

## UNITED KINGDOM

Most questions require a reply based on the following codification:

a. Yes, already done <input type="checkbox"/>	b. Yes, work is in progress <input type="checkbox"/>	c. We intend to work on this <input type="checkbox"/>	d. Position non determined <input type="checkbox"/>	e. No <input type="checkbox"/>
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### Section I – Implementation and dissemination of the Recommendation

1. How would you assess the status of implementation of the Recommendation in your country?

Fully satisfactory ☒ Adequate ☐ Insufficient ☐ Absent ☐

Please explain your reply.

The UK Government is strongly committed to advancing lesbian, gay, bisexual and transgender (LGB&T) equality and implementing Recommendation CM/Rec(2010)5 of the Committee of Ministers to member states on measures to combat discrimination on grounds of sexual orientation or gender identity ('Recommendation CM/Rec (2010) 5').

Please note: paragraphs in this response that refer to the devolved nations have been directly submitted by that nation's respective executive (the Northern Ireland Executive, the Welsh Government or the Scottish Government).

The UK Government has achieved significant progress in a number of areas, such as:

- **Equal marriage.** The UK Government published its response to the public consultation on equal marriage and has now introduced legislation in Parliament. A proposal that same-sex couples should have the right to marry was debated by the Northern Ireland Assembly on 1 October 2012 but not carried.
- **Civil partnerships on religious premises.** In December 2011, the UK Government changed the law to allow same-sex couples to register their civil partnership on religious premises on a permissive basis: a step forward for both LGB equality and religious freedom. Similarly, the Scottish Government has also announced, on 25 July 2012, its intention to introduce legislation to allow same-sex marriage and the registration of religious civil partnerships following a consultation exercise in 2011.
- **Recognition of overseas same-sex partnerships.** The UK Government has updated Schedule 20 to the Civil Partnership Act 2004, which lists the overseas same-sex partnerships recognised by the UK as equivalent to UK civil partnerships. There are now 75 same-sex partnerships recognised, 50 more than when the 2004 Act was originally enacted.
- **Historic convictions for consensual gay sex.** The UK Government has delivered on its commitment to bring forward legislation to disregard consensual gay sex convictions, and those affected may now submit applications to have their criminal records amended.

• **Action plan on LGB&T equality** In March 2011, the UK Government published its first action plan to advance LGB&T equality in all areas of public policy, including workplaces, education, public services, asylum and hate crime.

• **Transgender equality.** In December 2011, the Government published the world's first transgender equality action plan which lays out real actions to address the specific challenges that trans people can face in their daily lives.

• **Sports:** The UK Government's charter on tackling homophobia and transphobia in sport, which was launched in 2011, goes from strength to strength with well over 40 of sport's National Governing Bodies, all professional football league teams and 3,700 individual sports fans signing up. The Olympic and Paralympic organising committee was one of the founding signatories, making sure that all athletes that came to London for the Olympics knew that the UK welcomes all athletes no matter what their sexual orientation or gender identity.

In the future the UK Government will continue to take the necessary steps to advance LGB&T equality. Important future actions include:

• **Equal Marriage.** The UK Government has introduced legislation to permit same-sex marriage and will work closely with interested parties, including religious organisations, to ensure the provisions built into legislation and processes are robust and meet their needs. The Scottish Government is currently undertaking a second consultation exercise, from 13 December 2012 to 20 March 2013, on the detail of the proposed legislation to introduce same sex marriage with the aim of introducing the Marriage and Civil Partnership (Scotland) Bill to the Scottish Parliament in 2013.

• **Making workplaces more LGBT-friendly.** The UK Government is publishing advice for employers on their rights and responsibilities in supporting LGB&T staff, tackling discrimination and removing the barriers to a more LGBT-friendly workplace.

• **Next steps for LGB&T equality.** The UK Government will launch a call for evidence to gauge the progress we are making and ascertain what else we need to do to improve the lives of LGB&T people in this country.

2. Has a review been carried out of existing legislative and other measures which could result directly or indirectly in sexual orientation or gender identity discrimination?

a. ☒ b. ☐ c. ☐ d. ☐ e. ☐

Please explain and, if appropriate, provide examples of any such measures found:

A review will be carried out in 2015 to review the impact of the Equality Act 2010. A comprehensive review of discrimination law was carried out between 2005 and 2007 which led to the Equality Act 2010.

Are there measures in place to redress any such discrimination?

a. ☒ b. ☐ c. ☐ d. ☐ e. ☐

Please indicate the measures and, if appropriate, provide examples of good practices:

The Equality Act 2010, whose main provisions came into force in October 2010, replaced previous anti-discrimination laws with a single Act to make the law simpler and to remove inconsistencies.

The Act makes it unlawful to subject a person to direct discrimination, indirect discrimination, harassment, and victimisation where this is related to specific protected characteristics which include sexual orientation or gender reassignment. The Act applies to the workplace, when providing goods, facilities and services, when exercising public functions, in the disposal and management of premises, in education and by associations (such as private clubs). The Act provides a legal remedy for people who are found to have been discriminated against by an employment tribunal or court.

3. Have legislative and other measures against discrimination on grounds of sexual orientation or gender identity been adopted and implemented since the adoption of CM Recommendation 2010(5) (including the possible establishment of national action plans, the inclusion of the Recommendation in existing plans, or the creation of cross-sectoral working groups for its implementation)?
- a. ☒ b. ☐ c. ☐ d. ☐ e. ☐

If appropriate, please provide examples of measures adopted or in preparation.

Please see response to section 2, question 2 above for further information.

4. Are there measures in place to collect and analyse relevant data on discrimination on grounds of sexual orientation?
- a. ☒ b. ☐ c. ☐ d. ☐ e. ☐

Are there measures in place to collect and analyse relevant data on discrimination on grounds of gender identity?

a. ☒ b. ☐ c. ☐ d. ☐ e. ☐

Are there measures in place to collect and analyse relevant data on hate crimes and hate-oriented incidents, where the sexual orientation or gender identity of the victim is reasonably suspected to have constituted a motive for the perpetrator?

a. ☒ b. ☐ c. ☐ d. ☐ e. ☐

Please indicate the measures and, if appropriate, provide examples of good practices:

As part of the post-implementation review of the Equality Act the UK Government Equalities Office will use existing sources of evidence (such as Employment Tribunal statistics) to assess levels of discrimination. Some small-scale follow-up work may also be undertaken on this issue.

As part of the Public Sector Equality Duty public bodies are required to publish relevant, proportionate information showing compliance with the Equality Duty; this includes information about the equality data which underpin those decisions. It is up to each public body to decide for itself what information it publishes to show its compliance with the Equality Duty. This will vary greatly, depending on the size of the body, the range of functions it performs, and the extent to which those functions could affect equality. There is no prescribed format for this.

The Welsh Government was the first part of Great Britain to regulate to create specific duties under the Equality Act 2010. The Equality Act 2010 (Statutory Duties) (Wales) Regulations 2011 were approved by the National Assembly for Wales and came into force on 6 April 2011. Public sector bodies in Wales, including the Welsh Government, have a statutory duty to publish Equality Objectives by 2 April 2012 and to have developed a Strategic Equality Plan as soon as possible thereafter. There is a statutory obligation to carry out Equality Impact Assessments on all policies, processes and practices. Engagement, involvement and consultation with stakeholders is a

fundamental requirement of the duties, and the regulations require engagement with people with protected characteristics when considering and designing Equality Objectives.

