

Monitoring sexual orientation in the health sector

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Introduction

The Department of Health's Sexual Orientation and Gender Identity Group has commissioned this guide. It explores the issues surrounding the inclusion of sexual orientation in the equalities agenda of the Department of Health, the NHS, and Social Care, and makes recommendations about the introduction of monitoring on the grounds of sexual orientation.

The health care sector is unique; no other sector has the same employment structures or type of service users, or exists in so many different forms and locations. It is impossible to find one equivalent sector, from which the health sector can learn how to protect and support lesbian, gay and bisexual people. This research, therefore, draws on the examples and experiences of organisations that have begun taking steps to include sexual orientation in their work programme and the lessons they have learnt in their work. It makes recommendations about steps that the health sector can take to begin (or continue) the process of integration and protection of lesbian, gay and bisexual staff and patients. A full list of organisations that have contributed to this research can be found in Annex A.

In particular, this guide will make recommendations about the best ways to begin monitoring staff and service users on the grounds of sexual orientation. It explores the rationale for monitoring staff and service users, drawing on lessons that the health sector has learnt from monitoring on the grounds of race and gender. The guide explores how monitoring on the grounds of sexual orientation can help an organisation fully introduce sexual orientation into an inclusive equalities work-programme.

The guide should assist all those involved in equality within the health sector, and service delivery, but will be particularly useful for Human Resource managers who work for the Department of Health, the NHS, Social Care, and allied health organisations.

Executive summary

The health sector takes its obligations to its staff seriously. It recognises that protecting staff from bullying and harassment, and ensuring that they have equal opportunity to work, is essential to a happy and productive workforce.

The health sector also recognises that barriers to full inclusion are created by prejudice and discrimination, manifested either through individual's attitudes, or institutional policies, practices and procedures. Putting in place systems to support and protect staff, and mechanisms to measure improvement enables the best quality health care to be delivered.

Lesbian, gay and bisexual people, or people who are thought to be lesbian, gay or bisexual (LGB), can experience **discrimination and harassment**. They can encounter barriers in the health sector that prevents them from "being themselves", usually because other people are discriminatory. They may make different choices about careers, or may choose not to stay working in the health sector. They may feel the need to make a formal complaint about incidents of harassment. In common with other forms of harassment and discrimination, employers have to take proactive steps in order to protect and support LGB staff. LGB people deserve to be protected from discrimination, in the same way as all other staff. This position is enshrined in law.

Patients also should be able to "be themselves" when they receive care from the health sector. Sometimes patients might have unique healthcare needs because of their sexual orientation, or may have particular circumstances that are affected by their sexual orientation. Or, very simply, patients might just want to be able to refer to their partner informally, be visited by their partner, and not have to listen to casual homophobia from staff. Protecting patients from discrimination is as important as protecting staff, and is equally enshrined in law.

Protecting and supporting staff and patients from discrimination is therefore a key responsibility of the health sector. This can be done in a number of ways, for example:

- Explicitly including sexual orientation in policies.
- Creating mechanisms to enable full communication and consultation with LGB staff and patients.
- Demonstrating a commitment to tackling homophobia, and a zero tolerance of discrimination from senior managers within the health sector.

As already learnt from processes put in place to tackle racism, sexism and discrimination against disabled people, monitoring provides an invaluable means of measuring change and identifying issues that affect staff and patients. By monitoring, the health sector can manage its workforce, and its processes to tackle discrimination.

Monitoring staff on the grounds of sexual orientation can be invaluable to protecting them from discrimination, if introduced correctly, and with due regard for the views and experiences of staff. Like the introduction of monitoring on the grounds of ethnicity, asking a group of people used to being discriminated against to co-operate with a process such as monitoring can be difficult. It is not however, impossible, and the health sector should be moving towards a stage where they monitor. Some organisations are already monitoring, and are doing it well, and the

health sector can learn valuable lessons from their work. The Department of Health should be leading on this issue, and demonstrating the importance of monitoring as a form of managing discrimination to the rest of the health sector.

Monitoring can be conducted via:

- Anonymous staff satisfaction surveys
- Recruitment procedures
- All other policies, practices and procedures where a person's sexual orientation might have had an impact on how they were treated, such as recruitment, appraisals, and training opportunities.

When monitoring staff, organisations should ask whether staff are:

- Bisexual
- Gay man
- Gay woman/Lesbian
- Heterosexual/Straight
- Other
- Prefer not to say

Supplementary questions can be asked in staff satisfaction surveys about whether a person has disclosed their sexual orientation to everyone at work, some people at work, or at home. This enables organisations to establish how comfortable staff are in the work place.

Monitoring patients can be more difficult, but is useful. It can help with the appropriate provision of services in a PCT, or can affect the type of care a patient receives. Monitoring patients, however, can be difficult because not all patients will understand, or identify with the labels listed above. There are no comparative organisations that have started monitoring patients and service users on the grounds of sexual orientation, although the LGBT Inclusion Project in Scotland has made significant progress in evaluating the health needs of patients, and building confidence that the health sector will treat LGBT patients fairly. Further research is therefore necessary in England and Wales to establish how best to support monitoring of patients in the health sector.

The health sector must start taking proactive steps to protect staff on the grounds of sexual orientation, and create a culture of trust and respect amongst the sector. LGB people will not work for a sector that continues to discriminate against them, and nothing is done to stop it or change it; it will be difficult to recruit, and retain staff. The health sector should aim to be monitoring in the next two years, and should start taking steps to achieve this.

Part one: What is sexual orientation?

This section examines:

- The definition of sexual orientation: lesbian, gay, bisexual and heterosexual
- Why sexual orientation is relevant to staff
- Why sexual orientation is relevant to patient care
- Where we are: How the health sector is currently tackling sexual orientation issues

The term sexual orientation refers to an individual's orientation (emotional or sexual) towards:

- persons of the same sex (lesbians or gay men)
- persons of the opposite sex (heterosexual people)
- or persons of the same or opposite sex (bisexual people)

It is the term used in European and domestic legislation to describe heterosexual, LGB people. Domestic law, including the Human Rights Act, and European law, states that people should be free from discrimination regardless of their sexual orientation.

For some, sexual orientation is a highly personal matter. Society however encourages people who are heterosexual to be open about their sexual orientation.

For example:

- Soaps and dramas on the television are generally about heterosexuals.
- In school, children's books all have heterosexual depictions.
- Politicians are usually seen in public life with their wives or husbands with them.

Heterosexual people tend to be open about their sexual orientation in the work place; they feel able to discuss their families and relationships, even if the discussions are not directly relevant to other people or their work. Some LGB people also want to be able to be open about their sexual orientation in society, and in the work place.

LGB people, or people who are thought to be LGB, can however experience discrimination on the grounds of their sexual orientation. Sometimes, they are treated differently to others. For example, a same-sex couple is asked to leave a restaurant because of their sexual orientation. There may be discrimination within an organisation. For example, a gay man may not be promoted because it is perceived that he will not be able to attend formal occasions with a female partner. LGB people may experience harassment from members of the public, and other staff. Some people have negative attitudes about LGB people, and issues, and express this in a variety of contexts.

It is the responsibility of local and national government, employers and service providers to ensure that everyone is entitled to freedom from discrimination, including LGB people. It is now illegal to discriminate against people on the grounds of their sexual orientation. Further information can be found in Part two.

The relevance of sexual orientation to employees in the health sector

LGB people work at all levels of the health sector. Until 2003 however, they were not legally protected from discrimination, harassment, or victimisation. There was no legislative compulsion to protect staff on the grounds of sexual orientation and evidence suggests that LGB employees did, and still do, experience discrimination.

In common with LGB employees from other sectors, health sector staff can sometimes experience discrimination as a consequence of homophobia. Homophobia is a hatred or fear of a person based on their actual or perceived sexual orientation.

Discrimination in the work place has a significant impact on employees:

- Róisín Ryan-Flood in *A case study of lesbian and gay workers in a local labour market in Britain* (2004) found that sexuality affects decisions about employment opportunities, prior to a person applying for a job. Respondents stated that they had made deliberate choices not to enter certain professions because they perceived them to be homophobic.
- *'The Pink Ceiling is too low' Workplace Experiences of Lesbians, gay men and transgender people* (1999) by Jude Irwin found that 36% of gay people would change jobs if discrimination continued and 59% of respondents had experienced homophobia in the work place. 55% of those who faced discrimination reported that this had a negative impact on their work. 20% also revealed that they had considered suicide.
- A survey of UNISON's lesbian and gay members in 2003 found that 52% had experienced discrimination because of their sexuality. Only 5% felt positive about the way their employer had dealt with the incident.

There are further, particular issues for employees in the health sector. There is a perception amongst some health care providers, potential employees, and patients that the NHS is a homophobic organisation that sometimes fails to protect its staff or deliver effective services to its patients:

- GLADD found, in their research *Dignity at work for Lesbian and Gay doctors and dentists, medical and dental students*, that 20% of the medical profession were homophobic.
- The *Nursing Standard* readers survey on awareness and attitudes to lesbians and gay men (2006) revealed that 5% of respondents felt that there are areas of nursing not suitable for lesbians and gay men and 45% of respondents did not know if their employer had a policy that related to sexual orientation.
- The Stonewall report *Harassment in the Health Sector for LGB staff* (2006) found that staff attitudes and homophobia had a significant negative impact on staff and their experiences.

The recent BMA report, *Career Barriers in Medicine: Doctor's experiences* (2004) explored some of the difficulties experienced by employees working in the health sector. One of the contributors stated:

'If I look at my friends who are gay doctors they don't have the freedom to be open about their sexuality, partially because their perception of the risk of being open about their sexuality is so great that they perceive it is going to stop their career progression. Or they are going to experience discrimination in the workplace or people aren't going to communicate with them, that they would rather stay closeted at work than come out.'

The BMA then published a report *Sexual Orientation in the workplace* (2005) that found that steps to ensure the implementation of equality on the grounds of sexual orientation was rarely pursued by employers within the NHS.

By tackling discrimination, the health sector can develop a reputation as an organisation that values, protects and supports its staff, which will have a direct impact on the **perceptions** of patients and service users. Furthermore, it enables the health sector to **recruit** qualified staff, and **retain** them. 36% of LGB employees will change careers if discrimination against them continues. **Tribunals**, and replacing staff, can cost between £35,000 and £50,000.

Tackling discrimination also helps **motivation**. One third of LGB staff do not disclose their sexual orientation to their employers and co-workers, yet employees who do disclose their sexual orientation earn 50% more than their peers who have not disclosed. Staff who are able to be themselves are happier at work, and are more productive.

Equality on the grounds of sexual orientation is extremely important to all employees because an environment that condones discriminatory practices and attitudes is damaging to the entire organisation. LGB staff require explicit, formulated approaches by their employers to tackle discrimination. See part four for further information.

