

Promoting Equality for Lesbians and Gay Men:

Scoping Study on International Best Practice Issues

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|--|-----------|
| 1. Introduction | 2 |
| 1.1 Methods | 2 |
| 2. International Context | 3 |
| European Union | 4 |
| 3. Examples of Best Practice | 6 |
| 3.1 Activities of national or state human rights commissions and other implementation bodies | 6 |
| Overview | 6 |
| New South Wales | 7 |
| New Zealand Human Rights Commission | 9 |
| Canadian Human Rights Commission | 9 |
| Ontario Human Rights Commission | 10 |
| Saskatchewan Human Rights Commission | 11 |
| Sweden | 11 |
| 3.2 State Programmes to meet specific needs | 12 |
| 3.2.1 General and Disadvantaged Gay Youth | 12 |
| a. The Case of Massachusetts | 12 |
| b. Rhode Island | 13 |
| c. The Case of Toronto | 14 |
| d. New York City | 14 |
| e. Gay, Lesbian and Straight Education Network | 15 |
| f. Australia: National Youth Suicide Prevention strategy | 15 |
| 3.2.2 Employment | 16 |
| a. Trade Unions | 16 |
| 3.2.3 Violence | 17 |
| 4. Issues Arising | 18 |
| Bibliography | 20 |
| Selected Web Sites | 21 |

1. INTRODUCTION

The following paper outlines the results of a scoping exercise undertaken by Nexus Research to identify elements of best practice approaches internationally in addressing discrimination on the basis of sexual orientation and in promoting equality for lesbians and gay men.

The review of these issues contained in the paper is of course by no means definitive given the time and resources involved. The aim is simply to flag various strategies, approaches and activities that could be of use to the Advisory Committee in developing a strategy for the Equality Authority to promote equality for lesbians and gay men in the Irish context.

The main focus of the exercise has been on:

- Broad approaches taken by bodies charged with implementing anti-discrimination or equality legislation that is inclusive of sexual orientation;
- More specific examples of focused initiatives undertaken to address particular aspects of discrimination. These include initiatives undertaken by other statutory agencies, trade unions and statutory sector/gay community partnerships or other co-operative arrangements.

The paper begins with an overview of the international context, outlining the countries and regions where anti-discrimination legislation currently exists. Also outlined are some of the common problems experienced by gay people across different countries as identified in comparative research undertaken over the past few years.

This background data is important in setting the context for the elements of good practice that follows. Most countries in the world continue to criminalise homosexuality. Even where anti-discrimination legislation exists, it is difficult to identify any comprehensive state action to address discrimination across all the areas in which it has been found to occur.

1.1 METHODS

The report is based on an extensive review of relevant literature and consultations held with national experts and personnel in agencies relevant to the research. Agencies/personnel consulted in this respect included:

- John Nixon, Ontario Human Rights Commission;
- Richard Bennett, Human Rights Consultant, New Zealand;
- Nigel Warner, International Lesbian and Gay Association;
- Leo Flynn, Court of Justice of the European Communities;
- Robert Wintemute, Kings College, London;
- Kees Waaldijk, University of Maastricht;
- Steffen Jensen, International Lesbian and Gay Association;
- Virginia Adamson, Policy and Planning Officer, Canadian Human Rights Commission;
- Hans Ytterberg, Office of the Ombudsman Against Discrimination because of Sexual Orientation, Sweden;

- Jenni Millbank, University of Sydney;
- Terry Craig, Communications Officer, Saskatchewan Human Rights Commission;
- Denise McGill, Northern Ireland Human Rights Commission;
- Nicole La Violette, Department of Law, University of Ottawa.

2. INTERNATIONAL CONTEXT

The World Legal Survey (1999), undertaken by the International Lesbian and Gay Association (ILGA)¹, provides a very important starting point for identifying state policy in relation to lesbians and gay men. It also shows the extent of progress made in Ireland in terms of the legal protections now in place.

On the positive side, the survey shows that 21 countries have some form of anti-discrimination legislation on the basis of sexual orientation and 10 have legislation, which makes vilification of homosexuals an offence. Countries identified in this respect are:

- South Africa;
- All the states of Australia (although there are difference in the extent of protections in place);
- Fiji;
- New Zealand;
- Austria (no national legislation but city of Bludenz has a non-discrimination declaration);
- Denmark;
- Finland;
- France;
- Iceland;
- Luxembourg;
- Netherlands;
- Norway;
- Slovenia;
- Spain;
- Sweden;
- Switzerland;
- Canada (Federal and provincial protections in place);
- Argentina (no national legislation, but legislation covering main cities) ;
- Brazil (again no national legislation but local legislation covering numerous states, cities and towns);
- Ecuador;
- Mexico (Mexico city only).