The Equality Act 2010 does not apply in Northern Ireland. Legislation that addresses human rights, employment rights and equality for people with a minority sexual orientation includes: section 75 of the Northern Ireland Act 1998; Human Rights Act 1998; The Employment (Northern Ireland) Order 2002; Employment Equality (Sexual Orientation) Regulations (Northern Ireland) 2003; the Criminal Justice (Northern Ireland) Order 2004; the Civil Partnership Act 2004; and the Equality Act (Sexual Orientation) Regulations (Northern Ireland) 2006.

5. Do effective legal remedies for victims of sexual orientation or gender identity discrimination exist (including sanctions for infringements and adequate reparation for victims)?

a. ☒ b. ☐ c. ☐ d. ☐ e. ☐

If so, are there measures in place to raise awareness and facilitate access of victims to such remedies?

a. ☒ b. ☐ c. ☐ d. ☐ e. ☐

Please indicate the measures and, if appropriate, provide examples of good practices in this area:

The UK Government and the Equality and Human Rights Commission (EHRC) have published guidance on the application of the Equality Act 2010 and process for complaints under the Act.

Where someone thinks they may have been discriminated against in the workplace, the government-funded Advisory, Conciliation and Arbitration Service (Acas) provides authoritative and impartial advice free to employees or employers via their website ([www.acas.org.uk](http://www.acas.org.uk)) and telephone helpline.

Where a person thinks they may have been discriminated against as a consumer of goods and services, or any other area (other than employment) covered by the Equality Act 2010 they can contact the government-funded Equality Advisory and Support Service which provides bespoke advice and in-depth support to individuals with discrimination problems. They can do this by visiting their website at <http://www.equalityadvisoryservice.com/> or by telephone. Alternatively they can contact their local Citizens Advice Bureau or law centre.

The Equality Commission for Northern Ireland can assist individuals in the preparation and presentation of their complaints under the Employment Equality (Sexual Orientation) Regulations (Northern Ireland) 2003.

6. Which obstacles, if any, have been encountered in the implementation of the Recommendation?

N/A

7. Has the Recommendation, including its Appendix, been translated in all your national languages?

a. ☒ b. ☐ c. ☐ d. ☐ e. ☐

8. Which steps have been taken to ensure dissemination of the Recommendation and its Appendix as widely as possible?

The UK Government disseminated the Recommendation to its large stakeholder database (which includes LGB&T organisations and the voluntary sector) when it was published. Its implementation continues to form part of discussions with these groups. In March 2012 the UK Government hosted

a landmark conference on the implementation of the Recommendation as part of its Chairmanship of the Council of Europe, which many other Council of Europe member States attended.

## Section II – Implementation of the specific provisions in the Appendix

### I. Right to life, security and protection from violence

9. Are there measures in place to ensure an effective, prompt and impartial investigation into alleged cases of crimes and other incidents, where the sexual orientation or gender identity of the victim is reasonably suspected to have constituted a motive for the perpetrator?

a. ☒ b. ☐ c. ☐ d. ☐ e. ☐

Please indicate the measures and, if appropriate, provide examples of good practices in this area:

The United Kingdom has in place one of the strongest legislative frameworks in the world to protect communities from hostility, violence and bigotry and this includes specific offences and enhanced sentences for any crime which is motivated by hostility on the grounds of sexual orientation or gender identity.

The cross-Government hate crime action plan '*Challenge it, Report it, Stop it*' was published in March 2012. The plan brings together the work of a wide range of departments and agencies to prevent hate crime happening in the first place, increase reporting and victims' access to support, and improve the operational response to hate crimes.

The UK Government is committed to a criminal justice system that is joined-up in its approach to hate crime, and where ambitions are matched by practice on the ground. The action plan sets out how the UK Government and its agencies will work to better identify and manage cases, and deal with offenders, for example by:

- Hosting a national ACPO (Association of Chief Police Officers) Hate Crime Conference to bring together hate crime, anti-social behaviour and 'safeguarding' leads to find common approaches to benefit all victims of hate crime.

- Publishing a new hate crime manual for police officers which offers guidance for all police organisations and partners on handling cases of hate crime;

- Updating training for all police roles involved in tackling hate crime;

- Publishing risk assessment tools that allow police and other call handlers to identify victims of hate crime earlier in the reporting process; and

- Working with transgender communities to develop guidance for prosecutors and other support.

The Welsh Government is developing an All Wales Hate Crime Framework for Action across Wales, which will be consulted upon during Summer 2013. This will be an action-based framework which is built upon current evidence and is being delivered and taken forward through a cross Government Task and Finish Group, which consists of key policy leads and leading statutory and voluntary organisations across Wales.

The development of the framework also includes input from expert stakeholder groups across the protected characteristics of race, religion, disability, sexual orientation and gender identity. This has included working with Stonewall Cymru, Unique Cymru and LGBT Excellence Centre across Wales to form working groups and to feed in views to the development of the framework. There have recently been 167 responses to an on-line questionnaire through the Welsh Government to feed in views to the Framework development in order to tackle three key areas to prevent, to report and to respond to hate crime.

10. Are there measures in place to ensure that a bias motive related to sexual orientation may be taken into account as an aggravating circumstance?

a. ☒ b. ☐ c. ☐ d. ☐ e. ☐

Are there measures in place to ensure that a bias motive related to gender identity may be taken into account as an aggravating circumstance?

a. ☒ b. ☐ c. ☐ d. ☐ e. ☐

Please indicate the measures and, if appropriate, provide examples of good practices in this area:

'Hate crime' is not defined in a single UK law; however criminal justice agencies, including the police have adopted a common working definition to support them in monitoring hate crime cases:

*'Hate crimes and incidents are taken to mean any crime or incident where the perpetrator's hostility or prejudice against an identifiable group of people is a factor in determining who is victimised'*. The full definition can be viewed at [http://www.report-it.org.uk/hate\\_crime\\_data1](http://www.report-it.org.uk/hate_crime_data1).

The police are required to record criminal offences as hate crimes if the victim perceives the crime to have been targeted at them because of hostility towards their sexual orientation or gender identity.

Under section 146 of the Criminal Justice Act 2003, courts have an obligation to increase the sentence for any offence where it is proved that the offender demonstrated, or was motivated by, hostility based on the grounds of sexual orientation and transgender identity [as well as similar provisions for hostility on the grounds of a person's race, religion and disability].

One example of the application of the enhanced sentencing was in the killing of Ian Baynham, an openly gay man who was attacked in a street in London in 2009 and later died of his injuries.

