

**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](http://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.

# UNITED STATES OF AMERICA



Population: **326+** million people



Stonewall Diversity Champions: **76**



## 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.

The US 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. In Zone 3 countries sexual acts between people of the same sex are illegal.

### FREEDOM OF EXPRESSION, ASSOCIATION AND ASSEMBLY

The First Amendment to the Constitution explicitly protects **freedom of speech and peaceful assembly**.

The Supreme Court ruled that the Fourteenth Amendment to the Constitution should be interpreted to protect the right to **freedom of association** (N.A.A.C.P. v. Alabama (1958)).

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** (Supreme Court ruling Lawrence v Texas (2003)).

There is an **equal age of consent** for sexual acts regardless of sexual orientation. The age varies from 16 to 18 years depending on the state.

**Certain states** that have **age of consent exceptions** for younger people who are close in age **only apply** these exceptions to **different-sex partners**. Texas is an example.

**Same-sex marriage** is **legal** (Obergefell v. Hodges (2015)).

**Some states** additionally recognise same-sex relationships through **civil unions** or **domestic partnerships**.

People have **equal rights to joint adoption and second parent adoption** regardless of sexual orientation (Obergefell v. Hodges (2015)).

The Supreme Court ruled that **same-sex couples** must be **treated the same** as opposite-sex couples on their **child's birth certificate** (Pavan v. Smith (2017)).

### EQUALITY AND EMPLOYMENT

**Employment discrimination against LGBT people is not legally prohibited on a federal level.**

**Certain states and cities prohibit discrimination** based on **sexual orientation and gender identity** in the workplace and beyond. For example, this is the case in California.

The Fourteenth Amendment to the Constitution protects the right to **equality before the law**, but it does not explicitly refer to sexual orientation and gender identity.

**Offences based on actual or perceived sexual orientation or gender identity** are **punishable as hate crimes** and may be subject to harsher penalties under 18 U.S.C. § 249.

**North Carolina's House Bill 2 restricts** cities and counties in North Carolina **from protecting against employment discrimination** based on **sexual orientation and gender identity**.

### GENDER IDENTITY

**Trans people can change** their **legal gender** on identification documents. However, some states do not allow the gender to be changed on birth certificates.

**Changing the legal gender marker on a US passport requires medical certification** of gender transition by a licensed physician under Dept. of State, 7 Foreign Affairs Manual (FAM) § 1300 App. M.

**Requirements for legal gender change on other identification documents vary** by state and often require sex-reassignment surgery.

**Trans people can change their legal name on all identification documents, but the change must be approved by a court.** Some states also require the applicant to publish the name change in a local newspaper. For example, this is the case in Alabama.

### IMMIGRATION

**Dependant visas** are **available to married spouses** of people working in the country.

Those who can show that a return to their home country puts them at **risk of serious harm because they are LGBT can seek asylum** on these grounds under 8 U.S.C.S. § 1158.



## A VIEW FROM THE USA

**The Human Rights Campaign** (HRC) is the United States' largest civil rights organisation working to achieve LGBTQ equality. HRC represents more than three million members and supporters across the country. Members from HRC's communications, global, healthcare, HIV & health equity, legal and workplace programs spoke to Stonewall to tell us about the situation for LGBTQ people in the US.



### Everyday life

While the US has nationwide marriage equality and an inclusive federal hate crimes law, the experiences of LGBTQ people in the US vary dramatically. This can be based on where they live as well as factors such as race, income and educational attainment. Discrimination in employment, housing, education and services remains a significant problem. The federal agencies responsible for enforcing employment non-discrimination laws have determined that LGBTQ people are protected under existing federal laws. However, federal courts have been inconsistent in reaching the same interpretation.

Beginning in 2017, the Trump-Pence administration has been working to overturn recent progress on equality by fighting to eliminate and weaken existing legal protections through the courts. It has further issued instructions to make sweeping changes in the American regulatory system.

At the state and municipal level, both legal protections and oppressive laws exist, depending on the state. 19 states plus the District of Columbia have explicit non-discrimination protections in employment, housing and public accommodations for both sexual orientation and gender identity. These laws deter discriminatory behaviour but enforcement is inconsistent. Oppressive laws typically allow discriminatory behaviour and create a system in which LGBTQ people have no recourse when they are harmed.

All legal protections that do exist help support social acceptance. In turn growing social acceptance helps create more legal changes. Urban areas are generally more accepting of LGBTQ people. And while LGBTQ people have increasing rates of visibility in the media, they are often less visible in their home communities.

