

# BEING LESBIAN, GAY, BISEXUAL AND TRANSGENDER AT WORK

A GUIDE FOR LGBT PEOPLE  
AND TRADE UNIONS

STRONGER TOGETHER

**CONGRESS**

Irish Congress of Trade Unions



glen

**EQUALITY**  
IN THE  WORKPLACE



# PREFACE

**Congress** — Congress is the largest civil society organisation on the island of Ireland, representing and campaigning on behalf of some 797,399 working people. Women now make up 51% of the membership. There are currently 55 unions affiliated to Congress, north and south of the border.

Congress seeks to achieve a just society – one which recognises the rights of all workers and citizens to enjoy the prosperity and fulfillment which leads to a good quality of life. Quality of life embraces not just material well-being, but freedom of choice to engage in the arts, culture and all aspects of civic life. This vision applies in the context of Ireland, Europe and the wider world and challenges the existing economic order.

Congress strives to achieve economic development, social cohesion and justice by upholding the values of solidarity, fairness and equality.

Even a casual glance backwards at history shows the many gains and advances that have been won by trade unions for all in society, - safer working conditions, paid holidays, maternity leave, the minimum wage, paid overtime, to name but a few. The list is virtually endless and many of the most basic rights that people now take for granted have been hard won over many years. Of course the greatest danger is that we begin to do precisely that - take them for granted.

The most effective way to protect established rights and break new ground in pursuit of greater equality for all in society is through the trade union movement.

A single voice can be drowned out or dismissed. That becomes a little more difficult when over 797,399 people speak out as one.

**GLEN, the Gay and Lesbian Equality Network** — is a policy and strategy focused NGO which aims to deliver ambitious and positive change for lesbian, gay and bisexual people (LGB) in Ireland, ensuring full equality, inclusion and protection from all forms of discrimination.

GLEN focuses on delivering change across a series of areas: legal recognition, protection and support for LGB relationships and families; education; mental health and well-being;

physical and sexual health; workplace equality and community capacity development.

GLEN has been instrumental in achieving a range of legislative and policy change for LGB people including: decriminalisation in 1993; inclusion in the Unfair Dismissals Act 1993; recognition of sexual orientation in refugee law in 1996; inclusion in the Employment Equality Act in 1998; the Equal Status Act in 2000; and most recently, comprehensive Civil Partnership in 2010.

Equality in the workplace is a key issue for lesbian, gay, bisexual and transgender people. GLEN greatly values our collaborative relationship with Congress and is delighted to continue this work with the joint publication of this timely guide for lesbian, gay, bisexual and transgender employees.

*For further information contact:*

**Irish Congress of Trade Unions (ICTU)**

32 Parnell Square  
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T: +353 1 889 7777  
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2 Exchange Street Upper  
Dublin 8

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**This information is for general guidance only and should not be regarded as legal advice**



# LGBT EQUALITY IN THE WORKPLACE

Equality in the workplace is a key priority for the approximately 130,000 lesbian, gay, bisexual and transgender<sup>1</sup> (LGBT) people at work in Ireland<sup>2</sup>. There has been huge social and legislative progress for LGB people in Ireland over the last

20 years. There are a substantial range of legal protections in force which protect LGB employees including the Unfair Dismissals Act, the Employment Equality Acts and the Civil Partnership Act. While progress has been slower for transgender employees, European Court judgments have expanded the prohibition on the gender ground in the Employment Equality Act to also include transsexual people.<sup>3</sup>

1 Transgender people are individuals whose gender identity and/or gender expression differs from the sex they were assigned at birth. Transgender is an umbrella term that includes people of different gender identities and gender presentations such as intersex people, people who cross-dress without any permanent desire for change, transsexual and other gender variant people

2 GLEN uses a 5% - 7% figure of the general population as being LGBT based on international studies such as *Amendment to Employment Equality (Sexual Orientation) Regulations: Full Regulatory Impact Assessment 2003*. UK Department of Trade and Industry.

3 Transsexual people identify with, or have a strong desire to live and be accepted as, the gender different to that which they were originally assigned at birth. Transsexual people typically may seek to bring their body into accordance with their gender identity and achieve this by transitioning which may involve undergoing medical treatment in the form of hormones and/or various surgical procedures.

