fire service, 2007). An example of 'mainstreaming' equality in the fire service was the introduction of equality and diversity into the promotion system. Under the Integrated Personal Development System (IPDS), managers seeking promotion must show that they have certain Personal Quality Attributes (PQAs) connected with equality and diversity, and if they fail these in interview and written tests, they will not be able to go forward to the next position. According to an HR manager, this means that equality now has a much higher profile, although she was also concerned that it could mean that managers are in fact simply 'paying lip-service' to equality in order to achieve promotion, without a real commitment to implementing it.

For schools, local authority education (LEA) staff acknowledged that the integration of equality issues had been made more difficult by structural changes such as the introduction of LMS and City Academies. Staff in the LEA departments talked of their reduced role to influence policy and practice. Although schools participated in events and made use of the LEA resources, they did so increasingly on a voluntarist basis. As a consequence, participants tended to be the 'usual suspects', ie those who wished to be kept informed of equalities issues.

We run training for schools. The schools have their own personnel providers so they don't use our HR services as such, but anything that is a statutory responsibility, we issue guidance. There is a schools handbook which was revised about a year ago to take account of the Employment Regulations. And we offer training which is well attended by Heads... We have a Governors Services Team. And they provide central training and they provide training within schools. So for example, the Equalities Consultants will go in if there is any request from a school, for example, for governor training in an evening. If it's an equalities issue we will meet that. (Manager, Local authority, 2006).

The Heads from the two school case studies did make use of local authority guidance and encouraged their staff and governors to participate in local authority training and events. One of the key ways in which both were taking up LGBT issues was through developing an equal opportunities culture and tackling bullying work in schools in line with DfES and LEA guidance on good practice. One school had developed its 'All Different, All Equal' policy which was communicated to staff, pupils and parents.

We worked towards equal opportunities and...anti-bullying ...it's about the whole school culture...policy into practice. I always start with the way that I behave... it's also about including staff.. Making sure every member

of staff is able to recognize and to challenge inappropriate comments, not to ignore it ... not only teachers... support staff...they will tell you what inclusion is about. Maybe in different words, but they will carry that message to parents. (Senior manager, School, 2006).

A stronger lead from LEAs and the DfES was also sought in countering the impact that Section 28 had in order to empower those working in schools to include sexual orientation in their equalities work, for example in supporting Lesbian and Gay History Month.

It is very difficult though because I think, Section 28 has long-lasting effects and I think a lot of people still don't know what they are allowed to say and what they are not allowed to say. (Senior manager, School, 2006)

Within the case study organisations, it was agreed that the introduction of the Regulations had precipitated the development of specific policies on sexual orientation, the auditing of policies to ensure they were in line with the legislation and the establishment of LGBT groups where they were not already in place. These were all viewed as positive developments arising from the introduction of the legislation. The major emerging debate directly linked to the modernisation agenda in local authority and fire service organisations concerned whether organisations should develop performance indicators, audit LGBT employee and service user attitudes and introduce the sexuality monitoring of the workforce.

...in terms of the employment and workforce issues we are introducing monitoring which we haven't had hitherto. So I mean that's a good thing to be doing. I mean I suppose that the drive in relation to sexual orientation is trying to make sure that X is the sort of organisation and I suppose it's something that runs across service provision as well, it's the sort of organisation where lesbian, gay, etcetera staff feel ...comfortable and valued in the organisation (Senior manager, Local authority, 2006).

Although collecting this kind of monitoring data and developing appropriate performance indicators was seen as sensitive, it was also viewed as an integral way of working within the modernised context of public services. For managers, it also meant that the sexual orientation strand was now being treated on a par with the other equality strands in terms of both employment and service delivery.

I think that our approach to equalities is about including outcomes. And the problem we had with this agenda is that it is very hard to measure those outcomes and that's why it's so important to have monitoring. But the problem is that while we can impose it on our staff after consultation and finding the right ways of communicating with a wider staff group, it's still a barrier to service delivery...for example, to stop someone in the street doing a survey and to ask them about their age, their faith and their sexuality... continues to be a barrier and to prevent us having those measures and therefore delivering those outcomes that we want to achieve....until we get to a point where we can measure those outcomes it is going to continue to be a problem in this part of the equalities agenda

matching the achievements of the others. (Equality manager, Local authority, 2006).

Evidence from the employer interviews suggests that LGB initiatives had developed slowly and in a rather piecemeal way primarily focused on service delivery until the introduction of the Employment Equality (SO) Regulations (2003), the Civil Partnership Act (2004) and the Equality Act (SO) Regulations (2007). Since 2003, the development of policy and practice on LGB employment equality had been given much greater priority. Employer concern was now focused on the difficulty in 'identifying' and 'consulting' LGB people in employment and the wider community in order to identify areas for improvement and comply with the law. One proactive local authority and one fire service had already introduced both staff monitoring and an employee attitude survey which included questions on sexual orientation. Others were taking steps to do so. In all three sectors, employers said they were making greater efforts to find ways to mainstream the sexual orientation strand within policy making and strategy and find ways to 'measure' and 'evaluate' a range of service outputs and outcomes. This was particularly true for the local authorities and the fire service given the parameters of modernization and the requirements of Best Value and the Comprehensive Performance Assessment. Less clear equality performance measures for sexual orientation were in place for schools, so schools sought to follow the guidance from their LEAs and/or the DfES as appropriate.

### **LGBT Equality and Public Services: Trade Union Perspective**

The unions had long campaigned for legislation outlawing discrimination on the grounds of sexual orientation in employment and other areas, and saw these as important gains. One view was 'we have got a door to push on now instead of a blank wall' (UNISON National officer, June 2007). However, both national and case study union representatives were cautious about making an assessment of the progress being made in developing equality policy and practice on sexual orientation in the public services. The recent introduction of the Employment Equality (SO) Regulations (2003) and the lack of data on LGB people within the public services made it difficult to assess developments thus far. As a UNISON spokesperson said of both local authorities and schools:

Change is incredibly slow... and the sexual orientation legislation is very new.... We can absolutely say that this modernisation agenda and the breakdown of national bargaining and so on is weakening the ability to protect union members in general, you know job security, terms and conditions., LGBT people as workers are really severely affected by this but as LGBT people I think their rights are so unrealised that there is nowhere to fall if you like...things are at such an early stage (National officer, UNISON, June 2007).