One of the attackers, who was convicted of his manslaughter, had her sentence enhanced by Judge Richard Hawkins who increased the sentence from six years to seven because of the 'homophobic' nature of her actions. The sentence enhancement was welcomed by gay rights advocates, Stonewall who stated that it sent out *'a powerful deterrent message... that violence based on homophobic hate is as abhorrent as that based on racist hate.'*

In Scotland, the Scottish Parliament has legislated in recent times to ensure hate crimes are dealt with by the justice system equally. The Offences (Aggravation by Prejudice)(Scotland) Act 2009 came into force in March 2010. The 2009 Act does not create any new offences, but where it can be proven that an offence (this could be breach of the peace right through to murder) has been motivated by malice or ill-will based on the victim's actual or assumed sexual orientation, transgender identity or disability, the court can take that motivation into account when determining sentence. The 2009 Act ensures that it is made explicit at the point of sentence what impact the aggravation has had on the sentence. This makes clear to offenders and more widely that hate crimes will be punished accordingly. This helps prosecutors and courts to tackle hate crimes more effectively.

Similar legislation exists for Northern Ireland by way of the Criminal Justice (NI) Order 2004. The legislation provides that where an offence involves hostility based on race, religion, sexual orientation or disability, on conviction the Court must take this into account when sentencing. The Court's sentencing powers in relation to crimes of violence often connected with "hate crime" were increased. Where motivated by hatred, offences of "grievous bodily harm", "assault occasioning actual bodily harm" and "putting someone in fear of violence" had the maximum penalties increased from 5 to 7 years imprisonment; and criminal damage from 10 to 14 years. Common assault increased to two years imprisonment, a fine, or both. This "hate crime" law can be engaged when an incident is based on either *actual* or *presumed* race, religion, sexual orientation or disability; can be based both on hatred of a *group* or of an *individual*; and covers attacks on both *people* and *property*.

11. Are appropriate measures taken to ensure that victims and witnesses of sexual orientation- or gender identity-related hate crimes and incidents are encouraged to report them?
- a. ☒ b. ☐ c. ☐ d. ☐ e. ☐

Please indicate the measures and, if appropriate, provide examples of good practices in this area:

The UK Government is committed to increasing the reporting of hate crimes and making it easier for victims of hate crime to report what has happened to them, whether directly to the police or online through the True Vision website (a police-led resource) – or if they prefer – to another organisation that can pass on the report to the police.

The UK's focus on reporting is driven by the need to develop a better picture of the scale, severity and cause of the problem. Without that picture, the UK cannot ensure that resources are in the right place to tackle offenders, and provide victims the protection and support they need. The British Crime Survey (a national household survey) has demonstrated that many hate crimes are under-reported and the Government committed to reducing this gap in its manifesto.

The Government is working with local partnerships to increase reporting and victim's access to support by:

- Publishing police data on recorded hate crimes as National Statistics, which can be compared between local police forces.
- Identifying areas across the criminal justice system where the collection and dissemination of data could be improved, for example in the application of enhanced sentences.
- Engaging with communities affected by hate crime to raise awareness of the law of hate crime, and increase reporting.
- Supporting the work of True Vision ([www.report-it.org.uk](http://www.report-it.org.uk)) to ensure that more people are aware of the online hate crime reporting mechanism and their rights to protection, develop packages to support local delivery of services, and help provide the infrastructure for local and national voluntary sector groups to integrate into a national reporting system.
- Using True Vision to distribute information on hate crime to victims groups, including working with voluntary sector organisations to promote awareness raising materials for LGB&T, asylum, refugee and other new migrant communities.

- Working with police forces, councils and housing providers to improve handling of public calls about anti-social behaviour, to identify possible hate crime and victims at risk.

Across Scotland, all the police forces operate some form of third-party reporting. Strathclyde Police has an online hate crime reporting form which is on their internet page. This will be transferred onto the Police Service of Scotland web page on 1 April 2013, when the new single force comes into being.

There has been a positive project delivered in Wales through the '*It's No Joke*' project, launched in January 2012 by the national charity Stonewall Cymru, which has already helped a number of homophobic and transphobic hate crime victims to find the strength to move on with their lives. This has been a joint project with Victim Support through £50,000 funding from the Equality and Human Rights Commission, to specially-training a team of existing staff and volunteers to be able to provide support to victims and to increase reporting levels.

12. Do training programmes and procedures exist to ensure that the police, judiciary and prison officials possess the knowledge and skills to identify such crimes and incidents and provide victims and witnesses with adequate assistance and support?
- a. ☒ b. ☐ c. ☐ d. ☐ e. ☐

Please indicate the measures and, if appropriate, provide examples of good practices in this area:

Policy guidance and training is provided within all criminal justice agencies. The Association of Chief Police Officers issued guidance on dealing with hate crime cases to police officers in 2005 ('Hate Crime Manual'). The Manual is currently being revised to make ensure it is current and up-to-date with emerging issues. It is expected that the refreshed Manual will be circulated to police forces in 2013. The Crown Prosecution Service have also issued similar guidance to prosecutors.

In Scotland there is specific legislation in relation to sexual orientation hate crime, the Offences (Aggravation by Prejudice)(Scotland) Act 2009. ACPOS (Association of Chief Police Officers Scotland) also has a Diversity Manual and a Hate Crime Manual. All police officers undergo specific training in diversity awareness and hate crime.

13. Are there specific measures in place to ensure the safety and dignity of lesbian, gay, bisexual and transgender persons in prison or in other ways deprived of their liberty, in accordance with paragraph 4 of the Appendix to the Recommendation?
- a. ☒ b. ☐ c. ☐ d. ☐ e. ☐

Please indicate the measures and, if appropriate, provide examples of good practices in this area:

The National Offender Management Service (NOMS) is an Executive Agency of the Ministry of Justice that commissions and provide offender management services in the community and in custody. Among the work carried out by NOMS is ensuring that all prisons have violence reduction strategies designed to promote a safe and healthy environment and foster a culture of non-violence.

Where a prisoner is found to have committed an offence against prison discipline, the procedures allow for more severe punishments to be imposed when it is found that the offence is motivated by hostility to the victim based on any of the protected characteristics in the Equality Act, including sexual orientation and gender reassignment. NOMS has worked with the charity NACRO (the



largest crime reduction charity in the UK) to produce guidance on good practice for working with LGBT prisoners. This has been issued to all prison establishments. It gives examples of good practice from across the prison estate and lists useful information and contacts relating to the care and management of LGBT prisoners.

NOMS has issued Prison Service Instruction 07/2011 on the *"Care and Management of Transsexual Prisoners"* which describes how we ensure that the needs of transsexual prisoners are met. It includes a specific requirement that *"any risks to and from a transsexual prisoner must be identified and managed appropriately, as would be the case with any other prisoner. Establishments must put in place measures to manage the risk of transphobic harassment and transphobic hate crime."* The Instruction can be found here

[http://home.hmps.noms.root/Intranet/ShowBinary?nodeId=/Repo/HQ/internal\\_communications/p/si/PSI\\_07-2011\\_The\\_care\\_and\\_management\\_of\\_transsexual\\_prisoners.doc](http://home.hmps.noms.root/Intranet/ShowBinary?nodeId=/Repo/HQ/internal_communications/p/si/PSI_07-2011_The_care_and_management_of_transsexual_prisoners.doc)

14. Have appropriate measures been taken to combat all forms of "hate speech" against lesbian, gay, bisexual or transgender persons, in accordance with Article 10 of the European Convention on Human Rights and with paragraph 6 of the Appendix to the Recommendation ?

a. ☒ (relating to sexual orientation) b. ☒ (relating to transgender) c. ☐ d. ☐ e. ☐

Section 29 C (1) of the Public Order Act 1986 (as amended in 2008) makes it an offence to 'stir up hatred' against persons based on sexual orientation.