One country not covered by the ILGA survey is the United States, which does not have anti-discrimination legislation in place at federal level. However, the National Lesbian and Gay Task Force (NLTF) publication *Legislating Equality* (van der

1 . The survey can be downloaded from the ILGA web site <http://www.ilga.org>

Meide, 1999) shows that many cities, counties and states in the US do have some form of legal protection on the grounds of sexual orientation.

The overall picture presented by the ILGA survey is, however, quite bleak. Homosexual acts continue to be illegal in 84 countries, 12 of which have the death penalty as a legal sanction. The ILGA web site and its published bulletin also provide ample evidence of the peril lesbians and gay men face in seeking to express or organise around their sexuality.

It should also be noted that many of the protections now afforded to gay people in the countries cited above are relatively recent – a fact that makes their longer-term impact on the ground difficult to assess.

European Union

ISSUES

A very comprehensive comparative picture of the EU context is the ILGA Europe publication *Equality for Lesbians and Gay Men* (1998). This includes not only detailed articles on individual states but also a very useful synthesis of the key issues arising for lesbians and gay men across the EU as a whole. These issues are summarised below in some detail as it provides a useful baseline for assessing the type of approaches developed in some countries to tackle various problems faced by gay people.

YOUTH

Current research on lesbian and gay youth indicates a range of problems experienced by young gay people. In particular

- Higher incidence of violent attacks against lesbian and gay youth than for the gay population generally (which in itself is very high);
- 'Coming out' for a lesbian or gay man is a risky process as families, friends and teachers are more likely to reject than support them;
- Young lesbians and gay men face significant problems of homelessness;
- Young gay people at disproportionate risk of suicide and self-harm.

AGE

- Many older people do not live openly as lesbian or gay and face increasing social isolation;
- Health and other needs of older people often unacknowledged and unmet;
- Lack of legal recognition of partnerships can lead directly to poverty for example loss of home in the event of a partners death and ineligibility for normal spousal benefits such as pensions;
- Risk of homelessness increased as older gay people face difficulties in accessing safe and appropriate housing.

CHILDREN AND FAMILIES

Lesbian or gay parents (estimated to be 1 million gay parents in Germany alone) face a range of difficulties. In particular:

- The education system does not, in most cases provide a safe environment in which children of gay and lesbian parents can be open about their families;

- In most EU member states, children of gay or lesbian parents have no right to have their actual living situation legally recognised. They may grow up with a non-biological parent, to whom they are as closely bound as to their biological parent, but have no right to have that relationship recognised in law.
- Children of lesbian or gay parents may face a greater risk of poverty due to the danger their parents face in being excluded or dismissed from employment owing to their sexual orientation. Lesbians also face the problem of continuing disparities in pay between men and women.
- The common held prejudice that a gay parent will make their child gay or lesbian can impact on the child leading to bullying at school etc.
- No Member State of the EU allows adoption or full second-parent adoption for lesbian and gay couples. Some allow single parent adoption, but only in the case of the Netherlands and the UK is it possible for a non-biological parent to acquire parental authority. However, this does not allow for full recognition as a legal parent.

EMPLOYMENT

- Being open at work about being lesbian or gay can, in some states, mean the loss of promotion or other opportunities and even dismissal without address.
- Lack of recognition of gay partnership means that gay people do not receive the benefits provided by employers to married employees, or, in some cases, to unmarried opposite sex partners. These can include: pensions for the surviving partner of an employee, health or life insurance, free use of services or discounts on goods, special leave for care of dependants and bereavement leave.

POVERTY AND ECONOMY

- Discrimination in key areas such as education, work and housing increases the risk and incidence of poverty for lesbians and gay men².

HOUSING

- Social housing is often restricted to married heterosexual couples;
- Lesbians and gay men also face discrimination when trying to buy or rent private accommodation.
- Few member states provide protection against such discrimination.
- Even where housing is obtained safety is a major issue. Living openly as a lesbian or gay man can spark anti-gay harassment or violence.

DISABLED PEOPLE

- Experience of many disabled lesbians and gay men is that disabled people's organisations and, for instance, social services have often tended to assume disabled people are either heterosexual or asexual and their needs have been overlooked.
- Lesbian and gay organisations can also reflect the attitudes towards disability of the wider society and have failed to recognise the particular needs of lesbians and gay men who are disabled in their policies and practices.

2. The ILGA Europe report acknowledges the Combat Poverty report *Poverty Lesbians and Gay Men* (1995) as being important in addressing the commonly held perception of gay people as being particularly affluent.

MIGRATION AND ASYLUM

- Immigration polices in most EU countries clearly discriminate against same sex couples causing immense suffering to lesbian and gay couples who face separation or deportation of one of the partners who is not an EU citizen and cannot find work in the host country.
- While a number of EU states recognise persecution on the basis of sexual orientation in their asylum laws, this is not universal throughout the EU. Lesbians and gay asylum seekers are consequently at risk of being repatriated to countries to face imprisonment, social ostracism and, in some circumstances, death (see ILGA World Survey above).