Concerns were expressed by both UNISON and the NUT that the introduction of LMS had hindered the development of equalities work in the sexual orientation area. This was compounded by current Labour education policy which was encouraging the increase in City Academies, foundation and faith schools. The expansion of the latter was definitely seen as negative for LGBT staff with a few 'honourable exceptions.' (NUT LGBT Working Group representative, June, 2007).

It's a fragmented picture now across local authorities, if you looked within one LA boundaries, the more there are different types of schools, it's harder to have a negotiating agenda and it's harder to evaluate how any collective bargaining and negotiating agenda is going. So I would see that as a barrier to promoting consistently good equal opportunities practice. At the time that we have the positive things like Section 28 being removed and the sexual orientation regulations being introduced it's been unfortunate that at the same time you've got this other direction of travel which is the different types of school status and something that's a bigger barrier which is the pace of change [of new initiatives in schools] (National officer, NUT, June 2007).

Given this fragmentation, the NUT, UNISON and support and campaign group Schools Out were very critical of the DfES for the 'mixed messages' in the way it communicated to schools what they should be doing in the area of sexual orientation, employment and service delivery.

Discrimination and harassment continued to be the main issue raised by members with UNISON and the NUT. A UNISON survey (2003) just prior to the introduction of the regulations found that 52% of its LGBT members reported that they had been discriminated against because of their sexual orientation or gender identity. A survey of LGBT teachers found that 60% of the respondents had experienced harassment or discrimination (Teacher Support Network, 2006).

...people are still fearful and accept high levels of homophobia, well people don't accept it but expect a level of homophobia...its the same issues not wanting to complain about homophobic service users because they don't want to out themselves to their colleagues (National officer, UNISON, June 2007).

This was also true of administrative, support staff and teachers in schools (Warwick et al. 2004, NUT, 2007). The FBU Gay and Lesbian Committee representative (June, 2007) believed that most employers in the fire service would not begin to take the issue of sexual orientation seriously until a successful case was taken under the Employment Equality (SO) Regulations and compensation was awarded against them. A similar view was taken by Schools Out (June, 2007) and the NUT representatives (June, 2007).

I think what we need nationally is a case that's a teacher .... which should be sufficiently intimidating for all heads and governing bodies across the country to take notice of but it would have to be a school context to have that weight to it. The problem with heads and governing bodies if they don't want to do this kind of work is that they'll say 'yes, but we're a school, we have young people here, we can't talk about sexual orientation.' ...they treat school contexts as very unique. It would need to be a school case I think to really scare local authorities and that would be a good deterrent, particularly with the resurgence of quite conservative faith forces. (National officer, NUT, June 2007).

However, a new and positive issue being raised by members was the recent legislation allowing same-sex couples to register a civil partnership.

I think civil partnerships have given people self-confidence which is very positive. A self-confidence in that people do have rights and somehow or other it's an easier thing to go to your line manager with. One of the difficulties we've always had about raising sexual orientation issues is it sounds like we're talking about 'sex' whereas civil partnerships sounds less like you're talking about 'sex'...so I think that's been quite normalising (National officer, UNISON, June 2007).

In addition, there was some positive anecdotal evidence of changes in the working environment and ways in which people addressed sexual orientation within their work, for example, those working in social services, youth services, fostering and adoption and schools. However, a number of restraining factors were also described. For example, local and national NUT representatives talked of the requirements on teachers to teach to the national curriculum and undertake standardised tests and constantly respond to externally imposed initiatives and targets.

The biggest barriers in trying to engage teachers in EO work is because every new initiative just hits them, one term there'll be an initiative on healthy schools, next term there'll be an initiative on truancy and the next on individual pupil assessment so the scene is constantly changing and these new initiatives hit every term so the pace of change is what teachers will cite as either the reason they are leaving teaching or they are off on long term sick and are very depressed and anxious....When you are saying lets look and see how a school can bring in more holistic, more sustainable approaches to equal opportunities, they'll say we don't have time because we have to meet the immediate pressures of new initiatives. (National officer, NUT, June 2007).

In a school with a head and governing body which does not wish to engage with issues of sexual orientation, it could be dangerous for a teacher to try to put their 'head above the parapet' and react in a professional way 'to quite spontaneous things' on sexual orientation or equal opportunities which might arise in class rather than sticking to the lesson plan (NUT LGBT Working Group representative, June, 2007).

Branch representatives in local authorities also talked of the gap between equality policy and practice and the contradictory pressures caused for both managers and staff by the modernisation agenda. Thus, for some representatives, paper policies were more often geared to meeting standards than making a difference in practice;

Over the last four or five years they have been developing all this stuff, there's an awful lot of paper...as far as staff are concerned equalities issues are just not being pursued...it's not embedded in management practice and the reality is that because of down-sizing and all these horrible things that have happened, there is more pressure to managers on the frontline services....There is the expectation that managers will deliver and will meet the deadlines and will meet the standards and will do this, that and the other and they have to bully to get there, so there are big bullies and so on down the line. And it does come from the top. There is a terrific culture of bullying right at the top. And so although there is a lot of words on paper, uhm, unfortunately this is not necessarily reflected in practice.(Branch representative, UNISON, Local authority, 2005)

Across the three sectors, unions took the view that ‘sexual orientation does not have the same status,’ with employers as the other equality strands, in part because employers still didn’t know how to talk about it in case ‘somebody is offended.’ However, it was acknowledged that employers had massive obligations across all strands and were still struggling with the race and disability duties and had ‘hardly begun to take on board’ the gender duty (National officer, UNISON, June 2007). Schools Out thought that the gender equality duty might offer a useful way forward to embed some work on LGBT issues and tackling heterosexism as schools are required to develop gender equality schemes (Schools Out representative, June 2007).

