

Over Not Out

Refreshed 2012



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An update on progress against the original
recommendations of the Over Not Out Report (2009)

Research undertaken by
Alasdair Stuart of MBARC

Enter

Acknowledgements

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We would also like to thank the stakeholders working in the provision of support, legal and housing services, community members and organisations who gave us their time.

About Metropolitan Migration Foundation

Metropolitan Migration Foundation invests where it makes the greatest difference, drawing on our heritage as part of Metropolitan, a housing association which has worked with multicultural communities for over 50 years. Through this experience, we have an understanding of the impact of migration and, by offering funding and practical support, we encourage the integration of migrant and host communities. Our primary goal is to encourage creative and constructive responses to migration to the UK.

Find out more at www.metropolitan.org.uk/migration

About MBARC

MBARC provide cost effective and high quality research, consultancy and programme management services which provide evidence based and practical solutions to promote community cohesion and tackle social exclusion.

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Foreword

In 2009, very little attention was given to lesbian, gay, bisexual, trans and intersex (LGBTI) asylum seekers, save for some dedicated activists who refused to let them be ignored, yet same-sex relations were criminalised in 70 countries. The numbers of LGBTI asylum seekers coming to the UK were relatively small (estimated at between 1300 and 1800) but the issue of human rights and equalities has never been about numbers; it was, and is, about whether groups of people are being treated unfavourably and denied their rights due to their race, disability, gender, sexual identity etc. Our initial 'Over Not Out' research aimed to shine a brighter light on the plight of those 1800 people and it led to more lights shining, firstly from outside government and then from government itself.

The overwhelming finding of the initial report was that LGBTI asylum seekers were often let down by the asylum system because of a lack of understanding. They were themselves isolated from family, their ethnic community and the LGBTI community as they faced a 'double jeopardy' from racism and homophobia.

This new report tells the story of the last three years since that initial report. Whilst it is a very positive story in many respects, there are still significant challenges.

The positives:

- The UK Borders Agency (UKBA) began to record data on asylum claims based on sexual orientation last year, although it is not published yet.
- The Government equalities office published two action plans on LGBTI equality and transgender people which included actions for UKBA to develop and audit their training for asylum decision makers for cases based on sexual orientation, and to ensure accurate and objective Country of Origin Information Reports (COI reports) relating to LGBTI claims.
- LGBTI rights were catapulted up the agenda when David Cameron threatened to withhold UK aid to those governments refusing to reform legislation banning homosexuality. This was taken up by the Commonwealth Secretary General at the CHOGM meeting in Australia with similar supporting statements from the Australian and Canadian governments.

- UKBA accepted that COI reports, used by asylum decision makers to help understand the human rights situation in countries of origin, should reference 'social sanctions' as well as legal sanctions. However, the internal guidance enacting this change is still being reviewed.
- In 2010, five Supreme Court Justices announced their judgement that gay and lesbian asylum seekers should not be expected to 'exercise discretion' (i.e. hide their sexual orientation) in their home countries to avoid persecution. This was accepted by the Home Office and changed their practices.

And the challenges:

- Legal aid changes have resulted in two key legal advice agencies closing down.
- The new interpreting service for asylum claimants has led to widespread complaints about the quality of the service, and interpreters haven't been trained on LGBTI issues.
- Reports of detention of transgender asylum seekers for their own safety has led to severe isolation.
- There have been difficulties in accessing mental health services due to issues with GP referrals and provision of interpreters.
- Housing strategies, such as the London Housing Strategy, have ignored issues of migration, let alone LGBTI asylum seekers despite the commitment to addressing migrant housing issues in the London refugee integration strategy, London Enriched.

The issues facing LGBTI asylum seekers are certainly further up the agenda in 2012 than they were in 2009 and that is testament to the work of a growing group of people, many of whom have contributed to this report. My thanks to those people and to MBARC who have written this report. There are still many LGBTI asylum seekers at risk of persecution in their home countries and unfortunately at risk of harassment and sexual and financial exploitation in the UK. The work continues and I hope this report will help to keep the light shining on these issues.

Andy Gregg
Chair of Metropolitan Migration Foundation



1 Call for action

Background

In 2009, Metropolitan funded the first National Study of the needs of LGBT Asylum Seekers, *Over Not Out*. Since that date there has been considerable interest in the issues raised at a local, national and international level, including new research, international conferences and work towards an international declaration of Human Rights for LGBTI (Lesbian, Gay, Bisexual, Trans or Intersex) asylum seekers and refugees. Perhaps more importantly for individual LGBTI refugees and asylum seekers there have been a number of significant developments in public policy and practice within the UK.

In light of these developments, in December 2011 the Metropolitan Migration Foundation (formerly Metropolitan Support Trust) commissioned MBARC to provide an update on progress against the 31 recommendations made in the original report, using a combination of interviews with key stakeholders and desk research. The report revisits each of the recommendations, providing a short narrative on the original recommendation and the rationale underpinning it, assessing any action or evidence of progress since the original research was undertaken, and where appropriate detailing the views of key stakeholders on the current situation in regard to each set of recommendations.

Call for Action

In May 2012 a group of stakeholders met to discuss and refresh the original recommendations of *Over Not Out*. These are presented below under the following headings:

- Securing the Evidence Base.
- Tackling the Drivers for LGBT Asylum Seeking.
- The Asylum Claim and Legal Process.
- Accommodation and Dispersal.
- Detention.
- Tackling Exploitation and Promoting Safety.
- Health Building Support Networks.
- Further Research.

These recommendations are intended as a call for action to:

- Charitable trusts.
- Councils for Voluntary Service/Third Sector networking organisations.
- Department of Health.
- Detention centres.
- Foreign & Commonwealth Office/ Department for International Development.
- Hate crime third party reporting centres.
- HIV prevention programmes (national/regional and local providers and commissioners).
- Home Office (including UKBA)
- Ministry for Justice.
- Immigration law providers.
- Legal Service Commission.
- LGBTI community organisations and commercial venues.
- Local Authorities/ London Councils/ Greater Manchester Authorities.
- Refugee support organisations/ community development providers.
- Research organisations and research commissioners.
- UKBA landlords.

Securing the Evidence Base

- R1** The UKBA data gathering should include data on LGBTI asylum claimants, rather than just LGB claimants.
- R2** All data gathered on LGBTI asylum claimants should be published.
- R3** Consideration should be given to how asylum claimants could be helped to give information about whether they are LGBTI, and/or have been a victim of rape or torture, as early as possible in the asylum claim process. Those disclosing this information should not be detained or fast tracked.
- R4** Pre-screening interviews should explain the various grounds for making an asylum claim (presented in list form), including on the basis of being LGBTI, as well as whether a claimant has been the victim of torture and/or rape. This should be done in a way that is welcoming, comfortable and unthreatening for interviewees, assuring them that they are safe to disclose information about their sexual orientation.
- R5** Pre-screening interviews should not be used by UKBA to gather detailed information on a claimant's case, as there is no legal representation allowed at this stage.

Tackling the Drivers for LGBTI Asylum Seeking

- R6** The Foreign and Commonwealth Office (FCO) should seek to make more use of grassroots LGBTI/HIV organisations within countries to obtain better information on LGBTI persecution from on the ground, and this should be incorporated into UKBA Country of Origin Information Reports. The basis of information gathering should be neutral.
- R7** The FCO should share data and information gathered for Country Profiles with the Home Office/UKBA, and UKBA should use this information to help assess claimant cases.
- R8** FCO and DfID should work with the UN on emerging efforts to tackle LGBTI/MSM (Men who have sex with Men) issues at a global level. The UK has a particularly important role to play in this by influencing Commonwealth Countries.

The Asylum Claim and Legal Process

- R9** The issue of accessibility to specialist immigration advice for LGBTI asylum seekers should be raised directly with the Ministry of Justice.
- R10** All LGBTI asylum seekers should have access to quality legal advice to assist with their asylum claim.
- R11** The Ministry of Justice must ensure the provision of suitably qualified interpreters to assist with asylum claims.
- R12** Access to quality legal advice should be provided prior to the day of a claimants hearing, allowing sufficient time for cases to be prepared. Claimants should have the opportunity to seek quality legal representation, and LSC rules should be amended to reflect this.
- R13** The UKBA should review and amend its country of origin information reports to include reporting on the social sanctions as well as any legal sanctions against LGBT people. The UKBA should assure itself that it has sufficient country researchers to provide information on the situation facing LGBTI people in countries of origin and expand its range of researchers if necessary.
- R14** Where extreme prejudice and danger is noted in country of origin information reports, a country's inclusion on the "Safe Country List" should be reviewed. Where country information or case law demonstrates that there is a risk in these countries, they should be removed from the "Safe Country List". This should apply where all asylum applications are made on the grounds of sexual orientation or gender identity.
- R15** The UKBA's Country of Origin Information (COI) Service should consider producing reports on countries outside of the top 20 countries where asylum claimants come from. Where there are not full reports, UKBA and FCO often produce bulletins, and these should be used where available.



- R16** LGBTI and asylum seeker and refugee organisations in the UK may also have information obtained from LGBTI asylum seekers and refugees that should be considered in the UKBA's COI reports.
- R17** Trans and Intersex training should be developed in partnership with suitable NGOs and provided to all UKBA case workers/owners and other staff involved in the asylum claim decision making chain.
- R18** Interpreters involved in the asylum claim process should be training in LGBTI issues as a priority.
- R19** The findings of the UKBA's thematic audit of asylum claims based on sexual orientation and / or gender identity should be published, and improvements should be made where issues have been found. Further work should be conducted to ensure that the new Guidance procedures and training are resulting in the correct treatment of LGBTI asylum cases.
- R20** Asylum seekers who have previously kept their sexuality or gender identity discreet are currently required to prove that they are LGBTI. The focus should be on what it means to be LGBTI, rather than on a narrow questionnaire to determine sexuality.
- R21** Children under the age of 16 should be able to granted asylum on the basis of being at risk of persecution on the basis of their LGB sexual identity.

Accommodation and Dispersal

- R22** The UKBA should review and refine the guidance and contractual requirements imposed on landlords providing accommodation to ensure that LGBTI residents are safe and can live lives free from homophobic or transphobic harassment. This should include ensuring that LGBTI asylum seekers have access to well publicised, safe and confidential reporting mechanisms.
- R23** Landlords providing such accommodation should be challenged to prove that they are meeting their obligations under the Equality Act 2010. This should include policies and procedures to promote LGBTI inclusion and ensure that that all staff (managers and front-line staff) undertake

appropriate training of the sort provided by Stonewall Housing that includes identifying and tackling homophobia and transphobia.

- R24** Landlords should consider sub-contracting the management of a proportion of their asylum accommodation to appropriate bodies that can provide more sympathetic support to LGBTI asylum seekers.
- R25** Local Authorities should work regionally (e.g. across London) and work with regional bodies, such as the Greater London Authority, to develop appropriate accommodation for LGBTI unaccompanied minors.
- R26** The Home Office should review and develop mandatory guidance, with clear procedures for all UKBA staff in dealing with homophobic and transphobic harassment.
- R27** A code of practice should be developed for UKBA landlords that includes dealing appropriately with claims of homophobic or transphobic harassment. Compliance with this code of practice should form part of the landlord's contract with UKBA.
- R28** If an asylum seeker already has a case solicitor the legal aid rules should be changed to allow them to keep their case solicitor following dispersal. Where no specialist legal representation is available in an area provision should be made to find a quality service appropriate to the needs of the claimant and should be legal aid funded.
- R29** The Independent Chief Inspector of Borders and Immigration should push for UKBA to publish data on LGBTI asylum claimants, under the requirements of the Equality Act 2010.

Detention

- R30** The Home Office should ensure that detention facility staff are governed by comprehensive policies and procedures and are adequately trained to provide a service that is sensitive to the needs of LGBTI asylum seekers, including the risk of harassment and domestic abuse at the hands of other detainees. Detention centre staff should be reminded that bullying or abusive behaviour of any detainees will not be tolerated and will result in disciplinary action.

- R31** All detention centre staff should receive comprehensive LGBTI training.
- R32** UKBA screening staff making decisions on whether to detain asylum claimants should also receive comprehensive LGBTI training.
- R33** Any LGBTI asylum claimant being detained should be given specific guidance and support around bullying and harassment, including the fact that it should not be tolerated, and how they can report it and receive support should it occur.
- R34** There should be an experienced post of LGBTI Liaison/ Support Officer at each detention centre. Staff should have suitable experience and qualifications for this post.
- R35** No trans or intersex claimants should be detained.
- R36** No victims of rape and/or torture should be detained.

Tackling Exploitation and Promoting Safety

- R37** The provision of better support to stay in UKBA accommodation and access to other support services would reduce LGBTI asylum seekers' vulnerability to both financial and sexual exploitation.
- R38** Funding for projects to support male and transgender asylum seekers at risk of, or involved in sex work must be encouraged.
- R39** Third party reporting centres for hate-crime need to be encouraged to develop awareness and support programmes for LGBTI asylum seekers to ensure that they are aware of their rights to safety and the recourse they have. Provision should acknowledge the heightened risk faced of sexual assault faced by lesbians identified in other research such as Galop's "Filling the Blanks".

