



## **Position Statement: Sexual Orientation**

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## 1. Introduction

Canterbury Christ Church University (CCCU) seeks to be a diverse community in which all individuals may participate as fully as possible. We aim to ensure that all members of the University are treated fairly and with dignity and respect. This means developing and maintaining a culture that is free from discrimination with regard to gender, colour, ethnic or national origin, age, social background, disability, religious or political beliefs, family circumstances or sexual orientation.

This document is a position statement about equality and diversity in relation to sexual orientation at the University. It considers some of the background and underlying issues in this area, presents some current good practice and makes some suggestions for further development. The paper relates to both students and staff and forms part of the University's Equality and Diversity Strategy (available on the University website). This paper was originally drafted by a task group on behalf of the Equality & Diversity Committee and has drawn on the Equality Challenge Unit's guidance: 'Employing People in Higher Education: Sexual Orientation'.

Sexual orientation is defined in Section 35 of the Equality Act 2006 as "an individual's sexual orientation towards persons of the same sex as him or her, persons of the opposite sex, or both" (Office of Public Sector Information, The Equality Act 2006, Section 35, p. 4). The term does not just refer to lesbian, gay or bisexual people; heterosexual people are also included.

This paper is primarily about lesbian, gay and bisexual (LGB) people. Transgenderism and intersexuality\* are related to gender rather than sexual orientation, but some of the issues affecting LGB people (such as discrimination and lack of awareness) also impact on transgender or intersex people. Therefore, although the references in this paper are to LGB people, it seeks to consider all of these groups in the issues discussed.

As stated above, the University's objective is to create an environment in which everyone is treated with dignity and respect. In producing this paper we recognise that in order to do this, it is sometimes necessary to give particular consideration to the experiences, past and present, of some groups of people. This paper therefore outlines some of the issues that have affected LGB people in the past as well as the current actions taken by the University to ensure their full inclusion.

\*For an explanation of these and other terms see glossary on page 8.

## 2. Legislative History

In the past legislation prohibiting or restricting the activities of lesbian, gay or bisexual people has had a major impact on perceptions and responses of society to sexuality. These laws have an effect on those who identify themselves as lesbian, gay or bisexual, and those who identify themselves as heterosexual.

As late as the 1960s, gay male sexuality was illegal, even between consenting adults in private. Whilst gay men were criminalised, lesbians were not under any legal scrutiny and in fact were largely invisible in UK society. Until 1999, the Armed Forces were able to investigate, punish or dismiss any lesbian or gay employees. This reinforced the assumption that it was permissible to treat people who were lesbian, gay or bisexual in a different way from people who were heterosexual.

In 1988, Section 28 of the Local Government Act prevented local authorities from 'promoting' homosexuality as a "normal family relationship". . Although no one was ever prosecuted under the legislation, it caused a great deal of anger amongst LGB campaigners and led to the creation of Stonewall, the LGB campaigning charity. Section 28 (known as Section 2a in Scotland) was repealed in Scotland in 2000 and in England and Wales in 2003.

The age of sexual consent in the UK is sixteen. In 1967, when gay male sexuality was legalised, the age of consent for gay men was set at 21 and reduced to 18 in 1994. In 1998 an amendment was moved to equalise the age of consent, which passed through the House of Commons but was defeated by the Lords. In 1999 another attempt was made as the Sexual Offences Act passed through parliament, but was again rejected by the Lords. A universal age of consent was achieved in 2001 using the Parliament Act (a rarely used device which allows the Commons to force through a bill if it is rejected or amended in an unacceptable way by the Lords).

In December 2003 the Employment Equality (Sexual Orientation) Regulations 2003 came into force, making it unlawful to discriminate or harass individuals on grounds of their sexual orientation. In April 2007 this law was extended by further regulations to cover the provision of goods, facilities and services, disposal and management of premises, education and the exercise of public functions.