As outlined in the employers section above, one specific item on the agenda was monitoring. There were differing views among trade unions about the benefits of monitoring, but the FBU firefighters’ trade union Gay and Lesbian Committee was clear that it wants brigades to start to monitor employees’ sexual orientation (as already happens in London). However, the union is encountering resistance from many brigades on the grounds that as they have no targets for LGB recruitment (as there are for the recruitment of women and BME firefighters), therefore there is no need to monitor for sexual orientation. UNISON and the NUT were more cautious given very mixed views from their LGBT membership on monitoring. On the one hand it was recognised that employer willingness to monitor meant that sexual orientation was ‘from a very low level’ being brought into line with other strands ‘where previously it wasn’t even on the agenda,’ but the concern was that it be done sensitively and appropriately. One question for employers based on the collection of equality data in other areas was ‘if they are collecting data ...do they do anything with it?’ Prior to the regulations, UNISON had said ‘don’t monitor,’ however following the introduction of the regulations it now says ‘don’t monitor unless you meet the following conditions.’ (UNISON national officer, June, 2007)

## **Working in the Public Sector: Lesbian, Gay and Bisexual (LGB) Employees**

### **Coming out at work**

It has been noted above that the public sector has traditionally tried to promote equality, including for LGB workers. However, while many LGB interviewees were comfortable to be out at work, for others local authorities, schools and the fire service could also be very difficult places for lesbians or gay men. One gay councillor expressed his surprise at the changes that he perceived in local authorities in the past few years:

I have been involved in lesbian and gay stuff for fifteen odd years or more. And there was a time where local authorities were, you know, over here in the scale of being great. It was like the banks and all the other institutions, financial institutions, were bad. It’s swung completely the other way, banks are now ... brilliant [...]. But local authorities, I was surprised actually how difficult it was for people still in [local authority] to be out. (Gay man, Local authority)

A lesbian working for another local authority, who had joined the organisation 15 years ago, agreed that it had been progressive then, but now felt that the voluntary sector was a better environment for LGB workers.

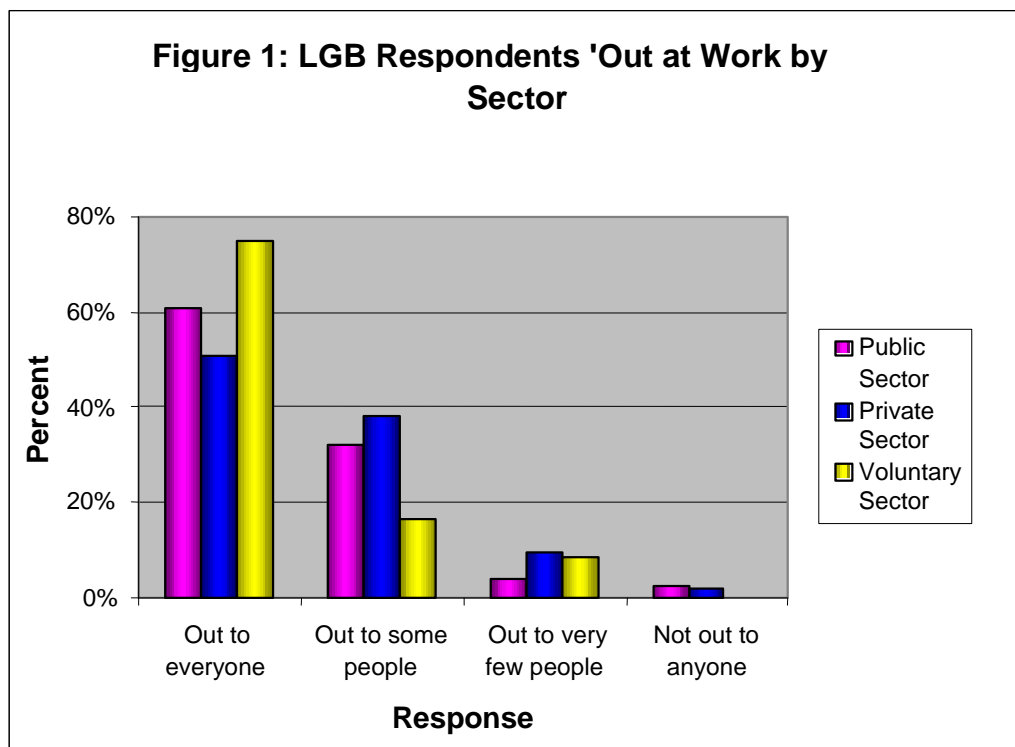


I first came to work in [local authority] it was extremely, quite progressive and it made me feel quite safe, so that was the reason why I came out...I am actually, in two months, leaving [local authority] Social Services. I've had twenty years in social services and it's the point where I want to go where the other lesbian, gay and bisexual people are. They have all left and they are all working in the voluntary sector.... and they've got an absolutely excellent policy. (Lesbian, Local authority)

Teachers said that, since LMS, it was 'the head who made the school' in terms of setting the policy, practice and culture. A number suggested it was important to ask around and/or visit a school before taking a job to make sure it would be a 'gay friendly' place to work.

I was very fortunate actually. I only came to this place for an interview...to see what it was like...But within seconds of getting to the school I felt quite comfortable and that just progressed. I spent about...half a day here. I was shown around the school, saw the kids, saw the staff, sat in the staffroom, listened to some of the chat and really liked it... went through the interview...and got a good response. (BME Lesbian, School)

More than half (57.8%) of employees interviewed in all the 'good practice' organisations studied in the research were out to everyone at work, and a third (33.8%) were out to some people. Figure 1 shows that the public sector respondents were slightly more likely to be out at work than private sector workers.



However, it is probable that those who were not out at work would also be less likely to take part in research of this kind, which may explain why a higher percentage of

our respondents were out at work than was the case in other studies (see Colgan et al, 2006). It was common for those who were not out to nevertheless be selective in terms of those they came out to.