Health

- R40** The Department of Health should undertake further examination of access to some secondary care for asylum seekers, particularly counselling/psychological therapies. The current expansion of these services through the Improving Access to Psychological Therapies (IAPT) programme, led by primary care trusts provides a potential opportunity for targeted support to LGBTI asylum seekers.
- R41** There should be provision of mental health services to LGBTI asylum seekers in detention centres.
- R42** HIV prevention programmes at a national, regional and local level should examine ways in which they could better target their services toward LGBT asylum seekers at risk of sexual exploitation and/or participating in unsafe sex. Such services should also consider providing outreach services, including free condoms to residents of UKBA accommodation and through LGBTI asylum seeker organisations.
- R43** New health commissioning structures must be used as an opportunity to lobby and pressure for better provision of health services for LGBTI asylum seekers and refugees. Local Authorities will have significant responsibility for the health needs of LGBTI asylum seekers and refugees, and must be made aware of this need and pressured to meet it adequately.
- R44** Joint Strategic Needs Assessments (JSNAs) should consider the needs of LGBTI asylum seekers, especially in areas where they are dispersed to.

Building Support Networks

- R45** Agencies providing community development services to MRCOs (Migrant and Refugee Community Organisations) need to take a more robust and challenging attitude to LGBTI issues. This should be modelled on the work done by similar agencies in challenging sexism in community organisations in recent years.

- R46** All organisations supporting refugees need to ensure that their senior managers, front line staff and volunteers undertake diversity training as part of their induction and on-going personal development. This training must include modules to improve awareness of LGBTI issues and where people are specifically working with asylum seekers, targeted training on the specific issues relating to them. They should also examine ways of measuring both service take up by LGBTI asylum seekers and the LGBTI service users views of services provided.
- R47** Public and charitable funders should provide more support and challenge MRCOs in respect of the accessibility of their organisations to LGBTI people.
- R48** Public and charitable funders should be encouraged to provide support and resources to LGBTI asylum groups. Such funding should encourage volunteering and self-help from within these communities.
- R49** Councils for Voluntary Service and other third sector networks should develop support and networking opportunities for mainstream LGBTI organisations to develop their links with smaller LGBTI asylum seeker groups.
- R50** LGBTI voluntary and community organisations need training and funding to increase capacity to meet the needs of asylum seekers.
- R51** Learning, findings and recommendations from the Trust for London funded Double Jeopardy project should be used to help with these issues.
- R52** LGBTI community organisations, as part of their commitment to developing more “asylum-responsive” services should seek to include asylum seekers in events and where applicable undertake planning with commercial LGBTI venues. This could include promoting social events at non-commercial LGBTI venues and occasional free nights at commercial venues to address the financial disadvantage faced by asylum seekers, though careful consideration should be made of how to encourage commercial LGBTI venues to become more supportive of LGBTI asylum seekers and refugees.

- R53** These issues should be raised with national LGBTI organisations, including the National LGBT Consortium and National LGBT Partnership.
- R54** There should be more national promotion of the issues faced by LGBTI asylum seekers and refugees, particularly by national LGBTI and Refugee/asylum seeker organisations. National conferences held by these organisations should be used to raise these issues within each community.
- R55** LGBTI and Migrant and Refugee Community Organisations should look to internal staff/resources to develop and improve internal organisational attitudes towards LGBTI asylum seekers and refugees.
- R56** LGBTI organisations working with faith groups around the issue of HIV should raise the issue LGBTI asylum seekers and refugees.

Further Research

- R57** This research should be seen as the starting point of wider study. There is a need for research to further explore the needs of LGBTI refugee and asylum seekers, including potentially more hidden and excluded sub-communities, such as unaccompanied asylum seeking children and young people leaving care.
- R58** The different asylum experience for LGBTI asylum seekers highlighted in this report needs to be explored in relation to its impact upon integration for those granted asylum.
- R59** Research to establish reliable data on the numbers of LGBTI asylum seekers (both in the UK and more widely) is a priority.

2 INTRODUCTION

In 2009, Metropolitan Support Trust funded the first National Study of the needs of LGBT Asylum Seekers, *Over Not Out*. Since that date there has been considerable interest in the issues raised at a local, national and international level, including new research, international conferences and work towards an international declaration of Human Rights for LGBTI asylum seekers and refugees. Perhaps more importantly for individual LGBTI refugees and asylum seekers there have been a number of significant developments in public policy and practice within the UK.

In light of these developments, in December 2011 the Metropolitan Migration Foundation (formerly Metropolitan Support Trust) commissioned MBARC to provide an update on progress against the 31 recommendations made in the original report. This report revisits each of the recommendations, providing a short narrative on the original recommendation and the rationale underpinning it, assessing any action or evidence of progress since the original research was undertaken, and where appropriate detailing the views of key stakeholders on the current situation in regard to each set or recommendations.

2.1 METHODOLOGY

The methodology consisted of:

- Desk research – examining changes in policy, case law and ministerial or other statements of public policy.
- Interviews with key stake-holders from each of the stake holder groups targeted in the recommendations .
- A round table meeting of key stakeholders to discuss refreshing the recommendations (see Appendix 2 for a list of participants).

This report is meant as a refresh on the original recommendations, however we are aware that there may be examples of existing good practice that we are not aware of, and that there may be subsequent developments in the various areas discussed in the report. We would encourage stakeholders to share such developments with us, so that these can be incorporated in any future refresh of the report.

Throughout the report the original recommendations are listed in green boxes, with a brief overview of how they were arrived at, followed by a description of progress on these issues to date. Refreshed recommendations are then presented in the magenta boxes.

The rest of this report is set out as follows:

Chapter 3:	Context
Chapter 4:	Securing the Evidence Base (R1-2)
Chapter 5:	Tackling the Drivers for LGBT Asylum Seeking (R3)
Chapter 6:	The Asylum Claim and Legal Process (R4-6)
Chapter 7:	Accommodation and Dispersal (R7-12 and R15-16)
Chapter 8:	Detention (R13-14)
Chapter 9:	Tackling Exploitation and Promoting Safety (R17-19 and R22)
Chapter 10:	Health (R20-21)
Chapter 11:	Building Support Networks (R23-29)
Chapter 12:	Further Research (R30-31).

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3 CONTEXT

3.1 POLITICAL CONTEXT

Since the original report there have been a number of significant political developments at both a UK and international level.

Within the UK context, the Government Equalities Office has developed and published two action plans on LGBT and Transgender equality, which highlight the main issues that LGBT people are facing and how these can be addressed, including LGBT asylum seekers and refugees.

The action plans have been agreed with various Government departments, and specific targets have been set against a number of points specific to LGBT asylum seekers and refugees, however it is slightly less clear how these will be monitored and who will be held accountable if these are not realised.

The action plans state that the Government will work in close partnership with people, communities, civil society, sports groups, schools and businesses to monitor the implementation of the action plan and make LGB&T equality a reality, and that in 2012 a Call for Evidence (CfE) will be launched to enable anyone with an interest in LGB&T equality to share their views and insights on how each section in the detailed action plans can be successfully implemented, what has gone well and where the challenges remain.

Working for Lesbian, Gay, Bisexual and Transgender Equality: Moving Forward (March 2011) states that the UK has already stopped the deportation of asylum seekers who have had to leave particular countries because their sexual orientation or gender identification puts them at proven risk of imprisonment, torture or

execution, but recognises that more needs to be done to promote LGB&T rights abroad. The action plan states that the Government will work with international partners and structures to progress LGB&T equality internationally raise human rights standards overseas and protect the rights of British citizens living, working or travelling abroad.

Under asylum the action plan set out the following detailed actions:

- UKBA to develop, roll out and review the effectiveness of a new training programme for asylum decision makers to support new guidance on managing asylums claims brought on the grounds of sexual orientation. An audit will be undertaken on the effectiveness of training and guidance in LGB Cases (September 2010 - September 2011)
- UKBA to work with the UN Refugee Agency (UNHCR) and Stonewall to develop a protocol for evaluating the effectiveness of the new guidance on managing asylums claims brought on the grounds of sexual orientation (January 2011 – March 2011)
- UKBA to continue to ensure that accurate, reliable and objective country information relating to LGB&T claims is collated and disseminated for the benefit of those involved in the refugee status Determination process (September 2010 – Ongoing).

‘Advancing transgender equality: a plan for action’ (Dec 2011) sets out the vision and focus for the Government’s commitment to delivering greater equality for transgender people.

It highlights that a module on issues surrounding asylum claims brought on the grounds of the applicant’s gender identity has now been included in all foundation and consolidation training to asylum decision makers.

Under detailed actions, the document sets out that:

- UKBA will signpost asylum case owners on UKBA intranet to guidance on gender identity issues in the asylum claim, with a particular focus on types of persecution and difficulties that a transgender applicant might have experienced (June 2011 – Ongoing)
- UKBA will engage with the transgender community and other partners to ensure that, where possible, up to date information on the situation of transgender people is accurately reflected in Country of Origin Information(COI) Service's products (June 2011 – Ongoing).

In addition to these action plans published by the Government Equalities Office, in early October 2011, Prime Minister David Cameron made a speech in which he threatened to withhold UK aid to Governments refusing to reform legislation banning homosexuality .

Several Commonwealth Countries reacted angrily to this position, suggesting the UK was attempting to bully them , and there was concern from a wide range of human rights activists that there would be a backlash against LGBT populations within these countries .

In November 2011 the Kaleidoscope Trust met with the Secretary of State for International Development, Andrew Mitchell, to discuss these concerns. At the meeting the Minister clarified the UK Government's position, saying that support for LGBT rights would not lead to cuts in aid levels, but that:

“Where we think Governments do not have respect for human rights, it will have a big effect on the way we carry out this funding. Taking money away from Governments does not mean you do not support that country. You find other mechanisms for trying to help the poorest with food, education and health care as well as building up business structures.”

The issue was raised again at the Commonwealth Heads of Government Meeting (CHOGM) in Perth, Australia, after an internal Commonwealth Secretariat report recommended that ending bans on homosexuality (41 Commonwealth member states still criminalise homosexuality) could preserve the future relevance of the Commonwealth.

At the opening ceremony of the Commonwealth People's Forum, the Commonwealth Secretary General Kamallesh Sharma backed LGBT rights, stating that:

“We embrace difference, and that includes sexual identity. Discrimination and criminalisation on the grounds of sexual orientation is opposed to our values and I have had occasion to refer to this in the context of our law-related conferences.”

This was the first time that the issue of discrimination against LGBT people had been raised at CHOGM, and following the statement of Kamallesh Sharma, the meeting's host, Australian Foreign Minister Kevin Rudd, also called for an end to the laws criminalising homosexuality. This call was also supported by Canadian Foreign Affairs Minister John Baird, and the British Foreign Minister William Hague, who stated that:

“The UK would like to see the Commonwealth do more to promote the rights of its lesbian, gay, bisexual and transgender citizens. It is wrong in our view that these groups continue to suffer persecution, violence and discrimination within the Commonwealth and that many members still have laws criminalizing homosexuality. A Commonwealth that lives up to its values is one where all its citizens are free to live their lives in a safe and just society. ”

David Cameron reiterated this message, and threatened to withhold aid from those countries unwilling to “adhere to proper human rights”.

In April 2012 the UK Foreign and Commonwealth Office published 'Human Rights and Democracy: The 2011 Foreign & Commonwealth Report', which details the human rights work of the Foreign & Commonwealth Office (FCO) around the world in 2011 and highlights the UK's human rights concerns in 28 key countries, including those around LGBT rights. The report states specifically that:

"The UK Government is committed to the promotion and protection of the rights of lesbian, gay, bisexual and transgender (LGBT) people as an integral part of its wider international human rights work. It is our view that to render consenting same-sex relations illegal is incompatible with international human rights law, including the International Covenant on Civil and Political Rights (ICCPR). Despite this, same-sex relations continue to be criminalised in over 70 countries, and discrimination and violence against LGBT people because of their sexual orientation and gender identity continues, including in countries where legislation exists to protect LGBT people."

The report continues:

"The UK believes that human rights should apply equally to all, and in this regard we oppose all forms of violence and discrimination against LGBT people. We promote and protect the rights of LGBT people through international institutions including the UN, EU, Council of Europe and the Commonwealth. Through these institutions and through our embassies and high commissions we take action on individual cases where persecution or discrimination has occurred and lobby for changes in discriminatory practices and laws."

The US administration has also made several statements linking LGBT rights to foreign aid policy. In December 2011 President Barack Obama issued a presidential memorandum instructing US officials to consider how countries treat their LGBT populations when making decisions about allocating foreign aid, and using US aid to promote LGBT rights. Hilary Clinton, US Secretary of State, backed this directive at a speech in Geneva to mark international human rights day, stating that:

"Gay rights are human right. It should never be a crime to be gay."

The US also announced it is to provide \$3 million to help civil society groups promote LGBT rights.

In addition to this, the first ever United Nations report on the human rights of LGBT people was released by the UN Office for the High Commissioner for Human Rights on December 15th 2012. It detailed how around the world people are killed or endure hate-motivated violence, torture, detention, criminalisation and discrimination in jobs, health care and education because of their real or perceived sexual orientation or gender identity.

This was followed by a statement from United Nations Secretary General Ban Ki-moon in January 2012 in which he told African leaders that they must respect gay rights.