Speaking at the launch of GLEN's *LGB Diversity Guide for Employers and Trade Unions* in 2010 the then Tánaiste, Mary Coughlan, Minister for Enterprise, Trade and Employment said 'It is essential that work is a place where we are respected and valued ... Our openness to LGBT people will be a critical part of our success as an advanced and competitive economy... Employers and trades unions need to in effect "come out" to their LGBT employees as being positive and inclusive places to work for LGBT employees'.

As LGBT people, we are becoming more visible in work. Surveys show that a majority of us are "out" to some or all of our colleagues. There are a growing number of LGBT employee networks and trade union groups.

Despite this progress many workplaces are not yet fully inclusive of their LGBT employees. As LGBT employees, one in four of us surveyed have been verbally abused at some stage in our careers on the basis of our sexual orientation or gender identity (*Supporting LGBT Lives*, GLEN and BeLong To 2009). LGBT employees regularly have to decide if disclosing our sexual orientation or gender identity in a particular work context will adversely impact on our working lives.

Certain employment sectors are still perceived to be difficult places to work in if you are LGBT. The education sector is a particular case in point. Section 37.1 of the Employment Equality Acts may allow religious employers in, for example, education and health, to discriminate against employees if the body can make a case that this is necessary to protect its religious ethos.

Given the official attitude of many religions to LGBT people, and despite the protections afforded under the Unfair Dismissal Act, many LGBT teachers do not feel it is safe to be “out” at work. Trade Unions are playing a leading role in addressing this issue.

LGBT employees are making a huge contribution to workplaces and trade unions across Ireland. People perform better when they can be themselves. Let’s all work to ensure that our workplaces are fully inclusive of diversity.

*Further information is available at:*

*LGBT Equality, ICTU*  
[www.ictu.ie/equality/lgbt.html](http://www.ictu.ie/equality/lgbt.html)

*LGB Workplace Diversity Guide, GLEN*  
[www.glen.ie/pdfs/WorkplaceLGBTDiversityGuide.pdf](http://www.glen.ie/pdfs/WorkplaceLGBTDiversityGuide.pdf)

*Gender Identity in the Workplace:  
An Introductory Guide*  
ICTU and TENI.

**Transgender Equality Network Ireland**

The Gate Lodge  
The Carmichael Centre for  
Voluntary Groups  
North Brunswick Street  
Dublin 7

T +353 1 873 3575  
info@teni.ie  
[www.teni.ie](http://www.teni.ie)



# COMING OUT AT WORK

## Introduction

“Coming out” describes the process of understanding and disclosing one’s sexual orientation or gender identity. For many LGBT people “coming out” can be one of the biggest personal decisions they face in the workplace. While heterosexual people regularly disclose their sexual orientation when they share personal information about their lives e.g. family situation, relationships, friends, etc., many LGBT people do not disclose their sexual orientation or gender identity for fear of receiving negative reactions or being discriminated against. A 2009 survey found that just under half of LGBT employees surveyed were out generally

in their workplaces (*Supporting LGBT Lives*, GLEN and BeLong To 2009).

## Implications

Deciding whether to “come out” at work is always an individual and personal decision. LGBT people will consider the benefits and disadvantages of coming out in a particular workplace. The benefits include:

- Feeling more confident at work.
- Fostering openness and stronger relationships with colleagues and clients.
- Not having to worry about being “outed” and wasting energy having to cover up an intrinsic part of one’s life.

- Performing better by being themselves: US research found that LGBT respondents who were “out” in *safe* work places earned 50% more than LGBT people who were not out.

## Need to Know

As LGBT people, many of us have experienced harassment or discrimination at some stage in our careers, others thankfully have not. In assessing if your workplace is a safe place for LGBT employees to be out in, consider the following:

- Is there a general culture of respect for and between employees in your workplace?
- Does your company have an equality policy which explicitly covers sexual orientation and gender identity? Is the policy being implemented effectively?