Many spoke of the difficulties for LGB workers in being out in some parts of local authorities, particularly those in manual work. This gay man was typical of many employees who had found an area in which they were happy to be out to colleagues, commonly departments such as social services, but felt less comfortable about other areas of the organisation:

I actually speak with some of the Housing guys and I wouldn't feel comfortable saying anything to them [about sexuality] myself. The same with the mechanics that deal with the transport area of the council, I wouldn't feel comfortable saying anything to them. (Gay man, Local authority)

For lesbians working in male-dominated environments such as the fire service, their sexuality was an additional factor to deal with, on top of their gender, which had an impact on their decisions about coming out (Colgan et al, 2008).

Another difficult area concerned being out to clients, customers or students. Thirty per cent of the respondents said they were not out to these groups. One teacher described the difficulties he had faced after coming out to students in response to a question from one of them:

I was really into gay equality and I came out to a group of 12-13 year olds and that was hard...what happened really was I found them very hard to control...it was like they didn't feel they had to take notice of what I said and I lost disciplinary control of them... It was like complete chaos in the classroom. And I really regretted it. I got to be quite upset. But I didn't get anything like complaints from parents. (Gay man, School)

## **Discrimination and Harassment**

Public sector respondents in our sample were more likely to say that they had experienced discrimination or harassment at work in the last four years than those in the private or voluntary sectors (see figures 2 and 3).

Cases of harassment or bullying on grounds of sexual orientation were found in all the public sector case study organizations. This came from managers, colleagues, clients/students and members of the public. Such experiences, not surprisingly, affected employees' decisions about coming out. This local authority worker explained:

Well, I wasn't out at first at work. I never really thought I wanted to do that ...also I thought I had a bad experience with a manager here, who, I never really got on with him, generally I just thought he was a bully but I couldn't put my finger on it. I didn't know whether he'd sussed me as being gay anyway and I always felt that, I used to get a lot of hard times from this guy and I used to talk to my partner about it and we just came to

the conclusion that basically that he was a bully but that maybe underneath he had put two and two together and that's sometimes why ... I was badly bullied by this guy so that didn't make me feel very confident. (Gay man, Local authority)

Figure 2:

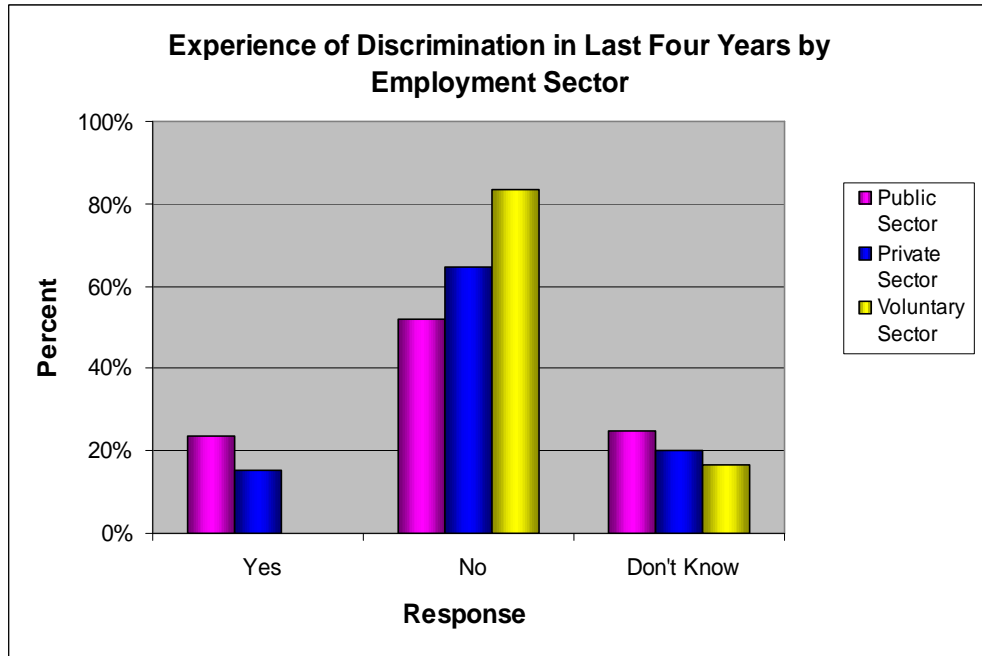
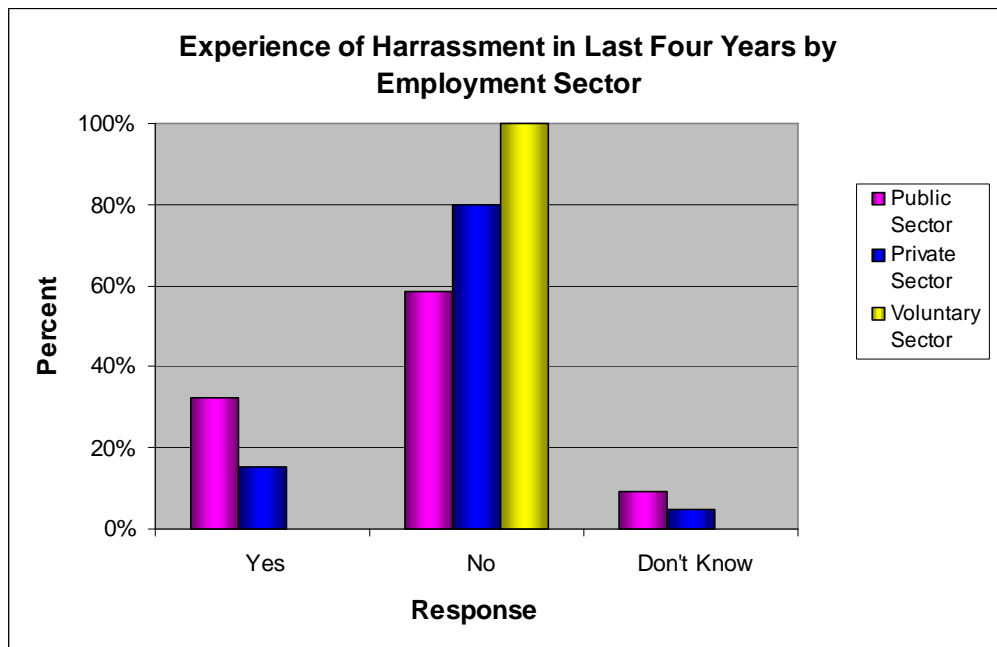