The first conviction under this offence was passed at Derby Crown Court in January 2012 when offenders were convicted for distributing material which included a statement saying that *"The death sentence is the only way this immoral crime can be erased from corrupting society and act as a deterrent for any other ill person who is remotely inclined in this bent way."*

In 2012 the Justice Secretary asked the Law Commission to examine hate crime legislation including whether there is a case to extend the above legislation to cover the grounds of disability and transgender. The Law Commission will consult and report back in 2014.

If so, have specific measures been taken to raise awareness of public authorities/ institutions of their responsibility to refrain from statements which may reasonably be understood as legitimising hatred or discrimination against lesbian, gay, bisexual or transgender persons?

a. ☒ b. ☐ c. ☐ d. ☐ e. ☐

Please indicate the measures and, if appropriate, provide examples of good practices in this area:

We have a long tradition of freedom of speech in the United Kingdom. However, the UK Government has been clear of the need to balance the right to freedom of speech with the need to prevent actions which intimidate, threaten violence or incite others to hatred and we continue to stand by this.

The Government hosts a cross-Government Hate Crime Strategy Board which brings all relevant parts of the State response together with criminal justice partners, academics and victims to coordinate activity. Members of the programme have made many presentations to academic institutions, professionals training and community events and the key messages of the importance of effective responses to hate crime have been delivered to over 18,000 individuals.

## **II. Freedom of association**

15. Are there measures in place to ensure that freedom of association (including access to public funding available for non-governmental organisations) can be enjoyed without discrimination on grounds of sexual orientation or gender identity?

a. ☒ b. ☐ c. ☐ d. ☐ e. ☐

If any, please provide examples of limitations or exceptions to the guarantees set out in Paragraphs 9 and 10 of the appendix to the Recommendation and indicate whether any measure to review or lift such limitations or exceptions is in preparation:

N/A

16. Are there specific measures in place to effectively protect defenders of human rights of lesbian, gay, bisexual and transgender persons against hostility and aggression, including when allegedly committed by state agents, in accordance with the Declaration of the Committee of Ministers on Council of Europe action to improve the protection of human rights defenders and promote their activities?

a. ☒ b. ☐ c. ☐ d. ☐ e. ☐

Please indicate the measures and, if appropriate, provide examples of good practices in this area:

The Public Order Act 1986 makes it an offence to intentionally cause a person harassment, alarm or distress by using threatening, abusive or insulting words or behaviour, or disorderly behaviour, or by displaying any writing, sign or other visible representation which is threatening, abusive or insulting (section 4A). It is also an offence to use threatening, abusive or insulting words or behaviour, or disorderly behaviour, or to display any writing, sign or other visible representation which is threatening, abusive or insulting, within the hearing or sight of a person likely to be caused harassment, alarm or distress (section 5). Where such actions are motivated by racial or religious hatred, they would constitute a racially or religiously aggravated offence under Part II of the Crime Disorder Act 1998, with tougher penalties; and where such actions are motivated by other forms of prejudice – for example, against an individual's perceived disability or sexual orientation – the courts can also treat that as a general aggravating factor.

The Crime and Courts Bill currently before Parliament would remove the 'insulting' limb from section 5 but the remaining offences would continue to be available to the police.

17. Have measures been taken to ensure that non-governmental organisations defending the of human rights of lesbian, gay, bisexual and transgender persons are appropriately consulted on the adoption and implementation of measures that may have an impact on the human rights of these persons?

a. ☒ b. ☐ c. ☐ d. ☐ e. ☐

Please indicate the measures and, if appropriate, provide examples of good practices in this area:

The UK Government will continue to engage actively with LGB&T organisations on policies that affect LGB&T people, for example the Government consultation on equal marriage and the two action plans on LGB&T.

The cross-Government Hate Crime Strategy Board (mentioned above) includes a number of national and local groups who exist to support and ensure the rights of LGB&T communities in order to introduce their views into policy decisions.

### **III. Freedom of expression and peaceful assembly**

18. Are there measures in place to ensure that freedom of expression, including freedom to receive and impart information on subjects dealing with sexual orientation or gender identity, can be enjoyed without discrimination on grounds of sexual orientation or gender identity?

a. ☒ b. ☐ c. ☐ d. ☐ e. ☐

Are there measures in place to ensure that freedom of peaceful assembly can be enjoyed without discrimination on grounds of sexual orientation or gender identity?

a. ☒ b. ☐ c. ☐ d. ☐ e. ☐

If specific limitations or exceptions regarding such freedoms are in place, please provide examples and indicate whether any measure to review or lift such measures is in preparation:

Peaceful protest is a vital part of a democratic society. It is a long-standing tradition in the UK that people are free to gather together and to demonstrate their view, provided that they do so within the law. There are no specific limitations or exceptions regarding such freedoms.

19. Do law enforcement authorities take appropriate measures to protect participants in peaceful demonstrations in favour of the human rights of lesbian, gay, bisexual and transgender persons?

a. ☒ b. ☐ c. ☐ d. ☐ e. ☐

Please indicate the measures and, if appropriate, provide examples of good practices in this area:

Under the Human Rights Act 1998, which gives effect in domestic law to the European Convention on Human Rights, police have a positive obligation to protect individuals' right to peaceful protest. Police ensure that they have reasonable and practicable procedures in place to uphold this obligation in respect of all protestors.

Police forces in Scotland facilitate lawful peaceful protest. Local authorities decide on applications for public procession.

### **IV. Right to respect for private and family life**

20. Have measures been taken to ensure that criminal law provisions which, because of their wording or scope, may lead to a discriminatory application with respect to sexual orientation or gender identity are either repealed, amended or applied in a manner which is compatible with the principle of non-discrimination?

a. ☒ b. ☐ c. ☐ d. ☐ e. ☐

Please indicate the measures and, if appropriate, provide examples of good practices in this area:

The UK Government has delivered on its commitment to bring forward legislation to disregard consensual gay sex convictions, and those affected may now submit applications to have their criminal records amended.

21. Are there measures in place to ensure that personal data referring to a person's sexual orientation or gender identity are not collected, stored or otherwise used, except where this is necessary for the performance of specific, lawful and legitimate purposes, and that existing records that do not comply with this principle are destroyed?

a. ☒ b. ☐ c. ☐ d. ☐ e. ☐

Please provide examples of exceptions to this principle, if any:

The UK Government fully recognises that privacy issues can be of concern for LGB&T people. Public and private sector organisations are under strict obligations to treat information submitted in strict observance of the Data Protection Act 1998 and the Gender Recognition Act 2004 (GRA). Section 22 of the GRA provides that it is a criminal offence for a person to disclose to any other person information acquired in an official capacity about a transsexual person's application for legal recognition or, where the person is granted legal recognition, their gender history. There are some limited exceptions to section 22, for example, where the person has agreed to the disclosure or it is for the purpose of preventing or investigating a crime.