Throughout history same-sex couples have had no public recognition or legal protection resulting in discrimination in areas such as pension and property entitlements. In December 2005, The Civil Partnership Act 2004 came into operation, enabling same-sex couples to register as civil

partners of each other. This finally gave same-sex couples recognition and protection in law.

### **3. Impact of the Legislative History**

It is impossible to generalise about the feelings of a group of people who are linked solely by their sexual orientation. It is possible, however, to consider some of the cumulative effects of the legal and social framework on LGB people. It is important to give consideration to the continued difficulty of being openly gay or lesbian because of the perception amongst some that now they are protected by legislation, LGB people no longer encounter discrimination (or have not experienced it in the past).

The legal restrictions placed on the freedoms of LGB people have had an impact on the way they are perceived and the legal framework has often reinforced prejudice and (sometimes) hostility towards them. Many lesbian, gay or bisexual adults say that they came out in secondary school but, due to the misunderstandings surrounding Section 28, felt unsupported.

In the UK, some staff have hidden their sexual orientation in the workplace, where discrimination has, until recently, been allowed. Lesbians, gay men and bisexual people could be refused employment because of their sexual orientation. A member of staff could be refused promotion, refused benefits, bullied, harassed, or fired without redress.

Discrimination often results from a lack of understanding about basic issues. The term 'life style choice' is often used to describe same sex relationships. This assumes that an individual chooses such relationships and chooses not to have relationships with the opposite sex. This label is applied more to lesbians than gay men. Although there are some schools of thought that believe that all forms of orientation are a choice, this term becomes discriminatory when it is not applied equally to heterosexuality.

This disparity in attitude is the basis of most discrimination against LGB staff. Staff can feel that, if colleagues are aware of their sexuality, it can become a prominent aspect of all informal conversation. The member of staff can be expected to provide the 'gay perspective' on any issue, or it is assumed that they are unable to engage in conversations that are considered to be part of heterosexual culture. The person who is lesbian or gay can be assumed to be 'different' from the apparent norm.

Despite the increased public awareness of lesbian and gay issues, people can find that they are the only known lesbian or gay man to some people. In the workplace this can be a burden on LGB employees who may feel that they have to act as ambassadors for all LGB people and that what they say and do will make a difference to general social attitudes. It increases the individual's awareness of his or her own difference and can lead to a degree of stress and anxiety.

One particular form of discrimination is discussing someone's sexuality without his or her consent. This is commonly known as 'outing' someone and may constitute direct discrimination. Gossip and speculation about the sexual orientation of a member of staff can occur at work but it is inappropriate and can be discriminatory.

#### **4. The Church of England and Human Sexuality**

Given the fact that CCCU is a Church of England Foundation, the position of the Church on matters of human sexuality is relevant. The most recent authoritative expressions of the Church of England's views on sexual orientation are now twenty years old. Both the General Synod debate of 1987 and the 1991 publication of *Issues in Human Sexuality* endorsed what was taken as the traditional Christian view: heterosexual marriage is the only appropriate context for human sexual activity. *Issues in Human Sexuality*, while prohibiting 'sexually active homophile relationships' for clergy, did however argue that the Church must respect those laity 'who sincerely believe it is God's call to them'.

This in effect set up a two tier sexual morality which has caused continued debate and reflection within the Church. This variance of standard was also seen in the Church's understanding of Civil Partnerships. While broadly welcoming the public recognition of same sex covenanted relationships, officially clergy are only permitted to enter such Partnerships if it can be assumed that they are not sexually expressed.

The Church of England, and the Anglican tradition more broadly, roots itself in three key sources: Scripture; tradition; and reason. It is also open to reflection on contemporary experience as this might be seen in the light of these sources. This explains, in part, the range of opinion to be found within the Church concerning human sexuality. Those who uphold the traditional view do so because they are convinced, even in the light of contemporary interpretation of Scripture, that the Bible both affirms marriage as God's intention and specifically condemns homosexual activity. Others have argued that while Scripture condemns forms of exploitative relationship, it does not actually lay down a prohibition

against committed, faithful and life-long same sex relations which follow the same pattern as marriage.