RESPONSE AT EU LEVEL

Equality for Lesbians and Gay Men provides very useful summary information on the responses in different EU member states, legislative and otherwise, to the problems experienced by gay people. Also included is a chapter on Article 13 of the Treaty of Amsterdam, one of the first anti-discrimination provisions at supranational level to have included sexual orientation as a protected category. The authors note the limitations of the Article in practice, as it does not, among other things, have 'direct effect' and thus does not create any legally enforceable rights to non-discrimination. Nevertheless, a range of commentators have noted the symbolic or demonstrative importance of Article 13. This is particularly true for lesbians and gay men given the number of EU member states that continue to exclude sexual orientation in general legislative provisions to address discrimination. A useful summary of these issues is contained in an article by Leo Flynn in the 1999 Common Market Law Review entitled *The Implications of Article 13 EC- After Amsterdam Will some Forms of Discrimination Be more Equal Than Others?*.

One important test of the practical significance of Article 13 will be its effect on programmes developed and implemented by the EU Commission. For example the forthcoming EQUAL Programme is a successor programme to a number of previous Community Initiatives. These include New Opportunities for Women (NOW) which has funded Lesbian Education Awareness, the first lesbian project to receive such funding. Inclusion of lesbians and gay men in the Equal Programme could be a useful demonstration of the Commission's commitment to the implementation of the spirit of Article 13.

3. EXAMPLES OF BEST PRACTICE

3.1 ACTIVITIES OF NATIONAL OR STATE HUMAN RIGHTS COMMISSIONS AND OTHER IMPLEMENTATION BODIES

Overview

The following section outlines some of the material gathered from those bodies consulted that have a national or sub-national remit to implement anti-discrimination or human rights legislation inclusive of sexual orientation as a protected category.

It should be noted that it is difficult to be in any way definitive about the type of approaches or strategies adopted that have been found to be most effective in actually effecting change on the ground for lesbians and gay men. This is primarily due to the absence of evaluative material from any of the bodies that would allow for such an assessment. Nevertheless e-mail and telephone contacts do allow for the following preliminary conclusions to be drawn.

- A number of bodies consulted or accessed have placed a particular emphasis on developing case law. This is particularly true in Canada where the federal and provincial human rights commissions are primarily 'complaints based'. Of interest here (both in Canada and New South Wales in Australia) is that many of the complaints arising under employment protection areas of legislation have concerned inequalities in benefits due to non-recognition of same sex partnerships. This has led, through gay community lobbying and legal action, to greater legal recognition of same sex partnerships (the issue has also been the subject of much political debate in New Zealand and progressive change is expected).³
- While recognising the importance of addressing discrimination through the legal mechanisms available, sources interviewed in the course of this research have drawn attention to the lack, or limitations of proactive work to promote equality for lesbians and gay men more generally. As one source put it, "Anti-discrimination legislation is often premised on a negative right not to be discriminated against rather than a positive right to equality. As a result, insufficient budgets are often put in place to fund measures that would assist in the creation of a climate of equality where cases may be easier to take or not be required at all".
- Nevertheless, the review of anti-discrimination bodies illustrates some very useful examples of proactive measures to promote equality. These include functions such as equality proofing of legislation (New Zealand in particular), the development of equality codes or guidelines in different industrial or service sectors, and the development of guidelines for various professions. These are explored in detail below.

New South Wales

The Anti-Discrimination Board of New South Wales (ADB) was established in 1977 to administer the Anti-discrimination Act enacted in that year. Among the categories included in the Act were homosexuality and transgender status. Areas covered include employment, provision of services, access to state educational institutions (including schools and third level colleges), all forms of accommodation and access to registered clubs.

In addition to supporting people taking cases, the ADB has engaged in a range of activities to inform people of the protections provided. It has also worked closely with different economic sectors and professional organisations to help incorporate the provisions of the Act in day to day practice. Of particular interest in this respect are the following:

3. A useful source re legal developments in Canada and Ontario is the *Draft Policy on Discrimination and Harassment Because of Sexual Orientation* issued by the Ontario Human Rights Commission.

- The publication (in print and on their web site) of detailed *Guidelines for Community Workers* to assist them in responding to the needs of clients that relate to the provisions of the Anti-Discrimination Act. The Guidelines are published in two parts: the first part giving a general (and non legalistic) overview of the legislation and what it covers; the second part providing a more detailed questions and answers format relating the Act to the work of community workers.

While the Guidelines cover all categories protected, the sexual orientation and transgender grounds are well covered with practical examples given of the type of problems that can arise for lesbians, gay and transgendered people.

- Publication of *Anti-Discrimination Guidelines for Local Councils*. The ADB and the Department of Local Government in New South Wales produced the Guidelines in consultation with the Local Government Association and professional associations.