Figure 3



In the fire service, the everyday culture of fire stations was characterised by “banter” that was a regular part of workplace interaction among members of the watch, and was often directed at a person’s minority status. Interviewees coped with this environment in different ways, with some finding it harmless fun, but others feeling more uncomfortable. One gay officer, though, had found his watch supportive when,

as their manager, he had come out to them. But when he later moved to work in officer training he experienced considerable homophobia from fellow managers, saying:

I don't mind the ribbing and jokes from the firefighters, but when it's senior managers, I find that a bit more difficult. (Gay man, Fire service)

He found himself being excluded and ridiculed by his fellow officers, and when he complained about the situation to a senior manager, he was perceived as the problem:

He basically then told me, well ... my interpretation of the conversation was that really I should go back into the closet. I was creating too much problems within the team, causing hostility, being so open about my sexuality. (Gay man, Fire service)  
Others had experienced harassment from colleagues. One woman talked of years of 'anonymous stuff going on,' which meant that she was 'willing to jack the job in, and say I'd had enough...your self esteem just hits rock bottom.' (Lesbian, Fire service).  
There were also a number of examples of respondents who felt that they had been harassed but found it difficult to prove that the motivation of the harasser was homophobic.

That does upset me. And it does make me think I don't really want to be here and getting bullied, and maybe I am being discriminated against, I don't know. I can't prove it, which is a problem. (Gay man, Local authority)

For teachers in the case study, the main source of problems on a daily basis came from pupils with concerns also expressed about the response from pupil's parents if a student was challenged on this behaviour. Thus it was important for public service employers to find ways to address these problems not only with respect to the behaviour of employees but also with clients, students and members of the public.

### **Perceptions of employer policy and practice**

The majority of LGB respondents (81.1%) strongly agreed or agreed that their employer was gay friendly in terms of policy, while nearly two thirds (62.7%) strongly agreed/agreed that their employer was gay friendly in practice, indicating a perceived 'implementation gap' between policy and practice. This gap was smaller in the public sector, where 77.6% said that their employer was 'gay friendly' in its employment policies and 63.1% felt that this was the case in practice. But the private sector workers showed a higher level of satisfaction with employer policies (83.1%), but less with their practices (60%).

One fire service employee felt that his employer had very good equality and LGB policies in place, describing it as: 'outstanding... probably the best employer I have ever had in terms of their equal opportunities policy'. Other fire service employees were also generally confident that the employer took issues of overt homophobia and bullying seriously, and would 'stamp on' such behaviour very quickly. And those who had been in the fire service for some years believed there had been changes in the culture as a result of this 'aggressive' approach whereby employees know that certain comments and behaviour is unacceptable.

A teacher in one of the schools was very positive about her organisation's policies and practice. Its proactive approach to tackling bullying and harassment was important in making the school a positive place to work.

The school is really, really hot on you know, not insulting people and respecting everybody and ... all the mottos, everybody different everybody equal. I have had a couple of incidents...where they go 'That's so gay' and I go 'What do you mean by that?' and I will ask and question them what do you mean by that?... Why are you using the term like that as an insult... My colleagues, especially trainee teachers...are really on the case even though they are not lesbian or gay, they are quick to pull it up. (BME Lesbian, School)

But the gap between policy and practice was evident for some. In particular, changing the organisational culture was identified as difficult, with LGBT issues harder to tackle than other areas, according to this employee who had an administrative role within the fire service:

"It is a model employer, but the culture of the organisation towards LGBT people and the commitment of the organisation to take it forward, the LGBT issues, I would say is questionable. Because it's hard, it's hard for them to grapple with and it's hard for them to deal with, you know, to get their heads round, and it's easier to just go with... the visible problem of not enough BME staff." (Gay man, fire service).

### **Modernization and LGBT Issues**

A number of problems had arisen as a consequence of the modernization agenda for LGB staff. For example when it came to putting policy into practice, the devolution of HR activities to line managers had led to difficulties in communication, recruitment, promotion, appraisal and the handling of discipline and grievance situations. In large part this was because of pressure of work plus a lack of sensitivity to the issues, need for the communication of organizational commitment to the area and equalities training (Colgan et al. 2006). The situation was exacerbated by the increasing use of consultants and temporary staff who were unfamiliar with organisational equality policy and practice:

I was on a secondment to a different part of the organisation. And my direct line manager made some offensive comments and this was not taken up by my management or by HR... He was just making offensive, both gender, just anti-gay, anti-women comments... this was an external temporary interim manager, from outside the local authority. The industry is endemic with this kind of people. So he stayed and I left. (Lesbian, local authority)

Organisational restructuring and reorganisation could be particularly stressful for LGB staff who were 'comfortable' being 'out' in a specific department with an existing set of colleagues (Colgan et al, 2006). Ongoing reorganisations meant change for all staff, but for LGB staff this additionally required them to go through the 'coming out' process again with a new set of colleagues.

I am still shocked that people won't move departments because they are not out or are uncomfortable about being out in certain departments. (Gay man, Local authority).

Organizations were required to address LGB issues in order to comply with the Comprehensive Performance Assessment, Best Value and equality legislation but as one lesbian working in a local authority said, there could be 'a lot of silence around the table' when the topic of sexual orientation came up. Too often it fell to LGB staff at senior and junior levels to 'champion' and ensure sexual orientation issues were addressed at meetings if at all.