- Is there a culture of supporting diversity generally?
- Are there LGBT employees in your workplace or company? Are they visible (i.e. “out”)? Are there visible LGBT employees at a senior level?
- Does your employer communicate specifically to LGBT staff in newsletters, emails etc.
- Is there an LGBT employee network in your workplace or trade union?

*For further information:*

*Building LGBT Inclusive Workplaces: Information for LGBT Employees and Employers.* Catalyst. [www.glen.ie/Information for LGBT Employees and Employers.pdf](http://www.glen.ie/Information%20for%20LGBT%20Employees%20and%20Employers.pdf)

*Gender Identity in the Workplace: An Introductory Guide*  
An ICTU and TENI Publication 2011

# CIVIL PARTNERSHIP AND THE WORKPLACE

## Introduction

Civil Partnership commenced in the Republic of Ireland in 2011. As a result same-sex couples are now entitled to enter into a civil partnership to gain legal recognition of their relationship. Civil Partnership has a number of very important practical benefits for LGBT employees.

## Implications

LGBT employees' civil partners are entitled to the same treatment as colleague's married spouses in the workplace. This includes:

- Pension schemes which provide benefits for married spouses are now

deemed by law to provide equally for an LGBT employee's civil partner.

- Employment benefits: The Act also establishes rights for civil partners under the Employment Equality Act 1998. The ground of 'marital status' has been replaced by the new ground of 'civil status' which covers both civil marriage and civil partnership. It is now illegal to discriminate in employment between civil partners and married couples. Any workplace benefits for married spouses must now also cater for civil partners of employees in the same manner. This is also extended to include a 'member of the family' including the child of his or her civil partner.

Any benefits to employee's children must not discriminate between employees on the basis of the "civil status" or the sexual orientation of the employee.

Civil partnership will increase LGBT visibility in the workplace. Trade unions and employers can use the introduction of civil partnership and the related workplace benefits as an opportunity to convey their commitment to supporting equality for LGBT members and employees.

## Need to know

- Pensions: Employees seeking pension benefits for their civil partner will need to declare their civil partnership to their employer and have their civil partner named as a beneficiary for their pension.

- Workplace benefits: Employees who are in a civil partnership can now apply for a range of workplace partner benefits which their employers might operate including death in service benefit, partner health benefits, marriage leave, study leave or family relocation benefits.
- LGBT employees are already protected under existing Force Majeure and Parental Leave legislation.

*Further information is available at:*  
*LGB Workplace Diversity Guide*, GLEN.  
[www.glen.ie/pdfs/  
WorkplaceLGBTDiversityGuide.pdf](http://www.glen.ie/pdfs/WorkplaceLGBTDiversityGuide.pdf)

See [www.glen.ie](http://www.glen.ie) for Information on Civil Partnership for Same-sex Couples



# LGBT PEOPLE AND TRADE UNIONS

## Introduction

The Irish Congress of Trade Unions represents over 800,000 people in the workplace in Ireland. The workers that unions and Congress represent come from all areas of society, and Congress is committed to combating all forms of discrimination and to promoting equality. Congress is striving to ensure that Ireland is a country where all LGBT workers can be themselves at work without any negative consequences for their working life or careers. Congress was the first national organisation to promote LGB equality in the workplace with the publication of *Lesbian and Gay rights in the Workplace and Guidelines for Negotiators* in 1982. Since then

Congress has negotiated and won improvements to employment and other anti-discrimination legislation, making discrimination against LGBT people unlawful.

## Implications

LGBT issues are relevant in every workplace. Research has shown that 5-7% of people in society are lesbian or gay, this would equate to 56,000 members of Congress<sup>1</sup>. Developing inclusive workplaces and trade unions is an important issue for all unions. Unions are active in negotiating policies and practices to support inclusive workplaces and trade unions which are free from discrimination. However,

despite being unlawful, discrimination on the grounds of sexual orientation or gender identity can still happen. Unions will continue to develop and implement workplaces strategies and support mechanisms to combat this.

