



## Irish Congress of Trade Unions

### Lesbian and Gay Rights in the Workplace Guidelines for Negotiators

The 1982 Annual Delegate Conference of the Irish Congress of Trade Unions adopted a resolution urging affiliated unions to resist any attempt to discriminate against their members in their employment on the basis of their sexual preference. The ICTU Women's Charter adopted in 1985, recognises and demands the right of everyone, irrespective of sex, marital status or sexual preference to pursue their economic independence and to full participation in the social, cultural and political life of the community in conditions of freedom, dignity and equality. Congress has sought amendments to employment and anti-discrimination legislation to make discrimination against lesbians and gay men unlawful. Congress also supports the decriminalisation of homosexual behaviour. Trade Union policy on lesbian and gay rights is an integral part of overall trade union policy to fight discrimination and protect workers' rights.

Discrimination on grounds of sexuality leads to isolation, abuse and victimization of lesbians and gay men in the workplace. Unions must negotiate policies and procedures which counteract discrimination and prejudice in all its forms against lesbian and gay workers. The objective of such policies and procedures is to create a workplace environment where lesbian and gay workers can have equality of opportunity and be free of harassment or possible reprisals from other workers or management.

#### lesbians and gays in Ireland

Lesbians and gay men are women and men whose most important relationships, emotional and sexual, are with other women and other men. Almost all of the popular stereotypes are untrue. There are lesbians and gays in all social classes, in all age groups, and in all parts of the country. They are rarely immediately identifiable: if people do not, or cannot, talk about their lives, then few other people become aware that those lives are different.

It is a common mistake to believe that 'these people are few, and there are none where we work' and to think therefore that lesbian and gay rights are not real issues. Research many years ago showed that one person in ten is predominantly lesbian or gay and studies since throughout the world have confirmed that basic figure. This figure, when applied to Ireland, would amount to over 300,000 men and women — perhaps the largest minority in the country. In a workforce of a hundred, some ten people may be lesbian or gay: a committee or small group will probably have at least one lesbian or gay present. These figures still cause surprise, but it is very easy to hide or deny an identity even to oneself, and there are strong reasons for doing so.

One reason is the law which in the Republic of Ireland treats all sexual acts between men as criminal and only limited decriminalisation has taken place in Northern Ireland. Lesbians are not directly subject to these laws, but they are still affected by them and sexual acts between women are regarded with perhaps even greater prejudice. Lesbian mothers also have to contend with prejudice from the

judicial system in relation to custody of their children. The law creates a background of fear and restriction. Advertisements for lesbian and gay organisations or publications are refused and individuals know that the issue of criminality weakens their position with employers and others. Often in cases of harassment or physical violence (common against both lesbians and gays), the legal rights of the attacked person are compromised.

Discrimination also operates at other levels. Housing, publicly or privately-financed, is difficult to obtain for people of the same sex. Lesbians are affected by the general lack of women's rights, and frequently face the prospect of a lifetime of low pay, poor career prospects and insecure employment. Many lesbians and gays are denied the basic right to work as they are often refused jobs solely on grounds of their sexuality.

At work, lesbians and gays are often afraid of the opinions of their colleagues. They are afraid that if their sexuality becomes known they will lose any chance of promotion and above all, they are afraid of losing their jobs. The enforced secrecy about people's lives is damaging and the continuous necessity to pretend or lie can cause isolation, mental stress and alcoholic problems. Discrimination also occurs in relation to conditions of employment. Pensions and benefits are paid for but cannot be passed on to partners. Partners are given no recognition in relation to sickness or bereavement. Underlying this discrimination is the usually unquestioned consensus that lesbian/gay sexuality is unnatural and/or inferior to heterosexuality. This consensus ('heterosexism') is pervasive but is also open to challenge. Trade

Unions must take up that challenge on behalf of all their members.

#### discrimination in the workplace — what trade unions can do?

Discrimination here means treating workers less favourably because of their sexuality or because other people may have prejudices about that sexuality. Management can discriminate in hiring and firing, in training and promotion and in onerous supervision and discipline.

Lesbian and gay workers are often subjected to harassment from management and co-workers. Harassment can be broadly described as persistent, unwanted behaviour intended to humiliate a person. The harassment can be verbal such as unwanted personal questions and remarks, offensive jokes, innuendo and malicious gossip. A lesbian or gay worker may be isolated or 'frozen out' by co-workers. In extreme cases a person may be physically attacked. The Labour Court has stated 'that freedom from sexual harassment is a condition of work which an employee of either sex is entitled to expect'. Any denial of that freedom constitutes discrimination and there is a responsibility on employers to ensure that such harassment is stopped effectively.

