

Stonewall

ABOUT THIS RESOURCE

This resource is produced by Stonewall, a UK-based charity that stands for the freedom, equity and potential of all lesbian, gay, bi, trans, queer, questioning and ace (LGBTQ+) people.

At Stonewall, we imagine a world where LGBTQ+ people everywhere can live our lives to the full.

Founded in London in 1989, we now work in each nation of the UK and have established partnerships across the globe. Over the last three decades, we have created transformative change in the lives of LGBTQ+ people in the UK, helping win equal rights around marriage, having children and inclusive education.

Our campaigns drive positive change for our communities, and our sustained change and empowerment programmes ensure that LGBTQ+ people can thrive throughout our lives. We make sure that the world hears and learns from our communities, and our work is grounded in evidence and expertise.

To find out more about our work, visit us at www.stonewall.org.uk

Registered Charity No 1101255 (England and Wales) and SC039681 (Scotland)

Stonewall is proud to provide information, support and guidance on LGBTQ+ inclusion; working towards a world where we're all free to be. This does not constitute legal advice, and is not intended to be a substitute for legal counsel on any subject matter.

CANADA



Population: 35+ million



Stonewall Global Diversity Champions: 57

THE LEGAL LANDSCAPE

In Stonewall's **Global Workplace Equality Index**, broad legal zoning is used to group the differing challenges faced by organisations across their global operations.

Canada is classified as a Zone 1 country, which means sexual acts between people of the same sex are legal and clear national employment protections exist for lesbian, gay, and bi people.

Two further zones exist. In Zone 2 countries, sexual acts between people of the same sex are legal but no clear national employment protections exist on grounds of sexual orientation. In Zone 3 countries, sexual acts between people of the same sex are illegal.

FREEDOM OF EXPRESSION, ASSOCIATION AND ASSEMBLY

Section 2 of the Canadian Charter of Rights and Freedoms, a constitutional document, **protects the fundamental freedoms of expression, association and assembly.**

FAMILY AND RELATIONSHIPS

Sexual acts between people of the same sex **are legal** under the Criminal Law Amendment Act, SC 1968- 69, c 38.

The **age of consent** is **16 years** for vaginal and oral sex but is **18 years** for anal sex.

HIV non-disclosure is criminalised, which means people living with HIV must be able to produce proof that they disclosed their HIV status prior to sexual activities.

Same-sex marriage was **legalised** in 2005 with the enactment of the Civil Marriage Act SC 2005, c 33, providing a gender-neutral definition of marriage.

As a result, there are also **no marriage restrictions specific to trans people.**

Same-sex couples are as eligible as opposite-sex couples for all forms of **recognised partnerships** in Canada.

In 2000, the Parliament of Canada passed Bill C-23, Modernization of Benefits and Obligations Act, which provides same-sex couples with the **same social and tax benefits** as opposite sex couples in common-law relationships.

There are **no legal prohibitions to same-sex adoption** in Canada.

EQUALITY AND EMPLOYMENT

Section 15(1) of the **Canadian Charter guarantees equality** and serves to **protect minority rights**. In 1995, the Supreme Court of Canada ruled that **"sexual orientation" should be read into the Charter.**

Gender identity has **not been expressly recognised** as an analogous ground of discrimination **under Section 15** of the Charter **but trans individuals** have **previously been able to rely on the section** to assert their equality rights.

Section 3(1) of the Canada Human Rights Act **prohibits discrimination on the grounds of sexual orientation, gender identity or expression.**

In 1998, the Supreme Court of Canada ruled that **provincial human rights legislation** must **protect individuals against discrimination on the basis of sexual orientation.** Now all provinces and territories provide such legal protection, particularly in matters of employment, accommodation and contract.

Ontario became the first province to specifically **prohibit discrimination on the basis of 'gender expression'** in 2012, followed by **several other provinces.**

Section 718.2(a)(i) of the Criminal Code provides an **aggravating circumstance** relevant to sentencing **where the offence was motivated by bias, prejudice or hate based on the sex, sexual orientation, or gender identity or expression** of the victim.

GENDER IDENTITY

Trans people have the **right to change** their **name and legal gender.**

However, the **requirements** for changing name and the legal gender marker on official documents **vary greatly** from province to province and legal gender change **may require proof of gender-reassignment surgery.**

Subject to varying requirements, the **legal gender** can be **changed on most identification documents**, including birth certificates, passports, driver's licenses and Social Insurance Number cards.

On a federal level, proof of gender-reassignment surgery is no longer required to amend a person's gender marker on immigration and citizenship documents.

Adult persons will **soon be able to change the gender marker on their passports to 'female', 'male' or 'X'** (unspecified). Until the 'X'-option is available, the person may request a note to be added to their passport which indicates that the gender marker should be 'X'. These interim measures were put in place starting 13 August 2017. It is unclear when the note will be replaced with the 'X'.

IMMIGRATION

The Immigration and Refugee Protection Act provides same-sex spouses with the **same immigration opportunities** as opposite-sex spouses.