I find it a bit weird sometimes here that although the Chief Executive ...doesn't have any issue about homosexuality.... But when you come to equalities, so we have a long discussion about race etc, there is me and another, I'd better not mention the name but another senior chief officer here who is a woman who is an out lesbian.... And we always are going to have say 'Hang on what about ...' and sometimes you feel like wouldn't it be nice if somebody else was saying it (Gay man, local authority).

We went to the Head and said we should have a meeting to discuss homophobia and she supported it... then we....discussed it and thought well, we shouldn't be leading on it, you know, that's the same as only Black people should be dealing with racism. It is a corporate thing. In a sense we passed it back to the school. It's a huge issue in the school...as well as taking on the hierarchy of -isms, ...I would say if you mapped out there is a definite hierarchy, being gay is well down there. There is lip service paid to it. (Gay man, School)

It was agreed that despite claims of 'mainstreaming' equality strands in service provision, in reality prior to the introduction of the regulations, organizations had been slow to include sexual orientation alongside other strands.

When I worked in policy and partnerships I was trying to negotiate developing and using an equality standard around sexuality, three or four years ago, because my view was that the other equality standards had been drawn up we should incorporate what we have done all across the policy because otherwise we give the wrong message about what we incorporate unless we also focus on age and sexuality. And never really found a lot of support in that.... [to] mainstream, all the work that has been done with business units around the other areas, have understanding at a local level but because age and sexuality weren't part of that they will always be seen as second class and need to catch up. And I still think there is a hierarchy of discrimination...we have had in the past sort of managed to support staff forums and it's always been quite difficult to get lesbian and gay forum up there. (Lesbian, Local authority).

Since the introduction of the Regulations, opportunities for LGB had opened up as people were nominated or in some cases 'pushed into' roles on some of the fora/panels in order to make use of their 'expertise' as LGB people. As a

consequence, LGB workers could find themselves ‘tokens’ on these panels and in some cases were ‘outed’ as their reason for nomination became clear.

At first, I thought it was a bit of a cheek, I have to say...I was out anyway so it wasn't something that would have come as a great shock to anybody, people knew that I was a gay man anyway. (Gay man local authority)

Given the limited resources available to do equalities work, LGB employees were critical of the ways in which they and the new organization LGBT employee forums were being used to deliver work for ‘free’ in the sexual orientation area.

We have been asked by Equalities to develop an LGBT strategy. Now my own personal view on that is and I have spoken to others who say well, that's good because, you as a group can write your own strategy, you know, you can write it from the perspective of the needs of LGBT people...My concern though is that I am not sure it should be the responsibility of LGBT staff to be writing the corporate LGBT strategy for the organisation, you know, I don't get paid the money to do that...all this stuff is being done voluntarily by us... Equalities have said that their role is to help us ...circulate that around the departments, get input from the departments, then help that strategy be accepted by the organization... Well, at the point where it gets approved it won't be the LGBT staff support group strategy... they are going to trumpet that outwards so that they are going to say “[the organization] launches” and they will ... say that our members have just approved our LGB strategy (Gay man, Fire service)

Still, notwithstanding efforts to improve the profile of work on sexual orientation there was a view across the three sectors that commitment from the top could be lacking given a host of other political, financial and social pressures,

The issue of sexuality is difficult, it's difficult to express. So consequently, there is a kind of message that sometimes seems to come from sections of the politicians that they don't really want to push the issue too much and I guess that does feed into how the organization thinks about it. Because if you thought about race issues, you know, [the council] is very explicit you know, talking about community cohesion, anti racist. (Gay man, Local government)

The move within organizations towards monitoring of sexual orientation was seen by some employees as a positive indication of the employer's commitment to LGB employees.

I was really surprised to see [the question on the application form]. That's the first time in my life that I've ever seen that's ever had that on there which I thought was, you know, pretty cool really, I thought, for an organisation to have that one there. I thought it was quite pleasing really that they are sort of quite forward thinking employer really. (Gay man, Fire service)

While some LGB employees had mixed feelings about monitoring, and expressed a view that the data collected could be insufficient as not everyone would be willing to

disclose the information, overall there was broad support for the need to collect data to make LGB employees and their issues visible. There was a feeling that the lack of information about LGB employees' views and experiences was a key barrier to policy implementation. Staff surveys and monitoring and evaluating LGB initiatives were suggested as ways of overcoming this problem.

We don't have [evidence] and so we don't know. Maybe what there needs to be then is a comprehensive survey that somehow manages to ask difficult questions of LGB staff. (Gay man, local authority)

Some employees welcomed the fact that the Regulations had prompted action on monitoring by employers.

It's only until just recently has the Borough started including this box to tick on various forms. And I have been asking, you know, for quite some time where is the box so that I can tick to say I am gay. Because you've got to, you know, if you don't ask the question, someone may not realise that it's an issue. And the boxes are now beginning to appear on all sorts of forms. Not because I've asked, but there is legislation that is coming through now. And the legislation empowers people to ask. (Gay man, local authority)

### **The impact of the Regulations**

There was a general view among LGB respondents in the research that the Regulations had made little impact on organisational policy and practice, mostly because their employer was 'ahead of the game' in this area (Colgan et al, 2006).