While inclusive of all categories, the Guidelines again cover the ground of discrimination on the basis of sexual orientation very well. For instance, to illustrate the concept of direct discrimination covered in the Act, the example is given of a Council that refuses to rent a hall to a gay group because of concerns about the members' homosexuality.

- The ADB conducts specially tailored anti-discrimination sessions for employers and service providers. Training sessions are worked out with the individual client and cover areas such as equal employment opportunity, harassment prevention, grievance handling, counselling for staff who have breached equal opportunities or harassment policies and 'train the trainer'.

Specific 'know your rights' publications are also provided for specific categories including homosexual discrimination and lesbians.

Most of these publications can be downloaded from the ADB web site <http://www.agd.nsw.gov.au> which is one of the most comprehensive and informative of all the web sites visited in terms of the material available regarding sexual orientation.

Other developments in New South Wales have been the legal recognition afforded to same sex relationships in the Property (Relationships) Legislation Amendment Act 1999. A useful summary of this legislation and the background to its enactment is contained in a paper presented to a conference on national, European and International Law held in Kings college Cambridge (Millbank, 1999).

The legislation changes New South Wales law in two very substantial ways. It amends the definition of de facto spouse to include same sex cohabiting couples in the statutory property regime and introduces the new definition of de facto spouse into other areas of law such as those concerning automatic inheritance, family provision, accident compensation, property transfer taxes (stamp duty) and decision making in illness and after death.

As a secondary change, the Act also introduces the concept of 'domestic relationships' to include people who have a cohabiting relationship of interdependence but are not a couple. Domestic relationships are included in the

property division and a small number of other areas including family provision, bail and property transfer taxes (Millbank, 1999:1).

Contacts: Chris Sidoti, Commissioner, Human Rights and Equal Opportunities Commission. Also Jenni Millbank, Department of Law, University of Sydney, e-mail: jennim@lawusyd.edu.au.

New Zealand Human Rights Commission

Discrimination on the ground of sexual orientation was made unlawful in New Zealand in 1993 with the passing of the Human Rights Act that also outlawed discrimination on a range of other grounds. The Act is administered by the Human Rights Commission and has two main parts. The first part concerns the general promotion of human rights. The second part is an anti-discrimination code that obliges the Commission to investigate complaints of discrimination that fall within its jurisdiction.

A very interesting aspect of Part 1 of the Act is that it requires the Human Rights Commission to review all of New Zealand's legislation and the policies and administrative practices of the government in order to identify inconsistencies with the Act. This exercise was known as Consistency 2000 because the intention was to remove conflicts by the first of January 2000. The date has however been extended for two more years.

According to one source interviewed in the course of the research, the main strength of the Anti-discrimination Act is that most people in the country are now aware that it is unlawful to discriminate against gay and lesbian people. Consistency 2000, the legislative equality proofing process is also considered to have been successful in part, as it has identified most of the discriminatory legislation and government policies. One issue in particular to be identified has been the failure to recognise same sex couples. In response to this, the Government issued a discussion paper on same sex couples in 1999. Submissions have requested before March 2000 and legislative change is expected to follow⁴.

Contact: Richard Bennett, Human Rights Consultant, New Zealand.

Canadian Human Rights Commission

The Canadian Human Rights Commission was established in 1978 to implement the Human Right Act, which had been adopted the previous year. Sexual orientation was not included as a protected category however, until 1996.

The Commission is largely complaints based. It's most successful work in relation to sexual orientation, has, according to contacts in the Commission, been in the development of case law. Significant in this respect has been the landmark case *Egan v. Canada* (1995) where the equality provision of the Canadian Charter of Rights and Freedoms (equivalent to Irish Constitution) was interpreted as being inclusive of sexual orientation.

4. Copies of the discussion paper and background documents can be accessed on the Commissions web site http://www.justice.govt.nz/pubs/reports/1999/same_sex/discussions.html.

Following the case of *Vriend v. Alberta* (1998) sexual orientation was required to be 'read in' to all federal, provincial and territorial equality acts.

A substantial amount of material has been received from the commission including Annual reports, which have specific sections outlining developments with regard to sexual orientation. Case law development is very useful although proactive developments in other areas not evident.

Contact: Virginia Adamson, Canadian Human Rights Commission.

Ontario Human Rights Commission

The Ontario Human Rights code was amended in 1986 to include protection from discrimination based on sexual orientation.

The Commission tends to be largely complaints based and while it has accepted complaints dealing with sexual orientation since 1986, it has not played a significant role in promoting the rights of gay people more generally (for example through public awareness campaigns, educational initiatives etc.). An important aspect of the complaints received has been the numbers concerned with inequalities around partnership recognition (this has included inequalities in employment benefits and social welfare provision). The Commission has supported a range of cases in this respect, the most recent of which went to the Canadian Supreme Court. In this case, *M.v.H* (1999), the Supreme Court found that the opposite-sex definition of spouse in Ontario's Family Law Act was unconstitutional.