The relevance of sexual orientation to service users in the health sector

A person's sexual orientation can be highly relevant to the care a patient receives. A person's sexual orientation may affect the type of health care that a person requires. Generally, the more information a health care professional knows about a patient, the better the quality of care. For example:

- A woman may not require an oral contraceptive pill if she is in a monogamous relationship with another woman, but might continue to accept the prescription if she felt unable to disclose her sexual orientation.
- A man may want to discuss his relationship with his abusive partner with his GP, but feel unable to discuss his concerns if it is immediately assumed that his partner is a woman.
- A young patient sent to a GP because of self-harm may be too scared to disclose that her problems stem from a difficult relationship with her parents and school since she has "come out" as bisexual, if she thinks her GP will respond in the same way as her parents and school.
- A woman may attend a pre-natal clinic with her female partner who may subsequently be ignored and excluded from decisions and processes.
- A married man with syphilis might be having sex with other men but feel unable to tell the health care professional because of his marital status.

Gaps in a patient's history affect the quality of care that they receive and therefore the more that a health care professional knows about the patient, the better the delivery of services.

There are times when sexual orientation isn't relevant; if a patient requires treatment for an in-growing toenail for example, his sexuality is not important, nor will the patient feel it necessary to tell the health care professional about his sexual orientation.

Some patients may feel that their sexual orientation is always irrelevant and may never disclose their sexual orientation. A reticence to disclose sexual orientation, however, might be because the patient perceives that the health care professional may be discriminatory towards them. Research suggests that there are specific health concerns that arise as a consequence of a person being LGB (see further resources Annex B) and it is generally useful for a health care professional to be aware of a person's sexual orientation prior to the delivery of some aspects of health care.

It is therefore useful if a patient feels comfortable about disclosing their sexual orientation to a health care professional.

- The Sigma report, *It makes me sick: Heterosexism, homophobia and the health of Gay men and Bisexual men* (2005) found that half of respondents had not disclosed their sexuality to their GP, and that of those, 39% had no intention of doing so. The report suggested that this was because of an anxiety that a GP will not hold the information confidentially, and that the quality of service provision would decline because the GP would be homophobic towards the patient.

- Stonewall's *Survey of lesbian health care needs* (2005) found that 36% of respondents had not disclosed their sexual orientation to their GP. Furthermore, only 64% of respondents had had a cervical smear in the last three years (80% of women nationally have had a smear). 55% had not received any sexual health screening in the last three years, yet 69% of respondents had had sex with men in the past. The survey found that lesbians were not receiving adequate health care when they did disclose their sexual orientation, and were not receiving adequate health care when they did not.
- The *Nursing Standards* readers survey on awareness and attitudes to lesbians and gay men (2006) revealed that although LGB people have special healthcare needs, 23% of respondents felt that trusts should *not* provide specialist services for them. Furthermore, 4% of respondents felt that there were moral grounds when a nurse could refuse to treat LGB people. This indicates that there is still a view amongst some healthcare professionals that LGB people are not entitled to appropriate levels of care.

Preventative health care messages can also be negated if sexual orientation is not considered in the delivery of the message. Healthcare campaigns that focus entirely on heterosexual people, necessarily discourages LGB people from responding to the message.

For example:

- A smoking cessation clinic advertises that smoking “makes you unattractive to the opposite sex”.
- A booklet encouraging more family orientated physical activity refers throughout to “activities for dad” and “activities for mum”.
- A sexual health clinic provides a service for women who have sex with men, men who have sex with men, and women who have sex with men. Promotional materials make no reference to the fact that services are available to women who have sex with women.

If preventative health care messages are not effectively communicated to all aspects of society, then general health care needs are likely to increase. A lesbian who does not feel welcome at a smoking cessation clinic continues to smoke and eventually develops lung cancer. This has far greater cost implications for the NHS than the cost of changing the language of a message to read: “Smoking makes you unattractive.”

The cost of failing to implement inclusion is far greater than the cost of initial inclusion.

Adequate delivery of health care provision for patients on the grounds of sexual orientation can at first seem difficult, but is made more complex by the lack of awareness about LGB health issues, and a culture that does not encourage open and frank disclosure and discussion. General inclusion is not difficult.

Sexual orientation within the health sector

The Department of Health, the NHS, and Social Care have taken steps to include sexual orientation in their equality and diversity agendas, for example, in equal opportunities policies. The Department of Health has developed a Sexual Orientation and Gender Identity equality strategy. The value statement of the strategy reads:

The DH Sexual Orientation and Gender Identity Advisory Group places at the centre of its work Lesbian, Gay, Bisexual and Transgender people who use and deliver health and social care services, in order to ensure opportunities for their experiences to inform service development and improvement.

Our work is underpinned by,

- a commitment to equality, human rights and social justice;
- a respect for diversity;
- and a commitment to challenge discrimination and exclusion within the organisations and communities on whose behalf we are working.

The advisory group has four work programmes; Better Employment, Reducing Health Inequalities, Transgender, and Inclusive Services. It is clear that equality on the grounds of sexual orientation is now part of the equality and human rights work undertaken by the Department of Health, and there is senior level support for this work.

The NHS Employers programme, Positively Diverse, also makes explicit reference to sexual orientation in its training programme and includes resources on their website. It states on the website:

NHS Employers is committed to supporting all employers in the NHS respond to the needs of lesbian, gay and bisexual (LGB) people and to tackle discrimination against them.

The website, and training materials, supports this statement.

The trade unions and associations have also taken positive steps to consider sexual orientation in the context of their equality and diversity work. The British Medical Association (the BMA) published *Sexual Orientation in the Workplace* (2005), which explores some of the issues experienced by LGB people working in the health service.

The Royal College of Nursing has an LGB group, and the Royal College of Midwives has published reports about LGB issues in midwifery. Unison has an LGB group, has published research, and has dedicated staff to support policy development relating to LGB members (see further resources, Annex B).

Some Primary Care Trusts have also demonstrated a commitment to sexual orientation. For example, Wandsworth PCT has an LGBT employee-networking group. Bolton PCT provides web-based information about the laws that exist to protect LGB people and the impact this, and discrimination, has on employees. East Sussex County Health Care Trust attend an LGB recruitment fair. Furthermore, several PCTs are monitoring their staff on the grounds of sexual orientation.

There has been an increased commitment to the inclusion of sexual orientation in the equality and diversity work in the health sector and this has been reflected in the increased discussions about sexual orientation equality in the health service, as experienced by staff and service users. The vast majority of health care organisations now make explicit reference to sexual orientation in their policies.

Despite the efforts by individuals and organisations however, there are still some problems within the health sector in relation to discrimination on the grounds of sexual orientation. It is apparent that there is a gap between policies, and actions undertaken to support LGB staff.

- The GLADD report *NHS Trusts and Equal Opportunities 2004* found that out of 100 trusts randomly selected, only 27% made explicit reference on their website to sexual orientation (42% made reference to race) and only one trust referred to the Employment Equality (Sexual Orientation) Regulations.
- The *Nursing Standard* readers survey on awareness and attitudes to lesbians and gay men (2006) revealed that 45% of respondents did not know if their employer had a policy that related to sexual orientation.

Stonewall's Diversity Champions Programme (a programme to help employers fully support LGB staff) has observed a marked difference in levels of engagement with the programme from the health sector compared to other sectors.

25 health organisations participated in Stonewall's 2006 Workplace Equality Index (a process of auditing an organisation to assess how they protect and include lesbian and gay staff). The health sector was the second highest participating sector (35 local authority agencies participated, 164 organisations participated in total) yet the health organisations were the lowest performing sector in the entire index. The average score for the top 100 participating organisations was 66; the NHS average was 41. The average score of investment banks (a sector not traditionally associated with taking steps to protect staff on the grounds of sexual orientation) was 70.

In order to receive the highest possible score, organisations had to have:

- A written policy barring discrimination based on, and using words referring to, "sexual orientation" promoted to all staff in the UK
- A working group or diversity team covering the UK that includes LGB issues
- A diversity lead person for LGB issues in the UK at Board/Chief Executive level
- Audited policies and procedures for employees and service users to ensure compliance with the Civil Partnership Act
- No successful employment tribunal hearing that included a complaint on the basis of sexual orientation in the last 12 months in the UK
- Automatic survivor pension entitlement to same-sex partners of employees in the UK

- Equal benefits offered to married straight couples and same-sex partners in the UK now
- An officially recognised LGB employee network group based in the UK
- An officially recognised LGB employee network group routinely involved in discussions on employment rights, benefits and development in the UK
- Engage with LGB staff on sexual orientation issues in the UK in various ways, for example, posters/leaflets, intranet pages, diversity emails, diversity LGB meetings
- Completed compulsory diversity awareness training that specifically mentions or refers to “sexual orientation” for all levels
- Support offered to LGB staff in the UK (other than an LGB staff group), for example, mentoring, LGB leadership training, counselling
- Monitoring of UK staff sexual orientation at all stages
- Monitoring of UK staff sexual orientation at all grades
- A regular comprehensive UK staff attitude survey that specifically asks about sexual orientation
- Ensure UK suppliers and contractors fully comply with policies against discrimination on grounds of sexual orientation and monitor this
- Recruited staff or advertised products or services in any UK LGB media (magazine, newspaper, website)
- Sponsored, or otherwise supported, a UK LGB community organisation or event
- Openly LGB members on UK board of directors/senior management team

Of 179 organisations that are permanent members of the Diversity Champions programme, only three are from the health sector.

Despite the fact that sexual orientation is now included in equality work (it is one of the “six strands”), there is not a uniform and systematic commitment to tackling and eradicating discrimination across the health sector.

This could be perceived as a lack of commitment to protecting LGB staff and patients by the health sector. If this perception is accurate, then it is likely that discrimination and discriminatory practices continue to exist.

Part two: Sexual orientation and the law

This section examines:

- The scope and range of the Employment Equality (Sexual Orientation) Regulations 2003
- Tribunal cases brought so far
- The Civil Partnership Act 2005 and its impact on staff and patients
- The Equality Act 2006 and the public duty to provide goods, facilities and services
- The single equality act – implications for the health sector

There are several pieces of legislation that exist, or are forthcoming, which protect patients and employees on the grounds of their sexual orientation.

The Employment Equality (Sexual Orientation) Regulations 2003

The Employment Equality (Sexual Orientation) Regulations were introduced in 2003. These were the first regulations to protect LGB people, or people who are perceived to be lesbian, gay or bisexual, in employment.

The regulations outlaw discrimination, which includes:

- direct discrimination
- indirect discrimination
- harassment
- victimisation

in employment and vocational training.

The regulations apply to discrimination on the grounds of orientation towards persons of the same sex (lesbians and gay men) and the same and opposite sex (bisexual people). The regulations also apply to people who are heterosexual.

Direct discrimination occurs when an individual is treated less favourably than others based on their sexual orientation, or perceived sexual orientation. If an employer does not employ someone or promote someone, or dismisses them, or provides adverse terms and conditions or benefits, or refuses to provide training, this would constitute direct discrimination.