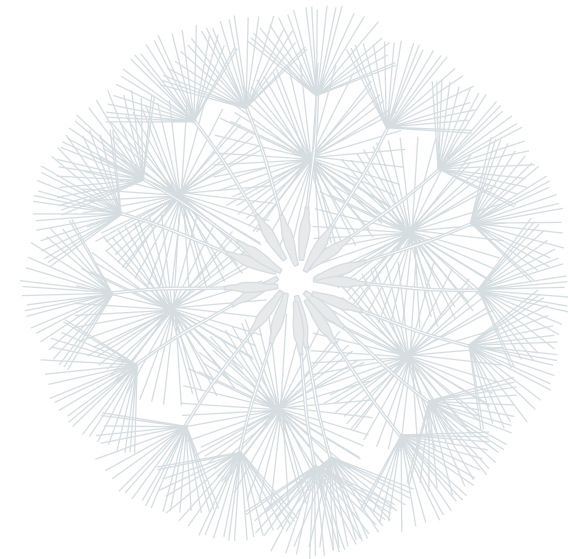


3.2 EVIDENCE BASE

In the original Over Not Out Report we highlighted the difficulties in estimating the numbers of asylum seekers who are LGBT, as the UKBA did not collect or collate data on the sexual orientation of asylum applicants, and data on gender did not reflect trans issues.

In order to provide a rough estimate of the numbers, we used government estimates regarding the general LGBT population to estimate the number of LGBT asylum applicants each year. In 2008, 25,670 people made asylum claims in the UK. That would indicate approximately 1,284 to 1,797 lesbian, gay, or bisexual asylum seekers, though we were aware this was likely to be a very conservative estimate. We also used a crude methodology to estimate that the numbers of trans people arriving each month is 2-3, or around 20 to 30 per year.

Since our report was published, Canadian research has shown that these estimates are broadly consistent.



4 SECURING THE EVIDENCE BASE

Over Not Out highlighted that too little is known about the numbers or profile of LGBT asylum seekers in the UK. While we estimated that somewhere in the region of 1,200 and 1,800 lesbian, gay and bisexual asylum seekers, and between 20 to 30 trans people arrived in the UK in 2008, the report called for the United Kingdom Border Agency (UKBA) to start collating information on the numbers of claims for asylum based on sexual orientation or trans identity, including gathering information on sexual orientation at asylum screening interviews.

Previous recommendations:

- R1** The Home Office should collate and publish data on the number, chosen gender, age and country of origin of those claiming asylum on the basis of sexuality or gender identity.
- R2** The UKBA should reconsider its decision with regard to questions on sexuality and gender identity to their screening interviews. The monitoring categories developed for this work should be replicated with housing and other refugee service providers to ensure the comparability of data.

Collating and publishing data on LGBTI asylum claimants

During 2010 UKBA publically pledged to start monitoring the number of LGBT asylum cases, however by May 2011 the Home Office was forced to admit that it was failing to collect data on the number of people who claim or are refused asylum on the basis of their sexuality .

In July 2011 the Home Office announced that from July 1st it had begun to record data on claims brought on grounds of sexual

orientation on their case information database, and that they would be reviewing all asylum decisions in these cases taken between 1st April and June 30th 2011 to evaluate the success of new guidance and training for UKBA staff .

UKBA stated that they have not yet analysed the data collected, and that they are still in discussions with Ministers as to how to analyse and report the data, and whether it should be published. It is by no means certain that the data will be published, but UKBA expect the data to provide them with a better picture of the number of claims for asylum being made on the basis of sexual orientation.

While it is encouraging that UKBA is now collecting data on this, there is currently no system in place to record claims made on the basis of gender identity, so no data on the number of trans or intersex asylum claimants is being gathered. It is also concerning that the Home Office has not, and may not intend to publish the data.

The Government Equalities Office stated that recording of the number of trans asylum claimants may be something to work towards in the long-term, however they highlighted concern around issues of disclosure, and the difficulty of collecting this data.

Screening Interviews – Questions on sexuality and gender identity

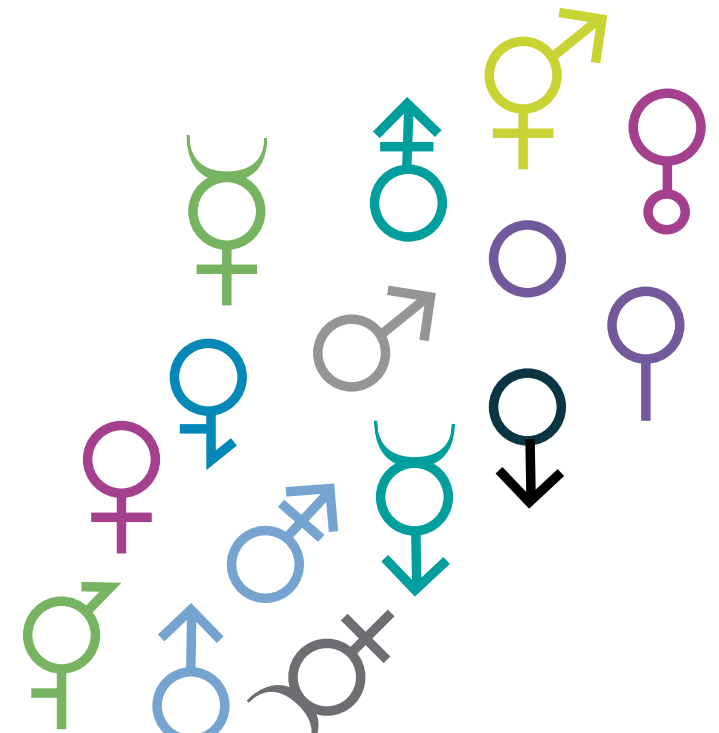
On recommendation 2 there has been no progress, as the screening interview does not ask about sexual orientation or gender identity. UK Lesbian and Gay Information Group (UKLGIG) commented that it may not be suitable to ask asylum claimants about these issues in an interview format, as claimants may not

be comfortable discussing these issues, but that perhaps these could be options on a list of reasons for claiming asylum. UKBA confirmed that asylum applicants are asked during their screening interview to briefly state what the basis of their claim is. The applicant has an opportunity at this point to say whether in all or part their claim is based upon for example their sexual orientation, religion, political opinion or simple what has happened to them or they believe will happen to them. However, UKBA does not consider it necessary or necessarily appropriate to directly ask if the claim is based on specific grounds covered by the Refugee Convention.

In addition to this, while UKBA acknowledge that it may be useful to collect information on sexual orientation at screening interviews, they believe the difficulty of collecting accurate data (applicants may be too scared to declare their sexual orientation, may not respond accurately, or may not understand what they are being asked) means there is not a strong enough case to do so.

Refreshed recommendations:

- R1** The UKBA data gathering should include data on LGBTI asylum claimants, rather than just LGB claimants.
- R2** All data gathered on LGBTI asylum claimants should be published.
- R3** Consideration should be given to how asylum claimants could be helped to give information about whether they are LGBTI, and/or have been a victim of rape or torture, as early as possible in the asylum claim process. Those disclosing this information should not be detained or fast tracked.
- R4** Pre-screening interviews should explain the various grounds for making an asylum claim (presented in list form), including on the basis of being LGBTI, as well as whether a claimant has been the victim of torture and/or rape. This should be done in a way that is welcoming, comfortable and unthreatening for interviewees, assuring them that they are safe to disclose information about their sexual orientation.
- R5** Pre-screening interviews should not be used by UKBA to gather detailed information on a claimant's case, as there is no legal representation allowed at this stage.



5 TACKLING THE DRIVERS FOR LGBT ASYLUM SEEKING

In the original report we suggested that any information gathered by the Home Office on sexuality and gender should be shared with the Foreign and Commonwealth Office (FCO), in order to improve understanding about the human rights situation in various countries. We also suggested that the FCO should use this, and other information it already gathers, to inform the ethical dimension to foreign policy and influence decisions about aid policy.

Previous recommendations:

R3 The Home Office should ensure that data gathered on sexuality and gender identity by country of origin is made available to their colleagues in the Foreign & Commonwealth Office (FCO). This data should be used by the FCO in developing its country human rights profiles and in informing the ethical dimension to foreign policy. As with other areas of human rights in developing countries, this data should be used to inform government aid policy through the Department for International Development (DfID) and its agencies

UKBA has only recently started to gather data on sexual orientation, and this has not been made publicly available. It is unclear whether and how they intend to share this with colleagues in the FCO. Stakeholders that we consulted with felt that UKBA has been reluctant to collect data on sexual orientation and gender identity of asylum claimants, or to use information gathered from LGBTI community groups in countries where these groups are persecuted to help inform decisions about asylum claims.

Stakeholders suggested that DfID and the FCO have shown signs of being more progressive on this issue, by being more open to gathering information for country human rights profiles from grass

roots organisations, however they commented that this needs to be encouraged more and should become more official.

Justice for Gay Africans and UNDP stated that there is a need to speak to LGBTI/HIV organisations and LGBTI people on the ground in countries or origin, to find out about persecution in country. They felt that the FCO is still very reliant on official data that other countries provide.

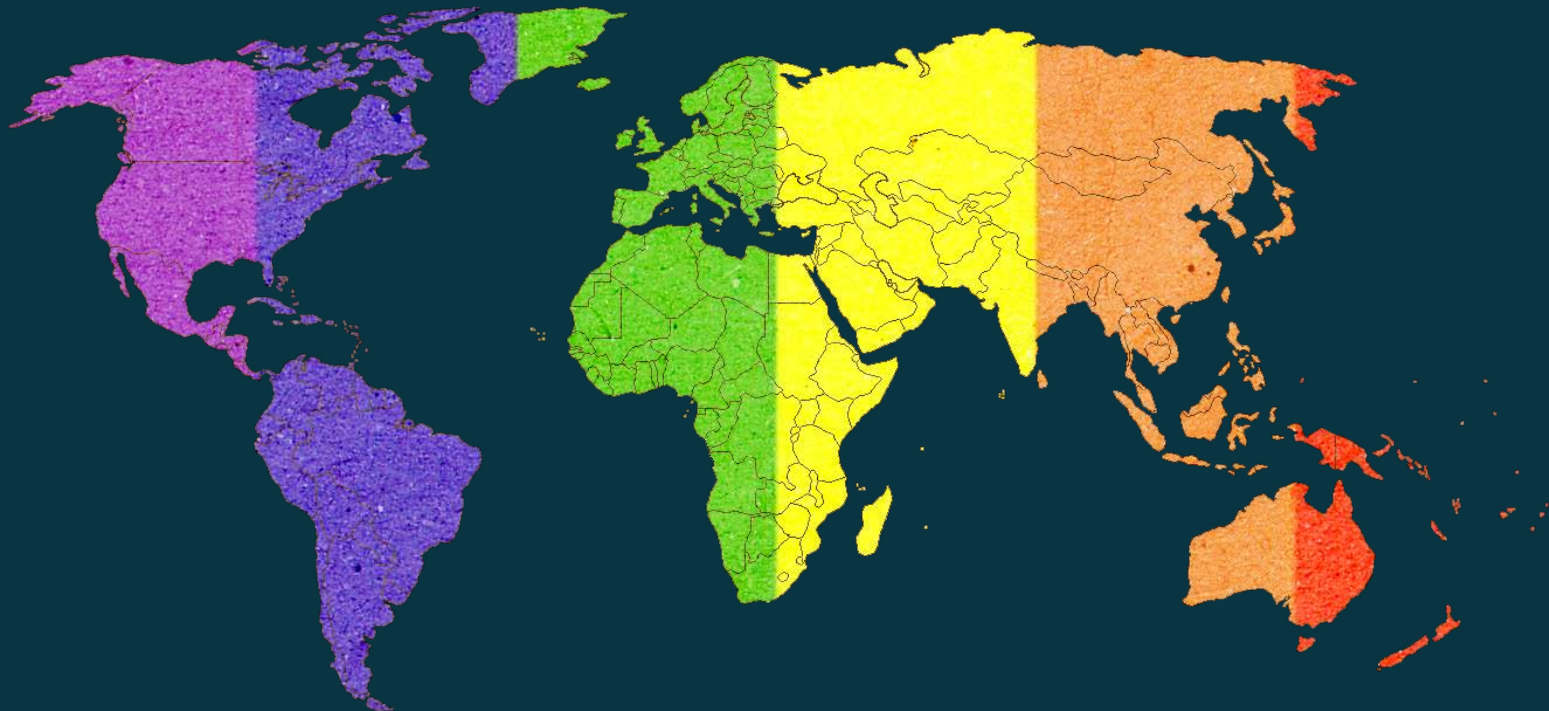
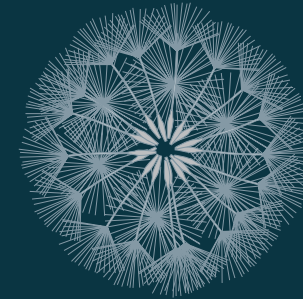
They also felt that aid should be targeted at capacity building for LGBTI organisations on the ground in countries where LGBTI persecution exists. Data on the number of LGBTI asylum claimants from certain countries should not be used as a basis for restricting aid to these countries, as this can result in a backlash against LGBTI people within these countries (e.g. Nigeria, Jamaica).