This judgement led to the passing by the Ontario legislature of Bill 5, which extended the Family Law Act's provisions relating to domestic contracts and dependants' claims to same sex partners. Bill 5 also amends a number of other statutes, including the Ontario Human Rights Code. Under the latter, the term marital status has been substituted by 'marital status and same-sex partnership status'.

While recognising the value of developing case law, the Commission has tried to address the limitations of its broader equality promotional functions. One initiative undertaken was a consultation process with the gay community in 1996 to review the social environment as it related to the ground of sexual orientation. Based on the information obtained through the consultation, a review of legislation and other research, Commission staff wrote the *Sexual Orientations Options Paper* (Note awaiting a copy of this report from the Commission). Based on recommendations from this report, the following strategies were adopted by the Commission:

- Enhancing public education activities to include references to the ground of sexual orientation;
- Seeking intervenor status before the court's in cases outside the Commission which raise major issues regarding discrimination because of sexual orientation;
- Liasing with the Attorney General to recommend legislative changes to Ontario statutes that contain definitions of common-law spouse that exclude same sex couples;

- Adopting a policy position that the Human Rights Code protects all individuals on the ground of sexual orientation whether or not the complainant is actually gay or lesbian and;
- Accelerating the processing of complaints where the complainant is HIV positive.

One of the basic gaps in its wider informational functions according to the Commission, has been lack of material on the sexual orientation ground. To address this a document entitled *Policy on Discrimination and Harassment Because of Sexual Orientation* has been drafted and will be finalised and circulated in the near future.

Contact: John Nixon, Ontario Human Rights Commission, e-mail: john.nixon@ohrc.on.ca.

Saskatchewan Human Rights Commission

The Saskatchewan Human Rights Commission was established in 1979 to implement the Human Rights Code. The Code prohibits discrimination on a range of grounds including sexual orientation.

In common with other Human Rights Commissions in Canada, the Commission is mainly complaints based. This the Commission's Annual Report notes, has been due to resource restrictions that have limited its capacity to engage in more proactive activities, particularly in relation to public campaigning and general awareness raising.

In order to address these resource restrictions, the Commission has sought to forge partnership with other statutory bodies, trade unions and employers. A useful approach in this respect has been the establishment of the Equity in Education Forum, comprising representatives from the Department of Education, Teacher unions and school administrator associations. The Forum emerged from equity programmes initially developed by the Commission to address discrimination experienced by Aboriginal students. The programmes focused on five main areas: curriculum; school policies and practices; parental involvement; cross-cultural training for teachers; and efforts to increase the number of Aboriginal teachers. Efforts are now underway to expand these programmes to cover all children.

Contact: Terry Craig, Communications Officer, Saskatchewan Human Rights Commission.

Sweden

The Office of the Ombudsman against Discrimination because of Sexual Orientation was established in Sweden in 1999. Contact was made with the Ombudsman, Hans Ytterberg. He is very interested in this project, and would welcome structured exchanges to discuss experiences and best practice approaches. Difficult to discern impact of his office as yet given that it has only recently been established.

Contact: hans.ytterberg@homo.do.se

3.2 STATE PROGRAMMES TO MEET SPECIFIC NEEDS

3.2.1 GENERAL AND DISADVANTAGED GAY YOUTH

a. The Case of Massachusetts

One of the most proactive state interventions in addressing the problems faced by lesbian, gay and bisexual youth has been in the State of Massachusetts. This began in 1992, when the Governor established, by executive order, the Governor's Commission on Gay and Lesbian Youth⁵ with the mission of identifying and making recommendations on providing for the safety and well being of gay youth.

The Commission has 27 members drawn from the state and NGO sectors, including two high school students, two parents of lesbian and gay children, and a number of teachers and 'human service' professionals.

The Commission has drawn up a number of reports based on an extensive public consultation process undertaken throughout the state. This consisted of public meetings as well as submissions received on various issues facing lesbian and gay youth.

Important initiatives of the Commission (which have considerable relevance for Ireland) include the following:

IDENTIFYING AND RESPONDING TO PROBLEMS FACED BY GAY AND LESBIAN YOUTH IN SCHOOL

In 1992 the Commission held a series of five public hearings across the state from which testimony was taken from lesbian and gay students on their experiences at school. Based on this consultation, and with reference to key national research, a report was drawn up entitled *Making Schools Safe for Gay and Lesbian Youth*.

The report, as well as documenting the circumstances of gay youth, made a series of recommendations directed to schools, the State's Department of Education and to other State agencies and the legislature.