- There is a training weekend for middle NHS managers to help them apply for senior managerial posts. A manager decides not to send a member of his team who he knows to be a lesbian because he thinks that she will not bond well with the other (supposed heterosexual) people on the course.
- A patient refuses, on religious grounds, to be treated by a junior doctor who she perceives to be a lesbian. The consultant provides an alternative junior doctor.

Indirect discrimination occurs when an individual is subjected to a particular provision, criteria or practice, which disadvantages a particular group compared to others in the same circumstances.

- A gay man is not offered married couples accommodation on the grounds that it is assumed that he does not require it.
- A new mother wants a community midwife who has had children herself.

Harassment and bullying refers to any conduct or comment which is unreasonable, unwelcome or offensive and causes the recipient to feel threatened, humiliated or embarrassed, either intentionally or unintentionally. Bullying is the aggressive misuse of power and/or position. It may include behaviour that criticises, condemns and/or humiliates people and can undermine their ability and confidence. Organisations may be held responsible for their employee's conduct and may be ordered to pay compensation unless they can show that they have taken reasonable steps to prevent harassment and bullying in the workplace.

- A nurse receives suggestive text messages, and emails from a gay pornographic website, and experiences name calling and teasing on the grounds that his colleagues think that he might be gay.
- A patient, whilst being given a routine procedure for the removal of earwax, talks informally about how she is "fed up of all these gays on the telly". The nurse, administering her treatment, feels harassed and offended.

Victimisation occurs if an individual has been treated less favourably because they have complained about discrimination or supported someone else who has.

A woman supports a colleague who makes a complaint under the sexual orientation regulations. It is assumed by her other colleagues that she is gay and she is treated differently (harassment) and she is given inconvenient and inferior shifts because, her manager says, she is a trouble maker.

These four categories of classifying discriminatory practices have existed in race, disability and gender legislation for some time. For example, a patient would not be able to refuse treatment from a nurse who is African-Caribbean, a group of staff could not bully and harass a person because they were in a wheelchair, a member of staff would not be treated unfairly for participating in an employment tribunal. Compliance with these rules and principles has therefore been a part of employment culture for some time. It therefore should be straightforward to apply these principles to LGB people.

Case law

Several cases have been brought under the sexual orientation regulations. For example:

Whitfield v. Cleanaway UK

Mr Whitfield experienced discrimination from his colleagues and from his manager over a sustained period of time. He initially perceived the harassment to be low level yet five months of sustained abuse and homophobic taunts left him feeling uncomfortable and distressed about attending work. Attempts to informally resolve the problem failed. Whitfield received **£35,000** as a result of an employment tribunal.

Whitehead v. Brighton Marine Palace and Pier Company

Mr Whitehead brought a complaint against his manager after he had left the organisation. He had felt that Mr Quelch had been undermining his work and avoiding him. Mr Whitehead did not feel able to raise his concerns with Mr Quelch. Mr Whitehead then took leave after the death of his father. On his return to work, he was told by a colleague that she had heard Mr Quelch referring to him as a "f***** chutney ferret". Mr Whitehead resigned a few days later. A tribunal awarded him **£10,000** for injury to feelings.

Gismondi v. Durham City Council

Durham City Council was found guilty of discriminating against a gay theatre worker who suffered months of bullying and harassment at the hands of his manager. The Council were also found to have constructively and unfairly dismissed Mr Gismondi, who was group bookings coordinator at Durham's Gala Theatre. Mr Gismondi was repeatedly referred to as "gay boy" by his manager Ed Tutty. The tribunal commented that "it is hard to envisage conduct more likely to shatter the trust and confidence of an employee in his employer," and the council had "signally failed in their duty to an employee who has been bullied and harassed, contrary to their own express policies." Durham City Council and the harasser were both found by the tribunal to have breached the Sexual Orientation Regulations.

The Civil Partnership Act 2004

The Civil Partnership Act was introduced on December 5th 2005. The Act enables same sex partners to form a civil partnership, which grants the same rights and responsibilities as civil marriage. This legislation has an impact on the health sector, in relation to its function as employers and service providers.

Implications for staff include:

- Employers need to adapt their policies to recognise civil partners on any occasion when they recognise marriage as a significant legal status. For example, if a trust grants special “honeymoon” leave to a newly wed member of staff, this benefit would have to extend to a member of staff about to enter into a civil partnership.
- Monitoring forms, and staff information forms, that ask about marital status should also ask about civil partnership. The form would read:
What is your marital status: Married/ In a civil partnership
- All staff should be aware of the Civil Partnership Act and managers should ensure that an increased visibility of lesbian and gay people does not lead to an increase in discriminatory practices in the form of harassment.
- The Health sector is a public sector organisation, and should therefore provide survivor pensions for civil partners, from 1988.

For patients:

- Patients who enter a civil partnership are now entitled to next of kin rights for their partner. It will now be discriminatory to ignore the wishes of a civil partner in relation to treatment.
- Any children born into the family will be the responsibility of both civil partners – the birth mother and the civil partner, or the two men in a surrogacy arrangement. All parents and potential parents should be treated as such by all health care professionals who come into contact with the couple.

The Adoption and Children Act 2002 also enables same sex couples to adopt children, and same sex couples are therefore entitled to take adoption leave, in line with the provisions available to heterosexual people. Paternity leave and adoption leave is also available to the non-biological parent of any child born in a partnership. For example, a woman whose partner had given birth would be entitled to paternity leave.

The Equality Act and Goods, Facilities and Services

The Equality Bill 2006 includes an order making power that will allow the government to draw up regulations to prevent discrimination in the provision of goods, facilities and services for people on the grounds of their sexual orientation. As this legislation extends to public bodies, this means that the health service cannot treat LGB patients differently to how they treat heterosexual patients. For example:

- An alcoholics support service could not refuse to treat a gay man.
- A lesbian cannot be refused a cervical smear test, or STD testing.
- A GP cannot refuse to treat a gay person on moral grounds.
- A community midwife cannot ignore the partner of a biological mother.
- A domestic violence unit could not turn away a gay man (unless there was a provision that meant the service was only provided to women).
- A doctor could not refuse to prescribe anti-depressant medications to a patient who, he feels, is only depressed because he is gay.

The exact nature of the regulations relating to goods, facilities and services is currently the subject of a consultation but it is highly unlikely that there will be any exemptions for the health sector, except in relation to the fact that PCTs will be able to provide specialist services for LGB people (such as an STD Clinic for gay and bisexual men).

This new legislation will have a significant impact on the delivery of health care services to LGB people. It will also have an affect on LGB people's expectations of service delivery; LGB people will expect to be treated the same by health care professionals, will not accept sub-standard clinical care, and will challenge discriminatory practices.

The Equality Act has also led to the introduction of The Commission for Equality and Human Rights, which will be set up in the UK from 2007. This Commission will consolidate the work of the Commission for Racial Equality, the Disability Rights Commission, and the Equal Opportunities Commission. It will also work on sexual orientation, religion and belief, and age. This will be the first time that LGB people will be represented by a national commission and will have an impact on their expectations about their rights and responsibilities.

A Single Equality Act?

There is a commitment from the government to legislate, in this parliament, for a Single Equality Act. Investigations are being conducted across government in order to make this happen, and a consultation document is expected. A Single Equality Act may significantly change the responsibilities of public sector organisations to their LGB staff.

At present, each equality strand has different statutory requirements and this has an impact on the way in which the health sector supports each equality group. Although LGB people are protected by the legislation detailed above, there is no statutory requirement to follow specific or general duties as outlined in the Race Relations (Amendment) Act 2000, the Disability Discrimination Act 2005, and the Equality Act 2006.

There is therefore currently no duty to:

- Develop an action plan or targets to tackle inequalities
- Conduct an impact assessment of every policy, practice and procedure to ensure that there are no discriminatory practices
- Implement positive actions to help counteract discriminatory practices
- Promote good relations
- Eliminate unlawful discrimination
- Promote equality of opportunity
- Monitor staff and service users
- Implement positive actions
- Follow a public duty
- Communicate and consult with relevant stakeholders about actions.

These aspects of equality legislation provide a framework for employers and service providers to tackle discrimination and remove institutional discriminatory barriers for certain groups and individuals. They help organisations prevent incidents of discrimination, and allow them to demonstrate that they have taken steps to tackle discrimination. Crucially, the emphasis has shifted away from the need for individuals to report incidents of discrimination, and instead requires organisations to pro-actively prevent discrimination.

The clearly stipulated framework makes it easier for organisations to comply with legislation, and provides an established course for judicial proceedings, designed to safe guard the legal rights of the individual.

As these duties will eventually exist for sexual orientation, some organisations are anticipating this change and already taking steps to ensure that they promote measures that prevent discrimination in general on the grounds of sexual orientation, as well as protecting individuals from discrimination.

Current structures for monitoring staff and patients

This section examines:

- Monitoring on the grounds of race, disability and gender.
- The difficulties encountered when monitoring was first introduced.
- Arguments in favour of monitoring sexual orientation in the health sector.

Important lessons about monitoring on the grounds of sexual orientation can be learnt from the monitoring that has already been done by the health sector. Monitoring staff, potential staff, and patients on the grounds of gender, ethnicity and disability has been an integral part of the health sector's work for a number of years.

Monitoring of staff and patients is an effective way of improving service delivery. Monitoring on the grounds of ethnicity, for example, enables the health sector to address the following:

- To look at health inequalities between ethnic minorities
- To identify and evaluate potential barriers to services and employment opportunities
- To monitor incidents of discrimination against individuals and communities and to prevent them happening.
- To ensure that the health sector is a fair employer who attracts, develops and retains the best talent, from all communities.

On-going monitoring helps the health sector to:

- Actively identify areas where discriminatory practices might be occurring and proactively address those problems.
- Minimise the incidents of discrimination, and therefore avoid costly cases of discrimination.
- Track improvements in service delivery, employment opportunities, and equality of opportunity.

Monitoring staff and patients on the grounds of ethnicity, for example, leads to the following sorts of changes and actions:

- An area in the West Midlands has a high number of Bengali women using the maternity services yet there are no Bengali midwives. Job advertisements, in Bengali, encourage women to join midwifery courses, and in the interim women who speak Bengali are employed as translators.
- Monitoring over three years indicates that no men from BME backgrounds have been promoted in a hospital. Cross analysis reveals that no BME men have been on a training course. Concerted effort is therefore made to ensure more men attend the training course.
- The prevalence of stroke is between about 40% and 70% higher in African-Caribbean and South Asian men than that of the general population. A PCT identifies that the area has a high population of African-Caribbean and South Asian men and therefore alters its service delivery to reflect this need.

Monitoring improves service delivery and improves retention and recruitment of staff.

Monitoring on the grounds of sexual orientation would lead to **similar improvements** for LGB staff and service users.

