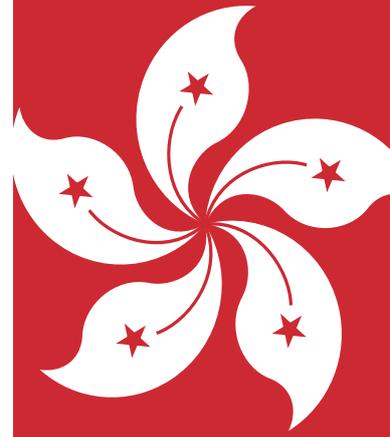


HONG KONG S.A.R.

The Hong Kong Special Administrative Region of the People’s Republic of China has a large degree of autonomy from China. Hong Kong is a free market economy and an international business hub. It is home to over 7 million people and a total of 49 Stonewall Global Diversity Champions operate in Hong Kong.



THE LEGAL LANDSCAPE

In Stonewall’s **Global Workplace Equality Index**, broad legal zoning is used to respond to the differing challenges faced by organisations across their global operations. Hong Kong is classified as a Zone 2 country, which means same-sex relationships are legal but no clear national employment protections exist.

Two further zones exist. In Zone 1 countries, same-sex relationships are legal and clear national employment protections exist on grounds of sexual orientation, while in Zone 3 countries same-sex relationships are illegal.

FREEDOM OF EXPRESSION, ASSOCIATION AND ASSEMBLY	FAMILY AND SAME-SEX RELATIONSHIPS	EQUALITY AND EMPLOYMENT	GENDER IDENTITY	IMMIGRATION
<p>Article 27 of the Hong Kong Basic Law guarantees freedom of speech, association, and assembly to Hong Kong residents.</p>	<p>Same-sex sexual acts are legal.</p> <p>There is an equal age of consent of 16 years.</p> <p>There is no legal system for recognition of same-sex relationships.</p> <p>Same-sex couples have no legal rights to the benefits that different sex married couples enjoy, such as employment benefits, taxation benefits, IVF treatment and the right to adopt children jointly.</p> <p>There are some limited rights of same-sex cohabiting couples in relation to protection from domestic violence and making emergency medical decisions on behalf of a partner.</p>	<p>Article 25 of the Basic Law states that all residents are equal before the law.</p> <p>Article 22 of the Hong Kong Bill Of Rights Ordinance provides for equality before the law and prohibits discrimination on “any ground”. This has been interpreted by the courts as covering sexual orientation and gender identity.</p> <p>There is no comprehensive legislation prohibiting discrimination on grounds of sexual orientation or gender identity.</p> <p>The Equal Opportunities Commission may consider complaints of discrimination concerning gender identity under the Disability Discrimination Ordinance.</p>	<p>There is no legislation setting out the process for gender recognition and related rights such as privacy, marriage, parental rights.</p> <p>The Immigration Department is in charge of the legal gender change process.</p> <p>The procedure allows for legal gender change only after sex reassignment surgery including sterilisation.</p> <p>The legal gender can only be changed on some identification documents but not the birth certificate.</p> <p>In 2013, the Court of Final Appeal decided that a post-operative male to female trans person had the right to marry in her affirmed gender.</p>	<p>In relation to immigration and work visas for persons from overseas, there is no right for persons in same-sex relationships in another jurisdiction to obtain a dependent visa for their same-sex partner. This means their partner is unable to work and obtain other benefits that are available to different-sex spouses.</p>



A VIEW FROM HONG KONG

Fern Ngai is CEO of Community Business. Based in Hong Kong, Community Business is a not-for-profit organisation working with companies of all sizes and from diverse industries across Asia to promote responsible and inclusive business.