The Data Protection Act 1998 provides that personal data are treated in accordance with the data protection principles. The principles specify that personal data shall be obtained only for one or more specified and lawful purposes and that they shall be processed fairly and lawfully, and only where there is a valid condition for processing. Data referring to a person's sexual orientation or gender identity are categorised as 'sensitive personal data' for which the conditions for processing are more demanding than those for non-sensitive data. The Act also stipulates that personal data collected about individuals are necessary for the purpose they were collected and should not be kept for longer than necessary.

22. Are appropriate measures available to guarantee full legal recognition of a person's gender reassignment in all areas of life in accordance with the provisions of paragraph 21 of the appendix to the Recommendation?

a. ☒ b. ☐ c. ☐ d. ☐ e. ☐

Have prior requirements for legal recognition of a gender reassignment been reviewed in order to remove any abusive requirements?

a. ☐ b. ☒ c. ☐ d. ☐ e. ☐

Please indicate the measures and, if appropriate, provide examples of good practices in this area:

The Gender Recognition Act 2004 enables transsexual people to obtain legal recognition of their acquired gender. Legal recognition follows from the issue of a full gender recognition certificate by the Gender Recognition Panel (a judicial body).

The Panel determines each case on an individual basis, and where an application meets the requirement of the Act it will issue a full Gender Recognition Certificate. While the Act requires applicants to have lived full-time in their acquired gender for the two years immediately preceding their application to the Panel, there is no requirement for people to have undergone any form of surgery or hormone treatment. However, where an applicant has undergone such treatment, or where such treatment has been prescribed or is planned, any medical report submitted in support of their application must include details.

The Panel is currently reviewing and updating its guidance for applicants to ensure its procedures and requirement are explained as clearly as possible to those who might wish to make applications.

In the year financial year 2011/12, of the 309 applications dealt with by the Panel, 85% were successful, 4% issued with an Interim Certificate and only 8% of applications were refused. (3% of applications were withdrawn).

23. Once gender reassignment has been completed and legally recognised, is the right of a transgender person to marry a person of the sex opposite to their reassigned sex effectively guaranteed?
- a. ☒ b. ☐ c. ☐ d. ☐ e. ☐

Please indicate the measures and, if appropriate, provide examples of good practices in this area:

Following legal recognition a person can marry someone of the opposite legal gender to their acquired (legal) gender. However, those people who are already in an existing marriage (or civil partnership) in their birth gender at the time of their application for legal recognition to the Panel, must end that marriage or civil partnership before they can be granted full legal recognition.

Under the UK Government proposals on equal marriage (see section 1, question 1) those who change their legal gender will be able to remain in their marriage. However, this option will only apply to marriages and civil partnerships under the law of England and Wales.

The Scottish Government, as part of its proposals in the Marriage and Civil Partnerships (Scotland) Bill (as outlined in section 1), also intends to remove the requirement for transsexual people to end their marriage or civil partnership before receiving their full Gender Recognition Certificate.

24. Where national legislation recognises registered same-sex partnerships, are their legal status, rights and obligations equivalent to those of heterosexual couples in a comparable situation?
- a. ☒ b. ☐ c. ☐ d. ☐ e. ☐

If national legislation does not recognise nor confer rights to registered same-sex partnerships and unmarried couples, has the possibility been considered to provide same-sex couples with legal or other means to address the practical problems related to this fact in their lives?

a. ☐ b. ☐ c. ☐ d. ☐ e. ☐

Please provide examples:

N/A

25. Are there measures in place to ensure that decisions regarding parental responsibility and adoption of a child are taken primarily in the child's best interest, as well as without discrimination based on sexual orientation or gender identity?
- a. ☒ b. ☐ c. ☐ d. ☐ e. ☐

Please indicate the measures and, if appropriate, provide examples of good practices in this area:

In England it is legal for lesbian, gay, bisexual and transgender people to both adopt and foster children. The Human Fertilisation and Embryology Act 2008 and the Civil Partnership Act 2004 have made it easier for lesbian couples to secure parental rights for any children they conceive through artificial insemination. These arrangements remain unchanged under the equal marriage proposals.

Legal provision governing adoption and parental responsibility in Northern Ireland is made within the Adoption (Northern Ireland) Order 1987 and the Children (Northern Ireland) Order 1995. Both

Orders provide robust safeguards and provisions which place the child at the centre of the process in any decision relating to either parental responsibility or adoption. Under both Orders, those responsible for making adoption and parental responsibility decisions are required to give due regard to the welfare and best interests of the child in keeping with European conventions. The legislation is supported by guidance and operational policy and procedures to promote a high standard and consistency of practice, with a strong emphasis on the best interests of the child. There have been a number of initiatives brought forward in Northern Ireland, the aim of which is to further improve adoption practice. For example, a single Northern Ireland database containing information on all approved adopters and all children who need to be adopted has been established. The aim of the database is to facilitate better and quicker matching of children with approved adopters. In addition, it is intended to introduce new adoption and children legislation in the Northern Ireland Assembly in 2014 and modernise adoption services in Northern Ireland. By way of legislative reform, the aim is to:

- provide greater opportunities for children to experience permanence and stability;
- reduce drift and delay for young people who are unable to live at home; and
- provide better quality, consistent and responsive services for everyone affected by adoption.

Northern Ireland has both a Sexual Orientation Strategy and a Gender Equality Strategy. The Gender Equality Strategy, which spans the period 2006 to 2016, and is being implemented by way of cross-departmental gender equality action plans. The action plans illustrate how gender considerations have been mainstreamed into the business of Northern Ireland government departments. The Sexual Orientation Strategy was consulted on in 2006 and a strategic action plan was drafted to identify and tackle human rights and equality issues relating to sexual orientation. The strategy is currently being refreshed in light of a recent needs analysis study.

## **V. Employment**

26. Does legislation prohibit discrimination in employment in the public and private sector on grounds of sexual orientation?

- a. ☒ b. ☐ c. ☐ d. ☐ e. ☐

Does legislation prohibit discrimination in employment in the public and private sector on grounds of gender identity?

- a. ☒ b. ☐ c. ☐ d. ☐ e. ☐

If so, are there measures in place concerning in particular:

i) Access to employment

- a. ☒ b. ☐ c. ☐ d. ☐ e. ☐

ii) Promotion, dismissals, pay and other working conditions

- a. ☒ b. ☐ c. ☐ d. ☐ e. ☐

iii) Prevention and punishment of harassment

- a. ☒ b. ☐ c. ☐ d. ☐ e. ☐

iv) Protection of privacy of transgender persons

(in accordance with paragraph 30 of the Appendix to the Recommendation)

- a. ☒ b. ☐ c. ☐ d. ☐ e. ☐

Please indicate the measures and, if appropriate, provide examples of good practices in this area:

Section 39 of the Equality Act 2010, taken together with other provisions in the Act, makes it unlawful for an employer to subject a person seeking work to discrimination relating to sexual orientation or gender reassignment a) in the arrangements they make for deciding to whom they offer employment; b) in the terms on which they offer employment; or by not offering a person the job. Under the Act, it is also unlawful for an employer to subject an employee to discrimination relating to sexual orientation or gender reassignment a) as regards terms of employment; b) in providing access to promotion, transfer or training opportunities, or to receiving any other benefit, facility or service; c) by dismissing the employee; or d) by subjecting them to any other detriment. Section 40(1), taken together with other provisions of the Equality Act, mean that it is unlawful for an employer to harass employees and people applying for employment.