Monitoring however was not universally welcomed when it was introduced. It was felt, for example, that if organisations were institutionally racist they may use collated information about ethnicity against an individual or a group:

The Metropolitan Police had used ethnic data in 1976 and 1982 to the detriment of minority communities. In March 1982, a press release used MPS statistics to identify black people as being disproportionately involved in street crime. There was therefore concern that data collected under the Race Relations (Amendment) Act would also be used to discriminate rather than support communities. The Metropolitan Police have had to make concerted efforts to demonstrate that the collection of data shapes their work in a positive way for communities, rather than a negative way.

Questions were also raised as to why organisations needed to hold information about individuals in order to effectively tackle discrimination and remove barriers to equality. There was confusion about the purpose of monitoring; it was assumed that data was needed to make decisions and take action about an individual, rather than use the data as part of a wider analysis of systems and processes.

Organisations have had to demonstrate over a period of time that data is being used for positive purposes, and have had to indicate how data collection fits in with a broader programme of tackling inequalities as recommended under the various equalities legislation relating to the public sector.

Further problems have also arisen because definitions of ethnicity, disability status and (for some) gender, is individual and often subjective. A person's identity can be multi-faceted and can change as their own, and societies, notion of identity changes. Ethnic, disability and gender *monitoring* however, provides objective, quantifiable information. The general process of monitoring raises crucial questions about identity. For example:

- Does a person identify as Chinese, if they feel they have no national affiliation with China?
- Does a person who is biologically female, but presents as male, tick the male or female box on a monitoring form?
- If a person is dyslexic, yet does not need any reasonable adjustments, do they self-identify as disabled?

The concept of identity, subjectivity, and the difficulties of definition is an issue for all equality strands, but is cited as a unique concern about sexual orientation monitoring:

“Sexual orientation is on a spectrum. It is not clear cut. Ethnicity is fixed. It cannot change. You can ask someone to identify their ethnicity. But you can't ask someone to identify their sexual orientation.”
A non-monitoring PCT

The purpose of monitoring however is not to grasp the complexities of a person's identity, but to gain a broad understanding of the nature and rudimentary make-up of a community. By using pre-determined categories, organisations can identify patterns and barriers to full inclusion that are generally experienced by a group of people. Inequalities occur when barriers are deliberately or inadvertently created because one group or individual uses their power to prevent the inclusion of another group or individual. Monitoring can provide a means of exploring that dynamic even if it does not get to the heart of a person's individual identity.

Crucial lessons can be learnt from the introduction of ethnicity, disability and gender monitoring of staff and patients. Any process that asks a traditionally discriminated against group to co-operate with an institutional process that directly effects them will raise issues of concern and mistrust. The same is likely to occur in relation to sexual orientation, if monitoring were introduced (see Part four for further information).

It is clear however, that the process of monitoring so far, has actively contributed to tackling institutional discrimination within the health sector. It has also provided an invaluable means of alerting all staff and patients to the fact that the health sector is interested in equalities, and is actively working to tackle discrimination.

The process of monitoring is also now a familiar aspect of surveys and forms. Government surveys ask for the information, the police ask, public authorities ask and therefore individuals expect to be asked to identify with a category of identity for the purpose of organisational analysis. These principles and lessons about monitoring in general provide an invaluable backdrop to the introduction of monitoring on the grounds of sexual orientation.

The health sector and sexual orientation: why monitor?

It is clear that LGB staff should be protected from harassment and discrimination in the work place as employees, and should have full access to services and appropriate care as patients, as seen in part one. A person's sexual orientation can have an impact on the way in which they are treated and can have an impact on their needs as staff and patients. Active steps need to be taken by the health sector in order to ensure that equality on the grounds of sexual orientation is achieved.

There are strong reasons for monitoring staff:

1. Monitoring on the grounds of sexual orientation is an indication that an organisation is taking proactive steps to prevent discrimination. Monitoring the work that is being done, and charting progress, demonstrates that an organisation is complying with the law:

Halton PCT started monitoring when the Employment Equality (Sexual Orientation) Regulations were introduced because monitoring provided them with a means of analysing staff attitudes and incidents of discrimination.

NHS Jobs, who provide a free on-line recruitment service to all PCTs, have included a question about sexual orientation on all monitoring forms, at all grades, since the service was set up. This is because the Employment Equality (Sexual Orientation) Regulations outlaw discrimination against LGB people. Monitoring at the stage of application, short-listing, and recruitment, provides a means of charting whether discrimination might be occurring during the appointment of staff.

2. As has been proven with race, disability, and gender, monitoring provides a means of evaluating whether equality of opportunity exists for staff; "what is measured, is managed". Only by asking staff about their sexual orientation can organisations measure the progress they are making to tackle inequalities. Monitoring also provides a means of evaluating whether progress is being made, and can provide information about next steps that need to be taken to tackle discrimination:

Oxleas NHS Trust includes sexual orientation in the anonymous staff satisfaction survey. Other equal opportunities information was collected at this point and it was logical to include sexual orientation. It provided a means of introducing sexual orientation as an issue in the work place without asking individuals to reveal their sexuality. By collating information from the staff satisfaction survey, with sexual orientation, Oxleas was able to identify areas where barriers exist for LGB staff and start to develop an action plan to address them before they introduce monitoring at other levels.

3. Monitoring on the grounds of sexual orientation, if done in conjunction with a broader plan of tackling inequalities, can also lead to a greater degree of inclusion from LGB staff, and can change the culture of an organisation:

Staffordshire Police have been monitoring on the grounds of sexual orientation since 2001. They now monitor at every level within the force and over the last five years have noticed a significant change in the experiences of their LGB staff. There is a general feeling that staff are more open about sexual orientation, either their own, or people they know (such as siblings, or their children). There has also been an increase in the number of people attending the LGB Forum within the force.

4. Monitoring patients on the grounds of sexual orientation can also be useful to determine appropriate delivery of services. In order to deliver effective services to the public, it is useful to have accurate information on what the needs of service users are. Data on sexual orientation enables PCTs to plan health and social services, and to allocate resources.

PCTs currently make decisions about the allocation of resources based on an informal assessment of the LGB population. Currently, many of the specific services provided relate to sexual health. For example:

- The West London Centre for Sexual Health, situated in Charing Cross Hospital, provides a cervical smear test and STD clinic for lesbians. This was set up because it was thought (correctly) that there would be a high demand for this service in London.
- Brighton and Hove strategic action plans include a specific gay men's HIV prevention strategy.
- Birmingham Teaching PCT offers a programme called "Healthy Gay Life" which provides services for men who have sex with men. It includes counselling and crisis counselling and engages with community outreach with hard to reach communities, such as members of the South Asian and African Caribbean communities.

These initiatives are to be welcomed, but they may not necessarily reflect all the needs of LGB people. Without monitoring, it is impossible to know what needs exist.

For example:

- A PCT in a rural area might have a higher number of older women who are lesbian. Research suggests that lesbians are more likely to develop breast cancer. If a PCT knew that about this demographic, they may target information about mammograms directly to the lesbian community.
- A PCT in an urban area might have a high number of young LGB people. Research suggests that younger LGB people are likely to participate in higher levels of risk taking behaviours such as alcohol and drug abuse, but may not respond to the preventative health care messages currently used by the PCT. If the PCT knew about this demographic, they might be able to alter their messages to make them more suitable to the community.

The more information about the local demographics of an area, the more the health sector can provide appropriate services. By monitoring patients, the health sector can improve service delivery.

5. Monitoring patients can also provide a means of assessing whether LGB people experience specific health care concerns. For example, monitoring patients who are found to have abnormalities after a cervical screening might demonstrate that lesbians don't require the screening. The LGBT Health Inclusion Project, as a result of their research, has found that LGB people do have specific health care concerns. Monitoring patients would also provide a means of evaluating whether LGB people are more likely to experience certain health issues:

The Mental Health Act Commission, the Healthcare Commission, and the National Institute for Mental Health in England carry out a census of people using the inpatient mental health services. 34,000 inpatients are covered, who use services provided by 102 eligible NHS trusts and 110 independent providers in England and Wales. In 2006, the census asked about sexual orientation in order to begin a process of evaluating whether gay people are more likely to be detained under the Mental Health Act. It also provides a means of evaluating the type of patients who are detained and what sort of provisions and training will be necessary to best support them.

6. Monitoring patients on the grounds of their sexual orientation can also improve direct service delivery to patients. If a patient is able to indicate to a health care provider that they are LGB, or this information is indicated on the record, this could improve service delivery, both in terms of diagnosis, and customer service.

For example:

- If a GP knew that a patient was gay, she may not offer the patient the oral contraceptive pill.
- A nurse may not bar a partner of a patient in intensive care from visiting.
- A sexual health nurse may not talk at length to a lesbian about the risk of pregnancy because she has disclosed that she does not use contraception.

Monitoring provides an invaluable means of supporting equality work and measuring progress. It also provides a means of assessing service delivery.

Monitoring, however, raises issues that have to be addressed in order for the exercise to be successful. The next sections in this guide explore in more detail the steps that need to be taken in order to introduce monitoring into the health sector.

Part four: Monitoring sexual orientation amongst staff.

This section examines:

- The steps that the health sector must take before the introduction of monitoring
- General policies, practices and procedures
- Full and thorough communication and consultation
- Senior level support and commitment to sexual orientation issues

1. Demonstrating support and commitment to LGB staff

As discussed above, legislation protecting LGB people in the workplace was not introduced until 2003. Sexual orientation has only been recently accepted as an equality strand, and for some people (both heterosexual and gay), it is still considered to be a highly personal issue that should not be relevant to the workplace.

Asking staff about their sexual orientation therefore might prompt mistrust or anxiety about the purpose and motivation behind the exercise. Members of GLADD, in the report *GLADD's Recommendations for Sexual Orientation Equal Opportunities Monitoring 2005*, expressed a variety of views about monitoring, including the following:

- "I am in Scotland...and [my field of work] is small. It was simply too important to risk losing out because of homophobia."
- "Competition for jobs is high – why take any chances?"
- "I don't think the question should be asked. After all, if no-one knows they can't discriminate anyhow."
- "Having a coding system means that even though they say 'We will treat this information confidentially' the information will still forever be linked to your name and GDC registration number."

These views and concerns reflect similar concerns that were expressed by staff when ethnic monitoring was introduced into the workplace. In order to encourage staff to participate in monitoring on the grounds of sexual orientation, the health sector has to **create a culture of trust**, and demonstrate **a commitment to tackling discrimination**.

Monitoring is an essential component to eradicating discrimination in the work place but **it cannot be introduced in isolation**. It must be part of a broader commitment to tackling discrimination on the grounds of sexual orientation:

Nacro, a crime reduction charity, monitors on the grounds of sexual orientation. Prior to monitoring, Nacro ensured that sexual orientation was included in a general equalities statement, and was part of any diversity training. The decision to include sexual orientation on monitoring forms was discussed with managers and directors so that they understood why monitoring was being introduced, and how important it was. Nacro also consulted LGBT employees through their forum. Information was also circulated via the equality newsletter.