### **Need to know**

#### **All workers have the right to join a union if they so choose.**

It is in your best interest to join a union as research has shown that members within unionised workplaces receive better pay, conditions and benefits. As a result of union negotiations, members also receive above the minimum standards set by Irish labour law. For more information on joining a union see: [www.unionconnect.ie](http://www.unionconnect.ie)

If you are already a union member, you are represented at Congress through your union. In addition to the industrial relations aspects of union activity, you are entitled to free representation from your union should an issue arise in your workplace, such as bullying, harassment or discrimination.

If you would like to get more involved in the equality aspects of your union, ask your shop steward or union representative about the equality structures in your union. Alternatively you could contact your union's head office. Many unions have equality committees where LGBT issues are addressed, for example the PSEU equality committee undertook a survey of LGBT members to identify their workplace and trade union membership experiences. A number of unions have dedicated LGBT committees including ASTI, INTO, TUI and SIPTU.

*For further information:*

ICTU and Equality  
[www.ictu.ie/equality/lgbt.html](http://www.ictu.ie/equality/lgbt.html)

Link to individual union LGBT groups  
[www.ictu.ie/equality/lgbt.html](http://www.ictu.ie/equality/lgbt.html)

*PSEU LGBT survey*  
Public Service Executive Union  
[www.pseu.ie/pdf/lgbtsurvey.pdf](http://www.pseu.ie/pdf/lgbtsurvey.pdf)

Irish National Teachers Organisation  
*LGBT Inclusive Staffroom Guidelines*  
[www.into.ie/ROI/InformationforTeachers/TeacherSpecialInterestGroups/LesbianGayBisexualTeachersGroup/LGBT\\_goodpractice.pdf](http://www.into.ie/ROI/InformationforTeachers/TeacherSpecialInterestGroups/LesbianGayBisexualTeachersGroup/LGBT_goodpractice.pdf)

In Northern Ireland Congress LGBT was established following the 2005 Biennial Delegate Conference. The Committee have a history of challenging prejudice and inequalities in the workplace and in society against the LGBT community. The Committee currently work with a number of organisations to raise issues and effect legislative and policy change.

# PROMOTING LGBT EQUALITY IN TRADE UNIONS

## Ten Steps for Inclusion

### Introduction

Trade unions play a key role in promoting social inclusion for LGBT people in the workplace and in society more generally.

LGBT issues are relevant in every workplace. Increasing representation of LGBT workers in the trade union movement will play an important part in achieving this goal. This involves encouraging LGBT workers to join the union, and developing organised structures for their involvement at a local and national level.

The following is a ten step plan proposed by the European Trade Union Centre (ETUC) to improving LGBT equality and representation:

- 1** Show that the union is committed to LGBT equality by making a policy statement to that effect. Show your commitment by attending local Pride events.
- 2** Put in place measures to raise the union's profile and visibility so groups and individuals can see that joining a union could have positive benefits.
- 3** Create a climate in the union that enables LGBT workers to 'come out' in the union; this will be important in engaging LGBT people to help the union promote LGBT rights at work. Provide opportunities for LGBT members to meet and network.

- 4** Work closely and build alliances with NGO and community based LGBT organisations and reach out to people at local levels.
- 5** Put in place a union policy on LGBT rights and get this mandated in all union decision-making bodies and at all levels of the union.
- 6** Publicise union policies and commitments to LGBT equality in union journals, newsletters and in the general and LGBT media e.g. Gay Community News and [www.queerid.com](http://www.queerid.com)
- 7** Produce campaigning materials on LGBT equality issues that can be used in organising and recruitment.
- 8** Participate in LGBT and community based campaigns, for example, for legislative changes, or specific events such as International Day Against

Homophobia and Transphobia (17 May), or local campaigns for community facilities and services.

- 9** Attend, fund and publicise union activities at annual Pride parades and other LGBT events. This could include providing sponsorship for a Pride parade and having a presence at Pride with banners, campaigning materials and union information.
- 10** Put in place resources and a named officer to support LGBT members.