The representative from UNDP that we consulted with commented that UK aid has a very limited focus on LGBTI/MSM (Men who have Sex with Men) issues. UNDP would like to see the FCO and DfID link into the work of the UN far more, particularly the emerging effort between UNDP, UNHCR and UN AIDS to work on LGBTI/MSM issues at a global level. UK support for this issue is seen as being crucial, particularly in Commonwealth and former colonial countries.

Stakeholders noted that information that UKBA gathers on the numbers and country of origin of LGBTI asylum claimants should reflect what FCO and DfID are already aware of, and that data that the Home Office/UKBA gathers on the numbers of LGBTI asylum seekers from different countries should not be used as the basis to challenge claimants in any way, but rather could be used to compare information gathered by UKBA and FCO and DfID.

Refreshed recommendations:

- R6** The Foreign and Commonwealth Office (FCO) should seek to make more use of grassroots LGBTI/HIV organisations within countries to obtain better information on LGBTI persecution from on the ground, and this should be incorporated into UKBA Country of Origin Information Reports. The basis of information gathering should be neutral.
- R7** The FCO should share data and information gathered for Country Profiles with the Home Office/UKBA, and UKBA should use this information to help assess claimant cases.
- R8** FCO and DfID should work with the UN on emerging efforts to tackle LGBTI/MSM issues at a global level. The UK has a particularly important role to play in this by influencing Commonwealth Countries.



6 THE ASYLUM CLAIM AND LEGAL PROCESS

In the original research we identified that, as with most asylum seekers, the majority of LGBT asylum seekers identified their most pressing issue as the resolution of their asylum claim. We highlighted that access to appropriate legal advice that is able to support a claim on the basis of sexuality or gender identity is particularly problematic, and suggested that changes to the commissioning regime for legal services from 2010 may exacerbate this problem.

Previous recommendations:

- R4** Accessibility to specialist immigration advice for LGBT asylum seekers needs to be expanded. To achieve this:
- Further support should be provided to specialist providers such as the UK Lesbian & Gay Immigration Group (UKLGIG)
 - In developing the commissioning strategy and the detailed specification for contracts for generic immigration legal advisers working with LGBT asylum seekers the Legal Service Commission should include requirements in relation to providers' undertaking appropriate training in sexuality and gender identity issues such as that provided by the Immigration Law Practitioners' Group (ILPA) or that proposed by Advice UK. Training requirements should not only include legal advisers but other staff involved in the legal process, which should include interpreters.
 - National providers such as the Immigration Advisory Service and Refugee Legal Centre should establish referral protocols with and commission training support from specialist providers such as UKLGIG to ensure access to appropriate and sensitive legal advice.

6.1 LEGAL ADVICE

Accessibility to specialist immigration advice for LGBT asylum seekers has reduced since the original report was published. Government cuts in funding for social welfare law and changes to legal aid have resulted in a huge shortfall in provision of legal aid for LGBT asylum seekers.

In June/July 2011 Refugee and Migrant Justice and the Immigration Advisory Service, charities providing asylum seekers with legal aid, went into sudden administration, blaming Government changes to legal aid funding and leaving tens of thousands of asylum seekers without expert legal advice or access to their own case files .

The Legal Services Commission (LSC) was tasked with re-allocating these cases to alternative providers. UKLGIG have suggested that this process went very badly for a large number of asylum seekers, and there is significant concern that the alternative providers being used do not have the relevant expertise to handle these cases sufficiently.

In addition, the Government has now subsumed the Legal Services Commission into the Ministry for Justice. It is unclear at present how much, if any, public funding will be available for immigration advice in the future save for statutory requirements. The future looks extremely bleak for the future funding of immigration advice services.

Since publication of the original report, the contract to provide interpreting services for asylum claimants has been tendered by the Ministry of Justice to a new provider, Applied Language Solutions (ASL) (since bought by Capita), which has significantly reduced the employment terms offered to translators, with hourly rates slashed and travel expenses cut.

There have been numerous reports of problems with the new service, with approximately 60% of translators on the National Register of Public Service Interpreters refusing to work for ASL, resulting in a significant shortage of interpreters. Within courts solicitors, magistrates and judges have complained of disruption and warned about the danger of miscarriages of justice. ASL has also been accused of using inexperienced interpreters, lacking in the level of legal understanding to provide the service appropriately.

Refreshed recommendations:

- R9** The issue of accessibility to specialist immigration advice for LGBTI asylum seekers should be raised directly with the Ministry of Justice.
- R10** All LGBTI asylum seekers should have access to quality legal advice to assist with their asylum claim.
- R11** The Ministry of Justice must ensure the provision of suitably qualified interpreters to assist with asylum claims.
- R12** Access to quality legal advice should be provided prior to the day of a claimants hearing, allowing sufficient time for cases to be prepared. Claimants should have the opportunity to seek quality legal representation, and LSC rules should be amended to reflect this.

6.2 COUNTRY OF ORIGIN INFORMATION

As previously noted, no data is published nationally on the numbers of claims from LGBT asylum seekers or the percentage granted asylum on the basis of sexuality. The original research identified that a number of interviewees came from so-called “white list” countries (considered as generally safe - applicants from these countries whose claims are refused may lose their in-country right of appeal) even though anecdotal evidence and our interviewees’ testimonies describe cultures of extreme anti-LGBT prejudice in some of these white list countries.

Our original report stated that in the Autumn of 2008 the Home Office undertook an analysis of the coverage of LGBT issues through the Advisory Panel on Country Information (APCI) and is currently implementing the findings from this report.

Previous recommendations:

- R5** The Home Office should review and amend its country of origin information reports to include reporting on the social sanctions as well as any legal sanctions against LGBT people. The Home Office should assure itself that it has sufficient experts to advise on the situation facing LGBT people in countries of origin and expand its range of advisers if necessary. Where extreme prejudice and danger is noted a country’s inclusion on the “Safe Country List” should be reviewed.

Implementations of findings from APCI report

The analysis of coverage of LGBT persons in country of origin information (COI) products was not done by the UK Border Agency (UKBA) (as suggested in the original report) but was commissioned by the Advisory Panel on Country Information (APCI), an independent body whose function was to review the COI produced by the UKBA. The Panel was composed of academics specialising in refugee and asylum studies, stakeholders such as the UNHCR and International Organisation for Migration, and had a number of observers from the UK refugee legal and NGO communities.

The Panel commissioned Anisa de Jong, an academic based at the University of Kent, to undertake the thematic review in the summer of 2008, which resulted in the report published in September 2008. The report was considered at the last APCI meeting in October 2008 and, according to UKBA, a large majority of the report's suggestions were accepted by COI Service. These included revising the section of their standard report template on LGBTI persons to include, amongst other things information about 'social sanctions'.

UKBA report that they have developed internal guidance on undertaking research and then presenting material on LGBTI persons, which has been shared with UKLGIG, Stonewall and the UNHCR. This internal guidance is currently under review, and they intend to produce a revised version at some point.

Independent Advisory Group on Country Information (IAGCI)

The APCI no longer exists but was succeeded by the Independent Advisory Group on Country Information (IAGCI) in March 2009. The IAGCI reports to the Independent Chief Inspector of the UKBA, making recommendations to the Chief Inspector about the content of COI material produced by the UKBA as well as recommendations of a more general nature.

The IAGCI functions in a similar manner to the APCI in that it commissions 'experts' to review COI Reports (produced by COI Service on the 20 countries generating the most asylum claims in the UK) or thematic issues across COI Reports (such as LGBTI persons). The Group then considers these findings at meetings held three times a year. COI Service is required to respond to and act upon agreed recommendations.

According to UKBA, in practice the IAGCI looks at each COI Report on a top 20 asylum intake country approximately once every two to three years. Each review will look at a COI Report in its entirety, including sections on LGBT persons (every report will have such a section) and gender. The Group conducts a rolling schedule of thematic reviews: a review of the coverage of LGBTI persons across all reports is to take place in 2013, although the recent thematic review of women (October 2011) also touched upon issues of gender identity and sexual orientation. All reviews of reports (including COI Service's responses), minutes of IAGCI meetings and its review schedule are available on the Chief Inspector's website .

These reviews are intended to provide a robust external quality assurance process, and also give COI Service researchers access to country and thematic 'experts', helping the unit develop its knowledge and understanding of countries and ideas. UKBA report that reviews of COI Reports are generally positive and indicate that its reports, including the sections on LGBTI persons, have been improving.

COI Service and improvements to LGBTI training for staff

The UKBA member of staff that we consulted with on this recommendation informed us that that COI Service currently has 14 researchers who specialise by country and region, rather than by issue. The contact added that the unit has built up a collective knowledge and understanding of LGBTI persons (as embodied in the internal guidance but also via shared sources of information).

In addition, in countries where there is a particularly high demand for information on sexual orientation (and less often gender identity) researchers have become particularly knowledgeable on these subjects.

There has been considerable UKBA effort since 2010 to improve its instructions and training on LGBTI persons generally. As part of this COI Service researchers have received training on LGBTI persons in asylum casework, which has been useful in understanding sexual orientation and gender identity as concepts, and the information needs of decision makers to assess LGBTI cases. UKBA maintain an open dialogue with NGOs specialising on LGBTI matters, in particular UKLGIG but also Stonewall.

UKLGIG commented that while the information contained in COI Reports is largely correct, it is often not sufficient in terms of highlighting social and legal sanctions within countries, and it can also site strange information sources (and lack information from on the ground). UKLGIG would like to see UKBA accept testimony/ reports from experts within countries of origin.

In addition to this, COI Reports are only ever produced on countries that are in the top 20 of where asylum claimants come from. UKLGIG would like to see countries outside the top 20 also considered.

Refreshed recommendations:

- R13** The UKBA should review and amend its country of origin information reports to include reporting on the social sanctions as well as any legal sanctions against LGBTI people. The UKBA should assure itself that it has sufficient country researchers to provide information on the situation facing LGBTI people in countries of origin and expand its range of researchers if necessary.
- R14** Where extreme prejudice and danger is noted in country of origin information reports, a country's inclusion on the "Safe Country List" should be reviewed. Where country information or case law demonstrates that there is a risk in these countries, they should be removed from the "Safe Country List". This should apply where all asylum applications are made on the grounds of sexual orientation or gender identity.
- R15** The UKBA's COI Service should consider producing reports on countries outside of the top 20 countries where asylum claimants come from. Where there are not full reports, UKBA and FCO often produce bulletins, and these should be used where available.
- R16** LGBTI and asylum seeker and refugee organisations in the UK may also have information obtained from LGBTI asylum seekers and refugees that should be considered in the UKBA's COI reports.



6.3 GUIDANCE FOR CASE OWNERS ON SEXUAL ORIENTATION AND GENDER IDENTITY

The original report highlighted that the burden of proof required by LGBT asylum seekers in relation to their claim acts as a further drive to the isolation of claimants from their ethnic or national compatriots. Similarly, evidence of participation in the commercial gay scene appears to often be required of claimants yet the financial cost and dangers of alcohol/drug misuse and sexual exploitation of such participation and hostility to asylum seekers in the commercial gay scene militate against such participation. Additionally, lesbians with children face specific challenges in proving that they are lesbians and as such at risk in their country of origin. This led to the recommendation that:

Previous recommendations:

R6 The Home Office should review guidance to case owners on the evidence base required in determining both the sexuality or gender identity of asylum claimants and the assessment of risks they face in their country of origin. United Nations High Commissioner for Refugees guidance on claims relating to sexual orientation and gender identity should be the starting point for this guidance. It states that 'self identification as LGBT should be taken as an indication of the individual's sexual orientation'. Guidance on sensitivities of handling LGBT asylum claims is needed. As a minimum all UKBA case owners and interpreters used by UKBA should undertake diversity training that includes tackling homophobia and transphobia. Ideally this should be extended to all involved in the asylum decision making process including tribunal chairs, judges etc. This training needs to underline the differences between lesbian, gay, bisexual and transgender experiences, particularly where this has developed outside a Western environment and within a homophobic culture. The development of this guidance should include advice for case owners on appropriate enquiries and interview techniques to use during the asylum process for LGBT asylum claims.

There has been significant progress on the management of Lesbian, Gay and Bisexual asylum applicants since the publication of the original report.

There were a number of drivers of this change. UKBA were presented with several reports in 2010, in particular from Stonewall and UKLGIG, which highlighted a number of problems with the way in which UKBA handled LGBTI asylum claims, including concern over the terminology used, the lines of questioning pursued, and the understanding, knowledge and attitudes of staff dealing with these claims.

In May 2010 asylum law which was being interpreted by the Home Office to mean that LGBTI asylum seekers could be returned to countries where homosexuality is illegal or likely to lead to attacks, on the basis that LGBTI asylum seekers could be expected to hide details of their sexuality to prevent persecution, was being challenged in the Supreme Court .

During the case, in June 2010, the new coalition Government announced a commitment that asylum seekers with a legitimate fear of persecution on the grounds of sexuality would no longer be deported .

Shortly after this statement, on 7th July, the Supreme Court delivered its verdict, unanimously allowing the appeal of the two applicants (from Cameroon and Iran), whose claims had earlier been turned down because officials said they could hide their sexuality by behaving discreetly . The five Supreme Court Justices said that gay and lesbian asylum seekers should not be expected to "exercise discretion" in their home countries to avoid persecution .