Trans migrants cannot change the legal gender marker on their residency and immigration documents **before receiving citizenship in some provinces**, such as Quebec.



A VIEW FROM CANADA

Kathleen Pye is Director of Research and Policy at Egale Canada Human Rights Trust. The group seeks to advance the human rights of lesbian, gay, bi trans, queer, questioning, intersex and Two Spirit (LGBTQI2S) people through research, education and community engagement. Egale conducts research on LGBTQI2S matters and produces educational materials and reports.



What are the gaps in the legal framework for LGBT people?

It is problematic that there are inconsistencies in the LGBTQI2S-related legislation across the territories and provinces. While all territories and provinces have legislation that prohibits discrimination based on sexual orientation, only 10 out of 13 have similar provisions for gender identity and/or expression. The new government has pushed this matter at a national level and there is some positive movement. Bill C-16 is currently underway and would include gender identity and expression as grounds of prohibited discrimination in the Canadian Human Rights Code among other things.

However, other matters remain to be legislated for by territories and provinces, for example health and education. It is important that we keep addressing concerns where they exist. Bill C-36 introduced in 2014 is also problematic, and especially affects trans and gender diverse people. The law makes it illegal to purchase sexual services but legal to sell them. Trans and gender diverse people often work in this sector, not least because they face barriers in accessing other areas of the job market. The law further restricts their ability to earn a living.

What are some specific problems that affect trans people?

The lived situation for LGBTQI2S people can differ greatly depending on the area. In general, the situation is worse for LGBTQI2S people who are also affected by other forms of marginalisation, for instance indigenous LGBTQI2S people.

We see that rates of homelessness are especially high among trans and gender diverse people, but also bi people. In terms of health care, trans and gender diverse people often face difficulty in accessing appropriate and comprehensive health care. While such services may be easier to find in Ontario, waiting lists are long. In other areas, especially in more rural areas, the situation can be very bad. In terms of education, schools are getting better at promoting diverse and inclusive learning environments. For instance, some schools have inclusion policies in place, though they still need to get better at the implementation of such policies. Gender and sexuality alliance groups are also being formed at schools and can have very positive impacts. But again, how inclusive a school is will often depend on the area.

What problems do LGBT people face in the workplace?

A preliminary problem is that there hasn't been a lot of research on this topic in the Canadian context, and so we often have to rely on research done in the USA. More research now exists in regard to lesbians and gay men in the workplace, but less so for trans, gender diverse and bi people.

We do know however, that trans and gender diverse people in particular face extreme barriers when trying to access the job market. Unemployment rates are very high among these groups. Safety within the workplace is also a concern. Although legislation exists to protect LGBTQI2S employees from discrimination, there's not a lot of preventive work that's done. This means that often something needs to go wrong before LGBTQI2S staff can truly rely on their rights.

What can employers do to support LGBT employees and the LGBT movement in Canada?

Many employers feel they are constrained in what they can do or don't know where to start. However, there's a lot employers can do to create equal and inclusive workplaces for their LGBTQI2S staff. In all their efforts, employers should be reaching out to and learning from the LGBTQI2S community. This also makes it easier to start and to work around resource constraints. In general, employers should start by building LGBTQI2S-inclusive policies. Consulting the LGBTQI2S community ensures that the policies are well formulated, adequate and comprehensive.

But policies alone are not enough. It is absolutely necessary that employers have an appropriate implementation plan in place and that they act in a preventive rather than reactionary way. Employers can also support the LGBTQI2S community more generally, but they need to be mindful of their impact. Here it is important to reach out to LGBTQI2S communities to ask what businesses can do and whether their support is wanted. It's also important to seek feedback to improve any initiatives.

LGBT INCLUSION IN THE WORKPLACE

THE FOUNDATIONS

There are several steps employers can take to start creating a supportive workplace environment for their LGBT employees in Canada:

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| <ul style="list-style-type: none">  Consult local LGBT organisations to understand the local context for LGBT people  Introduce explicitly LGBT-inclusive anti-discrimination and bullying and harassment policies | <ul style="list-style-type: none">  Train HR staff and promote inclusive policies  Carry out LGBT-inclusive diversity training  Encourage senior managers to promote their commitment to LGBT inclusion and equality |
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NEXT STEPS

Once a foundation has been built, there are further steps employers can take to bring about positive change for LGBT people. For example:

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| <ul style="list-style-type: none">  Audit and extend equal benefits to LGBT partners  Establish employee engagement mechanisms like LGBT networks and allies programmes  Carry out LGBT awareness-raising events | <ul style="list-style-type: none">  Partner with local LGBT groups to advance LGBT equality beyond the workplace  Work with suppliers and partners to advance LGBT workplace equality |
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Employers can improve their initiatives by participating in Stonewall's Global Workplace Equality Index - a free benchmarking tool offering a clear roadmap to LGBT inclusion in the workplace. www.stonewall.org/gwei