The Department of Education subsequently adopted some of the report recommendations with the following guidelines:

- i) Schools are encouraged to develop policies protecting gay and lesbian students from harassment, violence and discrimination;
- ii) Schools are encouraged to offer training to school personnel in violence prevention and suicide prevention;

5. The leadership of the Governor was very important in this instance as previous demands by lesbian and gay group to establish an advisory board focusing on the needs of lesbians and gay men had been rejected by the Senate in the Commonwealths legislature.

- iii) Schools are encouraged to offer school based support groups for gay, lesbian and heterosexual students;
- iv) Schools are encouraged to provide school based counselling for family members of gay and lesbian students.

The Department appointed a co-ordinator to assist and encourage schools to implement the Guidelines. The Department commissioned an evaluation of the impact of the guidelines in 1999. The evaluation is currently being finalised and could provide useful pointers on best practice in the Irish context.

RESPONDING TO THE HEALTH NEEDS OF LESBIAN AND GAY YOUTH

As part of the same consultation process undertaken on education, the Governor's Commission also drew up a report entitled *Prevention of Health Problems Among Gay and Lesbian Youth: Making Health and Human Services Accessible and Effective for Gay and Lesbian Youth* (1993). Based on personal testimonies from the consultation process and various research submissions, the report examined some of the key issues facing lesbian and gay youth including:

- Suicide;
- HIV/AIDS and sexually transmitted diseases;
- Violence;
- Homelessness and disadvantage;
- Substance abuse;
- Pregnancy among lesbian youth;
- Gay people from minority ethnic backgrounds and people of colour;
- Non-conventional gender identities (transgender youth in particular).

The report outlines a set of recommendations for various health and human resource agencies and for health professionals.

Note: Need for follow up contact with Mass. Department of Health to ascertain progress in implementing these recommendations and any evaluation material on best ways forward.

Contact: David La Fontaine, Chair of the Governor's Commission on Gay and Lesbian Youth.

b. Rhode Island

Similar approaches to that of Massachusetts have now been adopted in the State of Rhode Island. Here, a Task Force on Gay, Bisexual and Transgendered Youth was established comprising government officials, service providers, youth, parents educators and administrators from the Rhode Island Departments of Health and Education. The Task Force organised a State-wide Forum on education involving all stakeholders in the education process, including young people themselves, and produced a report entitled *School Shouldn't Hurt: Lifting the Burden from Gay, Lesbian and Transgendered Youth* (1995). The Forum, as set out in the report, identified similar issues for young gay people as had been identified in Massachusetts, including harassment and violence, isolation, suicide and lack of response from teachers and other relevant service providers. Similar recommendations were also put forward including need for policies to protect gay

students, training for teachers, and actions to promote dialogue among students, educators and parents on issues relating to homophobia and school safety.

c. The Case of Toronto

A particularly innovative approach to meeting the needs of lesbian youth is that developed by Central Toronto Youth Services (CTYS), a service set up by the City of Toronto to meet the needs of young people. The CTYS Lesbian, Gay and Bisexual Youth Project was established to:

- Advocate for accessible services for lesbian, gay and bisexual youth;
- Offer service providers training, resources, consultancy and referrals about issues of concern to lesbian, gay and bisexual youth;
- Conduct research on issues of concern;
- Offer support and education to gay youth through advocacy, information, referrals and group development.

The project has undertaken a range of initiatives to make services more accessible to lesbian and gay youth. Areas include residential care, child welfare services and substance abuse programmes. A report on drug abuse services undertaken by the project entitled *Opening doors: Making Substance Abuse and Other Services More Accessible to Lesbian, Gay and Bisexual Youth* (1994) proposed some very useful strategies for improving accessibility of a mainstream service. Four key areas of a service's operations were identified:

- Public profile;
- Policies and procedures;
- Professional development; and
- Programme development.

The report states that all four areas are inter-related. For example, gay-positive policies will not make a difference without staff training who turn them into action; trained staff are constrained without appropriate programme development on gay issues; and clients may not be aware of an agency's efforts to become more accessible to gay people if the public profile remains exclusively heterosexual.

This strategy, subsequently popularised as the Four P's, has become a very useful means of making a range of services in the city more accessible to gay people.

Contact: Robb Travers. Central Toronto Youth Services.

d. New York City

A very interesting response to homeless gay youth or those suffering from educational disadvantage is the Hetrick Martin Institute, an independent institute based in New York City. Part funded by the City of New York, the Institute provides a range of services including:

- A school for gay youth who have dropped out of mainstream educational provision due to anti-gay harassment. The school is run in partnership with the New York City Board of Education.
- Counselling for parents of young lesbians and gay men in crisis;
- Free food, clothes, washing facilities and referral for homeless gay youth.