The Government accepted the ruling and said that policy on gay and lesbian asylum seekers would be changed with immediate effect. Home Secretary Theresa May stated:

“I welcome the ruling of the Supreme Court, which vindicates the position of the coalition government. We have already promised to stop the removal of asylum seekers who have had to leave particular countries because their sexual orientation or gender identification puts them at proven risk of imprisonment, torture or execution.

I do not believe it is acceptable to send people home and expect them to hide their sexuality to avoid persecution. From today, asylum decisions will be considered under the new rules and the judgment gives an immediate legal basis for us to reframe our guidance for assessing claims based on sexuality, taking into account relevant country guidance and the merits of each individual case.

We will of course take any decisions on a case by case basis looking at the situation in the country of origin and the merits of individual cases in line with our commitment”.

The legal judgement meant that there was now a drive for change from a legal and political perspective, and the UKBA representative that we consulted with suggested this reflected the direction of travel within UKBA already, as they had already begun discussions with corporate partners, including Stonewall and UKLGIG, on how to improve the way they deal with LGBT asylum claims.

Immediately following the Supreme Court ruling, UKBA issued interim guidance on claims based on sexual identity to all of its case workers, and by October 2010 they had produced brand new asylum instructions on dealing with cases on the basis of persecution due to sexuality.

This was accompanied by training on LGB issues for staff in the decision making chain, specifically:

- All asylum case owners and presenting officers
- All asylum senior case workers
- Team leaders
- All Asylum leads (in regions)

The training was developed in partnership with a range of corporate partners including UKLGIG, Stonewall, Spectrum and UNHCR. The training was delivered internally, and rolled out in late 2010/early 2011, with members of Spectrum attending many of the training sessions.

In addition to this, immigration judges received specific training on lesbian, gay and bisexual people and the asylum system, using materials which were prepared with the input of Stonewall and UKLGIG, though UKLGIG commented that this training was relatively basic.

In Spring 2011 UKBA conducted a thematic audit of decisions made in cases where the basis of claim was sexual orientation (since the new Guidance was issued), and they are currently looking at any issues raised in these cases, such as occasions where inappropriate questioning has taken place. They are now going back to corporate partners to discuss these issues, through the National Asylum Stakeholder Forum, and its Quality and Equality sub-group.

In June 2011 the Asylum Claim Guidance for gender identity issues and sexual orientation were separated into two separate documents .

At an international level, an informal meeting of experts at the World Conference of Immigration and Asylum Law Judges , organised by the IARLJ, the UNHCR and ECRE and held in September 2011, discussed issues around LGBTI asylum cases. An alternative model to current questioning of LGBTI claimants was proposed by S Chelvan, based on a concept of difference, stigma,

shame and harm ('the DSSH Model'), which suggests shifting the focus from narrow questioning to determine sexuality to a focus on what it means to be LGBTI. The DSSH model has been presented to UKBA, however no further developments have taken place to date.

While all of these developments represent significant progress around recommendation 6, there are still issues that have not been dealt with. While the new guidance and training have improved the situation, UKLGIG report that there are still instances of inappropriate questioning of LGBTI asylum claimants in claimant interviews.

No interpreters have received any training on LGBTI issues (unlike other UKBA staff who have received training on LGB issues). UKBA stated that they are aware this may be an issue, and it is something they are considering, though there are no imminent plans to address this issue.

The issue of trans asylum seeker cases has also not been dealt with sufficiently. Guidance on dealing with trans issues is contained in the Gender Identity Guidance, however UKBA is not collecting any data on the number of trans asylum claimants, nor have they conducted any training with staff on trans issues (unlike LGB issues). Immigration judges have also not received any training on trans issues and the asylum system.

UKBA stated that the issue of trans asylum claimants is a relatively low priority, largely because the numbers of trans claimants that they see is so low, which makes justifying training on this issue difficult. UKBA stated that they have also had conflicting signals from corporate partners on this issue when it has been discussed. They had originally tried to incorporate trans issues into the original

LGB Guidance, which some corporate partners encouraged, but others felt trans should be a separate issue with separate Guidance.

The Government Equalities Office reported that UKBA is currently working with Spectrum and a-gender to consider trans issues, and how best training on trans issues could be delivered.



Refreshed recommendations:

- R17** Trans and Intersex training should be developed in partnership with suitable NGOs and provided to all UKBA case workers/owners and other staff involved in the asylum claim decision making chain.
- R18** Interpreters involved in the asylum claim process should be training in LGBTI issues as a priority.
- R19** The findings of the UKBA's thematic audit of asylum claims based on sexual orientation and / or gender identity should be published, and improvements should be made where issues have been found. Further work should be conducted to ensure that the new Guidance procedures and training are resulting in the correct treatment of LGBTI asylum cases.
- R20** Asylum seekers who have previously kept their sexuality or gender identity discreet are currently required to prove that they are LGBTI. The focus should be on what it means to be LGBTI, rather than on a narrow questionnaire to determine sexuality.
- R21** Children under the age of 16 should be able to be granted asylum on the basis of being at risk of persecution on the basis of their LGB sexual identity.

7 ACCOMMODATION AND DISPERSAL

7.1 ACCOMMODATION

In Over Not Out we highlighted that dissatisfaction with UKBA (formerly National Asylum Support Service - NASS) accommodation broadly mirrored that of other asylum seekers in general. However, those LGBT asylum seekers living in UKBA premises or social services provided accommodation were much more likely to report anti LGBT discrimination (including violence and threats of violence) than those in other accommodation types.

Some interviewees revealed that they had abandoned UKBA accommodation due to intolerable levels of homophobia and the failure of landlords to tackle this, which had been treated as voluntary abandonment, resulting in them being denied access to further accommodation services.

Previous recommendations:

- R7** The UKBA should review and refine the guidance and contractual requirements imposed on landlords providing accommodation to ensure that LGBT residents are safe and can live lives free from homophobic or transphobic harassment. This should include ensuring that LGBT asylum seekers have access to well publicised, safe and confidential reporting mechanisms.
- R8** Landlords providing such accommodation should ensure that all policies and procedures promote LGBT inclusion and that all staff (managers and front-line staff) undertake appropriate training of the sort provided by Stonewall Housing that includes identifying and tackling homophobia and transphobia.
- R9** Landlords should consider sub-contracting the management of a proportion of their asylum accommodation to appropriate bodies that can provide more sympathetic support to LGBT asylum seekers.
- R10** Local Authorities should work regionally (e.g. across London) and work with regional bodies, such as the Greater London Authority and national agencies such as the Homes and Communities Agency, to develop appropriate accommodation for LGBT asylum seekers.
- R11** The Home Office should review and develop mandatory guidance, with clear procedures for all UKBA staff in dealing with homophobic and transphobic harassment.
- R12** A code of practice should be developed for UKBA landlords that includes dealing appropriately with claims of homophobic or transphobic harassment. Compliance with this code of practice should form part of the landlord's contract with UKBA.

Since 2009 there have been a number of positive developments in terms of housing policy considering the needs of asylum seekers and refugees, and in some instances LGBTI asylum seekers and refugees.

In December 2009 the Mayor of London published 'London Enriched – The Mayor's Refugee Integration Strategy'. The strategy acknowledged that LGBTI refugees may encounter additional obstacles to integration, and it states that equal chances for employment, health and wellbeing, decent housing, a sense of belonging and security and the ability to take an active part in the community must be extended to all members of refugee and migrant communities, including those who are lesbians, gay men, bisexual or trans people. The strategy specifically acknowledges that LGBTI refugees may find obtaining suitable housing more challenging, and be more likely to face particular or higher level risks of crime and abuse or intimidation.

The strategy contains the specific objective that refugees should have access to channels for housing provision, with the following actions set out:

Year 1

- Survey information on barriers faced by refugees in meeting their housing needs
- Contribute to delivery of the London Housing Strategy by improving awareness among relevant stakeholders of barriers faced by refugees in meeting their housing needs, ensuring that housing information is available to refugees and monitoring the impact on refugees of key initiatives in the London Housing Strategy.
- Help the Mayor to end rough sleeping in London by supporting the London Delivery Board to tackle rough sleeping by asylum seekers and refugees.
- Support London boroughs and local strategic partnerships to ensure local area agreements promote refugee integration and achieve national targets.

Years 2 and 3

- Partnerships between Registered Social Landlords, other housing providers and migrant and refugee community organisations (MRCOs) have improved the ability of refugees to meet their housing needs in a variety of ways. Use these findings to develop and promote a model for funders to encourage similar projects in London.
- Support the development of community land trusts that address barriers faced by refugees in meeting their housing needs

Despite the awareness of the housing challenges faced by LGBTI refugees and asylum seekers mentioned in London Enriched, The London Housing Strategy, published in 2010, made no specific mention of either refugees or asylum seekers (let alone LGBTI refugees/asylum seekers).

The Chartered Institute of Housing Guidance has also issued guidance on delivering housing services for LGBTI customers and asylum seekers and refugees, though not specifically LGBTI asylum seekers and refugees.

However, despite these positive developments in terms of housing strategy, the stakeholders that we consulted with felt that this had not yet filtered down to improvements in practice, with several suggesting that the situation may actually be worsening. For example, Stonewall Housing data shows that in the last year the number of asylum seekers and refugees they are seeing has more than doubled, with support needs including issues around mental health, debt, HIV and sex work also increasing significantly.

In terms of the specific recommendations made around UKBA accommodation above, on R7 and R8, the contracts for UKBA landlords were put out to tender again in 2011, and there was no specific mention of provision for LGBTI asylum seekers within the tender specification that we are aware of.

The new tender process has attracted larger private agencies such as Serco, G4S Security and Reliance Security, (rather than Housing Associations and Local Authorities, who had been significant providers previously). There is concern that the quality of provision is likely to decrease, and that the prime contractors will work with a number of sub-contractors who will all be driven by price, rather than quality of provision.

It is too early to know what types of policies these contractors will have in place, but it is unlikely that the needs of LGBTI asylum seekers will be high on their list of priorities, as it is not specified in the contract. Previously contractors such as Housing Associations and Local Authorities had equalities procedures and training on equalities for all staff (including LGBTI issues), however the general shift to the private sector and the greater focus on price means that this sort of training and focus on equalities is likely to become less important.

7.2 DISPERSAL


Our original research showed that fifty per cent of interviewees dispersed outside London had moved back to London to counter isolation and to be closer to friends and support networks. The absence of LGBT community resources in many places was cited as a key reason for this drift back to London. Alongside London there were other places, such as Manchester, which were seen as having a range of LGBT resources accessible to asylum seekers.

Previous recommendations:


- R15** Decisions on the dispersal of LGBT asylum seekers should not be based solely on the capacity of the region to take their percentage of asylum seekers. The UKBA should consider the development of guidance to ensure that LGBT asylum seekers are dispersed to parts of the country such as Manchester where there is a vibrant and welcoming LGBT host community. Similar guidance may be appropriate to inform dispersal for other vulnerable groups of asylum seekers.
- R16** UKBA accommodation providers should seek to develop accommodation resources for LGBT asylum seekers in parts of cities where host communities are more tolerant or welcoming of LGBT people or where support and management networks are in place to manage homophobic or transphobic harassment.

There has been no progress on either of these recommendations since the report was published. Neither UKBA nor the Government Equalities Office were aware of the issue raised in R15 having been considered, and UKBA felt it was unlikely that sexual orientation would be taken into consideration when deciding on where someone should be dispersed to.

On the issue of dispersal, Legal Aid rules currently state that someone must live in the same area as their legal aid lawyer to receive their support. If asylum seekers have a legal aid solicitor dealing with their case, but are then dispersed to another part of the country, they lose the right to continue to receive support from this solicitor.



Refreshed recommendations:

- R22** The UKBA should review and refine the guidance and contractual requirements imposed on landlords providing accommodation to ensure that LGBTI residents are safe and can live lives free from homophobic or transphobic harassment. This should include ensuring that LGBTI asylum seekers have access to well publicised, safe and confidential reporting mechanisms.
- R23** Landlords providing such accommodation should be challenged to prove that they are meeting their obligations under the Equality Act 2010. This should include policies and procedures to promote LGBTI inclusion and ensure that all staff (managers and front-line staff) undertake appropriate training of the sort provided by Stonewall Housing that includes identifying and tackling homophobia and transphobia.
- R24** Landlords should consider sub-contracting the management of a proportion of their asylum accommodation to appropriate bodies that can provide more sympathetic support to LGBTI asylum seekers.
- R25** Local Authorities should work regionally (e.g. across London) and work with regional bodies, such as the Greater London Authority, to develop appropriate accommodation for LGBTI unaccompanied minors.
- R26** The Home Office should review and develop mandatory guidance, with clear procedures for all UKBA staff in dealing with homophobic and transphobic harassment.
- R27** A code of practice should be developed for UKBA landlords that includes dealing appropriately with claims of homophobic or transphobic harassment. Compliance with this code of practice should form part of the landlord's contract with UKBA.
- R28** If an asylum seeker already has a case solicitor the legal aid rules should be changed to allow them to keep their case solicitor following dispersal. Where no specialist legal representation is available in an area provision should be made to find a quality service appropriate to the needs of the claimant and should be legal aid funded.
- R29** The Independent Chief Inspector of Borders and Immigration should push for UKBA to publish data on LGBTI asylum claimants, under the requirements of the Equality Act 2010.
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8 DETENTION

A large number of respondents interviewed for Over Not Out had spent some time in detention facilities. It is not unusual for asylum seekers to be detained at some point during their claim. Whilst many asylum seekers complain about conditions, again the experience of LGBT asylum seekers highlight additional concerns, with respondents experiencing bullying, abuse and harassment by other detainees and detention facility staff due to their sexual/gender identity.