Organisations that currently monitor also identify why monitoring is important to their broader strategy of tackling discrimination in the workplace. Data should not just be collected to demonstrate mediocre inclusion of the sexual orientation agenda, but as **a means of supporting further work**. Organisations expressed the following reasons for introducing monitoring:

- “Staff satisfaction surveys contained a large amount of other demographic information, but nothing on sexual orientation. We had an incomplete picture of staff experiences.”
- “We want to know if staff are experiencing difficulties at work, and provide them with a forum to tell us about it anonymously.”
- “We wanted to see how representative our workforce was, so we can improve on service delivery, and recruitment methods.”
- “We wanted to know if lesbian and gay people wanted to work here.”
- “We wanted to create a more inclusive environment for all our staff, and this was a good place to start.”
- “It was part of our goal to raise awareness about sexual orientation in the work place.”

All unions and associations interviewed stated that monitoring could not be introduced unless it was done within a broader framework of work to tackle discrimination yet they also reiterated that this should not prompt the health sector to do nothing; a general failure to tackle discrimination would mean the continuation of discriminatory practices. This could possibly result in staff leaving the health sector, or costly legal cases:

“Monitoring LGB people would draw attention to the fact that we are not paying much attention to the sexual orientation agenda. We are trying to fulfil all our duties under the other equality strands, and don’t have time to do this properly. If we monitor, it will provide evidence that we are probably discriminatory.”

A non-monitoring PCT.

Although monitoring without a work programme to tackle inequalities is to be discouraged, this does not provide sufficient impetus to neglect the agenda entirely. Cases of harassment and discrimination can and will be brought even if an organisation is not monitoring. The health sector should want to monitor their staff, and should be taking steps to enable this to be done effectively.

2. Developing channels for communication

All the organisations interviewed for this guide, who are monitoring staff on the grounds of sexual orientation, did not begin monitoring **without discussion and consultation with LGB staff in the organisation**. For the majority of organisations, this was achieved through communication with the established “LGB network group”. A networking group for LGB staff can prove invaluable in efforts to tackle discrimination in the work place.

An employee network group is a formal mechanism for enabling LGB staff to come together to share information and support. Research conducted by Stonewall (see Annex B) shows that it is a valuable workplace resource that can benefit the organisation and employees.

Staffordshire Police had a series of meetings with the LGBT forum about monitoring on the grounds of sexual orientation and the Human Resources department asked questions about what the staff would like to be included in normal reporting structures. They also explained to the forum what they intended to achieve by monitoring, including mechanisms for ensuring confidentiality. The meetings also provided an opportunity to work out how best to explain changes to other members of staff, lesbian and gay people who did not attend the forum, and people who might be adverse to sexual orientation equality. The work programme to introduce monitoring was done in close collaboration with staff.

Communicating fully with LGB staff is an essential component of monitoring. Once a staff forum is set up, the case for monitoring can be made. The TUC, in the guidance *Monitoring LGBT Workers: A TUC guide for trade unions 2005*, states that it is important to communicate:

- That the organisation has a **full equality policy** that makes robust reference to LGB people and it is in line with that policy that monitoring is to be conducted.
- What the **purpose** of the monitoring is, and what an organisation wants to achieve.
- What will be **done with the results**, and how will information be **presented**.
- How the **confidentiality** of individuals will be maintained, and how staff will be protected from any harassment that arises from increased visibility.

It is important to consult with unions and associations about the introduction of monitoring because they will be able to communicate with their lesbian and gay members, who may not necessarily want to attend a forum in work. Full consultation provides a means of gaining support for the work, and establishes support.

It is also necessary to communicate and consult with heterosexual staff who may object to the inclusion of monitoring on the grounds of sexual orientation. Objections may be raised on the grounds that individuals do not consider it necessary to monitor, or that such information is irrelevant to the experiences of staff. This sort of objection sometimes rests on the assumption that sexual orientation is not understood to be an equality issue in the same way as other strands. The proposal to

introduce monitoring provides an invaluable opportunity to raise awareness about sexual orientation equality.

A PCT, who is not monitoring on the grounds of sexual orientation, is encountering a high degree of opposition from middle management, and peers. Despite a personal commitment to introducing monitoring by the diversity manager, senior level support, and a high degree of engagement with the LGB population, existing staff think that to ask about sexual orientation would be an encroachment of people's human rights. There has also been an expression that a person should not be allowed to tell other people about their sexual orientation. The Diversity department at the PCT has therefore had to implement a programme of training and activities to increase awareness of lesbian and gay issues within the trust before they can attempt to successfully introduce monitoring. The trust is also concerned that some expressions of opposition is an indication of homophobia and has therefore also been working to communicate with all staff what constitutes discrimination and is unacceptable in the work place.

The process of communication and consultation may delay the implementation of monitoring, but it will provide invaluable information about steps that need to be taken within an organisation to increase confidence and increase awareness amongst staff about lesbian and gay equality. Such a process will help ensure that monitoring on the grounds of sexual orientation is successful and viable in the future.

A large, national organisation sent employment information to each local employer. The aim was to consolidate electronic and paper information sources about staff, for example, information about name and pay roll. Employees were supposed to fill in any gaps that were on the form. A question about sexual orientation was also added to the form. There was limited explanation, sent separately, about why the data was being collected. The form also stated that managers would have access to the information. Only 20% of forms returned answered the question relating to sexual orientation. Staff were said to have been upset at being asked a personal question about their sexuality, when they did not understand why it was being collected, and who would have access to the information. Recognising the problems with communication, and the need for sound workforce data, the organisation has developed a new communication plan and phased approach to allow more time to reassure staff and explain thoroughly the reasons for monitoring on the grounds of sexual orientation.

Failure to communicate and consult fully with staff may result in greater scepticism about sexual orientation equality, and a greater reticence to engage with a work-programme to tackle discrimination. It may also result in the failure of any attempt to monitor.

3. The importance of leadership, and senior level commitment

A high profile commitment to equality on the grounds of sexual orientation, both on a national and local level, is essential for any significant progress to be made to tackle discrimination, and introduce monitoring.

“Sexual Orientation would not have been included in the Count Me In Census without the commitment and support of the Mental Health Act Commission Chairman Professor Kamlesh Patel, and key support from senior managers within the Department of Health”.

The Mental Health Act Commission

All organisations interviewed for this guide, who have introduced monitoring on the grounds of sexual orientation, did so with the backing of senior management. Many expressed the view that they would not have been able to introduce monitoring without this support.

“Initially, our head was not overly supportive of the sexual orientation agenda and it became difficult to counteract criticism of us investing time and resources into tackling lesbian and gay discrimination. In the end, we realised that our priority had to be to get him on side, before we could take any further steps. He is now a real champion of the issue, and has made it much easier for us to start monitoring.”

A large organisation that monitors who does not wish to be identified

Senior managers, and high profile organisations, have to demonstrate that sexual orientation is an important area of equalities work that requires the same input and attention as other equality strands. To this end, some organisations from the health sector stated that it was important that the Department of Health began monitoring on the grounds of sexual orientation. It was felt that if the Department led on monitoring of their staff, secondees and partner organisations would also realise the value of monitoring. It would also enable stakeholders to recognise the Department’s unequivocal commitment to equality on the grounds of sexual orientation:

The Department of Health intends to start monitoring on the grounds of sexual orientation via anonymous staff surveys in the first instance and then through recruitment procedures if no major difficulties or problems arise during the anonymous process. The first wave of monitoring will occur in the next eight months.

The HR Department, Department of Health

The Cabinet Office conducted research amongst civil servants that anonymously asked whether staff would be willing to answer questions about sexual orientation and religion and belief. The results indicated that staff working within government departments were happy for questions to be included.

There is a danger that without senior level support, or a national drive for the implementation of strategies, individuals who are committed to equality for LGB people become the main drivers for change. There are obvious benefits for organisations when individuals (who are sometimes LGB themselves) help implement an agenda to tackle discrimination. The level of insight offered by

individuals is invaluable and a personal commitment means that they are likely to follow the work through to implementation. There are problems however. Often such input is in addition to the individual's primary job, yet their input and contribution is neither recognised nor rewarded in job appraisals. It can also be difficult for individuals to remain motivated to implement changes, when such changes should be introduced as a matter of course, and should be adequately resourced.

- In *Out Inside Community Work: Lesbian, Gay & Bisexual Communities, Homophobia & Community Work* Rachel Wild observes that work around LGB inclusion is often initiated and sustained by LGB people. Wild notes that this is often unsustainable, due to a lack of resources and mainstream commitment and senior level engagement. Similar problems emerge in the workplace, if the main drivers for change are LGB people.

The introduction of monitoring on the grounds of sexual orientation requires support and pro-active implementation from senior managers and an adequate allocation of resources to conduct the exercise properly.

"I feel like I am constantly pushing the lesbian and gay agenda, that people expect it from me now. So I've really pushed for monitoring, but there are objections and they turn to me and expect me to answer them. Sometimes objections are really aggressive, expressing an anti-gay sentiment. It gets tiring, and I'm not always in the best position to get this right."

An individual responsible for the introduction of monitoring in their organisation.

Monitoring sexual orientation amongst staff:

Part five: When to monitor and what to ask.

This section examines:

- The language to use, and the format of questions, when monitoring
- How to monitor potential staff during recruitment
- Monitoring via anonymous staff satisfaction surveys
- Monitoring all relevant policies, practices and procedures
- The collection and presentation of the data

Equal opportunities monitoring can be conducted at various stages throughout an employees' career. Monitoring on the grounds of sexual orientation however is only just being introduced in some organisations and it has become clear from their experiences that different issues need to be considered in relation to its implementation, depending on the nature of monitoring.

Monitoring could be introduced:

- At recruitment stage, short listing and appointment
- Through anonymous staff satisfaction surveys
- Through exit interviews
- By monitoring incidents of harassment and discrimination
- By monitoring take up of training
- By monitoring promotion opportunities
- Other areas identified as a result of an impact assessment

Each stage requires a high degree of communication and consultation with staff but it is easier and more straightforward to introduce monitoring on the grounds of sexual orientation at some stages rather than others. Recommendations about how to monitor each stage are detailed in the sections below.

1. Language to use

In common with all equality strands, the language people use to reflect their identity can change between generations, and across cultures. However, like ethnicity monitoring (for example) employees have become accustomed to the use of categories to denote sexual orientation, even though it is acknowledged that this sometimes masks a diversity within the population. Monitoring on the grounds of sexual orientation is not supposed to reflect the range of sexual desire that exists in the human race, but is designed to give some idea about the issues staff experience on the grounds of their sexual orientation.

Best practice, and evidence from the research suggests that the question should be phrased:

What is your sexual orientation?

- | | |
|-----------------------|--------------------------|
| Bisexual | <input type="checkbox"/> |
| Gay Man | <input type="checkbox"/> |
| Heterosexual/Straight | <input type="checkbox"/> |
| Gay Woman/Lesbian | <input type="checkbox"/> |
| Other | <input type="checkbox"/> |
| Prefer not to say | <input type="checkbox"/> |

There are however, a number of ways to ask the question. For example, some organisations only ask one question to reflect lesbian and gay, rather than providing two options. This is because some women do not identify as lesbian, but gay. The category would therefore read: Lesbian/Gay . The key is to ask LGB staff how they think the question should be phrased.