## **VI. Education**

27. Are there appropriate legislative and other measures, addressed to educational staff and pupils, to ensure that the right to education can be effectively enjoyed without discrimination on grounds of sexual orientation or gender identity, taking into due account the over-riding interests of the child and the rights of parents regarding education of their children?

a. ☒ b. ☐ c. ☐ d. ☐ e. ☐

If so, are there measures in place concerning in particular:

- i) Anti-discrimination training or support and teaching aids

a. ☒ b. ☐ c. ☐ d. ☐ e. ☐

- ii) Information, protection and support for pupils and students

a. ☒ b. ☐ c. ☐ d. ☐ e. ☐

- iii) Objective information on sexual orientation and gender identity in school curricula ?

a. ☒ b. ☐ c. ☐ d. ☐ e. ☐

- iv) School equality and safety policies and action plans

a. ☒ b. ☐ c. ☐ d. ☐ e. ☐

Please indicate the measures and, if appropriate, provide examples of good practices in this area:

As part of the UK Government's drive to promote good behaviour in schools, we will ensure schools have access to sound and authoritative guidance, which empowers teachers to tackle bad behaviour and bullying in schools, including help to identify and tackle homophobic and transphobic bullying. The public sector Equality Duty, included in the Equality Act 2010 and which came into force on 6 April 2011, made it a statutory duty for schools to consider how to advance equality for LGB&T people. Every school must have a behaviour policy which sets out measures which aim to promote good behaviour, self-discipline and respect, and prevent all forms of bullying amongst pupils. Schools will be held accountable for their effectiveness in managing pupil behaviour and tackling bullying through the new Ofsted (the Government education inspectorate) inspection regime - behaviour and safety being one of the four judgement areas.

The Government has revised and republished its advice to schools on preventing and tackling bullying (May 2012). The revised advice summarises legal obligations and powers schools have to tackle bullying, outlines general principles used in the most successful schools, and signposts schools to key specialist organisations that can provide them with further help and support.

In Scotland the legislative framework provided by the Equality Act 2010 also applies and provides the framework for the prevention of, and addressing, discrimination. The Scottish Government in

partnership with LGBT Youth Scotland has produced guidance to support schools in preventing and tackling homophobia and homophobic bullying. The guidance is focussed through curriculum for excellence and supports classroom discussion to raise awareness of the issues for young people in addition to supporting the development of school policies.

The Scottish Government has also supported Stonewall Scotland in the development and distribution of the FIT DVD which explores the attitudes which lead to homophobia and homophobic bullying through drama. The resource stimulates discussion and helps young people understand and challenge discriminatory behaviours, including homophobic bullying.

In addition, the Scottish Government provides funding to a partnership of the Scottish Association for Mental Health (SaMH) and LGBT Youth Scotland for the *respectme* national anti-bullying service. The service aims to build capacity in schools in tackling and dealing effectively with incidents of bullying, including homophobic bullying. The service provides advice, information and training to those working with children and young people in developing policies and strategies and also dealing with those involved in bullying behaviours.

This work is delivered in the context of our national approach to promoting positive behaviour and relationships, which promotes understanding of emotions and wellbeing and restorative approaches to resolving concerns.

The Health and Wellbeing outcomes of Curriculum for Excellence includes outcomes on relationships, sexual health and parenthood, including understanding the wide range of friendships and relationships that exist. However, the multi-disciplinary approach to learning, through Curriculum for Excellence, means that LGBT issues can be raised in a wide range of curricular areas.

The Welsh Government guidance circular 'Sex and relationships education in schools' 19/2010 provides definitive advice to schools about the teaching of all aspects of relationships and specific sexual health and well-being issues such as sexual orientation. Where sex education is provided, head teachers and governing bodies must have regard to Welsh Government guidance.

In terms of dealing with sexual orientation, to ensure the needs of the learner are met, schools should encourage open discussion, promote inclusion and challenge inequalities. Schools should offer support and guidance to all learners, particularly lesbian, gay, bisexual and transgender learners who feel uncertain about expressing their sexuality. However, the delivery of the curriculum is delegated to schools and they decide on the precise content of sex and relationships education (SRE) programmes and the strategies for learning adopted.

Head teachers and governors are also responsible for making decisions about resources. They must have regard to the advice given in the Welsh Government's guidance circular and ensure that the resources are inclusive, appropriate for the age and cultural background of pupils. There are no legal barriers to discussing issues around sexual orientation in the classroom and responding to, and preventing, homophobic bullying.

In Northern Ireland, section 75 of the Northern Ireland Act 1998 provides for the promotion of equality of opportunity between a number of groupings, including people of different sexual orientation.



Schools in Northern Ireland are required to have discipline policies and to include within them measures to address bullying. The Department of Education (DE) has issued guidance and in recent years the local Anti-bullying Forum, which DE funds, has produced guidance for schools around different types of bullying. Most recently a 'tool kit' has been issued and the Education and Library Boards are providing support training.

## **VII. Health**

28. Are there appropriate measures in place to ensure that the highest attainable standard of health can be effectively enjoyed without discrimination on grounds of sexual orientation or gender identity, in accordance with the provisions of Paragraph 33 of the Appendix to the Recommendation?

a. ☒ b. ☐ c. ☐ d. ☐ e. ☐

Please indicate the measures and, if appropriate, provide examples of good practices in this area:

The National Health Service (NHS) Equality Delivery System (EDS) was published in December 2011 and the team worked to ensure the impact of EDS on trans people is monitored as far as possible. Whilst take up of the EDS is not mandatory, it is hoped further good practice examples will emerge over time. An evaluation of EDS was published in November 2012 and included the following examples:

- South East Coast Ambulance Service NHS Trust has entered into formal partnership arrangements with organisations that represent Gypsies & Travellers, people with learning disabilities and general disabilities to ensure they are properly considering the needs of people in those groups. They plan to enter into a similar arrangement with a transgender organisation as they have identified a gap in their engagement with this group.

- The Royal Free Hampstead NHS Trust engaged transgender people through creating a safe, open forum where transgender people and staff could discuss issues around access to, and the quality of general care in the hospital. The group met regularly, set their own pace, their own agenda, shared their stories and developed key pieces of work.

- NHS Nottinghamshire developed a successful initiative to improve the engagement of Lesbian, Gay and Bisexual employees, patients and their families. LGB community groups were consulted on the priorities of their work and were represented in the project steering group. This enabled feedback to the community on project activity and achievements.