Previous recommendations:

- R13** The Home Office should ensure that that detention facility staff are governed by comprehensive policies and procedures and are adequately trained to provide a service that is sensitive to the needs of LGBT asylum seekers, including the risk of harassment and domestic abuse at the hands of other detainees. Detention centre staff should be reminded that bullying or abusive behaviour of any detainees will not be tolerated and will result in disciplinary action.
- R14** LGBT asylum seekers in detention should be clearly advised that they should not tolerate bullying or abusive behaviour from other detainees or from detention centre staff. Asylum seekers will be given information on how to report acts of abusive behaviour and advised on what action may be taken to protect them.

We were unable to interview anyone from UKBA on these issues. UKLGIG suggested that UKBA would likely state that they do this, in that staff are governed by comprehensive policies and procedures to deal with all detainees in a sensitive manner, that there are policies in place to deal with bullying, and that

information on how to report bullying or harassment to detention centre staff is contained in the information packs that are given to all detainees.

UKLGIG had a number of concerns on these issues however.

On the first point, detention staff have not had any formal LGBTI training, and although UKLGIG is aware of a notice going out to staff on LGBT issues, they are unaware of any policies in place on LGBTI issues/detainees.

UKLGIG have been approached by Harmondsworth Immigration Removal Centre to provide some training on LGBT issues, however they described this request as being on a 'casual' basis, rather than comprehensive training for all staff, and UKLGIG have so far resisted doing so, as they believe there should be comprehensive LGBTI training for all staff across all detention centres.

Harmondsworth Immigration Removal Centre has appointed an LGBT Liaison Officer, however the staff member in this post volunteered to take on the role, and their main qualification is that they themselves are LGBT, as their staff role is normally that of barber. While the creation of this post at all is a positive step, UKLGIG is concerned that it should be on a voluntary basis, and that staff need little by way of relevant experience or qualifications to hold the post.

In response to a draft of this report UKBA pointed out that there are also Welfare Officers (who assist detainees with issues which have a direct bearing on their detention, their immigration case and their release or removal from the UK) who would be sensitive to the needs of LGBT detainees and a particular source of advice/support for how to report bullying or abusive behaviour, and that detainees could also approach any Detention Custody Officer.



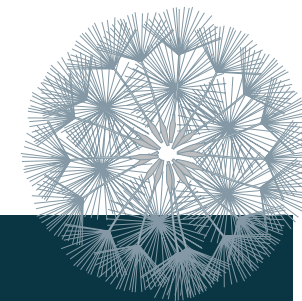
On the second recommendation, UKLGIG is concerned that where/ if information on reporting bullying or abusive behaviour exists in the information given to new detainees, it may be lost within the size of the document (approx. 80 pages). UKLGIG suggest that once identified, LGBTI claimants should get their own specific information and support to help prevent or deal with any bullying or abusive behaviour.

UKLGIG is also very concerned about the continued detention of trans asylum claimants, who are effectively being kept in isolation in detention centres for their own safety. Similarly they are concerned that a large number of victims of torture/rape are being detained, often because this information does not come out at screening interview stage. UKLGIG suggest that no LGBTI gender identity claimant should be detained, nor should their cases be fast tracked (which is supposed to be for straightforward cases where a quick decision appears to be possible), as most LGBTI cases are not simple, however the government has refused to take LGBTI cases out of 'detained fast track'.

They are also concerned that the decision to detain these claimants is being made by UKBA at screening interview stage, and the staff making these decisions have had no training on trans issues.

They suggest that detainees should be given a list of options at their screening interview which allows them to select reasons for their claim/why they should not be detained, including being victims of rape/torture.

UKBA stated that a Detention Service Order on the care and management of transsexual detainees is due to be published shortly.



Refreshed recommendations:

- R30** The Home Office should ensure that detention facility staff are governed by comprehensive policies and procedures and are adequately trained to provide a service that is sensitive to the needs of LGBTI asylum seekers, including the risk of harassment and domestic abuse at the hands of other detainees. Detention centre staff should be reminded that bullying or abusive behaviour of any detainees will not be tolerated and will result in disciplinary action.
- R31** All detention centre staff should receive comprehensive LGBTI training.
- R32** UKBA screening staff making decisions on whether to detain asylum claimants should also receive comprehensive LGBTI training.
- R33** Any LGBTI asylum claimant being detained should be given specific guidance and support around bullying and harassment, including the fact that it should not be tolerated, and how they can report it and receive support should it occur.
- R34** There should be an experienced post of LGBTI Liaison/ Support Officer at each detention centre. Staff should have suitable experience and qualifications for this post.
- R35** No trans or intersex claimants should be detained.
- R36** No victims of rape and/or torture should be detained.

9 TACKLING EXPLOITATION AND PROMOTING SAFETY

9.1 SUPPORT SERVICES AND TACKLING EXPLOITATION

A number of respondents in the original research reported both financial and sexual exploitation. This included having to undertake unpaid work to maintain their accommodation and in some cases feeling obligated to perform sexual favours in return for food or accommodation. The research indicated that young men were more vulnerable than women to both financial and sexual exploitation.

Previous recommendations:

- R17** The provision of better support to stay in UKBA accommodation and access to other support services for young gay men in particular would reduce this vulnerability.
- R18** Further consideration of the risk of exploitation and greater levels of vulnerability for LGBT asylum seekers by the Equality and Human Rights Commission should be sought.
- R19** Funding for projects to support male and transgender asylum seekers at risk of, or involved in sex work should be encouraged.

As far as we are aware there has been no progress on R17, as we were unable to find any organisations aware of any such provision. The LGBTI community needs to become more engaged around the issue of sex work.

On recommendation 18, the Equality and Human Rights Commission published a report in 2010, 'Refugees and asylum seekers: a review from an equality and human rights perspective'.

The report highlighted that:

- The legal process on asylum itself presents particular difficulties for certain groups. Women who have experienced gender persecution have been detained inappropriately in the fast-track system. In addition, there are strong concerns about the implementation of the UK Border Agency (UKBA) gender guidance when dealing with women's asylum claims, and how failing to provide a gender sensitive system means that the potential for fair rulings for women who have suffered gender persecution is significantly reduced. Similar concerns arise around the lack of guidance for dealing with claims made on the grounds of sexual orientation or trans status, and a lack of awareness within the system of the persecution that LGBT (lesbian, gay, bisexual, trans) people suffer in some countries.
- Mental health problems including post traumatic stress disorder, anxiety, depression and phobias are prevalent among asylum seekers and refugees, and vulnerable groups such as victims of torture, children, women and LGBT asylum seekers are particularly affected. The provision of mental health services for survivors of organised violence and torture is widely regarded as inadequate.

The Commission also intervened on behalf of the two gay asylum seekers appealing their deportation at the Supreme Court (as mentioned above). The Supreme Court adopted the test set out in the Commission's submissions which involved a staged approach. The first question was whether the person is actually gay and then, if they are, questioning whether they would be liable to persecution in their home country because of their sexuality.

If they would have to conceal aspects of their sexuality and live discreetly if returned because of the real fear of persecution then they should be entitled to asylum.

The Supreme Court ruled that homosexual asylum seekers should be granted refugee status if going back to their homeland would result in them being forced to conceal their sexuality or face persecution for living openly as a gay person.

In addition to this, the EHRC has been involved in work with other national Human Rights institutions at a UN level on ending violence based on sexual orientation and gender identity.

On recommendation 19, we are not aware of any projects that are specifically working on this issue, and the problem remains very hidden. Terrence Higgins Trust runs a refugee mentoring project in London, and they are aware that a small number of the asylum seekers/refugees that they work with are LGBT, however they do not know of any that are involved in sex work (although it is possible they are at risk of exploitation). The project provides one-to-one practical and emotional support.

Project London is a completely free and confidential service run by the charity Doctors of the World UK, which aims to provide information, support, advocacy and basic healthcare to people who have accessed mainstream healthcare. They run a walk-in clinic at Praxis in East London three times a week. Service users include asylum seekers and refugees, which may include male and trans asylum seekers at risk of, or involved in sex work.

9.2 THIRD PARTY REPORTING CENTRES

A number of stakeholders that were consulted for the original Over Not Out research were concerned that LGBT asylum seekers may be fearful of reporting any incidents of harassment, bullying or hate crime for fear of negatively impacting on their asylum claim and/or they may not identify their experiences as hate crime because the violence they are fleeing can seem so much worse that it doesn't register as something that could be reported.

Previous recommendations:

R22 Third party reporting centres for hate-crime should be encouraged to develop awareness and support programmes for LGBT asylum seekers to ensure that they are aware of their rights to safety and the recourse they have. Provision should acknowledge the heightened risk faced of sexual assault faced by lesbians identified in other research such as Galop's "Filling the Blanks".

We are not aware of any third party reporting centres that have developed awareness raising and support programmes specifically aimed at LGBTI asylum seekers, though several that we spoke with recognised that this is an area that needs to be looked at, and one reported a recent surge in the numbers of LGBTI asylum seekers contacting them (which they attributed to the publicity around the issue in Uganda).

Refreshed recommendations:

- R37** The provision of better support to stay in UKBA accommodation and access to other support services would reduce LGBTI asylum seekers' vulnerability to both financial and sexual exploitation.
- R38** Funding for projects to support male and transgender asylum seekers at risk of, or involved in sex work must be encouraged.
- R39** Third party reporting centres for hate-crime need to be encouraged to develop awareness and support programmes for LGBTI asylum seekers to ensure that they are aware of their rights to safety and the recourse they have. Provision should acknowledge the heightened risk faced of sexual assault faced by lesbians identified in other research such as Galop's "Filling the Blanks".



10 HEALTH

As with other asylum seekers, some LGBT asylum seekers reported physical ill health caused by poor accommodation, while others reported poor mental health. A higher risk of HIV due to unsafe sex practices was reported by a few individuals, including those engaging in sex work where “bareback sex” commands a premium fee.

Whilst access to primary care was available, referral for secondary care including access to counselling and psychological therapies was denied in line with Department of Health guidance.

Previous recommendations:

- R20** The Department of Health should undertake further examination of access to some secondary care for asylum seekers, particularly counselling/psychological therapies. The current expansion of these services through the Improving Access to Psychological Therapies (IAPT) programme, led by primary care trusts provides a potential opportunity for targeted support to LGBT asylum seekers.
- R21** HIV prevention programmes targeted at gay and bisexual men should examine ways in which they could better target their services toward LGBT asylum seekers at risk of sexual exploitation and/or participating in unsafe sex. Such services should also consider providing outreach services, including free condoms to residents of UKBA accommodation and through LGBT asylum seeker organisations.

10.1 SECONDARY CARE, INCLUDING MENTAL HEALTH SERVICES

The situation regarding access to secondary care for asylum seekers and refugees has altered in that asylum seekers are entitled to secondary health care services, unless they are a failed asylum seeker . That said asylum seekers still often face difficulty seeking suitable secondary care services, are not referred for appropriate secondary care, or face lengthy waits for support when they are eligible for it.

This is of particular concern with regard to mental health services, including counselling/psychological therapies. A report published by Mind in November 2009 looked specifically at the issue of mental health provision for refugees and asylum seekers in England , and highlighted a number of specific problems, including:

- Significant variance in the availability and quality of interpreting services, with often limited access of interpreters for mental health and therapeutic services
- Difficult registering with GPs, a lack of interpretation services at GP surgeries, and GPs not referring asylum seekers for psychological therapies enough
- Pathways into secondary mental health often being too rigid and not taking into account the needs of asylum seekers and refugees
- Access to child and adolescent mental health services (CAMHS) for refugees and asylum seekers being particularly problematic



- Many individuals with severe and enduring mental health problems are being detained, and mental healthcare within detention centres is inadequate to deal with the high levels of mental distress experienced by detainees, especially those with severe and long-term problems
- Refugee and asylum-seeker mental health service providers are struggling to meet the demand for their services and are finding it increasingly difficult to obtain funding
- Mainstream voluntary sector mental health services are often not accessed by refugees and asylum-seekers.

The report also highlights that the Department of Health has identified post traumatic stress disorder (PTSD) as the most common problem amongst asylum seekers and refugees, with the risk of suicide raised in the long-run as a result .

In 2010 Mind began a project with Primary Care Trust mental health service commissioners in the south east of England to develop good practice in service commissioning for refugees, asylum seekers and vulnerable migrants. The project aimed to improve the way in which PCTs commission (purchase) mental health services so that those services are more appropriate for and accessible to vulnerable migrants, including refugees and asylum seekers. Key to this was ensuring that commissioners have a thorough knowledge of their local migrant population, and a good understanding both of their mental health needs and of their experience of using mental health services.