The questions above accord with the language used (“What is your sexual orientation”) in equalities legislation. Sexual orientation in an employment context, does not necessarily relate to who a person has sex with, or who they are attracted to. For example, a woman can still be a lesbian even if she is celibate or not in a relationship. Instead, sexual orientation refers to a person’s general identity within a broader social context.

Even if the question are you lesbian, are you gay, is split into two categories, some organisations merge the results of both (as well as bisexual) to reflect the total number of LGB people in an organisation.

“Other” provides an opportunity for staff to identify in a different way, and some organisations include a space for the member of staff to indicate themselves how they identify. “Prefer not to say” enables a member of staff to not answer at all, without leaving the whole section blank. It is important that no inference is made about a person’s sexual orientation because they have preferred not to say.

Some organisations that have been monitoring for a number of years have noted a decrease in the number of “prefer not to say” responses as employees have begun to see that the data is being used for positive purposes, and has not led to the identification of individuals, or an increase in harassment. Organisations should expect a low return rate the first time monitoring is introduced, but this should improve as the organisations visible commitment to LGB staff improves.

In certain contexts (such as staff satisfaction surveys) it is also appropriate to ask a follow up question about how “out” the employee is. Asking if a person is “out” is establishing who knows about a person’s sexual orientation. For example, an employee may be gay, but may not be open about their sexuality in the workplace because they are concerned about experiencing harassment. Stonewall’s Diversity Champion’s primary message is that “People perform better when they can be themselves”. If a person does not feel able to be open about their sexual orientation, this may be affecting their performance.

A question about how “out” an employee is, may read:

If you are lesbian, gay or bisexual, are you open about your sexual orientation:			
At work in general:	Yes <input type="checkbox"/>	Partially <input type="checkbox"/>	No <input type="checkbox"/>
At work to some people:	Yes <input type="checkbox"/>	Partially <input type="checkbox"/>	No <input type="checkbox"/>
At home:	Yes <input type="checkbox"/>	Partially <input type="checkbox"/>	No <input type="checkbox"/>

Some organisations have found that initial surveys indicated that staff were not “out” at work. This indicated that LGB people did not feel “able to be themselves” in the work place and therefore were less likely to be happy in work. This has prompted organisations to examine levels of discrimination and

discriminatory attitudes within the workplace. Subsequent surveys have seen an increase in the number of employees who are “out” in the work place.

Nottinghamshire County Council asks staff, via an anonymous staff satisfaction survey, if they are out at work. The first year, a significant proportion of LGB staff were not out in the workplace. The next year, the number of staff who were out at work increased, and the year after that, a significant majority were out at work. By asking the question, Nottinghamshire County Council is able to demonstrate that the changes that they make to policies and procedures have a positive impact on LGB employees.

These two questions provide a means of accessing information about a workforce, which then enables the organisation to use that information to change practices to prevent discrimination.

2. Monitoring in recruitment

Normally, organisations first introduce sexual orientation monitoring via anonymous staff satisfaction surveys (see page 37). In the case of the health sector, however, monitoring in recruitment, for some PCTs, has been conducted for the last three years, via NHS Jobs. It is therefore may be useful for some health organisations to learn what can be done immediately to start monitoring potential staff on the grounds of sexual orientation.

Monitoring potential staff on the grounds of sexual orientation has several advantages:

- It enables an organisation to see whether LGB people **want to work** for them.
- It will eventually show **how many** staff might be lesbian, gay or bisexual.
- It allows an organisation to **evaluate** whether lesbian and gay people are being **short listed** for interview.
- It provides **information** to indicate whether LGB people are being recruited.

Nottinghamshire County Council asks about all aspects of equal opportunities information on their application form. The monitoring form is detachable from the rest of the form and states at the top:

Nottinghamshire County Council Equality in Employment Statement

This part of the application form will NOT be used to shortlist candidates for interview and will NOT be viewed by the Recruitment panel.

Nottinghamshire County Council, together with the recognised Trade Unions and self-managed support groups, is committed to the development of positive policies to promote equal opportunities in employment and in the delivery of our services, regardless of race, disability, gender, belief or religion, age or sexual orientation. This commitment will apply to recruitment and selection practices, training and promotion, in the application of national and local agreements, in respect of pay and conditions of service and in the provision of all services. One aim of this policy is to make sure that you and other applicants for jobs are not discriminated against. The policy also aims to make sure that you are not disadvantaged by job conditions or requirements that are not relevant.

In order to monitor and ensure the successful development of this policy, all applicants for jobs are requested to complete the Recruitment and Selection Monitoring information detailed below and overleaf.

Nottinghamshire County Council decided to start collecting data about sexual orientation because they wanted to see whether LGB people considered working for the council. The question about sexual orientation is presented in the same format as the other questions, without any additional explanation:

PLEASE SELECT AS APPROPRIATE:

YOUR GENDER: Male () Female ()

Most people will be comfortable with one of the above but if you wish to indicate either of the below, please do so:

Male to female transgender () Female to male transgender ()

YOUR AGE: 16-25 () 26-35 () 36-45 () 46-55 ()
56 & over ()

YOUR SEXUAL ORIENTATION: Lesbian () Gay ()
Bisexual () Heterosexual/Straight ()

Nottinghamshire County Council **discussed** monitoring recruitment in detail with the LGB employee group and took care to ensure that the statement at the top of the form clearly stated the **purpose of collecting** the data. The form also iterates that the information will **not be seen** with anyone involved in the recruitment process.

If an employer discovers that LGB people are not applying for jobs, they might want to take steps to **encourage** them to **apply**. This may involve taking **pro-active** and public steps to tackle homophobia and discrimination within the work place. For example:

Gay people were originally not allowed to serve in the armed forces. The Royal Navy are now taking proactive steps to demonstrate that gay people are welcome to serve. For example, they are high profile members of Stonewall's Diversity Champions Programme, and service personnel will be participating in the 2006 Gay Pride March, in full uniform.

Organisations may **place adverts** about their organisation in newspapers and journals that some gay people read, for example, *The Pink Paper*:

The Ministry of Defence have taken out an advert in the recruitment pages of *The Pink Paper*. The advert reads:

The MoD is an Equal Opportunities Employer and seeks to reflect the diverse community it serves. The MoD is fully committed to Diversity and creating a culture that encourages people throughout society to join the Department, and remain with the organisation, to make their distinctive contributions and achieve their full potential. This includes working closely with its Lesbian, Gay, Bi-sexual and Transgender (LGBT) Forum in ensuring that the MoD provides a workplace free from harassment, dedicated to diversity and fully acknowledges, accepts and values its lesbian, gay, bisexual and transgender staff within the workplace.

For further information on current vacancies in the MoD please visit our website at www.mod.uk

The PCTs who are monitoring potential staff, who were interviewed for this guide, are able to monitor at recruitment stage because they use the application procedures provided by NHS Jobs:

NHS Jobs is the new national NHS site for jobs, linked with the NHS Careers site for information about careers in the NHS. Here you can search and apply for numerous jobs in the NHS in England.

NHS Jobs was first launched on 1st December 2003. Now live for over a year, there are jobs available from every area in England, with over 400 NHS organisations able to use the service. The rollout plan continues into 2005 with over 100 further organisations signed up to start using the service.

Hundreds of people have found jobs through this site in 2004. Since its launch over 26,000 vacancies have been advertised on this site.

NHS Jobs website

NHS Jobs have been monitoring on the grounds of sexual orientation (using best practice procedures) since 2003. **Confidentiality** is guaranteed because the equal opportunities information is **not sent to the employer**, but collated **centrally**. NHS Jobs also handle queries from applicants about the questions that are being asked. According to NHS Jobs, approximately:

- 90% of trusts can use NHS Jobs
- 60% of trusts are using it
- 40% are using it for every single job

This means that at least 40% of PCTs are already monitoring staff on the grounds of sexual orientation but may not know that they are doing so, or may not use the data.

Trusts can also return to the vacancy and indicate who has been short-listed, and who has been appointed. NHS Jobs can provide each trust with individual breakdowns of equal opportunities information, regional information, and national information. No further resources or infrastructure are needed to monitor staff at recruitment stage.

NHS trusts should consider whether they can use NHS Jobs, and if they are using the service, should start utilising the data that is available. Data may already exist that indicates problems, or might indicate that a trust is attracting a high number of LGB staff.

Trusts that carry advertisements in journals may also want to consider referring potential applicants to an on-line application form provided by NHS Jobs. This would mean that the trust would not have to develop their own systems for monitoring on the grounds of sexual orientation, but use the existing infrastructure and resources that are provided for free.

“I don’t think we are ready to start monitoring in recruitment yet. It might put off potential employees and make people feel uncomfortable about being asked personal information.”

A “non-monitoring” PCT who uses NHS Jobs

3. Monitoring via anonymous staff satisfaction surveys

Anonymous staff surveys provide an opportunity for organisations to evaluate **staff experiences**. They are useful to

- Evaluate how **changes** in policies, practices and procedures are **affecting staff**.
- Evaluate how **effective** policies and procedures have been **communicated** to all staff.
- Identify whether there are **high** or **low** levels of **morale** amongst staff.
- Assess whether any **particular group** experiences a higher or lower **morale** at work.
- Assess how **happy** a member of staff is.
- Assess whether LGB staff have any particular **experiences**, which can help equality and diversity departments tackle causes of **discrimination**.

Staff satisfaction surveys do not contain any information that can connect the person responding to the form with the information in the form and therefore provides an invaluable means of learning about staff experiences.

Staffordshire Police ask all staff to complete an anonymous staff survey. The survey asks a series of questions about performance, structures within the force, training opportunities, annual priorities for spending, the profile of the force, the strategic direction of the force, and whether the respondent has witnessed any forms of harassment. The questionnaire then asks for equal opportunities information, including sexual orientation. The Human Resources department are then able to map responses to questions against equalities information. For example, the majority of those who ticked the box indicating that they were gay might have indicated that they had not received adequate training opportunities; so more effort would be made to indicate to lesbian and gay staff and to managers, that training opportunities were available to everyone.

Introducing monitoring in anonymous questionnaires also provides a means of **familiarising staff** to the fact that sexual orientation is now included in equality work programmes and sends a **clear message to LGB staff** that sexual orientation is now an integral part of the equality agenda. If an organisation analyses and acts on the anonymous data, then this also sends a clear message out to staff that data is not just being collected for the sake of it. **Communicating** findings back to staff is essential. It will make staff **less reticent** about future work programmes to tackle discrimination, and might encourage staff to be **more open** about their sexuality.