However, several thought that the introduction of the Regulations had 'kick started' action on policy implementation or provided leverage for new initiatives, and this was observed particularly in organisations where sexual orientation was seen to be trailing behind other equality issues in terms of priority. One lesbian was very positive about the impact of the regulations on the Council's approach:

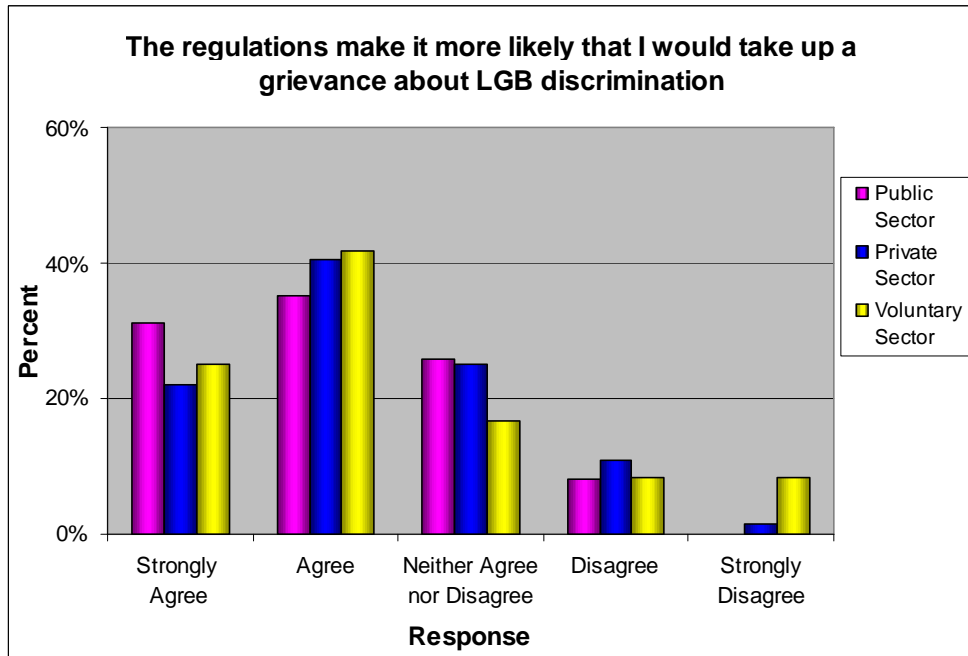
I think it's buzzing... Last week I was at three conferences, you know that [were] LGB. I have never been on so many different things that are LGB relevant. I have just never seen it before and you know, it's really exciting to have it buzzing and I think the impact, it's as if we've been given the permission now to actually do something and to change things. And the floodgates have opened and everybody is like straight in there and it's as if we've always been in the background waiting for it to happen and all of a sudden these structures have actually formed themselves. (Lesbian, Local authority)

One of the most significant effects of the Regulations in relation to employment was the increased confidence felt by many in their position as LGB workers. Indeed one gay male firefighter, who joined the fire service in 2004, said that in his decision to join, the regulations were 'an extremely important factor, without that legal protection I wouldn't have gone into the Brigade'. He felt that 'even if I got in and I had a bad time, I had the legal protection to pull me out of the situation.'



The research also found that two-thirds of public sector LGB employees (66.2%) agreed that the Regulations had made it more likely that they would take up a grievance about LGB discrimination if necessary (see figure 4).

Figure 4:



But despite the potential support provided by the legislation, the interviews with LGB employees revealed the great difficulty for individuals in making a formal complaint, let alone taking a case to an Employment Tribunal. Some individuals discussed the difficulty of raising an internal grievance over the way that they had been treated, and wanted a less formal way of dealing with problems with colleagues. A lesbian working in a local authority had suffered homophobic comments from her deputy manager for a number of years, but did not want to be labelled a ‘trouble causer’:

But I couldn't have taken a grievance because what would have happened to me? I would have been this you know, I would have been one of the first, I would have been a trouble causer, you know, so that's why I backed down really. But I had a sufficient amount of evidence that the woman was absolutely appalling. (Lesbian, local authority)

She felt that she could have got support from the union for taking a case, but was uncertain of backing by colleagues:

You've got all the legal backing and I think the union would back you, but I just know what it's like when you cause trouble. And you alienate yourself even more. [...] People don't support you, you know. I could be naive and think that people will support you but I don't know, it just felt as though I was basically left, you make that decision and .. my manager was basically like ‘Well, I can't investigate until you do something about it’, it's like ‘Well, thanks for the support here’. I didn't want to go to that extremity either. He wouldn't do anything about it. I wanted a mediation meeting. He wouldn't do it. (Lesbian, local authority)

## **Trade Unions and Collective Bargaining**

Trade unions were not felt to have a very strong presence in relation to equality work in some of the local authority case studies, although many recognized the commitment of UNISON and the NUT at national level or in the past to LGB equality. In the fire service, the 2002-2003 industrial dispute was felt to have affected morale both in attitudes towards the employer and the union, making it difficult to pursue equality initiatives. One long-serving gay man said:

I feel that the present political climate with regards to sort of employer-union relations, trade union representative relationships is probably the worst I have ever heard or seen it in my career (Gay man, fire service).

For teachers and workers in schools, the fragmentation via LMS and pressure of work had undermined union activity.

I feel that over the years what the NUT has done for me is it's given me the opportunity to discuss with other staff either in the school where I work or with people across the borough important issues for me as a teacher. Whether it's to do with my pay or my pension scheme or you know, whether we affiliate to keep our solidarity or not. I think that's been good because it means you talk about educational issues and what your beliefs are and so on.... I mean we don't get that good a turnout. And it's not because people aren't willing, it's a lot of people do lunchtime duties, a lot of people see kids or run clubs or after school they help students with work. So I think there is a real problem that teachers are working so hard they are not stepping back and being activists. It's not that I want anybody to say down tools and walk out tomorrow, I think that we could do more to change our working environment... (Lesbian, School).

For those in local authorities, the consequences of the merger and past union disputes had led to a decline in members and morale.

I think when I first arrived there was a strong union profile. I think, I am not sure they have recovered from the merging of the different unions here. And as far as I know certainly over the last half a dozen years and it might just be because I don't know but I am not aware of there being a lesbian and gay trade union group in this borough. So that's why I say that for people who do feel isolated, different, discriminated against, harassed or bullied, even through the union routes, it's not clear, everybody has to go for somewhere else. You know, go to central union office, go outside for support (Lesbian, Local authority).

In addition, where an LGB member did wish to raise an issue or take a grievance, the lack of an LGB profile in the branch could be an issue.

