

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.

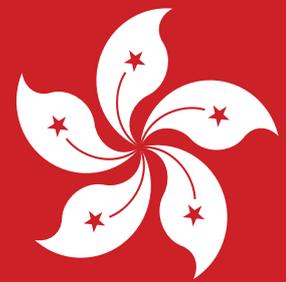
Our campaigns drive positive change for our communities, and our sustained change and empowerment programmes ensure that LGBTQ+ people can thrive throughout our lives. We make sure that the world hears and learns from our communities, and our work is grounded in evidence and expertise.

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.

HONG KONG



Population: 7+ million people



Stonewall Global Diversity Champions: 55



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

Hong Kong is classified as a Zone 2 country, which means sexual acts between people of the same sex are legal but no clear national employment protections exist.

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

FREEDOM OF EXPRESSION, ASSOCIATION AND ASSEMBLY

The **rights to freedom of expression, association and assembly** are guaranteed to all residents under Article 27 of the Basic Law and Articles 16-18 of the Hong Kong Bill of Rights Ordinance.

There are **no LGBT-specific restrictions or additions** to these rights.

FAMILY AND SAME-SEX RELATIONSHIPS

Sexual acts between people of the same sex are **legal**.

There is an **equal age of consent** of 16 years for sexual acts regardless of gender as ruled by the Court of Appeal in 2006 ('William Roy Leung' case).

Same-sex marriage is not legal and marriage is defined as a union between a man and a woman under Section 40 of the Marriage Ordinance.

Trans people who have undergone **gender reassignment surgery can enter a heterosexual marriage** in the self-identified gender as ruled by the Court of Final Appeal in 2013 ('W' case).

Same-sex relationships are not recognised by law in the form of civil unions or domestic partnerships.

However, there are some **limited rights available to same-sex cohabiting couples** in accordance with Section 2 of the Domestic and Cohabitation Relationships Violence Ordinance (as amended in 2009), providing **injunctive protection** for a victim in **circumstances of domestic violence** involving two persons of the same sex.

In 2017, a first instance **court allowed the same-sex partner** of a civil servant, having registered their partnership in a third country, to **receive spousal benefits and allowances** but **did not allow for tax breaks** available to married people ('Leung Chun Kwong' case). An appeal is ongoing at time of writing.

Same-sex couples cannot adopt under the Adoption Ordinance. The Ordinance recognises the possibility of a **'sole applicant' without any reference to LGBT people**, but it is **unclear** how this is applied to LGBT people in practice.

EQUALITY AND EMPLOYMENT

Article 25 of the Basic Law states that **all residents are equal before the law**, but it **does not explicitly refer to sexual orientation and gender identity**.

Discrimination by public authorities based on any 'status' is **prohibited** in accordance with Article 22 under Section 8 of the Hong Kong Bill of Rights Ordinance.

This has been interpreted by the courts as **covering discrimination based on sexual orientation** ('William Roy Leung' case) but has not yet been tested in regard to gender identity.

There is **no comprehensive law prohibiting employment discrimination** based on **sexual orientation or gender identity**.

Hate crimes based on sexual orientation or gender identity are not specifically considered as an aggravating circumstance in sentencing.

GENDER IDENTITY

The **Immigration Department is in charge of the legal gender change process**, in accordance with an administrative scheme.

Under the scheme, **trans people can change their name and legal gender on some identification documents** (but not the birth certificate) by applying to the Commissioner of Registration.

The legal gender **can only be changed to male or female**.

The legal gender, together with the corresponding name change, is **subject to gender reassignment surgery, including sterilisation**.

The government is **currently conducting** a round of **public consultation** on whether to introduce a legislative framework for gender recognition.

Publicly funded medical treatment for trans people is available through the Hospital Authority.

IMMIGRATION

In 2017 the Court of Appeal ruled that a **same-sex partner of a non-permanent resident** working in Hong Kong, had the **right to apply for a dependent visa in light of their registered partnership** in a third country ('QT' case).

It has **not yet been tested in courts** if this would also **apply to a partner of a permanent resident**.



A VIEW FROM HONG KONG

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

COMMUNITY BUSINESS



How are LGBT people treated by society in Hong Kong?