NHS Scotland works to implement the Scottish Public Sector Duties in order to advance equality and eliminate discrimination in the NHS. To this end, NHS Health Scotland works with NHS Boards to advance and mainstream equality in access to and outcomes from NHS services for all. For example, the Person-Centred Enquiry project aims to establish an understanding and sensitivity in frontline staff to different needs for equal access. Another example of a system-wide, whole population approach is Health Inequalities Impact Assessment (HIIA) which builds health inequalities and human rights onto a basic Equality Impact Assessment framework. A current programme of work aims to strengthen implementation of HIIA through providing better access to data and information about protected characteristics and other equality priorities. The focus at present is on mainstreaming equality measures although particular work is targeted when warranted.

29. Has homosexuality been removed from the national classification of diseases?

- a. ☒ b. ☐ c. ☐ d. ☐ e. ☐

30. Are there measures in place to ensure that transgender persons have effective access to appropriate gender reassignment services?

- a. ☒ b. ☐ c. ☐ d. ☐ e. ☐

If there are limitations to the costs covered by health insurance for gender reassignment, please explain:

The Scottish Government issued guidance on a gender reassignment protocol CEL 26 (2012) in July 2012. The protocol incorporates recommendations from the 7th edition of The World Professional Association for Transgender Health (WPATH) Standards of Care 2011. Health Boards were asked to work to ensure that services are provided in keeping with the protocol. Multi-disciplinary collaboration should ensure equity of access and clinical effectiveness for all patients accessing the gender reassignment procedures.

The Scottish Government are currently in the process of undertaking an Audit of the progress made by NHS Boards in implementing the gender reassignment protocol. This will not only include an audit of the Boards implementation plans but will also include patient experience feedback.

### **VIII. Housing**

31. Are measures taken to ensure access to adequate housing can be effectively and equally enjoyed by all persons, without discrimination on grounds of sexual orientation or gender identity, that protection is provided against discriminatory evictions, and that equal rights are guaranteed in respect of ownership of land and other property,?

- a. ☒ b. ☐ c. ☐ d. ☐ e. ☐

Please indicate the measures and, if appropriate, provide examples of good practices in this area:

The regulatory standards covering all registered providers of housing, require landlords' governance arrangements and approaches to management and service delivery to incorporate and demonstrate principles of equality and diversity, and apply them in a way that is relevant to their organisation's purpose and context. They also require landlords to demonstrate that they understand the different needs of their tenants, including in relation to the equality strands and tenants with additional support needs.

The Chartered Institute of Housing, the body representing housing professionals, has published and promoted good practice guidance which looks at how housing providers can deliver equal and accessible housing and homelessness services to lesbian, gay, bisexual and transgender. The guidance, which includes good practice examples, should help housing providers across the UK to recognise LGBT issues in relation to housing provision and to plan and provide appropriate services that match the differing needs and preferences of diverse customers. It also includes a section on initiatives to tackle hate incidents.

In Scotland, social landlords (generally local authorities and housing associations) are required by section 106 of the Housing (Scotland) Act 2001 to encourage equal opportunities and provide services in a way that promotes equality as well as the observance of equal opportunity requirements. These run alongside their requirements under the Equality Act 2010. To help Scottish social landlords understand their legislative requirements and the flexibilities they have in developing their allocations policies and procedures, the Scottish Government published a practice

guide to the allocation of social housing in March 2011. The guide directs landlords to two reports by Stonewall/Scottish Housing Regulator:

- Understanding the housing needs and homeless experiences of Lesbian, Gay, Bisexual and Transgender people in Scotland: a guide for social housing providers (published 2009); and
- Recognising and Addressing Homophobic and Transphobic Harassment: A Guide for Social Housing Providers and Homelessness Services (published 2009).

The Welsh Government has funded the development of 'Tackling Hate Crime Incidents – a Toolkit for Social Landlords in Wales' which was made available to all social landlords to enable them to develop a common approach to tackling hate incidents based on best practice. A study has been commissioned to understand how the toolkit has been used and to inform its use in future.

The Welsh Government's new Regulatory Framework for Housing Associations Registered in Wales sets out ten 'delivery outcomes' (standards of performance) that associations need to met in relation to governance, financial management and landlord services. The outcomes relating to governance and landlord services include demonstrations that activities and services reflect the diversity of communities where associations operate, are free from discrimination and promote equality of opportunity.

The Department for Social Development has issued guidance to the Northern Ireland Housing Executive on dealing with anti-social behaviour which makes it clear that harassment connected with a person's perceived sexual orientation or gender identity is a hate crime and should be treated as grounds for possession of a secure tenancy of social housing.

Social housing in Northern Ireland is allocated via the Housing Selection Scheme under which points are awarded strictly on the basis of need. Intimidation points can be awarded under the Scheme where an applicant has been made homeless as a result of an attack motivated by hostility because of the applicant's sexual orientation.

Private landlords in Northern Ireland must follow a formal legal process in order to recover possession of their properties. Harassment of tenants and illegal eviction are offences under the Rent (Northern Ireland) Order 1978 and the Private Tenancies (Northern Ireland) Order 2006. The Department has published *Protection Against Harassment and Illegal Eviction- a Guide for Private Landlords and Tenants in Northern Ireland* which advises that abusive behaviour which is sexually motivated may be treated as illegal eviction.

32. With respect to the risk of homelessness faced by lesbian, gay, bisexual and transgender persons, in particular young persons and children, are measures taken to ensure that the relevant social services are provided without discrimination on grounds of sexual orientation or gender identity?

a. ☒ b. ☐ c. ☐ d. ☐ e. ☐

Please indicate the measures and, if appropriate, provide examples of good practices in this area:

See above response. Additionally, statutory guidance for local housing authorities says that in the course of conducting a homelessness review authorities should consider the activities of all the various agencies and organisations, across all sectors, which are providing, or contributing to the provision of accommodation, support or relevant services in the District. This list includes lesbian, gay, bisexual and transgender organisations.

The Scottish homelessness legislation does not discriminate on grounds of sexual orientation or gender identity. The legislation ensures that all unintentionally homeless households are entitled to settled accommodation.

Northern Ireland's homelessness legislation does not discriminate on the grounds of sexual orientation or gender identity. The legislation ensures that accommodation is made available for all eligible persons who are unintentionally homeless and in priority need.

### **IX. Sports**

33. Have measures (including awareness-raising measures) been taken to tackle discrimination on grounds of sexual orientation or gender identity (including the use of discriminatory insults) in sports and in connection with sports events?

a. ☒ b. ☐ c. ☐ d. ☐ e. ☐

Please indicate the measures and, if appropriate, provide examples of good practices in this area:

The UK Government's charter on tackling homophobia and transphobia in sport, which was launched in 2011, goes from strength to strength with well over 40 of sport's National Governing Bodies, all professional football league teams and 3,700 individual sports fans signing up. The Olympic and Paralympic organising committee, was one of the founding signatories, making sure that all athletes that came to London for the Olympics knew that the UK welcomes all athletes no matter what their sexual orientation or gender identity.

The Organising Committee for the Glasgow 2014 Commonwealth Games is engaging with both local and national LGBT organisations and networks to help promote Glasgow 2014 as the most inclusive Commonwealth Games yet.