To my knowledge there is nobody out in the steward committees that I deal with, either GMB or UNISON. I don't know of any people that are out in either of those hierarchies. Or any union activists. I don't think

there are any lesbian or gay out people to my knowledge (Lesbian, local authority).

## **Conclusions**

This paper has shown that the public sector, which had traditionally had a good reputation for promoting equality, including for LGB workers, was faced with many difficulties in pursuing this work, in particular during the 1980s and 1990s, and was, in many of the case studies shown here, only starting to reinvigorate work in this area. Despite fairly high levels of openness about their sexuality among employees in the good practice case studies, there was also evidence that there were pockets in all the local authorities, schools and the fire service that could be very difficult places for LGB employees to work or be open about their sexuality.

In general, the Employment Equality (SO) Regulations were felt to have had a positive impact on organisational policy and practice by managers within the public sector case studies, particularly where they had allowed equality or human resources managers to kick-start or reinvigorate activity around sexual orientation. Evidence from the trade union interviews suggests, though, that although public service organisations had made a number of changes to policy in line with legal requirements, these changes were having a slow impact on practice across organisations. Sexual orientation was still thought to be the 'poor relation' amongst equality strands in the public services. However, efforts to raise its profile from a very low base were welcomed. Many LGB employees agreed that sexual orientation was often given less priority than other issues, and few pointed to many direct impacts on their organizations following the Regulations. Significantly, though, the majority felt an increased confidence at work as a result of having legal protection and would be more willing to take a grievance against the employer. The recent legislation may also be influencing the public attitude to sexuality, with a recent Stonewall survey finding that 85% of those surveyed supported the newly-introduced protections for gay people and thought that further steps should be taken to tackle homophobia by government, workplaces, schools and the media (Stonewall, 2007).

Some trade unions and campaigners felt that the impact of the Employment Equality (SO) Regulations would not be felt fully by some employers, particularly those who were reticent in tackling LGB issues, until there had been a successful and high profile case won under the Regulations. But while members complained of experiencing discrimination and harassment on grounds of sexual orientation, they were slow to come forward to raise a grievance and bring a case under the Regulations, fearing creating greater difficulties for themselves with the employer. Recent research for Acas on cases taken under the sexual orientation and religion and belief regulations (Denvir et al, 2007) confirms the enormous personal cost to individuals of raising a grievance and going through the Employment Tribunal procedure. It noted a tendency by employers to respond to the employee's complaint by seeing them as the problem, rather than a victim of unfair treatment, with claimants often disciplined or demoted for work performance until they felt they had no option but to resign. Furthermore, dispute resolution procedures often exacerbated their experience of discrimination rather than resolving it.

Given the range of measures and policies that we have shown are associated with public sector modernization, and the differences within the three areas of public sector employment studied, it is not possible to argue simply that it has had a negative or positive impact on equality for LGB workers. Employer respondents, on the one hand, were able to identify beneficial ways in which aspects of modernization either drove, coincided with or supported, equality work: for example, the increased emphasis on measurement and performance through the Equalities Standard and Comprehensive Performance Assessment, the introduction of monitoring of sexual orientation, and a more consistent, 'mainstream' approach to all strands of equality. This lends support to Monro's (2007) view that some measures can assist equality work in relation to sexual orientation. However, the willingness to promote 'fairness,' via this work was as Dickens and Hall (2006) have argued contingent on the extent it was seen to support and not conflict with the organizational drive towards efficient and high quality services (Dickens and Hall, 2006). Perhaps not surprisingly, the union representatives did not agree that the modernization agenda had successfully mainstreamed and supported the development of LGB equalities work. For them, it had led to the fragmentation of bargaining and so threatened their ability to protect and improve members terms and conditions generally, with an inevitable reduction in their capacity to press for improvements in the equalities arena. Union representatives were also critical of what they perceived as paper-based equality policies which sometimes appeared to be aimed primarily at meeting managerial targets and the production of league tables. Employees too were aware of the weakened position of the trade unions to promote change, and industrial action over pay and modernization had had a damaging effect on the morale of employees in the fire service, leading to disillusionment with both the employers and unions.

One aspect of the increased emphasis on measurement, inherent in the modernization approach, was monitoring of sexual orientation, both in terms of providing data on numbers of employees, but also of staff attitudes and in relation to service delivery. Many LGB interviewees welcomed the introduction of sexual orientation monitoring, as a form of recognition and a way of knowing more about LGB employees' situation, but were realistic about some of the difficulties involved. Trade unions, in general, had adopted a pragmatic approach to monitoring on grounds of sexual orientation, so long as it was done after consultation and following agreed guidelines. The complete lack of data concerning the position of LGBT employees within the public service workforce does mean that it is not possible at this stage to contribute to a discussion of the impact of specific measures on LGB workers in the way that it has been possible for those for example considering the impact of the increase in temporary work and job insecurity for women and BME employees (Conley, 2002; 2003).

As equality legislation continues to develop, and greater emphasis is placed on ensuring compatibility and consistency between the different equality strands (with the discussions on a Single Equality Act and the introduction of the Commission for Equality and Human Rights later this year), it is likely that the lack of a public sector duty in relation to sexual orientation will appear to be an even greater anomaly. As this paper has shown, some employers are already attempting to treat all the equality strands with equal importance, but without equal legislative backing this is not always easy to achieve, as has been evidenced here by the lack of attention paid to sexuality in many organizations until the introduction of the Employment Equality (SO) Regulations. Carabine and Munro (2004, p. 312) in their earlier work, emphasized

that in the absence of explicit central government policy supporting lesbian and gay equalities, UK local authorities and community actors who wished to progress sexualities work were required to act 'strategically and creatively with available policy discourses and initiatives' to 'creates spaces, however small, for their purposes.' Given the nadir experienced by sexual equalities work during the 1980s and 1990s it may be appropriate in considering its development to follow Breitenbach et al (2006) and Cooper (2006) in concluding that the political and legal changes in Britain since 1997 have created both opportunities and dangers for equality work in the sexual orientation area.

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