The Institute is very aware of the need to increase the accessibility of mainstream services for gay youth as the most effective response to meeting their needs in the long-term. In line with this the Institute:

- Provides training and resources to teachers, guidance counsellors, social workers, families and neighbours about what it means to be a lesbian, gay or bisexual youth;
- Undertakes lobbying and advocacy at national levels to help child care professionals, elected officials and others to understand the needs of gay youth.

Contact: Christopher Rodriguez, Communications Officer, Hetrick Martin Institute.

e. Gay, Lesbian and Straight Education Network

The Gay, Lesbian and Straight Education Network (GLSEN) is a national non-governmental organisation in the United States that provides a range of support services to address discrimination experienced by young gay people at school.

To support the development of safe learning environments for gay people at school, GLSEN has worked with a range of agencies to provide resource materials for teachers, parents and students. A good example of resources developed is a recent publication, *Just the Facts About Sexual Orientation and Youth: A Primer for Principals, Educators and School Personnel*. The book, which has been distributed to schools has been endorsed by a range of agencies and associations. These include:

- The American Academy of Paediatrics;
- American Counselling Association;
- American Association of School Administrators;
- American Federation of Teachers;
- American Psychological Association;
- American School Health Association;
- National Association of School Psychologists;
- National Association of Social Workers;
- National Education Association.

The book covers a range of issues including documentation of research on the experiences of young gay people and strategies to develop a safer and more supportive environment for students in school.

Contact: Kate Frankfurt, Gay, Lesbian and Straight Education Network, New York City.

f. Australia: National Youth Suicide Prevention strategy

The Australian Department of Health launched a National Suicide Prevention Strategy in 1997. The strategy provides for a programme of research, education and training and the development of a range of services targeted at young people most at risk. Projects funded include specialist supports to gay, lesbian, bisexual and transgendered youth. One of the projects funded was the *Here for Life: Youth Sexuality Project* which was a community response to reduce suicidal among young gay and transgendered people through peer education, support groups, clinical support, resources and information.

The project developed these strategies into a best practice model while building a strong partnership with other health and community services.

Source: Australian Department of Health web site
<http://www.health.gov.au/hsdd.meatalhe/nysps/strategy/strat.htm>.

3.2.2 EMPLOYMENT

a. Trade Unions

Trade Unions are an obvious resource to gay people in realising their rights at the workplace. Examples of good practice identified include the following.

CANADA

In 1994, the Canadian Labour Congress (CLC) developed and published a policy statement on sexual orientation. The statement commits the CLC to a range of actions including:

- The establishment of a Lesbian, Gay and Bisexual Working Group which will facilitate the holding of caucuses at CLC conventions and conferences;
- Work to develop an active network of union members who are lesbian gay or bisexual

The statement also commits the CLC and its affiliated trade unions at all levels to:

- Work and participate in public campaigns with organisations representing lesbians, gay men, bisexuals and other equality seeking groups to lobby for change in human rights legislation to ensure equality;
- Participate visibly in gay, lesbian and bisexual pride parades across the country;
- Prepare and distribute educational material on gay and lesbian issues, including modules which will be integrated within on-going training courses;
- Make a priority of bargaining collective agreement provisions at all levels which will ensure protection for and recognition of members in same sex spousal relationships and their families;
- Allocate resources to allow lesbian and gay members to seek legal redress around discriminatory employment policy.

Examples of activities undertaken since the development of this policy have included the recent launch by the CLC at national level of a campaign to raise awareness in the workplace of lesbian and gay rights.

Other examples of trade union action in this area in Canada are the 'Campaign for Positive Space' recently launched by the Ontario Federation of Labour. The Campaign encourages union members and companies, even where positive measures on gay issues are in place, to put a specially designed sticker on office doors, reception areas, bulletin boards etc. The stickers state that the office is a

place where lesbians, gay men, bisexuals and their friends and allies are welcome and supported.

Contact: Carol Anne Sceviour, Ontario Federation of Labour.

NETHERLANDS

As part of its general activities to promote equality at the workplace, the Dutch public sector trade union ABVAKABO FNV commissioned a study in 1998 to explore how gay people experience work. Entitled *Sexual Preference and Work*, the study aimed to examine not just incidence of discrimination but also the broader experience of gay people at the workplace in a country where anti-discrimination legislation has been in existence for some time.

Three aspects of work were found to be particularly important in determining whether a person's experience at work was a positive one. These were:

- Social support received at work;
- The extent to which people feel they can be themselves;
- The extent to which people are informed of developments within their organisation.

In each of these, despite the existence of anti-discrimination policies, gay people scored quite badly leading to a higher incidence of health problems, stress, low self esteem and job satisfaction. This, the report concluded, showed the necessity of more proactive policies at the workplace to promote equality for gay people.

INTERNATIONAL

An interesting approach at international level has been joint publication between Public Services International (PSI) and Education International (EI) which together represent 44 million education and public sector workers around the world. Entitled *Working for Lesbian and Gay Members* (1999), the publication sets out strategies for unions to combat discrimination and exclusion faced by lesbian and gay members.