*Further information is available at:*  
*LGB Workers Rights*, UNISON UK  
[www.unison.org.uk/file/Bargaining%20for%20LGB%20workers%20-%20Oct%202010.doc](http://www.unison.org.uk/file/Bargaining%20for%20LGB%20workers%20-%20Oct%202010.doc)

European Trade Union Centre  
*Lesbian, Gay, Bisexual and Transgender Rights*  
[www.etuc.org/r/1355](http://www.etuc.org/r/1355)

# DEALING WITH DISCRIMINATION AND THE EQUALITY TRIBUNAL

A person is discriminated against if s/he is treated less favourably than another on account of their sexual orientation or gender identity. The Equality Acts define two types of discrimination:

- **Direct** – where a person is treated less favourably on one of the nine defined equality grounds, including sexual orientation and gender identity.
- **Indirect** – where people are treated less favourably because of a practice or requirement which they find hard to satisfy.

If you think you are being discriminated against or harassed because of your sexual orientation or gender identity, either directly or indirectly, it is

important to consider the following:

- Become familiar with the grievance and equality procedures in your workplace so you are knowledgeable about how to lodge a complaint.
- Keep a record or diary of any events relating to the discrimination.
- If you are a member of a trade union, contact your shop steward and request a meeting with them to raise the issue and seek advice.
- You can also seek support from the National LGBT Helpline, or from the LGBT community centre nearest to you.
- You can get advice from a solicitor or your Citizens Information Centre.

- You can raise the issue directly with the person who may have discriminated against you, either verbally or in writing, as per your employer's grievance and equality procedures.
- If appropriate, contact your line manager to raise the issue.

Depending on the nature of the discrimination and the response of those concerned, you may wish to take a make a complaint to the Equality Tribunal.

The Equality Tribunal is an impartial, independent body, where LGBT people can seek redress if they feel they have been discriminated against because of their sexual orientation or gender identity. LGBT employees can make a complaint to the Tribunal in relation to any aspect of employment, job advertising or vocational training, including access to employment, equal

pay cases, and complaints of direct or indirect discrimination, harassment or failure to provide appropriate measures for persons with a disability. The complaints may also relate to employment agencies, partnerships, membership of professional bodies and trade union membership.

A complaint to the Tribunal must be made within six months of when the discrimination occurred or last occurred. Complaints are made by filling out an EE.1 form available from the Equality Tribunal website.

The Tribunal can take a number of actions including:

- Dismissing a claim.
- Appointing an Equality Mediation Officer to mediate between the claimant and the respondent. Mediation is often used successfully by LGBT claimants.

- If mediation is unsuccessful the Tribunal can investigate the claim with the parties and make a ruling on the claim.

The Tribunal can also make an award to a successful claimant by:

- Making an order for equal treatment and compensation for the effects of discrimination of up to a maximum of 2 years pay, or €12,700 where the person was not an employee.
- Making an order for compensation for acts of victimisation which occurred.
- Making an order for re-instatement or re-engagement (in dismissal cases), with or without an order for compensation.
- Making an order that a named person or persons take a specified course of action.

- In equal pay claims, an order for equal pay and arrears in respect of a period not exceeding three years.

A person making a complaint can represent themselves at the Tribunal or be represented by a lawyer, trade union or other representative. Costs for making the complaint are generally not awarded.

*Further information is available at:*

The Equality Tribunal  
[www.equalitytribunal.ie](http://www.equalitytribunal.ie)

National LGBT Helpline  
1890 929 539  
[www.lgbt.ie](http://www.lgbt.ie)

Congress Centres Network  
[www.ictu.ie/ccn/](http://www.ictu.ie/ccn/)

*EQUALITY HOW? Congress guide to taking cases under the Employment equality acts, 1998-2008, ICTU*  
[www.ictu.ie/equality](http://www.ictu.ie/equality)



**Funded by the Equality Mainstreaming Unit which is jointly funded by  
the European Social Fund 2007-2013 and by the Equality Authority**



Ireland's EU Structural Funds  
Programmes 2007 - 2013

Co-funded by the Irish Government  
and the European Union



THE EQUALITY AUTHORITY  
AN tÚDARÁS COMHIONANNAIS

**Investing in your future**

**A CONGRESS AND GLEN GUIDE 2011**  
**[www.ictu.ie/equality](http://www.ictu.ie/equality)**