Anonymous staff questionnaires also provide an opportunity to **inform** staff about changes in legislation, or establish attitudes, without even asking an individual about their own sexual orientation. For example, the questionnaire might ask:

- Do you know any lesbian, gay or bisexual staff?
- Would you like further training on women's health needs LGB needs etc?

Anonymous staff satisfaction surveys are therefore a highly effective way of alerting staff to sexual orientation equalities, indicating to lesbian and gay staff that organisations are **interested** in their experiences, and provide a means of **developing a work programme** for tackling discrimination.

Oxleas NHS Trust introduced sexual orientation information into the annual staff satisfaction survey. There was no negative feedback or questions about the inclusion of the question. There were significant positive achievements. Lesbian and gay people commented extensively about their experiences, and felt empowered to share their observations about the trust in the anonymous format. It also encouraged all staff to consider sexual orientation in the same way as other equality strands. The previous perception had been that sexual orientation was “more complicated”.

It is important that any data collected, even anonymously, is used to develop work programmes or action plans. Staff are less likely to want to contribute to a process that has little or no impact on policies, practices and procedures. Inclusion of sexual orientation in anonymous forms however, is relatively straightforward, and easy to introduce.

4. Monitoring all policies, practices and procedures

The fundamental purpose of monitoring is to provide a mechanism for evaluating whether all employees have equal opportunities in the work place. The Commission for Racial Equality recommends that monitoring of staff on the grounds of ethnicity is used to assess:

- Who receives training
- Who benefits or suffers disadvantage as a result of performance assessments
- Who is involved in grievances
- Who has had disciplinary action taken against them
- Who ends employment with the organisation

This level of assessment is achieved in relation to ethnicity, gender and disability by connecting equal opportunities information with an employee. Using confidential filing systems (every employee has a record) those within Human Resources, those responsible for monitoring can map an employee's record with their equality information, and can analyse all data for patterns. In this way, barriers can be identified and pro-active steps can be taken to ensure they are removed:

A large university has an employee record system that is electronic. Staff must go into their record and provide information such as bank details, National Insurance number, and their date of birth. They can also make any amendments to their personal details, for example, if they get married, or change their name. In the last year, equal opportunities categories for race and disability have also been added, that the employee maintains. This record is also linked to a person's employment record, which includes details about absenteeism, training and other variables. The Human Resources Department are able to run analyses, which compares information across policies and actions (such as resignation), and maps it against information about ethnicity and disability. In this way they are able to conduct a continuous audit of their policies, practices and procedures against equal opportunities information.

In general terms, the health sector should be able to map employee experiences against their equal opportunities information and this should be considered integral to new IT infrastructures that are being developed to support staff:

The Electronic Staff Record solution is an integrated human resource, payroll, recruitment, career management and training administration system. It has been designed by the NHS to meet the business requirements of trusts and will replace existing systems with one database for all NHS employer organisations.

Part of the ESR solution is a data warehouse, the warehouse is a database populated by data from the ESR, for strategic decision-making.

NHS Employers website

If the Electronic Staff Record were to include equal opportunities information (there are "reporting requirements" for race, gender, and disability), it would be sensible, at

this stage, to ensure that there is scope for including a sexual orientation category at some point in the future.

Including sexual orientation in employee records can only be done if staff have been assured about their employer's **commitment to tackling discrimination** and have made a **convincing and unequivocal commitment to confidentiality**; it is not something that can or should be introduced as a first step. Such a step could only be taken with full and thorough consultation with all staff.

Staffordshire Police have been monitoring on the grounds of sexual orientation since 2001. Staff complete an electronic information form which includes a question about sexual orientation. This information remains connected to the employee throughout their employment. The only people who have direct access to the file is the employee themselves and a small number of Human Resource personnel who have received training about confidentiality and diversity. Human Resources are therefore able to analyse all policies, practices and procedures in relation to equalities information. They are also able to cross-analyse, for example, they are able to consider whether gay men from BME backgrounds have different experiences to gay men who are white.

Staffordshire Police were able to introduce universal monitoring because they:

- Over five years, they had successfully managed to change culture and **attitudes** towards LGB staff and issues. They had made homophobia an unacceptable aspect of the work place.
- Introduced **recruitment** monitoring five years ago and had demonstrated to staff that their intentions were to improve conditions for lesbian and gay staff.
- Had executive and **senior management support** and this was communicated explicitly to all staff.
- They clearly and openly identified who would have **access** to the **data**, and why they would need access.
- They demonstrated **how the data** would be **used**, and guaranteed that it would be in a way that made it impossible to identify individuals.
- They developed an **IT system** and database to support the information, which also enabled staff to up-date their own records.
- They continue to **communicate** and **consult** with staff about why they hold the data and what they want to achieve.
- They have **implemented work programmes** and projects as a result of their findings.

In order to comply with equal opportunities legislation, mechanisms should exist that enable the health sector to undertake these sort of analyse of policies, practices and procedures in relation to race, gender and ethnicity. These structures can eventually be expanded to include sexual orientation when the health sector has demonstrated a robust commitment to the sexual orientation agenda.

5. Collecting and presenting data

Organisations have been collecting information about race, disability and gender for some time and therefore it is likely that systems and structures will already be in place for the practical storing and collection of data. Usually, these systems can be replicated for the storage of information relating to sexual orientation. There are, however, some further aspects relating to sexual orientation that should be considered:

- It is important to state categorically who will have **access** to any **data**, even if the collection is anonymous. This means that the employee knows who will have access to the information and will feel confident about being honest in any exercise. Disclosing someone else's sexual orientation to others, without their consent, constitutes harassment, regardless of the context in which it was disclosed.
- It is important to state explicitly that data will be stored **confidentially**, and only those named will be able to access the information. It will not be able to be accessed by everyone in the Human Resources department, for example.
- If the data collected is not anonymous, it is then covered by the Data Protection Act as the information constitutes "**sensitive personal data**". It is important to state how the information will be used, and include a tick box that enables the employee to consent to the information being used.
- Data should not be collected **on behalf of someone**; for example, a manager should not complete equal opportunities information on behalf of his team. This is because it is impossible to guess, or make assumptions about a person's sexual orientation.
- It should not be assumed that staff who tick the "**prefer not to say**" box are LGB.
- It should not be assumed that staff who tick the "**other**" box are LGB unless they have explicitly stated that they could be categorised as such.
- It is also important to note that if an employee has indicated on a form that they are LGB this does not necessarily mean that they are open about their sexual orientation, or other people know about it. Care must be taken in the **presentation** of information:

A large organisation has monitored its entire staff on the grounds of sexual orientation. The human resources team publishes a report that states "25% of the staff in the Chief Executive's Office identified as lesbian, and stated that they generally felt able to be themselves at work." As there are only eight members of staff in the Chief Executive's Office, two of whom are women, it was easy for the rest of the organisation to identify that they were both lesbians. Regardless of whether these two women were "out", it was inappropriate for the Human Resources department to make them identifiable.

- Monitoring that yields low numbers should not be expressly mentioned in any report, and care should be taken about the conclusions that can be drawn from data sets. The Commission of Racial Equality recommends the implementation of a **statistical significance** test to assess whether differences might be down to chance, or actual differences in treatment. As has been learnt from ethnicity monitoring, care should be taken about drawing categorical conclusions from data sets.
- Analysis of data should include a consideration that **women** may have different needs and experiences to **men**. The Sex Discrimination Act, for example, applies to lesbians, as well as heterosexual women. A generic analysis of “LGB” staff might mask other issues:

A monitoring exercise of potential staff who had applied to work on a Children’s ward demonstrates that a reasonable number of LGB people applying to work on the ward, and that they have a good success rate. Further analysis revealed however, that no gay men had applied to work on the ward and that the numbers reflected the number of lesbians who had applied to work.

- Organisations should **not expect a high return rate** the first time that monitoring is introduced on the grounds of sexual orientation. Every organisation interviewed for this guide stated that the initial return rate was lower than expected, with a high record of “prefer not to say”. It took between two and three years for records to improve, and for staff to feel comfortable about disclosure. This was also a reflection that the organisation had done exactly what they had promised to do with the data.

Data collection and presentation can be sensitive, but employing the lessons learnt from other data collection exercises, and ensuring that confidentiality is adhered to, organisations can successfully collect data collected about sexual orientation.

Part six: Monitoring sexual orientation amongst patients.

This section examines:

- Understanding a community, and delivering effective services.
- The benefits for the health sector in recognising LGB patients.
- The benefits of monitoring sexual orientation at registration.
- The unique health needs of LGB people.
- How to empower a patient to tell you they are LGB.

Monitoring the sexual orientation of patients has two purposes:

- a) To know how many LGB people are in each PCT, in order to determine appropriate services and identify barriers to access.
- b) To know whether a patient has specific health care needs.

The process of monitoring for each is likely to be slightly different, and as there is no organisation that resembles the health sector's relationship with "service users", a model will have to be found that uniquely suits the sector. This will require more extensive research and investigation than is possible in this guide.

a) Understanding demographics

PCTs usually use census data to learn about the demographics of an area. Census data can reveal:

- The type of people who live in an area
- How old they are
- Whether or not they are carers
- Their ethnicity
- Whether they have a long term illness
- Their religion
- Information about employment

In 2001, the Census asked information about a person's religion or belief. This now enables a PCT to know whether there are a high number of people belonging to a particular religion or belief, in the area. For example, if there are a high number of Muslims, there is likely to be a high number of Muslim patients. The PCT or Acute trust can therefore provide appropriate services, such as halal meals for patients.

If the census included information about sexual orientation, this would enable the health sector to make similar judgements about the needs of their service users. Unfortunately, the Office for National Statistics, at present, does not feel able to include a question on sexual orientation:

Of the topics strongly supported, ONS is not intending to include a question on sexual orientation in the 2011 Census. At this time ONS considers the census is not the best route to establish information on sexual orientation. However, a serious need for information is recognised and a work will begin to find the best way of meeting that need.

Office for National Statistics press release

There has been a commitment to introduce sexual orientation into other national data collecting methods. This national framework, however, creates difficulties when attempting to introduce a system of monitoring patients on the grounds of sexual orientation. Establishing national, regional and local datasets in order to shape service delivery is difficult if collection relies entirely on data collection from public sector organisations.

The health sector should, however, consider how existing structures and data collection methods might be modified to eventually include information about sexual orientation. As Part three demonstrates, knowing about the number of LGB people in an area might affect the types of services that are provided:

- A PCT in a rural area might have a higher number of older women who are lesbian. Research suggests that lesbians are more likely to develop breast cancer. If a PCT knew that about this demographic, they may target information about mammograms directly to the lesbian community.
- A PCT in an urban area might have a high number of young LGB people. Research suggests that younger LGB people are likely to participate in higher levels of risk taking behaviours such as alcohol and drug abuse, but may not respond to the preventative health care messages currently used by the PCT. If the PCT knew about this demographic, they might be able to alter their messages to make them more suitable to the community.

The more information about the local demographics of an area, the more the health sector can provide appropriate services. By monitoring patients, the health sector can improve service delivery.