The debate will continue not least because the Anglican approach means that it is always possible for the Church to come to a new view (as indeed it has, for example, in the case of the remarriage of divorcees). Significantly, the General Synod of 1997 that debated *Issues in Human Sexuality* voted to accept that this was 'not the last word on the subject'. Moreover, Resolution 1.10 of the 1998 Lambeth Conference committed the Anglican Communion 'to listen to the experience of homosexual persons and [wished] to assure them that they are loved by God and that all baptised, believing and faithful persons, regardless of sexual orientation, are full members of the Body of Christ'.

By comparison there has been relatively little explicit discussion of bisexuality and transsexualism. Exceptions to this observation are the 2003 House of Bishops report, *Some Issues in Human Sexuality* and the Doctrine Commission's publication of the same year *Being Human*. The former report argued that the debate within the Church must continue because '[r]eal people really do have homosexual and bisexual desires and do feel that their current bodies do not represent their true identity, and the Christian Church, therefore, has a duty to think carefully about the status of these desires and feelings before God, and how people who have them can be given appropriate pastoral care, taking into account the pressures and expectations of a highly sexualised social culture'.

## **5. Promoting the Wellbeing of Students and Staff**

Research conducted for Stonewall in 2008 ('Peak Performance: Gay People and Productivity') has shown how wellbeing and productivity can be influenced by workplace attitudes to sexual orientation. The key research finding was how much more productive and committed to their employer people were when they could be themselves at work. The research found the factors that help improve employee productivity include visible support from the top of an organisation, an LGB employee network group, equalities training (especially for managers), inclusive policies, mentoring and having role models.

In March 2009 the Equality Challenge Unit published the results of the UK's first major piece of research about the experiences of LGB staff and students in higher education (HE). The research identified some serious ongoing issues affecting LGB people in HE including significant levels of negative treatment.

The ECU's report highlights how raising the commitment to LGB equality can have an impact across an institution. It maintains that by addressing the issues institutions can improve staff and student retention, reduce time spent dealing with complaints, protect the institution's reputation and ensure legal compliance.

As well as the importance of promoting the wellbeing of LGB staff and students for the purposes of productivity, employers have much to gain by encouraging them to contribute to the learning and understanding of other members of the organisation. Some such benefits might include a better understanding of difference and marginality and a greater tolerance of human diversity.

## **6. Good Practice and Lessons Learnt so Far**

When CCCU joined the Stonewall Diversity Champions scheme in 2008, it demonstrated a commitment to eliminating discrimination against, and promoting the full inclusion of LGB people. This reflected the University's Equal Opportunities Policy and strategy for Equality Impact Assessment, both of which include sexual orientation.

Consideration of LGB issues is also included in the University's Equality and Diversity training programme and featured in specially commissioned and tailored forum theatre training provided for the University's management group. Through the Equality and Diversity Committee and the working group established to produce this paper, the University has created a platform for discussion about the issues affecting LGB students and staff. This development has been supported by senior management and the Governing Body.

The University offers civil partnership ceremonies at Tunbridge Wells as part of its weddings and hospitality business. When civil partnerships were introduced in 2005 the University hosted weddings but not civil partnership ceremonies. These ceremonies are now advertised alongside weddings on the relevant web pages.

The Equality Challenge Unit recommends that universities promote diversity by supporting relevant research such as that underpinned by the theoretical framework known as Queer Theory. For LGBT History Month, CCCU held a Queer Theory colloquium in 2008 which was developed into a successful international conference in 2009.