Sport Wales in partnership with Stonewall Cymru launched research findings into Understanding Lesbian, Gay and Bisexual Participation in Sport on 6 December 2012. The report provided a glimpse into how LGB people living in Wales experience and view sport. The findings examined several key areas of the sport experience: current participation levels; what it is like to take part in club sports or team sports; school sport; stereotypes in sport; types of discrimination experienced by LGB individuals in sport; and LGB visibility in sport. This was also accompanied by a blog on the same subject and included participation from predominate Welsh athletes. The report contains a number of findings and concludes with recommendations for Governing Bodies, Clubs and Schools, as well as a recommendation for the Welsh Government: to develop a Sports Charter for Wales and encourage organisations to display their commitment to furthering equality.

The 29th January 2013 saw the first meeting of the LGBT Sport Network taking place. The meeting was attended by high profile Welsh Sporting Organisations, Supporters Trusts, Prison Services and individuals who wish to support work to tackle homophobia in Sport. The Network will identify areas of work that can make a fundamental difference to participation levels from community and grass root levels through to elite performance. The group will be supported through the first 12-18 months by Sport Wales, Stonewall and the Football Association of Wales, after which the group will become its own entity, with similar networks being established throughout Wales.

### **X. Right to seek asylum**

34. In cases where your country has an international obligation in this respect, may a well-founded fear of persecution based on sexual orientation or gender identity be recognised as a valid ground for the granting of refugee status and asylum under your national law?

a. ☒ b. ☐ c. ☐ d. ☐ e. ☐

Please indicate the measures and, if appropriate, provide examples of good practices in this area:

Nobody at risk of persecution in their country of origin will be expected to return there. Following the UK Government's commitment to ending the removal of those at risk due to their sexual orientation, the UK Border Agency produced dedicated guidance on this issue to ensure that asylum claims brought on these grounds are handled sensitively and appropriately, and it backed this up by delivering training to all asylum case owners on handling sexuality based claims. The guidance and training were produced in consultation with corporate partners, including Stonewall, the UK Lesbian and Gay Immigration Group, and the UNHCR.

In addition to the scrutiny of the courts the UK Border Agency has stringent quality assurance processes in place to ensure that decisions are well reasoned and supported by evidence. Asylum applicants who are found to be in need of protection will be granted asylum.

35. Does your country ensure that asylum seekers are not sent to a country where their life or freedom would be threatened because of their sexual orientation or gender identity?

a. ☒ b. ☐ c. ☐ d. ☐ e. ☐

Please indicate the measures and, if appropriate, provide examples of good practices in this area:

See above response.

#### **XI. National Human Rights Structures**

36. Are National Human Rights Structures (equality bodies, ombudsperson, and national human rights institutions) clearly mandated to address discrimination on grounds of sexual orientation?

a. ☒ b. ☐ c. ☐ d. ☐ e. ☐

Are National Human Rights Structures (equality bodies, ombudsperson, and national human rights institutions) clearly mandated to address discrimination on grounds of gender identity?

a. ☒ b. ☐ c. ☐ d. ☐ e. ☐

If so please explain and indicate in particular, if appropriate, what possibilities of intervention are included in their mandate, including in particular with respect to discrimination on multiple grounds:

The Equality and Human Rights Commission (EHRC) was established by the Equality Act 2006 and started operating in October 2007. The EHRC has a statutory remit to promote and monitor human rights; and to protect, enforce and promote equality across the protected characteristics of age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation.

The EHRC has a suite of powers contained within its legal remit which allows it to make interventions such as:

- conducting inquiries on equality and human rights matters

- conducting investigations [relating to breaches equality law]
- entering into formal agreements [in relation to breaches of equality law]
- seeking injunctions [in relation to breaches of equality law]
- providing legal assistance to fund strategic cases in relation to discrimination on any one (or more) of the grounds mentioned and to bring forward cases in its own name in relation to equality and Human Rights issues
- intervening as an interested party in the Courts cases relating to equality and human rights
- applying for a Judicial Review; and
- conducting assessments of processes and practices and if required issuing compliance notices in relation to equality law.

In addition, the EHRC monitors the UK's involvement with the following conventions:

- Universal Declaration of Human Rights
- International Covenant on Civil and Political Rights (ICCPR)
- International Covenant on Economic, Social and Cultural Rights (ICESCR)
- Convention on the Elimination of All Forms of Racial Discrimination (CERD)
- Convention on the Elimination of All Forms of Discrimination against Women (CEDAW)
- Convention on the Rights of the Child (CRC)
- Convention on the Rights of Persons with Disabilities (CRPD)
- Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT)

The Equality Commission for Northern Ireland works towards the elimination of discrimination and promotes equality of opportunity for people across nine different categories including sexual orientation.

## **XII. Discrimination on multiple grounds**

37. Are there measures in place to ensure that the provisions of national law prohibiting or preventing discrimination also protect against discrimination on multiple grounds, including on grounds of sexual orientation or gender identity?

- a. ☐ b. ☐ c. ☐ d. ☒ e. ☐

The Equality Act 2010 includes provisions which would make direct discrimination because of a combination of two protected characteristics unlawful. However, the Government has decided not to commence the dual discrimination provisions during the lifetime of this Parliament as the cost would be disproportionate to the scale of any problem that cannot already be addressed by the Act. Based on the impact assessment of the Equality Act published in April 2010 when the Act was given Royal Assent, it is estimated that this provision would cost business some £3 million each year. While these provisions remain uncommenced, business will not incur these costs.

People who experience discrimination because of a combination of protected characteristics, e.g. a black woman, a Muslim gay man, can continue to bring two or more separate claims for each characteristic.

Section 75 of the Northern Ireland Act 1998 places a duty on public authorities when carrying out their functions to have due regard to the need to promote equality of opportunity between people within nine different categories, including people with different sexual orientations.

### Section III - Follow-up

38. Which measures by the Council of Europe would you recommend to ensure that member states are guided in their national legislation and practice by the principles set out in the Recommendation and in its Appendix ?

The UK Government would suggest the Council of Europe mainstream awareness of the Recommendation and its Appendix amongst the Council of Europe Secretariat to ensure the provisions of the recommendation are taken into account in all Council of Europe activities. The UK Government also suggests periodic monitoring (see question 39) to promote and encourage member states to use the Recommendation to inform their national legislation and practice.

39. Should the Council of Europe continue examining periodically the implementation of this Recommendation? If so, should such examination in future concentrate on specific issues, and which specific issues would you recommend examining in that case?

The UK Government supports periodic examinations of the Recommendations implementation. Future examinations should focus upon the Recommendation as whole rather than specific issues. However, if a specific issue were to be focussed on our preference would be for hate crime. The UK Government believes that everyone should be free to live their lives without fear of abuse of attack on the basis of who they are. All crime is wrong, but crime that is motivated by hatred of the victim is particularly corrosive. Tackling hate crime matters because of the damage it causes to victims, their families, but also because of the negative impact it has on communities in relation to cohesion and integration. Making progress on this issue will lay a solid foundation on which other elements of the Recommendations can progress.

40. Are there any issues on which the Recommendation and its Appendix should be revised or completed? If so, please indicate them.

We do not consider it necessary to revise any aspects of the Recommendation and its Appendix. The text of the Recommendation has been agreed through careful negotiation therefore the UK would not welcome any revision to its current, carefully negotiated, balance.