How are LGBT people treated by society in Hong Kong? Sexual orientation and gender identity are generally perceived as sensitive or even taboo subjects. Despite being an international modern city with a liberal business environment, Hong Kong's culture can still be described as traditional in many respects. Asian family values run deep, and getting married and having children to maintain the family line is seen as the 'norm', and key to fulfilling obligations of filial piety, or respect to one's elders. To date, the Hong Kong Government has used this context to justify its lack of legislative action. In the absence of clear legal protection, discrimination and unfair treatment against LGBT individuals is commonplace, be it in the workplace or relating to housing, tax, family or immigration status. However, the findings of the Hong Kong LGBT Climate Study 2011/12 indicated that Hong Kong people, especially younger generations, are far more accepting and ready for change than previously assumed.

What specific issues affect lesbians, bisexual women and trans people? It is less common for lesbian and bisexual women to be out than it is for gay and bisexual men. This means that women are less visible in the LGBT community in Hong Kong. Hong Kong has archaic gender recognition laws which do not protect the rights of transgender people. They have the right to marry in their identified gender, however are required to have gender reassignment surgery in order to be granted a marriage license. Gender identity can be changed on your Hong Kong ID Card, but not on your birth certificate.

How are LGBT people portrayed in the media? Only relatively recently have LGBT issues been openly reported on in the media. A couple of successful landmark cases, such as the 'Leung TC William Roy' and 'W' cases, have

captured public attention. The growing momentum of the Hong Kong Pride Parade - first introduced in 2008 - and the introduction of community initiatives such as Pink Season, Pink Dot and the Hong Kong Lesbian and Gay Film Festival have helped to bring LGBT issues into public discourse. While there are instances of negative coverage in some local media, the leading newspapers are generally balanced, reasonable and sympathetic towards LGBT issues and see the benefit of promoting a more open and inclusive Hong Kong.

What is the workplace like for LGBT people? Whilst instances of open bullying and violence may not be commonplace, many indirect forms of harassment may occur, creating a non-inclusive, intimidating or even hostile work environment. The majority of LGBT employees in Hong Kong are not open at work for fear of repercussions, and state that a non-inclusive environment has a negative impact on their well-being, productivity and levels of engagement. Cultural considerations mean that LGBT employees in Hong Kong are unlikely to openly voice their concerns or confide in their HR departments.

What can organisations do to promote equality in the workplace?

There is enormous scope for the corporate sector to play a leadership role in promoting greater inclusion for the LGBT community in Hong Kong - within their own workplaces and beyond. The introduction of Hong Kong's LGBT Workplace Inclusion Index - Asia's first and only benchmark for assessing workplace practices concerning LGBT employees, provides a catalyst for this. With a credible and robust tool to drive the adoption of best practice and a platform for publically showcasing commitment, the corporate sector is well positioned to influence and speed up the process of social change - creating a more inclusive society for the LGBT community in Hong Kong.

USEFUL RESOURCES

LGBT ORGANISATIONS AND INITIATIVES IN HONG KONG

Community Business is a not-for-profit working with companies of all sizes and from diverse industries across Asia to promote responsible and inclusive business. communitybusiness.org

Fruits in Suits is a monthly informal networking event for LGBT professionals, involved also in other activities to help further LGBT causes in Hong Kong. fruitsinsuits.com.hk

Hong Kong Lesbian & Gay Film Festival is an annual festival presenting new lesbian, gay, bisexual and trans cinema from Asia and around the world. hklgff.hk

Pink Alliance work to promote equal rights for LGBTI people through lobbying, education and campaigns. pinkalliance.hk

Pink Dot Hong Kong is an all-inclusive event advocating for diversity and love equality. The celebration is organised for LGBTI people and their allies, families, friends, and colleagues. pinkdot.hk

Queer Straight Alliance is a student organisation that promotes and celebrates sexual diversity and aims to provide a safe social platform for LGBT members both on and off campus. queerstraightalliance.wordpress.com

Rainbow of Hong Kong operates as an LGBT community centre in Hong Kong and conducts over 100 activities every year. rainbowhk.org/en-about.html

TGR - Transgender Resource Centre works to provide information and resources to the public and to the transgender community in order to help society develop a better understanding of transgender issues, and allow transgender people to get proper assistance and rights. tgr.org.hk