The Publication contains very useful appendices. One Appendix gives examples of approaches taken by a range of trade unions to promote equality for lesbians and gay men in bargaining collective agreements with employers. Another gives a list of policies, materials and resources from trade unions throughout the world, which have undertaken work on lesbian and gay issues.

3.2.3 VIOLENCE

Initiatives have been undertaken in a number of countries to address anti-gay violence. An interesting example from the UK has been the establishment of the National Advisory Group/Policing Lesbian and Gay Communities. Membership of the Advisory Group includes representatives from the lesbian and gay community, the police (including senior officers), local authorities, trade unions, health services and HIV/AIDS projects.

The Group has recently developed a National Policing Charter covering a range of issues including:

- Establishment of consultation structures with gay community organisations;
- Training for police officers at all levels;
- Detection and monitoring of hate crimes;
- Addressing homophobic attitudes in society;
- Awareness training for police officers on the needs of people with HIV/AIDS;
- Recruitment, selection and equal opportunities for gay people in the police force;
- Development of gay community safety strategies;
- Feedback and monitoring.

The implementation of the charter is a major focus of the work of the Advisory Group. The Group has also held annual conferences attended by senior police officers from around the country (the most recent included attendance of representatives from the Garda Síochána).

Contact: Ian Wilmott, Chairperson, National Advisory Group/Policing Lesbian and Gay Communities.

4. ISSUES ARISING

While it is not possible to draw any definitive conclusions from a scoping exercise of this kind, a number of points are relevant when seeking to assess best practice at international level in combating discrimination against lesbians and gay men. In particular:

- As stated elsewhere in this document, only a minority of countries have implemented anti-discrimination legislation that includes sexual orientation as a protected category. In all cases, the inclusion of sexual orientation is quite recent. It is consequently difficult to establish at this stage the precise impact of such legislation in effecting change on the ground. It should also be noted however, that none of the bodies consulted would appear to have undertaken any substantial evaluation work by which the impact of the legislation on lesbians and gay men could be judged.
- Even in those countries where anti-discrimination legislation has been enacted, there is no evidence of any comprehensive or integrated state action to promote equality across all the areas in which discrimination is likely to occur. In almost all cases, bodies charged with implementing anti-discrimination legislation would appear to lack the necessary resources to engage in proactive actions to promote equality – the main focus of their work being on dealing with complaints. These resource constraints, according to sources interviewed in the course of the research, often reflect a lack of political commitment to the equality agenda, and in some cases, particular opposition to dealing with the issue of sexual orientation.

Nevertheless, the examples outlined above would suggest that:

- Inclusion of sexual orientation in anti-discrimination legislation has had a powerful 'demonstration' effect, both in society generally and within the law itself. In relation to the latter for example, moves towards legal recognition of same sex relationships would appear to have been greatly helped by the

precedent set by including sexual orientation in overall legal definitions around equality (see for example the case of Ontario and New South Wales).

- The development of partnerships or other forms of co-operation between those bodies charged with implementing equality legislation and other statutory or voluntary sector agencies is an important basis for promoting equality for gay people more generally. (Examples in this respect include co-operation between the Anti-Discrimination Board in New South Wales, trade unions and local authorities in addressing discrimination at local level).
- Task Forces or Commissions, involving the gay community, relevant statutory agencies and social partners can be a very effective means of addressing discrimination and its effects in particular areas. Examples here include the Governor's Commission on Lesbian, Gay and Bisexual Youth in Massachusetts. This example also illustrates the importance of political leadership, the Governor of the State having established the Commission despite opposition within the state legislature.

These points have very important implications for the Irish context. In fact, there would appear to be even greater opportunities in Ireland for developing integrated approaches to promoting equality for lesbians and gay men. The issue has been included in key areas of public policy including the National Anti-Poverty Strategy and in the latest National Agreement. Action on the issue has been recommended by the National Social and Economic Forum. The Combat Poverty Agency report *Poverty: Lesbians and Gay Men* (1995) is one of the most comprehensive documents on the effects of discrimination to be funded and published by a State Agency.

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SELECTED WEB SITES

- Canadian Human Rights Commission, <http://www.chrc.ca>
- Canadian Labour Congress. www.clc-ctc.ca/human-rights/sexual
- Gay, Lesbian Straight Education Network. <http://www.glstn.org>
- International Lesbian and Gay Association. <http://www.ilga.org>
- New South Wales Anti Discrimination Board <http://www.agd.nsw.gov.au/adb.nsf/pages/index>.
- New Zealand Human Rights Commission. <http://www.hrc.co.nz>
- Ontario Human Rights Commission. <http://www.ohrc.on.ca>
- Saskatchewan Human Rights Commission. <http://www.gov.nt.ca/justice>