## **7. Recommendations**

### **I. Benchmarking Against National Standards**

Although the University has joined the Stonewall Diversity Champions scheme, it has not as yet participated in its Workplace Equality Index. This is a practical tool for improving UK workplaces for LGB staff. Participating organisations answer questions about their implementation of equality policies, recruitment and mentoring practice and how they engage with lesbian and gay staff, customers and service users. The responses are analysed and the top 100 employers are featured in the index.

The University should complete the Stonewall Workplace Equality Index to help assess issues within the institution.

### **II. Networks and Engagement**

In order to support students and staff and encourage engagement, the University should:

Provide support for the establishment of a staff network which could work, for example, in conjunction with the Kent Police Gay and Lesbian Support Group and Kent County Council's Rainbow Forum (a network open to all staff with a focus on LGB issues).

Ensure there are resources to maintain web pages with links to local LGB organisations, networks, help-lines, trade union information, and venues.

The Students' Union should encourage and support the re-establishment of a Student Network for LGB students.

### **III. Religion and Belief**

Across the world's religions there are a range of views on same-sex relationships and gender reassignment and individuals are entitled to hold whatever opinions they choose. Members of the University are not however entitled to articulate views which humiliate, exclude or are hostile to others.

The 2009 Single Equality Bill introduces a new Equality Duty that adds to the existing equality areas of race, disability and gender, religion and belief, gender reassignment, sexual orientation and age. This is likely to mean that universities will be required to promote good relations between groups but will not be required

to arbitrate between the different interests of – for example – certain fundamentalist religious groups and gay and lesbian staff and students.

As a Church of England Foundation University, CCCU must ensure that it communicates clearly its own policies in relation to LGB people. This will ensure that LGB staff, students and visitors are not inadvertently discriminated against or made to feel excluded.

The University should monitor to ensure that groups or individuals (including Students' Union groups) active on its premises do not discriminate against students or staff on the grounds of sexual orientation or gender identity.

#### **IV. Working with the Community**

CCCU works closely with the community and a high proportion of its students engage in work placements in local workplaces including schools, hospitals, the police and social services. Kent Police came fourth in the latest Stonewall Workplace Equality Index (see above). It is important that the University supports LGB students on placement to ensure they are not disadvantaged.

The University should review and monitor how students on placement are supported with regard to equalities issues, including sexual orientation and gender identity.

Teaching staff at CCCU should be given guidance on how to work with students who are experiencing difficulty on work placement as a result of their sexual orientation or gender identity.

#### **V. Demonstrating Commitment during Recruitment**

In addition to its current equality and diversity practice in relation to recruitment the University should consider:

Reviewing how it actively communicates appropriate standards of behaviour through training and in relevant documentation.

Providing a named equal opportunities contact person for potential applicants to contact.

## **VI. Raising the Profile of LGB Issues**

In order to raise the profile of LGB issues the University should:

Being explicit that benefits for couples extend to same sex couples.

Further strengthen research into issues related to LGB people, transgenderism and intersexuality.

## **VII. Confidentiality of Data**

The University should highlight a commitment to confidentiality and the Data Protection Act so that staff and students feel comfortable disclosing the name of their emergency contact or declaring dependants. Staff should also be regularly made aware of the procedure to change their details if necessary.

## **VIII. Monitoring**

Monitoring the recruitment, progression and attrition of both staff and students by sexual orientation and gender identity is widely regarded as the best method of checking whether policies to promote equality are being successful. However across the UK, staff and potential staff have been reluctant to declare their sexual orientation because they are not convinced that the information is needed or that confidentiality is guaranteed. There is also suspicion that any declaration will result in prejudice or will not be used in a constructive way.

Increasingly universities are starting to monitor sexual orientation amongst staff, but this usually follows a substantial amount of preparatory ground work to ensure that staff are comfortable disclosing this information. No universities currently monitor sexual orientation amongst students and monitoring is unlikely to be introduced unless and until it is required by the Higher Education Statistics Agency (HESA), to whom universities provide annual data reports.