### LGBTQ groups and advocacy

The LGBTQ movement in the US is diverse and vibrant. The movement is led by thousands of advocacy organisations and direct service providers at the local, state and federal levels. In this environment, allies have played a critical role in standing up for equality. More than 60 per cent of Americans currently support same-sex marriage and different polls have shown that majorities support trans rights, such as gender-identity inclusive anti-discrimination legislation. Despite growing acceptance and progress, challenges remain. Individuals and organisations opposing LGBTQ rights remain better funded and persistent in trying to halt, undermine and roll back progress.

### Workplace

US federal laws do not consistently afford workplace protections based on sexual orientation or gender identity. LGBTQ jobseekers are left vulnerable to discrimination. Trans people experience rates of unemployment and under-employment up to four times that of cisgender peers. LGBTQ people must utilise resources such as the HRC Foundation's Corporate Equality Index to see whether an individual employer has enacted its own LGBTQ protections.

Private sector employers have led the way on comprehensive policies, benefits and practices for LGBTQ workers and their families. By adding specific sexual orientation and gender identity protections into existing non-discrimination policies, employers can mitigate the patchwork of state laws leaving significant gaps in LGBTQ workplace protections. In addition, businesses can ensure LGBTQ workers and their eligible family members are covered under employer-provided health, leave and financial benefits. Employers can support inclusive environments and leadership opportunities by resourcing LGBTQ and allied employee resource groups. They can also invest in training and education on issues of LGBTQ diversity.

Businesses can engage the external LGBTQ community in the US through public policy advocacy, supplier diversity programmes, sponsorship and philanthropy of LGBTQ organisations. Corporate executives can leverage their unique platforms to further pro-LGBTQ public policy and combat anti-LGBTQ laws at the federal and state levels. In addition, businesses can integrate diverse LGBTQ content into marketing and promotional materials as well as creative content that promotes inclusivity.

### Healthcare






Healthcare is gradually becoming more LGBTQ inclusive in the US. Some states and many healthcare providers and facilities offer patient non-discrimination protections for LGBTQ patients. More and more healthcare providers and facilities are offering employee training on LGBTQ cultural competency and inclusion.

People in the US access healthcare insurance through either their employers or a variety of governmental programmes such as Medicare and Medicaid. This means a person's ability to access LGBTQ-inclusive healthcare services, such as transition-related coverage or HIV prevention (PrEP), depends on the type of health insurance they have. It also depends on the level of training and experience of their provider and healthcare facility. Larger urban areas are more likely to have inclusive services. However, social determinants such as stigma, discrimination, poverty and homelessness prevent many LGBTQ individuals from accessing services where they exist.

## 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 the US:

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| <ul style="list-style-type: none"> <li> <b>Consult local LGBT organisations to understand the local context for LGBT people</b></li> <li> <b>Introduce explicitly LGBT-inclusive anti-discrimination and bullying and harassment policies</b></li> </ul> | <ul style="list-style-type: none"> <li> <b>Train HR staff and promote inclusive policies</b></li> <li> <b>Carry out LGBT-inclusive diversity training</b></li> <li> <b>Encourage senior managers to promote their commitment to LGBT inclusion and equality</b></li> </ul> |
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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"> <li> <b>Audit and extend partner benefits to same-sex partners</b></li> <li> <b>Establish employee engagement mechanisms like LGBT networks and allies programmes</b></li> <li> <b>Carry out LGBT awareness-raising events</b></li> </ul> | <ul style="list-style-type: none"> <li> <b>Partner with local LGBT groups to advance LGBT equality beyond the workplace</b></li> <li> <b>Work with suppliers and partners to advance LGBT workplace equality</b></li> </ul> |
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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](http://www.stonewall.org/gwei)



## LEARN FROM STONEWALL'S GLOBAL DIVERSITY CHAMPIONS

**Google** Google uses its position as a leading technology company to positively influence the lives and rights of LGBT people across the US. Google collaborates closely with LGBT advocacy groups like the HRC to learn about and understand the issues affecting LGBT people in the country. As a result, Google has utilised its power to advocate for legal changes. For example, in support for same-sex marriage, Google signed an open letter to the US government as well as a statement to the US Supreme Court. Google also uses its media platforms to change hearts and minds. This includes YouTube campaigns to amplify the voices of LGBT people and the creation of LGBT-themed Google Doodles.

