

# Legislation that affects LGBT people

Positive legislation to protect LGBT people was first introduced in 1999.

Until then LGBT people were left with trying to resolve issues around discrimination, harassment in the workplace or society, using existing legislation and or workplace policies, which generally made assumptions about relationships being heterosexual.

## 1999 Sex Discrimination Act (Gender Reassignment) Regulations

This Act makes it illegal to discriminate in employment and training on the grounds of gender reassignment. Discrimination of this nature is treated as a form of sex discrimination. The legislation protects those who “intend to undergo, are undergoing, or have undergone gender reassignment”. It includes people preparing for medical treatment. For transgender people, this has been a great piece of legislation

## 2003 Employment Equality (Sexual Orientation) Regulations

This legislation outlaws discrimination on the basis of sexual orientation.

The Act gives protection to lesbian, gay men, bisexuals and heterosexual people. The law means that an employer cannot treat someone less favourably because of their sexual orientation, real or perceived.

Examples of less favourable treatment include:

- Refuse to employ someone
- Refuse access to training or promotion
- Deny benefits to LGBT employees that are offered to heterosexual employees (for example: insurance schemes, travel concessions). – unless the benefit is restricted to married partners. Even then, the benefits must be extended to same sex partners who have formally registered their relationships (see below)
- Give an unfair reference when on termination of employment.

Employers must take action to protect employees against bullying or harassment because of their sexual orientation, real or perceived. As with other forms of harassment, the perception of the person suffering the harassment is important in defining this.

## 2003 Gender Recognition Act

This legislation gives legal recognition for trans people in their acquired gender who have:

- satisfied a gender recognition panel
- lived in their acquired gender for two years and
- intend to live permanently in the acquired gender.

Following a successful application a trans person will acquire rights and responsibilities of their acquired gender. They will be able to obtain a new birth certificate and if unmarried get married to someone of the opposite sex. People who are already married have to annul their marriage before being able to apply for a full recognition certificate, as marriage is not allowed between same sex couples.

## 2004 Civil Partnership Act (CPA)

The creation of rights equivalent to marriage for same sex couples who officially register their partnership through the same process as a heterosexual couple marrying at a registry office. A civil partnership enables the registered couple to claim and be liable for , the same tax arrangements that apply to married couples, including next of kin rights and inheritance tax.

The benefit and tax systems will treat same sex couples, whether they are registered civil partners or not. This may mean a loss of benefit (tax credits, etc) compared to the situation that applied previously. As a result of rigorous campaigning led by the trade unions, the Civil Partnership Act {PCA} was also amended to ensure equality in pension survivor benefits. Where there is an occupational pension scheme in place the law provides for service to be backdated to 1998, the equivalent for a widower's pension.

This means that "a surviving partner will benefit from survivors pensions based on the contracted out pension rights acquired by their deceased partner from 1988 to the date of death, if this occurs before retirement" (government advice).

There is now a legal obligation that all pension schemes be amended so that registered partners will be entitled to this benefit.

The law also extends to all those in contracted out private pension schemes such as the Civil Service, NHS, Local Government,

Teachers, Fire Service, Police, etc As a result of the CPA a number of other pieces of legislation have been amended to bring them up to date. This includes the right to adopt.

Both partners acquire legal responsibility for children of the relationship. The right for civil partners to have adoption leave and statutory adoption pay and request flexible working hours. Civil partners are also treated exactly the same as married partners when it comes to child support and in state pensions civil

partners will have the same rights as husbands, from 2010 in pension when ages are equalized for men and women.

## The Equality Act 2006

This legislation provides additional protection against discrimination on the grounds of sexual orientation in the provision of goods and services. This piece of legislation more or less represents the completion of the agenda for equality for lesbians, gay men and bisexuals for Britain.

## Future campaigns

The achievement of full legal equality for trans people remains an objective rather than a reality. The Government has rejected an attempt to include protection against discrimination for trans people in goods and services, but has undertaken to a commitment to ensure that this omission is corrected by the promised single equality legislation.