The University should routinely review its Equal Opportunities monitoring policy and consider whether it should monitor for sexual orientation and for transgender in future staff surveys. The decision should be informed by advice from the Equality Challenge Unit and other relevant bodies. Should this be instigated in the future, the fact that the data would be entirely confidential and not linked to staff records should be explicit and a "prefer not to say option" should be included.

## Glossary

**Bisexual:** a person who has an emotional and/or sexual orientation towards people of the same sex and people of the opposite sex.

**Coming out:** to acknowledge one's lesbian, gay or bi-sexuality, either to oneself or to others; most often a public declaration of being lesbian, gay or bisexual.

**Gay:** a man who has an emotional and/or sexual orientation towards men. Women also define as gay, sometimes rather than lesbian; it is a generic term for lesbian and gay sexuality.

**Heteronormative:** a term used in the discussion of gender and society. Closely linked to heterosexism, this covers all roles (social, familial, and legal) and forces individuals to conform to pervasive heterosexual standards of identity.

**Heterosexism:** a bias towards heterosexuality, to the exclusion of other sexualities. It acts to enforce heterosexuality, assuming that all individuals are heterosexual.

**Heterosexual:** a person who has an emotional and/or sexual orientation towards people of the opposite sex.

**Homophile:** an alternative word for homosexual meaning literally one who loves those of the same sex.

**Homophobia:** literally, the fear of lesbian, gay or bisexual people and their sexuality, sometimes merely implied, but often taken to the point where discriminatory statements are made or actions are taken against lesbian, gay or bisexual people.

**Inter-sexuality:** (in older literature: hermaphroditism) an umbrella term referring to divergent causes for sexually ambiguous biological appearance of a person and/or the difference between appearance and chromosomal or gonadal status.

No uniform definition has been agreed upon; in some cases, persons concerned refuse the label intersex and prefer to refer to themselves in terms of a narrower medical definition (e.g. AGS/ Androgenital Syndrome). A common case of intersexuality, the 5-alpha-reductase, is rather frequent (approximately 0,05% of the population): Here, genetically male persons (=having XY chromosomes), due to an enzyme imbalance, do not develop full male secondary sexual organs and are often identified as female by birth; during puberty, virilisation occurs.

(This form of intersexuality was made visible in the 2003 Booker Prize winning novel *Middlesex* by Jeffrey Eugenides).

Important human rights activism for intersex persons - pioneered by e.g. Intersex Society of North America (<http://www.isna.org/>) and now the Accord Alliance (<http://www.accordalliance.org/>) - includes the rejection of unwanted sexual surgery (sex assignment), especially with infants (e.g. gonadal castration and artificial vaginal construction for XY persons).

**Inverted homophobia:** a prejudice against lesbian, gay or bisexual people from people who are orientated towards people of the same sex or are in a same sex relationship.

**Lesbian:** a woman who has an emotional and/or sexual orientation towards women.

**LGB:** short for the Lesbian, Gay and Bisexual community.

**Outing:** revealing a person's sexuality without their consent, usually in public.

**Queer:** Previously a largely pejorative term often used for gay men, this word is also increasingly used as an overarching term for non-heterosexual people.

**Sexual Orientation:** the legislative term in Britain used to describe how an individual chooses to identify their sexuality.

**Trans:** a general term used to describe those who are transgender, transsexual or transvestite. For more information, see ECU publication *Employing Transsexual People in Higher Education* (August 2004).

**Transgender:** Transgender is an umbrella term for people who feel the gender they were assigned at birth does not correspond with their own personal gender identity. (Literally across the genders).

**Transgendered (Transsexual):** One who wishes to be considered by society as a member of the opposite gender to their physical birth gender. One who has undergone a gender change, frequently aided by Hormones and gender reassignment surgery.

**Transvestite:** One who occasionally or regularly dresses in the clothes of the opposite gender for pleasure, and does not wish to live permanently as the opposite gender or gender reassignment treatment or surgery, and is happy living in their birth gender most of the time.