**Citi** Citi is committed to creating equal and inclusive workplaces for its LGBT employees and its policies build the foundation for this. Citi's US anti-discrimination policies expressly ban discrimination and harassment based on sexual orientation and gender identity. Citi also offers equal partner benefits to same-sex and different-sex couples in the US. A transitioning at work policy ensures that managers and HR can support trans employees who are transitioning. Additionally, trans-specific health benefits are included under Citi's healthcare scheme for employees. As part of its approach to increasing diversity, Citi has a Pride Affinity Steering Committee co-chaired by senior leaders to help provide accountability for LGBT diversity outcomes. The Affinity Steering Committee oversees all aspects of Citi's LGBT workplace equality, including the 14 local LGBT employee network chapters in the US, with around 2,700 members. These are open to LGBT people and allies. The network chapters are initiated and led by employees and offer professional development, mentoring and networking. Many of the network chapters also support LGBT organisations. For example, the local Pride chapter in New York City has collaborated with SAGE, an organisation focused on supporting older LGBT people. In addition to supporting SAGE's mission through volunteering, Citi Community Development has supported SAGE's efforts to expand the amount of affordable housing for older LGBT people, and has provided financial education support. Citi also runs initiatives to train staff on LGBT topics. For example, in 2018 an LGBT inclusion education series focused on allyship and education on global LGBT issues to help raise employee awareness. An Ally 101 session, led by the organisation PFLAG Straight for Equality, was introduced by our two Pride Affinity co-leads and focused on US-specific data, information, ally programming and opportunities. Citi has also shown its support for LGBT equality in the US by signing amicus briefs relating to key cases before the Supreme Court.



## GET INVOLVED



### THE ANNUAL LGBT CALENDAR

**June** – New York Pride. [www.nycpride.org](http://www.nycpride.org)

**June** – San Francisco Pride. [www.sfpride.org](http://www.sfpride.org)

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

**October** – Out and Equal Yearly Workplace Summit. [www.outandequal.org/event/workplacesummit/](http://www.outandequal.org/event/workplacesummit/)

**All year** – Find Prides across the country: [www.gaypridecalendar.com](http://www.gaypridecalendar.com)



### FIND LGBT GROUPS AND COMMUNITIES

**The National Center for Lesbian Rights** – an organisation working to advance LGBT rights through litigation, legislation, policy and public education. [www.nclrights.org](http://www.nclrights.org)

**The National Center for Transgender Equality** – an organisation focusing on social justice advocacy for trans people. [www.transequality.org](http://www.transequality.org)

**The National LGBTQ Task Force** – an LGBTQ advocacy group focused on training and mobilising activists across the country. [www.thetaskforce.org](http://www.thetaskforce.org)

**Lambda Legal** - a national organisation working for full recognition of civil rights of LGBT people and everyone living with HIV through litigation, education and public policy work. The group's efforts include workplace protections for LGBT people. [www.lambdalegal.org](http://www.lambdalegal.org)

**Gay, Lesbian & Straight Educators Network (GLSEN)** – a network working to create safe and affirming schools for all, regardless of sexual orientation, gender identity and gender expression. [www.glsen.org](http://www.glsen.org)

**Human Rights Campaign (HRC)** - one of United States' largest civil rights organisations working to achieve LGBTQ equality. [www.hrc.org](http://www.hrc.org)

**Out & Equal Workplace Advocates** – an organisation working to achieve LGBT workplace equality in partnership with businesses and government agencies. [www.outandequal.org](http://www.outandequal.org)

A directory of LGBTQ professional and student associations can be found here: [www.hrc.org/resources/lgbt-professional-and-student-associations](http://www.hrc.org/resources/lgbt-professional-and-student-associations)

The above is a small sample of a variety of national LGBT groups. Many more groups exist on national level and state levels.



### GET LOCAL LGBT UPDATES

**Advocate** – an online and printed LGBT magazine. [www.advocate.com](http://www.advocate.com)

**Curve** – a magazine for bi women and lesbians. [www.curvemag.com](http://www.curvemag.com)

**Metrosource** – a national publication on popular culture from an LGBT perspective. [www.metrosource.com](http://www.metrosource.com)

**Out** – an LGBTQ fashion and lifestyle magazine. [www.out.com](http://www.out.com)

**San Francisco Bay Times** – an LGBTQ magazine. [www.sfbaytimes.com](http://www.sfbaytimes.com)

The above is a small sample of a variety of LGBT magazines.



## STONEWALL'S GLOBAL DIVERSITY CHAMPIONS PROGRAMME WORKS WITH 76 ORGANISATIONS OPERATING IN THE US.

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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Legal Partner



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Every effort has been made to ensure that the information contained in this Global Workplace Briefing is correct as of February 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)