LEARN FROM STONEWALL'S GLOBAL DIVERSITY CHAMPIONS

Gowling WLG

Much of Gowling WLG's LGBT diversity and inclusion work derives from the firm's strong engagement with Canadian LGBT organisations and initiatives. The firm partners with Pride at Work, a national organisation that supports LGBT inclusion in the workplace. In 2015, Gowling WLG sponsored the organisation's workplace conference, which was attended by some of the firm's senior staff. In order to raise awareness about LGBT workplace issues, Gowling WLG received all-staff training from Pride at Work. Since 2015, firm-wide activities have been held to acknowledge and support Day of Pink. Established by the Canadian Centre for Gender and Sexual Diversity, the event combats homophobia and transphobia. Since 2016, the UK and Canada offices have worked together to spread awareness of Day of Pink to other locations. As a result, partners and staff from all Gowling WLG's offices including Moscow, Dubai and Singapore have participated and worn pink in active support of the cause. Members of the firm regularly attend events for Start Proud in Canada. These provide a forum for university students to network and learn about careers and being "out" in the legal and corporate communities. The firm celebrates Pride activities across Canada including participating in Pride parades in some cities, and has a strong social media presence, regularly posting messages and photos of events that are supportive of the LGBT and other equality-seeking communities.

PwC

GLEE is PwC Canada's network for LGBT employees and their allies. It was set up in 2006 to enable LGBT employees to bring their whole selves to work. The network has also helped PwC Canada become actively involved with recruitment and business networking organisations focused on LGBT equality in the workplace. This includes a partnership with Pride at Work Canada, which provides support and networking for LGBT professionals. Such partnerships help PwC Canada to support its LGBT employees, while also positioning the firm as an employer of choice for the LGBT community. GLEE Canada, which today has over 130 members, annually hosts a Pride BBQ in the Toronto office. In 2016, the event was attended by over 200 clients and staff, which is a manifestation of GLEE Canada's steady growth. The network's development has also coincided with strong progress in some of PwC's key diversity and inclusion metrics. For example, out-of-university new starters have reported that GLEE and the experiences shared by LGBT employees have been instrumental in their decisions to select PwC as an employer. PwC has further generated client relationships and positive client feedback through the reach of GLEE and the GLEE Pride BBQ.

GET INVOLVED



THE ANNUAL LGBT CALENDAR

June – Pride Toronto. www.pridetoronto.com

August – Vancouver Pride. www.vancouverpride.ca

August – Montreal Pride. www.fiertemontrealpride.com

Check the events websites for the most up-to-date information on dates.



FIND LGBT GROUPS AND COMMUNITIES

Action Sante Travesti(e)s et Transsexuel(le)s du Quebec (ASTTeQ) – an organisation promoting the health and well-being of trans people through peer support, advocacy, education, outreach, community empowerment and mobilization. www.astteq.org

Canadian Gay & Lesbian Chamber of Commerce – a group aiming to build a coalition of LGBT-owned and operated businesses and serving as a network for LGBT business proprietors and professionals. www.cglcc.ca

Egale Canada Human Rights Trust – an organisation working to advance the human rights of LGBT people through research, education and community engagement. www.egale.ca

The Lesbian & Gay Immigration Taskforce – a group sharing information and lobbying for changes to immigration regulations concerning same-sex couples. www.legit.ca

PFLAG Canada – a group of parents and families of lesbian, gay and bi people with an aim to support their LGB family members and each other. www.pflagcanada.ca

Pride at Work Canada – an organisation working with employers to create equal and inclusive workplaces for their LGBT employees in Canada. www.prideatwork.ca

QMUNITY – an LGBTQ/2S centre in Vancouver. www.qmunity.ca

Trans Lifeline – a group operating in the USA and Canada and offering a confidential information and counselling service for trans people in crisis. www.translifeline.org

The 519 – an LGBTQ community centre based in Toronto. www.the519.org

Welcome Friend Association – a group promoting understanding and cooperation between the LGBT community and its allies, offering advice on a range of topics as well as running trainings and a Rainbow Camp for young people. www.welcomefriend.ca



GET LOCAL LGBT NEWS

IN Magazine – an LGBT lifestyle publication. www.inmagazine.ca

PinkPlayMags – an LGBT lifestyle magazine in the Greater Toronto Area. www.pinkplaymags.com

The Buzz – a Toronto LGBTQ community magazine. www.thebuzzmag.ca

Xtra – an LGBT online news source. www.dailyxtra.com



STONEWALL'S GLOBAL DIVERSITY CHAMPIONS PROGRAMME WORKS WITH 57 ORGANISATIONS OPERATING IN CANADA.

Our team of workplace advisors offers tailored one-to-one advice on how to create LGBT-inclusive workplaces globally. If you would like to receive support or want to be featured as a case study in one of our Global Workplace Briefings, contact Stonewall.

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GOWLING WLG

Every effort has been made to ensure that the information contained in this Global Workplace Briefing is correct as of July 2018. Introducing any new initiative requires careful consideration and the safety of staff should always be of paramount importance. 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. Stonewall Equality Ltd, Registered Charity No 1101255 (England and Wales) and SC039681 (Scotland)