The project succeeded in bringing together commissioners, equality and diversity leads, and community development workers from six PCTs and local authorities in the South East, with migrant community organisations and local Minds. The key findings and recommendations of the project included:

- There is still considerable unmet mental health need within migrant communities, and the obstacles to accessing services remain.

- There is a real need for holistic services that can address the range of environmental and social factors that impact on the mental wellbeing of migrants.
- Commissioners have difficulty identifying the size and mental health needs of their local migrant population. Improved cooperation with migrant organisations, communities and service providers would ensure that data is collated and analysed effectively.
- Commissioners need to reach into marginalised populations through their community engagement and development programmes to ensure that their needs are being fed into the commissioning process.
- The move towards greater mainstreaming in service delivery means that commissioners need to ensure that providers are meeting their equalities obligations and delivering inclusive and responsive services.

As mentioned above, the EHRC report 'Refugees and asylum seekers: a review from an equality and human rights perspective' also highlighted significant concerns around mental health support for asylum seekers and refugees, with problems including post traumatic stress disorder, anxiety, depression and phobias prevalent, and vulnerable groups such as victims of torture, children, women and LGBTI asylum seekers being particularly affected. The EHRC report also suggests that the provision of mental health services for survivors of organised violence and torture is widely regarded as inadequate.

Within London the City of London's City Bridge Trust, which used surpluses from the City bridges to help London causes - has granted The Afghan Association Paiwand, £90,000 to help improve the lives of London-based Afghan refugees and asylum seekers suffering from trauma. City Bridge Trust funding is for a mental health worker to assist Afghan and other refugee communities that have experienced trauma to overcome their difficulties.

10.2 HIV

We consulted with the Department of Health and the national contractors for HIV prevention, Terrence Higgins Trust (THT) and Africn Health policy Network (AHPN) on recommendation 21.

At a national level THT is improving links and joint working with the Refugee Council and asylum organisations that reach groups of asylum seekers where there may be MSM (Men who have Sex with Men) (many of this group may not identify as LGBTI) and encouraging them to incorporate awareness/appropriate services. At a local level, where THT is near detention centres, they do attempt to work with MSM within them or to support clinicians who are providing services to anyone already living with HIV within them. However, while they are well aware of ways in which they could do more, to do so would also require funding and while THT have sought repeatedly to obtain funding to do more work with asylum seekers and other migrants, it is seldom forthcoming from either statutory or voluntary sources. The same problem pertains to Refugee Organisations, who are losing funding rather than gaining it.

AHPN stated that some contractors have a specification in their local contracts to reach LGBTI people, and/or asylum seekers and refugees, however none have indicated that they currently provide interventions in UKBA residencies. The locations for any HIV interventions vary from private commercial settings to community based organisations (including LGBTI) and open locations. Some interventions such as group work are also at times specifically marketed for these groups, however AHPN suggested that the interventions that are delivered in organisations/premises that work with refugees and asylum seekers are often largely dependent on a positive relationship between local refugees and asylum seekers and sexual health organisations.

In February 2012 the Department of Health announced that from 1st October 2012 refused asylum seekers will become entitled to free HIV treatment and care services .

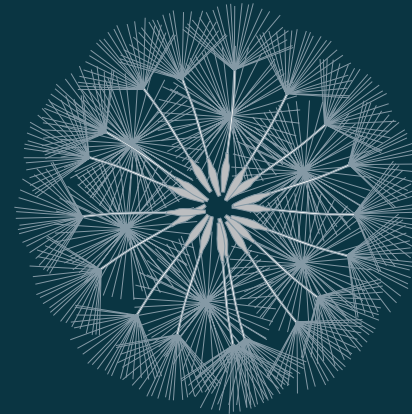
Within London, the pan-London HIV prevention programme for gay men/MSM has recently completed a needs assessment with found that none of their interventions are particularly targeted at the most vulnerable groups, including LGBTI asylum seekers and refugees. They are aware that there is a lack of synergy between different work streams (e.g. local HIV prevention, pan-London activity, the national HIV prevention programme), and that LGBTI asylum seekers and refugees are one of the communities that may well be slipping through the net.

The pan-London HIV prevention programme are re-commissioning their services in October 2012, and intend to turn the findings of their needs assessment into commissioning intentions, so that commissioning is focused on providing for the most vulnerable groups. LGBTI asylum seekers and refugees will be included within these intentions.



Refreshed recommendations:

- R40** The Department of Health should undertake further examination of access to some secondary care for asylum seekers, particularly counselling/psychological therapies. The current expansion of these services through the Improving Access to Psychological Therapies (IAPT) programme, led by primary care trusts provides a potential opportunity for targeted support to LGBTI asylum seekers.
- R41** There should be provision of mental health services to LGBTI asylum seekers in detention centres.
- R42** HIV prevention programmes at a national, regional and local level should examine ways in which they could better target their services toward LGBTI asylum seekers at risk of sexual exploitation and/or participating in unsafe sex. Such services should also consider providing outreach services, including free condoms to residents of UKBA accommodation and through LGBTI asylum seeker organisations.
- R43** New health commissioning structures must be used as an opportunity to lobby and pressure for better provision of health services for LGBTI asylum seekers and refugees. Local Authorities will have significant responsibility for the health needs of LGBTI asylum seekers and refugees, and must be made aware of this need and pressured to meet it adequately.
- R44** Joint Strategic Needs Assessments (JSNAs) should consider the needs of LGBTI asylum seekers, especially in areas where they are dispersed to.



11 BUILDING SUPPORT NETWORKS

Over Not Out identified that LGBT asylum seekers are more likely to feel cut off from their families, often due to homophobic and transphobic attitudes. Similarly many feel cut off from their own ethnic and national networks with few using Migrant and Refugee Community Organisations (MRCOs). Respondents reported mixed experiences of accessing support from MRCOs. LGBT organisations focusing on Black and Asian Minority Ethnic (BAME) communities were seen as the most supportive. There were high levels of activism and volunteering in the latter.

Previous recommendations:

- R23** Agencies providing community development services to RCOs need to take a more robust and challenging attitude to LGBT issues. This should be modelled on the work done by similar agencies in challenging sexism in community organisations in recent years.
- R24** Refugee Support and other organisations supporting refugees need to ensure that all senior managers, front line staff and volunteers undertake diversity training as part of their induction and on-going personal development. This training must include modules to improve awareness of LGBT issues and where people are specifically working with asylum seekers, targeted training on the specific issues relating to them. They should also examine ways of measuring both service take up by LGBT asylum seekers and the LGBT service users views of services provided.
- R25** Public and charitable funders should provide more support and challenge RCOs in respect of the accessibility of their organisations to LGBT people.
- R26** Public and charitable funders should be encouraged to provide support and resources to LGBT asylum groups. Such funding should encourage volunteering and self-help from within these communities.

- R27** Councils for Voluntary Service and other third sector networks should develop support and networking opportunities for mainstream LGBT organisations to develop their links with smaller LGBT asylum seeker groups.
- R28** LGBT voluntary and community organisations need training and funding to increase capacity to meet the needs of asylum seekers.

11.1 IMPROVING UNDERSTANDING OF LGBTI ASYLUM SEEKER/REFUGEE ISSUES WITHIN LGBTI VCOS AND MRCOS

The Trust for London has recently funded a project being delivered by a partnership of MBARC, The Metro Centre and Praxis to work to address the issue of improving the services that LGBTI voluntary and community organisations (LGBTI VCOs) and migrant and refugee community organisations (MRCOs) offer LGBTI asylum seekers and refugees. The project involves developing a service specification to improve services for LGBTI asylum seekers and refugees, and the project will involve working with 12 LGBTI VCOs and MRCOs to help them implement these changes to their organisations, before using a team of community researchers who are themselves LGBTI asylum seekers/refugees to audit the participating organisations to see whether their service has improved. The Boards of the participating organisations will also challenge each other on the changes they have implemented, and longer term organisational changes will be planned for. The

project will also encourage funding organisations to stipulate implementation of the service specification as a requirement of future funding for LGBTI VCOs and MRCOs. This project should help to address recommendations 23-28.

There are a small number of other projects which have/are also looking to improve cross-awareness between LGBTI VCOs and MRCOs, or to raise awareness about LGBTI asylum seekers and refugees.

UKLGIG and Galop have been working together, with Galop staff coming to speak to asylum seekers that UKLGIG is working with to offer them the support of an LGBTI organisation. This has helped to improve Galop's awareness of LGBTI asylum seekers and their issues.

Stonewall Housing received Big Lottery funding to work with Advice UK to train MRCO advice organisations on LGBT issues. In total 83 people in 43 organisations took part in the training. They also undertook some consultancy with three MRCOs to look at equality issues and organisational access for LGBT people. In return Stonewall Housing received some training from organisations about asylum seeker/refugee issues. The project resulted in:

- Increased knowledge of current legislation around sexual orientation and gender identity and an introduction to proposals in the new Equality Bill
- Improved awareness of the issues faced by lesbian, gay, bisexual and trans (LGBT) people, specifically around housing
- Best practice information to improve services for LGBT people
- Advice on how to monitor sexual orientation and gender identity
- Tips on how to improve advice and support given to LGBT people.

The REAP Project (Refugees in Effective and Active Partnership) is an independent organisation with the main aim of empowering

refugees and asylum seekers to reach their full potential and to enable them to rebuild their lives within the UK. They are currently working strategically to provide a range of practical advice and support services for individual refugees, asylum seekers, their communities and the organisations that support them within London and in other areas where we can address unmet needs. Within this work, they are also trying to raise awareness about the issue of LGBTI asylum seekers and refugees within these communities.

11.2 LGBTI ORGANISATIONS INVOLVING LGBTI ASYLUM SEEKERS

The original research identified that most LGBT asylum seekers make some use of the commercial gay scene, not least because this is seen as a way of enhancing their asylum application. However, many have not always found that they are welcome due to their ethnic or racial appearance. There were mixed views amongst stakeholders about the degree to which asylum seekers should be further encouraged to make use of the gay commercial scene.

Previous recommendations:

- R29** LGBT community organisations, as part of their commitment to developing more “asylum-responsive” services should seek to include asylum seekers in events and where applicable undertake planning with commercial LGBT venues. This could include promoting social events at non commercial LGBT venues and occasional free nights at commercial venues to address the financial disadvantage faced by asylum seekers.

There has been very limited progress on this issue. The Wotever club night at Vauxhall Tavern has held two fund raising nights for UKLGIG, but other than that we did not come across any evidence of commercial LGBTI venues including asylum seekers in their events.

The LGBTI organisations that we consulted with were also not aware of any LGBTI organisations that have pro-actively been looking to include asylum seekers in their events. It is hoped that the Trust for London project mentioned above will help on this front, as more LGBTI organisations become aware of the needs of LGBTI asylum seekers and refugees.

It was also suggested that it would be useful to raise this issue with national LGBTI organisations, such as the National LGBT Partnership and National LGBT Consortium, so that it becomes more high profile among LGBTI organisations.

The National LGBT Consortium expressed some concern at LGBTI asylum seekers being encouraged to access the gay scene in their local area. They suggested that as many asylum seekers and refugees come from communities that may disapprove of LGB or T people, the issue of being “gay” can be quite a sensitive one and many may wish to keep this private. By accessing the LGBTI ‘scene’, LGBTI asylum seekers and refugees may be more at risk of this information being revealed to the asylum seeker and refugee community, thereby creating further issues for them.

The National LGBT Consortium suggests it would perhaps be better to consider running LGBTI asylum seeker/refugee friendly events through local LGBTI organisations, rather than on the scene. LGBTI groups should be encouraged and supported to engage with local asylum organisations so that new engagement

opportunities can be identified that are more sensitive to the issues of “outing”. Social groups tend to be more private than the scene and could offer more constructive support and social opportunities for LGBTI asylum seekers, especially in rural areas.

Refreshed recommendations:

- R45** Agencies providing community development services to RCOs need to take a more robust and challenging attitude to LGBTI issues. This should be modelled on the work done by similar agencies in challenging sexism in community organisations in recent years.
- R46** All organisations supporting refugees need to ensure that their senior managers, front line staff and volunteers undertake diversity training as part of their induction and on-going personal development. This training must include modules to improve awareness of LGBTI issues and where people are specifically working with asylum seekers, targeted training on the specific issues relating to them. They should also examine ways of measuring both service take up by LGBTI asylum seekers and the LGBTI service users views of services provided.
- R47** Public and charitable funders should provide more support and challenge MRCOs in respect of the accessibility of their organisations to LGBTI people.
- R48** Public and charitable funders should be encouraged to provide support and resources to LGBTI asylum groups. Such funding should encourage volunteering and self-help from within these communities.