Sexual orientation, gender identity and intersex are generally perceived as sensitive or even taboo subjects. Despite being an international modern city, Hong Kong's culture is still traditional in many respects. Traditional Asian family values run deep; getting married and having children is considered the 'norm' and they are also key to fulfilling obligations of filial piety or respect to one's elders. There is also strong opposition to LGBT+ rights from groups with evangelical Christian ties. The 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 across all areas of life. However, societal attitudes are changing – the LGBT+ community is becoming more visible. Research such as our *Hong Kong LGBT Climate Study 2011/12* and the 2016 report commissioned by the Equal Opportunities Commission indicate that Hong Kong people, especially younger generations, are far more accepting than was previously assumed. Hong Kong has been selected as host city for the Gay Games 2022. This will be a tremendous opportunity to demonstrate to the world how open and inclusive Hong Kong is and elevate its standing as a global business centre.

Which specific issues affect lesbians, bi women and trans people?

It's less common for lesbian and bi women to be out than gay and bi men, thus women are less visible in the Hong Kong LGBT+ community. The trans community faces much discrimination and stigma. For example, there have been a number of human rights cases involving trans individuals, including a trans woman who was sexually harassed and denied hormone treatments while being incarcerated in an all-male prison. Hong Kong has archaic gender recognition laws which do not respect a trans individual's right to be fully legally recognised in their affirmed gender. In 2013, the Court of Final Appeal observed that the government should address legal issues faced by the trans community through legislation. However, there has been very little progress. The government is currently conducting a public consultation before taking any legislative action.

How are LGBT people portrayed in the media?

Only in recent years have LGBT+ issues been openly and fairly reported on in the media. In the absence of inclusive laws, the LGBT+ community has had to resort to judicial action. This has seen a number of successful landmark court cases that have captured the public's attention, including cases on civil servant partner benefits and same-sex partner visas. The growing momentum of community initiatives such as the Hong Kong Pride Parade, Pink Season, Pink Dot, and the Hong Kong Lesbian and Gay Film Festival have also helped bring LGBT+ issues into public discourse. While there have been instances of negative coverage in some local media, the leading media outlets are generally balanced, reasonable and sympathetic towards LGBT+ issues. They

see the benefit of promoting a more open and inclusive Hong Kong. In the local film and TV industry, LGBT+ people are often depicted in stereotypical roles, although some progress has been made towards featuring positive LGBT+ characters and relationships.

What is the workplace like for LGBT people?

While instances of direct bullying and violence may often be uncommon, many indirect forms of harassment occur. This creates non-inclusive, intimidating or even hostile work environments, with a negative impact on the well-being, productivity and engagement of LGBT+ staff. The majority of LGBT+ employees are not open at work for fear of repercussions and feel 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. Recently however, multinational companies have made great strides in creating more inclusive workplaces and have visibly shown their support for LGBT+ equality. For example, in 2017 over 75 major organisations supported the Equal Opportunities Commission's call for the government to introduce anti-discrimination legislation to protect the LGBT+ community. Over 50 companies participated in the 2017 iteration of Community Business's biennial Hong Kong LGBT+ Inclusion Index.

What can organisations do to promote equality in the workplace?

One way is to participate in Hong Kong's LGBT+ Inclusion Index, Asia's first benchmarking tool for assessing business and workplace policies and practices. A robust tool, the Index helps businesses to adopt best practice and create an inclusive workplace, contributing to a more inclusive society. Participation has increased significantly since the Index began in 2015. A small and medium-sized enterprise version of the Index has also been introduced.

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 India:

- ✓ **Consult local LGBT organisations to understand the local context for LGBT people**
- ✓ **Introduce explicitly LGBT-inclusive anti-discrimination and bullying and harassment policies**
- ✓ **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**

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:

- ✓ **Audit and extend partner benefits to same-sex partners**
- ✓ **Establish employee engagement mechanisms like LGBT networks and allies programmes**
- ✓ **Carry out LGBT awareness-raising events**
- ✓ **Partner with local LGBT groups to advance LGBT equality beyond the workplace**
- ✓ **Work with suppliers and partners to advance LGBT workplace equality**

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.uk/gwei



LEARN FROM STONEWALL'S GLOBAL DIVERSITY CHAMPIONS

Barclays 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 programme 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.