Lesbian and gay workers are also indirectly discriminated against in relation to conditions of employment. This arises mainly in relation to pension schemes and arrangements relating to compassionate leave or family leave.

Anti-lesbian and gay prejudice often focuses on certain work areas,

particularly those which involve young people. Discrimination in these areas is very often exercised at the recruitment and selection stage. If recruited, many lesbian and gay workers are forced to conceal their sexuality which has serious consequences for their health, work performance and promotion prospects.

To counteract discrimination against lesbian and gay workers, unions should

- recognise that this discrimination is a trade union issue affecting thousands of workers and requiring a serious anti-discrimination policy and programme;
- negotiate equality agreements with employers which specifically refer to discrimination on grounds of sexuality;
- ensure that interview panels adopt and follow non-discriminatory interview procedures and criteria;
- negotiate procedures with employers for handling complaints of discrimination on grounds of sexuality;
- communicate union policy throughout the Union pointing out that discrimination will not be tolerated and that the Union will treat such discrimination as a serious workplace issue;
- cover the issue of discrimination on grounds of sexuality on union education and training courses (suitable case studies for use on courses are available from the ICTU Training Service);

- assign responsibility for dealing with grievances and complaints of discrimination to a named member of the Branch/Section Committee;
- examine collective agreements and conditions of employment for direct and indirect discriminatory provisions in relation to pensions, access to leave and other fringe benefits;
- publicise these guidelines through union publications and distribution to union members and shop stewards;
- assign responsibility to an officer of the union to develop a programme for monitoring and implementing these guidelines.

### handling complaints

Complaints or grievances in relation to discrimination against lesbian and gay workers arise mainly in relation to

- recruitment, promotion and training
- harassment
- conditions of employment.

Lesbian and gay workers should be able to raise any of these issues with their union representative and expect it to be dealt with in a positive and supportive manner. Trade union representatives need to be sensitive to the nature and scope of the discrimination which may occur. Lesbian and gay workers may be reluctant to openly state that the complaint or grievance is related to

their sexuality as they might fear that this would endanger their jobs. On the other hand management will usually try to hide or deny that they have discriminated against workers because of their sexuality or in response to other people's prejudices and they will try to put it in other terms such as a 'personality clash'. It is essential therefore that union representatives handle such complaints and grievances in a manner which does not jeopardise the interests of the workers concerned and workers should be advised that such complaints can be dealt with on a confidential basis. Unions should advise members to follow the basic procedure in relation to complaints/grievances. If the complaint relates to harassment, the procedure as set down in the ICTU Sexual Harassment Guidelines should be followed (copies available from ICTU);

### positive action

Recognising the widespread prejudice in society against lesbians and gay men, the trade union movement has an important role to play in changing general attitudes and behaviour. Trade unions can influence the situation in the workplace and these Guidelines are designed to assist unions to do this. It is also hoped that by issuing these Guidelines and by ensuring their wide distribution beyond the workplace that this will be a positive contribution to the fight against prejudice and discrimination against lesbians and gay men in society.

### Model Agreement

Where equality clauses already exist in union agreements, it is recommended that these be amended to include discrimination on grounds of sexuality. A model agreement to protect the rights of lesbian and gay workers is set out hereunder:

1. The parties to this Agreement are committed to equality and are opposed to discrimination on grounds of sexuality.
2. Discrimination on grounds of sexuality means treating workers less favourably because of their sexuality or because others may have prejudices about that sexuality.
3. It is the policy of the employer that freedom from harassment is a condition of work which every employee is entitled to and harassment of employees because of their sexuality will be a breach of this policy.
4. This Agreement applies in respect of all conditions of employment including pensions, special leave entitlements, recruitment, training and promotion.
5. If any worker considers that he or she has been treated less favourably on grounds of his or her sexuality, the agreed grievance/complaints procedure will be used to deal with the complaint. Such complaints will, unless otherwise agreed, be dealt with on a confidential basis. A complaint of discrimination on grounds of sexuality under this Agreement will not result in any disciplinary or other action against the worker making the complaint.
6. The parties agree to review at least once a year the operation of this Agreement. This Agreement will be circulated to all employees.

### Irish Congress of Trade Unions

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