The Hong Kong Gay and Lesbian Attorneys Network (HKGALA) is a network for LGBT members and straight allies of the legal community in Hong Kong. HKGALA works to promote LGBT diversity in the legal profession, increases awareness of LGBT legal issues, encourages LGBT-focused pro bono work, and partners with public and private institutions to affect change. hkgala.com

Women's Coalition of HKSAR (WCHK) works to fight for queer women's rights, embrace all voices from the local LBT community, and contribute to local LBT culture, history, and education. wchk.org/tc



PRACTICAL APPROACHES TO LGBT INCLUSION

THE FOUNDATIONS

There are several steps that employers should be taking to create a workplace environment that is respectful and supports equality for their LGBT employees in Hong Kong:



Start by introducing an anti-discrimination / bullying and harassment policy



Engage in online internal awareness-raising with inclusive messages from senior global and national staff



Carry out LGBT-inclusive diversity training



Establish employee support mechanisms like LGBT networks and allies programmes

State Street In Hong Kong, State Street have adopted a top-down approach to ensure senior management are supportive and can articulate the importance of LGBT inclusion. Numerous managers have attended the 'Great Minds Don't Think Alike' unconscious bias training course. In addition, the executive sponsor of the Global Pride and Friends Network visited senior regional business and HR leaders in Hong Kong and attended a panel event to discuss what the company can do to support its LGBT employees. State Street have an active LGBT Network chapter in Hong Kong and worked closely with HR to successfully extend medical benefits to cover domestic partners in 2014. The Hong Kong Pride Network also participates in community groups and activities including the LGBT Interbank Forum, LGBT Film Festival, Pink Dot and Pride March, among others.

Barclays sponsors events to build awareness and encourage engagement around LGBT issues in Hong Kong. These previously included the Hong Kong Pride Parade, the Pink Dot Hong Kong event, and the LGBT Film Festival with a post-screening networking event. Barclays also sends speakers to LGBT events, for instance at the Asia Pacific Diversity & Inclusion Conference. Building community awareness and supporting local LGBT projects, Barclays held a fundraising history walk in support of Project Touch, a support program for LGBT youth and their families in Hong Kong. Barclays employees also participated in the Queer Straight Alliance mentoring scheme to support the career and personal development of mentees and build networks across industries.



NEXT STEPS

The best employers should be looking at how they can build on their inclusive policies and practices to initiate a culture shift with tangible benefits for LGBT staff. Stonewall suggests organisations take steps to:



Raise awareness internally by carrying out physical events



Offer targeted leadership and career development opportunities to LGBT staff



Audit and extend equal benefits to same sex partners



Support diversity forums and NGOs who champion LGBT equality



Engage in external community engagement such as Prides



Visibly champion LGBT equality in public media



Work with supply chains to further LGBT equality

Herbert Smith Freehills (HSF) have sponsored the Queer Straight Alliance Recruitment event in Hong Kong for the past two years. During the event a senior partner from HSF participated in a panel debate about the importance of LGBT inclusion in the workplace. A recruitment stand issued copies of their graduate recruitment pack, which includes details of the firm's LGBT network in Asia, including the growth of an Ally programme. HSF are also part of Community Business's Diversity and Inclusion in Asia Network (DIAN) and recently gained recognition for their work in Hong Kong's first LGBT workplace inclusion index. The firm were also active in establishing the Interlaw network in Hong Kong for LGBT employees and allies across different firms. HSF is a main sponsor of HK Pink Dot, an annual LGBTI festival advocating for diversity and equality.

Stonewall's Global Diversity Champions programme works with 49 organisations operating in Hong Kong. Our team of workplace advisors offer tailored one-to-one advice on how to create LGBT inclusive workplaces globally. Please contact Stonewall for further information.

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Every effort has been made to ensure that the information contained in this Global Workplace Briefing is correct as of April 2016. This overview is for guidance purposes only and does not constitute, nor should it be interpreted as a substitute for, detailed legal advice. If you have any specific legal concerns, always consult with local legal experts.

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