Norton Rose Fulbright Norton Rose Fulbright's diversity and inclusion policy in Hong Kong expressly prohibits discrimination based on sexual orientation and gender identity. The firm also offers equal employee partner benefits regardless of whether they are in same-sex or different-sex relationships. For instance, this includes medical insurance cover for partners of staff. The firm also took part in, and sponsored, the 2017 Inclusion Recruitment Conference organised by the Queer Straight Alliance. The conference is a platform for students to connect with representatives from top-tier businesses that commit to diversity and inclusion in Hong Kong.

Herbert Smith Freehills Herbert Smith Freehills' (HSF) global LGBT staff network, IRIS (Inclusion, Respecting Identity and Sexuality), is open for LGBT staff and partners as well as their allies. In 2016, the global network was launched to better connect existing local network chapters around the world, including the chapter in Hong Kong. A launch event was held in Hong Kong, where a speaker from Community Business led a training session on LGBT+ issues for employees. An integral part of IRIS is the ally programme that works to support LGBT+ employees in the workplace. For example, many allies display rainbow-coloured 'ally cards' in the Hong Kong office to show their support to the LGBT+ community. These cards state that being an ally is 'more than a label. ...it's an action', with 10 practical steps allies can take to actively support inclusion. HSF also works to support the wider LGBT+ community in Hong Kong. For example, HSF has sponsored the Queer Straight Alliance recruitment event in Hong Kong and is a platinum sponsor of Hong Kong's Pink Dot event. The firm was active in establishing the Interlaw network in Hong Kong for LGBT+ employees and allies from different firms. It's also part of Community Business's Diversity and Inclusion in Asia Network (DIAN). Additionally, HSF has supported Planet Ally in hosting the inaugural 'Rainbow Families' forum in Hong Kong. Planet Ally is a local non-profit dedicated to empowering allies.



GET INVOLVED



THE ANNUAL LGBT CALENDAR

May - Community Business LGBT Inclusion Awards.
www.communitybusiness.org

September - Hong Kong Lesbian and Gay Film Festival.
www.hklgff.hk

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

October - Pink Dot HK. www.pinkdot.hk

November - Hong Kong Pride Parade. www.hkpride.net

November 2022 - Hong Kong Gay Games.
www.gaygameshk2022.com



FIND LGBT GROUPS AND COMMUNITIES

AIDS Concern - a group providing AIDS care in Hong Kong.
www.aidsconcern.org.hk

Big Love Alliance - an organisation creating dialogue between the LGBTQ community and the general public through creative and continuous engagement in media, publishing and cultural events. www.biglovealliance.org

Community Business - an organisation working with companies of all sizes and from diverse industries across Asia to promote responsible and inclusive business. www.communitybusiness.org

Fruits in Suits - a monthly informal networking event for LGBT professionals in Hong Kong. www.facebook.com/FinS.HK/

Hong Kong LGBT+ Interbank Forum - a network of LGBT affinity groups from banks and financial firms. www.facebook.com/groups/206610126377044/

Les Love Study - an LGBT group focused on public awareness and self-empowerment through seminars, forums, workshops and written publications.
www.leslovestudy.com

Pink Alliance - a group working to promote equal rights for LGBTI people through lobbying, education and campaigns. www.pinkalliance.hk

Queer Straight Alliance - a student organisation promoting sexual diversity and providing a safe social platform for LGBT members both on and off campus.
www.facebook.com/QSAHK/

Rainbow of Hong Kong - an LGBT community centre in Hong Kong running over 100 activities every year. www.rainbowhk.org

TGR - Transgender Resource Centre - a group providing trans-specific educational resources to the transgender community and general public.
www.tgr.org.hk

The Hong Kong Gay and Lesbian Attorneys Network (HKGALA) - a network for LGBT members and their allies in the legal profession.
www.hkgala.com

Tong Zhi Literature Group - a group fostering the writing of sexual minorities in Hong Kong and building a reader-writer community. www.tlghk.org



GET LOCAL LGBT UPDATES

DIMSUM - an online LGBT media platform. www.dimsum-hk.com

PLUG - an online media platform covering art, style and LGBTQI culture in Hong Kong. www.plug-magazine.com

GdotTV - an LGBT media platform including an online TV station.
www.gdottv.com



STONEWALL'S GLOBAL DIVERSITY CHAMPIONS PROGRAMME WORKS WITH 55 ORGANISATIONS OPERATING IN HONG KONG.

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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