Significant investment is being made into new methods of keeping patient records, and the Health and Social Care Information Centre have systems that enable them to collate patient information. The Connecting for Health programme may provide an opportunity to collect data about sexual orientation and provide a system to keep that information confidential unless relevant, through the “closed envelope” system for example.

These new and innovative ways of ensuring high quality service delivery to patients should be able to cope with additional equal opportunities information. Such information may not be available to all those who see a patient’s records, but it would enable the health sector to collect generic information.

b) Monitoring sexual orientation in order to deliver effective care

Sexual orientation can be directly relevant to a patient’s health care needs, yet no structure exists that enables patients to inform health care professionals if they are LGB. There is also a general lack of confidence that a health care professional will respond to any information sensitively and appropriately:

Stonewall’s *Survey of lesbian health care needs* (2005) revealed that one health care provider had put on a pair of gloves upon learning that his patient was a lesbian. This had nothing to do with the care that was being administered. Another woman went to her GP for a referral for counselling after the death of her partner, and the GP asked if her partner had died of AIDS.

There is a further, unique issue concerning patient disclosure of sexual orientation. The purpose of disclosure in this context would not be to gather generic datasets to make broad conclusions (the usual purpose of monitoring) but would be to facilitate the health care provider to take an accurate history of a patient and deliver appropriate care. In this circumstance, individual identity, and language is extremely important. Sometimes, simple labels such as “lesbian, gay, bisexual or heterosexual” may not reflect the activities and lifestyles of the patient, and therefore may not be helpful when taking a history. For example:

- A woman has lived with another woman for the last forty years, and may never had had a relationship with a man. The woman may not identify as a lesbian.
- A man is married with children, but may be having unprotected anal sex with other men. He may not identify as bisexual.
- A young person has had unprotected sex with a man, but when asked, identifies as a lesbian. This may mean, as a result, that she does not receive appropriate care.
- A young man is asked about his sexual orientation. He is not sure, but is only given four options. He says that he is heterosexual, but secretly he thinks he might be gay.

It is therefore not appropriate at this stage to introduce universal patient monitoring until the health sector is able to demonstrate a more universal acceptance of LGB people. This could be reflected in the increase of visible health sector employees who are LGB, who may be able to provide advice about making services more accessible.

There are other steps that can be taken to help support LGB patients and ensure that they are treated with respect, and not discriminated against in the provision of health care.

Health sector workers can be **trained** to treat LGB patients equally. For example:

- Health care providers should not make assumptions about a person’s sexual orientation; references to “boyfriends” or “girlfriends” rather than “partners”, even as a casual reference, can prevent a patient being honest about their sexual orientation.
- They should not respond with shock, or pass judgement, if a partner, who is the same sex, accompanies a patient.
- Health care providers should be taught to ask sensitively and naturally about sexual orientation, without necessarily making reference to fixed terms. For example, “Have you had sex recently? With men, or women, or both?”
- Health care providers, who have received training, can display posters indicating that hospitals, wards, and surgeries, are “safe spaces” for a person to disclose their sexual orientation.

PCTs can also take steps to establish, in collaboration with other agencies, **LGBT forums** that facilitate consultation and communication with patients:

Chorley and South Ribble PCT support a project called Project Oscar. Project Oscar is an initiative to promote the holistic health needs of lesbian, gay, bisexual and transgender people. Based in the PCT Headquarters, Project Oscar has a helpline for LGBT patients, a support group, one-to-one conversation, a befriending meeting in a public place, a monthly newsletter, and help and advice about relevant health topics and information on other sources of help and support.

LGB forums provide a mechanism for communicating and consulting with LGB people. This method of consultation can help the health sector recognise barriers for patients, and help tackle discrimination and discriminatory practices that might occur within the health sector. Some PCTs also liaise with forums that have been set up by local authorities, for example, Southwark LGBT forum.

Fundamentally, the health sector needs to take significant steps to demonstrate inclusion and indicate that it is supportive of LGB people before it would be appropriate to introduce patient monitoring on the grounds of sexual orientation. Further research is needed to establish whether LGB people want to be monitored, and how that monitoring should be conducted.

Part seven: Next steps for the health sector

LGB patients and staff deserve equal treatment and equal care from the health sector, and steps should be taken to ensure that this occurs. The Department of Health in particular, and the Health Sector in general, need to start introducing explicit work programmes and initiatives to move towards universal inclusion of LGB staff and patients and take steps to start monitoring.

The next six months:

- The Department of Health should start monitoring their own staff via anonymous staff satisfaction surveys, and via recruitment mechanisms.
- The health sector should start taking steps to establishing LGB forums for staff and forums for patients.
- The Department of Health should commission research into the opinions of the LGB community about greater inclusion in the health sector, and the viability of monitoring.
- The Department of Health should circulate this guide to the wider health sector, including the NHS, partner organisations such as the Health Care Commission, and NHS Employers.
- Take steps to ensure effective implementation of the forthcoming protections against discrimination in the provision of goods, facilities and services.
- The Department of Health, and other health organisations, should make a submission to the Office of National Statistics reiterating the importance of the inclusion of sexual orientation in the National Census.
- Those organisations who recruit through NHS Jobs should start analysing the data that this generates. NHS jobs should ensure that the way in which they monitor (including language) is consistent with the recommendations in this report.

The next 12 months:

- A question about sexual orientation should be included in anonymous staff satisfaction surveys across the health sector.
- The Department of Health, and partner organisations, should actively ensure that the capacity for equal opportunities monitoring in general, and sexual orientation in particular, should be included in all new IT systems that are being developed for the health sector.
- Those organisations who are able to recruit via NHS Jobs should do so. Those that cannot should start monitoring potential staff, after consultation with the LGBT employee networking group.
- Steps should be taken to ensure that LGB people do not experience discrimination in the provision of health care.
- Steps should be taken to introduce pro-active programmes to increase LGB inclusion in health care provision.

The next two years:

- The Department of Health, after negotiation with the LGBT employee networking group, should introduce monitoring at all levels of the Department.
- The Department of Health should commission research to evaluate and audit the health sector's progress towards LGB inclusion in the delivery of health care, and the support of staff.
- The health sector should ensure that patients are able to be open about their sexuality at all levels, without experiencing discrimination, and should be able to record their sexual orientation when they register with their GP.

- All patients should be aware of how to make complaints about inappropriate treatment on the grounds of sexual orientation.

The next five years:

- The Department of Health should evaluate and assess the progress of the health sector in order to measure how successful it has been in achieving full LGB inclusion.
- The health sector should be monitoring staff at every level of employment.
- The health sector should be in a position to monitor patients at every level of health care provision.

Annex A: Organisations interviewed

Many organisations contributed to this work, informally, as well as formally, who do not wish to be named.

The following organisations provided recorded interviews and supporting evidence:

- British Medical Association
- Department of Health
- East Sussex PCT
- GLADD
- Halton PCT
- Mental Health Act Commission
- NACRO
- NHS Employers
- NHS Jobs
- Nottinghamshire County Council
- Nottingham PCT
- Oxleas Mental Health Trust
- Royal College of Midwives
- Royal College of Nurses
- Staffordshire Police Force
- Stonewall Cymru
- Stonewall Scotland Health Inclusion Project
- A number of PCTs who are not monitoring

Each organisation was asked a series of questions pertinent to their organisation. The interviews were conducted over the phone and were recorded and later transcribed. Further information and resources were supplied, and follow up questions were answered via email.

Annex B: Further resources

The Department of Health Sexual Orientation and Gender Identity Group –
www.dh.gov.uk/PolicyAndGuidance/EqualityAndHumanRights/EqualityAndHumanRightsArticle/fs/en?CONTENT_ID=4102667&chk=sVzqRJ

Health and Social Care Information Centre - www.ic.nhs.uk

NHS Employers - www.nhsemployers.org

NHS Jobs - www.jobs.nhs.uk

NHS Equality - www.equality.nhs.uk

Stonewall – www.stonewall.org.uk

Trade Unions and Associations:

The British Medical Association (the BMA) – www.bma.org.uk

The Royal College of Nursing – www.rcn.org.uk

The Royal College of Midwives – www.rcm.org.uk

Unison – www.unison.org.uk

GLADD (Gay and Lesbians Association of Doctors and Dentists) – www.gladd.org.uk

Literature relating to monitoring

Association of Chief Police Officers of England, Wales, & Northern Ireland; Race and Diversity Business Area- <http://police.homeoffice.gov.uk/news-and-publications/publication/human-resources/Sexual-orientation-monitori1.pdf?view=Binary>

City University London Guide to religion/belief and sexual orientation monitoring-
www.city.ac.uk/hr/general_info/religion.html

Gay Police Association FAQ on sexual orientation monitoring-
www.gay.police.uk/files/MonitoringFAQAug04.pdf

GLADD's position statement on sexual orientation monitoring -
www.gladd.org.uk/site/PDFs/SOMon.pdf

Neighbourhood Renewal Kit Ethnicity Monitoring Guidance-
www.neighbourhood.gov.uk/page.asp?id=771

A practical guide to ethnicity monitoring in the health sector -
www.dh.gov.uk/assetRoot/04/11/68/43/04116843.pdf

Scottish Executive: Guide to workforce monitoring on sexual orientation and gender identity-

www.scotland.gov.uk/Topics/Health/NHS-Scotland/DiversityTaskForce/Monitoring

TUC Monitoring LGBT Workers - www.tuc.org.uk/equality/tuc-9303-f0.cfm

Further resources

Stonewall's Diversity Champions Programme – www.stonewall.org.uk/workplace

Network Groups: setting up a LGB employee group -
www.stonewall.org.uk/workplace

The Health needs of LGB people –

Harassment in the health sector: issues and solutions for LGB people

The Scotland LGBT Health Inclusion Project -
www.lgbthealthscotland.org.uk/home.htm

Department for Constitutional Affairs- Human Rights Act: FAQ-
www.dca.gov.uk/hract/hrafaqs.htm

Department of Trade and Industry- White Paper for Commission for Equality and Human Rights- www.dti.gov.uk/access/equalitywhitepaper.pdf

Cabinet Office- Sexuality and Good Practice-
www.civilservice.gov.uk/diversity/sexuality/good_practice/index.asp

Commission for Racial Equality- www.cre.gov.uk/

It Makes Me Sick: Heterosexism, Homophobia, and the Health of Gay Men and Bisexual Men; 2005
www.sigmaresearch.org.uk/downloads/report05a.pdf

National Centre for Social Research; Health and Sexuality-
www.natcen.ac.uk/natcen/pages/or_healthandsexuality.htm#discrim

Office for National Statistics- www.statistics.gov.uk

Legislation

The Civil Partnership Act 2004 - www.opsi.gov.uk/ACTS/acts2004/20040033.htm

The Employment Equality (Sexual Orientation) Regulations 2003-
www.opsi.gov.uk/si/si2003/20031661.htm

The Equality Act 2006 - www.opsi.gov.uk/acts/en2006/2006en03.htm