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Riaghaltas na h-Alba

Scottish Government  
Equality Outcomes:  
Lesbian, Gay, Bisexual and  
Transgender (LGBT)  
Evidence Review

Equalities



**SCOTTISH GOVERNMENT EQUALITY OUTCOMES:  
LESBIAN, GAY, BISEXUAL AND TRANSGENDER  
(LGBT)  
EVIDENCE REVIEW**

**Communities Analytical Services, Scottish Government**

Scottish Government Social Research  
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# 1 INTRODUCTION

## Purpose of this document

- 1.1 This paper is one of a series written to inform the development of equality outcomes for the Scottish Government. Guidance from the Equality and Human Rights Commission (EHRC) states that a range of relevant evidence relating to equality groups and communities should be used to help set equality outcomes that are likely to make the biggest difference in tackling inequalities.
- 1.2 The EHRC suggests the following criteria for selecting equality outcomes:
  - Scale – how many people are affected by the issue and how does the issue impact on their life chances?
  - Severity – does the issue present a risk to equality of opportunity for particular protected groups? Is it a significant barrier to opportunity or freedom?
  - Concern – do equality groups and communities see it as a significant issue?
  - Impact – is the problem persistent or getting worse? What is the potential for improving life chances? Is the problem sensitive to public intervention?
  - Remit – are you able to address the issue given your remit?
- 1.3 This series of papers provides evidence for some of the questions listed above – in particular, on the scale and severity of issues facing equality groups. It is intended that this evidence will feed into a process of engagement with equality groups and communities, to help develop the most relevant equality outcomes.
- 1.4 These papers seek to identify, very briefly, key facts and evidence gaps for the equality groups in policy areas including: education, employment, poverty, housing, transport, hate crime, justice, public appointments, health, social care, sport, and culture.
- 1.5 Please see the Context chapter for definitions of LGB, Transgender and LGBT.

## Key facts

- 1.6 Education: The evidence for LGBT school pupils focuses on bullying and the protection of rights, whilst the LGB and Transgender research reviewed to date is exclusively about homophobic and transphobic bullying. The very little research on higher education suggests that LGBT students may be treated negatively.
- 1.7 Employment: High levels of workplace bullying and discrimination are reported for LGB and for Transgender people. There are very limited data indicating positive LGB pay gaps, but these have been challenged by the EHRC on the grounds of reliability.

- 1.8 Poverty: The survey data on poverty are very limited, and some very dated. They offer divergent views as to whether or not LGB people commonly live in poverty, whilst the limited findings for Transgender people report a higher incidence of poverty. Welfare reform is not expected to have an adverse impact on the basis of sexual orientation or gender identity.
- 1.9 Housing: LGBT housing guidance emphasises rights and their protection by standards. Concern is expressed at homophobic abuse, and the perceived reluctance of housing authorities to respond to it. Young LGBT people are thought to be over-represented among the homeless, and to be particularly vulnerable. Abuse of Transgender people is reported to result in homelessness, leading to calls for their prioritisation for social housing.
- 1.10 Transport: The limited research into LGBT transport needs highlights passenger safety, but as an issue that is not exclusive to LGBT people. Airport security searches are identified as problematic for Transgender people.
- 1.11 Hate crime: Scottish surveys report high levels of verbal and physical abuse of people assumed to be LGBT. UK data identify high levels of fear of violent crime amongst LGB people, and Scottish data show a recent increase in reported hate crimes – which may be due to increased awareness and reporting, rather than an actual rise in crime levels. In addition to reporting abuse, Transgender sources for Scotland describe a reluctance to report incidents to the police.
- 1.12 Justice: Some LGB and Transgender people expect to be discriminated against if they report or commit an offence.
- 1.13 Public appointments: Just over two percent of applications for public appointments in 2011/12 were from LGB applicants. This proportion has not changed significantly over the last three years.
- 1.14 Health: *Scottish Health Survey* data suggest higher incidences of smoking and drinking among LGB people than the wider population. Despite recognition of LGB people's specific needs, they are not explicitly mentioned in the mental health strategies. The primary barrier to healthcare access by LGB people is discrimination, whether feared or actual. The bulk of research into Transgender health focuses on the transitioning process.
- 1.15 Social care: Sexual orientation and gender identity tend not to be taken into account in the provision of or research into social care.
- 1.16 Sport: There is very limited research into sports participation by LGBT people. Reports of barriers to participation focus on (feared and actual) homophobia and transphobia. Additional barriers for Transgender people include communal and/ or gender-specific changing rooms, and participation in competitive sport in their acquired gender.
- 1.17 Culture: No data have been found for the participation in culture by LGBT people.