- R49** Councils for Voluntary Service and other third sector networks should develop support and networking opportunities for mainstream LGBTI organisations to develop their links with smaller LGBTI asylum seeker groups.
- R50** LGBTI voluntary and community organisations need training and funding to increase capacity to meet the needs of asylum seekers.
- R51** Learning, findings and recommendations from the Trust for London funded Double Jeopardy project should be used to help with these issues.
- R52** LGBTI community organisations, as part of their commitment to developing more “asylum-responsive” services should seek to include asylum seekers in events and where applicable undertake planning with commercial LGBTI venues. This could include promoting social events at non-commercial LGBTI venues and occasional free nights at commercial venues to address the financial disadvantage faced by asylum seekers, though careful consideration should be made of how to encourage commercial LGBTI venues to become more supportive of LGBTI asylum seekers and refugees.
- R53** These issues should be raised with national LGBTI organisations, including the National LGBT Consortium and National LGBT Partnership.
- R54** There should be more national promotion of the issues faced by LGBTI asylum seekers and refugees, particularly by national LGBTI and Refugee/asylum seeker organisations. National conferences held by these organisations should be used to raise these issues within each community.
- R55** LGBTI and Migrant and Refugee Community Organisations should look to internal staff/resources to develop and improve internal organisational attitudes towards LGBTI asylum seekers and refugees.
- R56** LGBTI organisations working with faith groups around the issue of HIV should raise the issue LGBTI asylum seekers and refugees.



12 FURTHER RESEARCH

Over Not Out was the first substantial insight into the lives and experiences of LGBT asylum seekers, however it recognised that it was just a starting point, and made these recommendations for future studies.

Previous recommendations:

R30 This research should be seen as the starting point of wider study. There is a need for further research to further explore the needs of LGBT refugee and asylum seekers, including potentially more hidden and excluded sub-communities, such as unaccompanied asylum seeking children and young people leaving care.

R31 The different asylum experience for LGBT asylum seekers highlighted in this report needs to be explored in relation to its impact upon integration for those granted asylum.

In terms of recommendation 30, there has been some subsequent research exploring the needs of LGBT refugee and asylum seekers, though not in significant quantity. In 2010 two research reports further documented the lives of lesbian, gay and bisexual asylum seekers in the UK.

UKLGIG's 'Failing the Grade' examined refusal letters issued by the Home Office from 2005 to 2009 to 50 asylum seekers from 19 different countries. These were primarily from asylum seekers in London and dealt with asylum seekers who were gay or lesbian. The research showed that between 98-99% of claims made on the basis of sexual orientation and gender identity were refused, compared to 73% for claims made on other grounds. The report also highlighted:

- A lack of understanding of what sexual identity actually is which leads to decisions requiring asylum seekers to conceal their sexual identity and live a clandestine life in order to avoid persecution – referred to as being “discreet”

- Falsely assuming that internal relocation is a viable option for lesbians and gay men in countries where homophobia is prevalent
- Failing to appreciate the ways in which multiple discrimination and persecution impact on lesbian asylum seekers and inaccurately equating the lack of Home Office country of origin information about human rights abuses of lesbians with an absence of such persecution;
- A false belief amongst case owners that a lack of documented evidence on the application of existing laws criminalising same-sex sexual behaviour, equates to a lack of persecution
- Disbelieving a person is lesbian or gay due to the decision maker's misconceptions about sexual identity
- An unrealistic and speculative belief that asylum seekers are lying because they recount having engaged in so-called “risky” sexual or nonconforming social behaviours that then lead to their persecution
- Reliance on Operational Guidance Notes in refusal letters in general and specifically reliance on Operational Guidance Notes that conflict with the Country of Origin Report for a specific country

A report by Stonewall, 'No going back: Lesbian and gay people and the asylum system', published in 2010, was based on interviews with asylum-seekers and UK Border Agency decision-makers. It concluded that there is systemic homophobia in the asylum system, resulting in legitimate lesbian, gay and bisexual asylum seekers regularly being refused sanctuary, with officials relying on inaccurate information and outdated ideas about gay people and admitting that they don't know how to question them appropriately.

It also noted that as a result lesbians and gay men who've been raped, tortured and threatened with death are being returned to their countries – in many cases to face further persecution.



The report detailed how lesbian, gay and bisexual people seeking asylum experience significant and specific disadvantages as a direct consequence of their sexual orientation.

The report 'Sanctuary, Safety and Solidarity - Lesbian, Gay, Bisexual, Transgender Asylum Seekers and Refugees in Scotland' (March 2011), published by the Equality Network, BEMIS and GRAMNet, examines the significant barriers that LGBT asylum seekers face in seeking sanctuary in Scotland. The report highlighted:

- Despite recent progress made by the UKBA, a number of major concerns remain undiminished, including a lack of sensitivity to the difficulties that people fleeing persecution may face in being open about their sexual orientation or gender identity at the outset of their asylum claim; that when making decisions on LGBT asylum cases there is a tendency to assess the evidence using stereotyped and highly simplistic western benchmarks as to what constitutes 'typical' LGBT behaviour which fail to acknowledge the true complex diversity of LGBT people; insufficient attention being given to how interpreters may act as a barrier for LGBT asylum seekers in being open about their sexual orientation or gender identity.
- Concern about the continuing use of detention and fast-track decision making for LGBT claimants, as well as major shortcomings in the country of origin evidence used by UKBA
- Without improved access to specialist advice, dramatic changes to the quality of decision making on cases, and a reduction in the use of both fast-track and detention, many LGBT asylum seekers in Scotland will continue to be unable to find a place of sanctuary
- Concern about the abuse and violence that gay men asylum seekers are exposed to within detention centres
- That lesbian asylum seekers find it extremely difficult to succeed in their asylum claims. As well as shortcomings in the use of country evidence and criticisms of the use of 'safe internal relocation', our research suggests that UKBA is failing to fully understand the pressures that women come under to conform to their expected gender role and often unfairly refuse to accept women's accounts of being a lesbian as credible.

- UKBA's Asylum Policy Instructions fail to offer sufficient guidance on dealing with bisexual claims and this is an area that needs more work
- An extreme lack of evidence available about the particular experiences of trans asylum seekers. Strong concerns were raised during our research about trans asylum seekers being particularly vulnerable to physical, sexual and emotional abuse within asylum detention centres and community-based single sex shared accommodation. Urgent work is needed to
- evidence the specific support needs and asylum process experiences of transgender asylum seekers.
- There is a real gap in the knowledge about the particular experiences of young LGBT people who are asylum seekers or refugees.

At a European level, ILGA Europe is aware of some research currently ongoing in Belgium looking at issues around accommodation for LGBTI asylum seekers, and some research on LGBTI asylum seeker issues in Sweden, Germany and France, however from their perspective there is far too little being done to research these issues. In particular the lack of any systematic data on the numbers of LGBTI asylum seekers and refugees is a real area of priority, as without this data it is difficult to state the exact nature and extent of the problem to policy makers and LGBTI organisations.

ORAM have just completed a report on resettling LGBTI asylum seekers and refugees, which provides an overview of the global situation, which is due to be published shortly.

We are unaware of any research into the experiences of unaccompanied asylum seeking children or young people leaving care.

The 'Fleeing Homophobia – Asylum Claims Related to Sexual Orientation and Gender Identity in Europe' report, published in September 2011, identified the considerable differences in the way in which European States examine LGBTI asylum applications. It

also highlights that on a number of points, European State practice is below the standards required by international and European human rights and refugee law, that national authorities in many instances rely on stereotypes when examining LGBTI asylum applications, and that serious human rights violations against trans people, occurring on a large scale in many parts of the world, often do not lead to asylum. The report makes a number of recommendations relevant to the original Over Not Out report findings, including:

- Establishing sexual orientation or gender identity should, in principle, be based on self-identification; these are not medical or psychiatric categories. Interviewers, decision makers, the judiciary and legal aid providers should be trained to have better understanding of sexual orientation and gender identity, thereby preventing unhelpful reliance on stereotypes.
- Late disclosure of sexual orientation or gender identity should not lead to denial of asylum. This should happen neither by inflexible application of a res judicata principle, nor by considering a 'late coming out' per se as an indication of non-credibility of an applicant's sexual orientation or gender identity.
- Country of origin information should always include information on the situation of lesbian, gay, bisexual, trans and intersex persons and not merely on criminal law. As long as little or no reliable country of origin information is available on the human rights situation of lesbians, gays, bisexuals, trans and intersex individuals in a particular country, this should not be considered as a sign that human rights violations against these groups do not occur. The principle of the benefit of the doubt is of particular importance in such situations.
- In reception, accommodation and detention centres, measures must be taken in order to protect lesbian, gay, bisexual, trans and intersex asylum applicants against homophobic and transphobic violence.
- The European Asylum Support Office should give priority to promoting and coordinating the identification and pooling of good practices regarding the examination of lesbian, gay, bisexual, trans and intersex asylum applications.

The report was accompanied by a conference , to share the findings of the report with a wider audience, to discuss the consequences of these findings for policy makers, decision makers, the judiciary, lawyers, NGO's and activists, and for academics and people working in practice to share insights and experiences.

This summer the second Double Jeopardy conference will be held in London . The first Double Jeopardy conference was held at Greenwich University in July 2010, and was an opportunity for stakeholders from the academic, public, voluntary and private sectors to discuss and debate issues around asylum seeking resulting from human rights violations based on sexuality and gender identity.

As a result of the conference, a Greenwich Declaration of Human Rights for LGBTI asylum seekers and refugees has been developed, and the second Double Jeopardy conference this summer will launch the Greenwich Declaration of Human Rights for LGBTI Asylum Seekers and Refugees, and will provide a forum whereby a global community of refugees and asylum seekers, civil society organisations, activists, academics and NGO's can gather, discuss and agree a global response to address the persecution experienced by LGBTI refugees and asylum seekers.

Recommendation 31 highlights the important issue of what happens to asylum seekers if they are granted refugee status, and what their experiences of integration are like. This is still a huge issue, and one that has not been researched properly. Claimants who are granted refugee status are suddenly faced with a whole new range of problems, and are often not prepared to suddenly have no accommodation, no plans and little support. Again these issues can be particularly challenging for LGBTI refugees.



Refreshed recommendations:

- R57** This research should be seen as the starting point of wider study. There is a need for research to further explore the needs of LGBTI refugee and asylum seekers, including potentially more hidden and excluded sub-communities, such as unaccompanied asylum seeking children and young people leaving care.
- R58** The different asylum experience for LGBTI asylum seekers highlighted in this report needs to be explored in relation to its impact upon integration for those granted asylum.
- R59** Research to establish reliable data on the numbers of LGBTI asylum seekers (both in the UK and more widely) is a priority.

APPENDIX 1: INTERVIEW SCHEDULES

List of Stakeholders Consulted

Anne Coughlan, Head of Service Development, Victim Support
Anne-Yaël Halévi and Craig Barnes, LGB and T Equality, Government Equalities Office
Bethan Lant, Project Lead – Pathways, Praxis
Bob Green, Chief Executive, Stonewall Housing
Del Campbell, Community Engagement Manager, Terrence Higgins Trust
Dr Cheikh E Traore, Senior Advisor, Sexual Diversity, United Nations Development Programme
Dr Greg Ussher, Deputy CEO, The Metro Centre
Erin Power, Executive Director, UK Lesbian & Gay Immigration Group
Godwyns Onwuchekwa, Co-ordinator, Justice for Gay Africans
Ian Cheeseman, NAM+ Children, Families and Gender Team, UK Border Agency
Jabulani Chwaula, Programmes Manager, African Health Policy Network
Jane Standing, CEO, Kairos in Soho
Joël Le Déroff, Senior Policy and Programmes Officer, ILGA-Europe
Kay Orton, Lead, HIV and STIs Policy and Services, Sexual Health Team, Department of Health
Keith Armitage, Reconnections Team Manager, Providence Row
Les Cloughley, Commercial Manager (Midlands & Yorkshire Care and Support), Metropolitan
Lisa Power, Policy Director, Terrence Higgins Trust
Liz Speed, Research Manager, Equality and Human Rights Commission
Lucy Yeatman, Senior Lecturer in Law, University of Greenwich
Mark Creelman, Joint Director of Strategy and QIPP, Inner North West London Primary Care Trusts (Hammersmith and Fulham, Kensington and Chelsea, Westminster)

Matthew Halliday, Chief Executive, London Friend
Michael Bell, Director, MBARC
Neil Grungas, Executive Director, ORAM (Organization for Refuge, Asylum and Migration)
Paul Birtill, Director, Metropolitan Migration Foundation
Paul Roberts, Chief Executive Officer, LGBT Consortium
Pippa Brown, Refugee & Asylum Project Co-ordinator, Terrence Higgins Trust
Robin Titchener, Country of Origin Information (COI) Service, UK Border Agency
Sebastian Rocca, Executive Director, ILGA
S Chelvan, Barrister, No 5 Chambers
Steve Chambers, Head of Advice Support Services, MBARC

APPENDIX 2: ATTENDEES AT SEMINAR TO DISCUSS RECOMMENDATIONS

Paul Birtill, Director, Metropolitan Migration Foundation
Michael Bell, Director, MBARC
Erin Power, Executive Director, UK Lesbian & Gay Immigration Group
S Chelvan, Barrister, No 5 Chambers
Jacqueline Stevenson, Head of Policy, African Health Policy Network
Glynis Craig, Senior Solicitor, Equality and Human Rights Commission
Pamela Sinnott, Business Development Manager (Care and Support), Metropolitan
Steve Chambers, Head of Advice Support Services, MBARC
Alasdair Stuart, Researcher, MBARC
Robin Titchener, Country of Origin Information (COI) Service, UK Border Agency (in capacity as an Observer)

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