## Gaps in the data

- 1.18 A common concern across policy areas is that there is no population-based information on LGBT people, making it impossible to estimate the scale of reported issues. See, for example, the EHRC *Equality issues in Scotland: a review of research, 2000-08*<sup>1</sup>. This also means that survey data cannot be considered to be representative, so all findings must be interpreted with caution. Survey sample sizes can also be so small as to severely limit the extent to which generalisations can be made from them.
- 1.19 Specific research gaps include same-sex domestic violence about which little is currently known, the experiences of LGBT staff and students in further and higher education, LGBT participation in culture, and the long-term effects of homophobic bullying (EHRC *Review of Research*). It appears that pay gaps research has yet to make use of the change to the *Labour Force Survey*, which has included a question on sexual orientation since 2009.

## 2 CONTEXT

### Legal definition in the Equality Act (2010)

2.1 The EHRC's guidance for the Equality Act<sup>2</sup> gives the following definition of the two protected groups:

- "Sexual orientation: Whether a person's sexual attraction is towards their own sex, the opposite sex or to both sexes".
- "Gender reassignment: The process of transitioning from one gender to another".

2.2 For the purposes of this report, the groups defined under the Equality Act will be described and/ or interpreted as:

- 'Sexual orientation' will be referred to as 'LGB', the commonly accepted abbreviation for lesbian, gay and bisexual.
- 'Gender reassignment' will be included in a much broader 'Transgender' definition. The Scottish Transgender Alliance<sup>3</sup> describes Transgender as:

an umbrella term which can encompass all those whose personal experience of their gender [or gender identity] differs from the assumptions and expectations of the society they live in.... including: transsexual women, transsexual men, intersex people, androgyne people, cross-dressing people and others.

2.3 The Scottish Transgender Alliance further defines Gender Identity as one's internal sense of being a man or a woman, and it describes Gender Variance as when a person finds that current gender stereotypes and averages do not fit with their individual gender identity and gender expression. The much broader Transgender group thus includes, but is not limited to, individuals undergoing gender reassignment, and so allows this Evidence Review to draw on the much wider evidence base for Transgender people. This Evidence Review will distinguish between research that is specific to gender reassignment, and that which concerns Transgender issues or gender identity, where this clarity is provided in the research.

2.4 This paper will address the two protected characteristics, LGB and Transgender, separately, and then address both together in a section headed LGBT. This is because, although some evidence is specific either to LGB or to Transgender, much of it addresses both groups under the descriptor LGBT, and some evidence lacks clarity as to which groups are included. This paper will identify which group(s) each piece of evidence refers to, where this is clear.

2.5 It should be noted that some of the data sources cited in this Evidence Review cover the whole of the UK and so are not specific to Scotland. This will be pointed out in the text.



## Demography

- 2.6 As there are no reliable population data for LGBT people in Scotland<sup>4</sup>, population estimates are made instead. For example:
- 2.7 The EHRC<sup>5</sup> and *Scottish Health Survey*<sup>6</sup> both refer to an estimate from the Department of Trade and Industry in 2003 for LGB of five to seven percent of the UK population.
- 2.8 In 2008, the Scottish Government estimated that LGBT people made up around five percent of the population of Scotland, or around 250,000 people<sup>7</sup>.
- 2.9 The reader should note, however, that the surveys themselves may underestimate the LGB or LGBT population. The *Scottish Health Survey* attributes this to under-reporting by survey respondents, and the *Scottish Household Survey 2011*<sup>8</sup> discusses a range of possible reasons for under-reporting:
- “Asking about sexual orientation/identity is a new development in national surveys and such questions can be seen as intrusive and personal.
  - There is still significant prejudice and discrimination against LGB people in society. In a context where some LGB people will not have told friends and family about their sexual identity, there is a real question about whether LGB people generally would want to be open with an interviewer.
  - The default option for being uncertain about one's sexual orientation may be to respond 'straight/heterosexual' rather than to say 'Don't know / not sure'.
  - Particular LGB people are still less likely to be open where they belong to groups or communities where an LGB identity is less acceptable.”
- 2.10 In 2000, after informal consultations with the Passport Section of the Home Office, Press for Change<sup>9</sup> estimated there were around 5,000 transsexual people in the UK (less than 0.01% of the population), based upon numbers of those who had changed their passports (Home Office, 2000). A *Scottish Needs Assessment Survey* in 2001 indicated half that number<sup>10</sup> – 0.005% of the Scottish population would be approximately 250 people.

### 3 LGB

#### School education

- 3.1 All of the evidence reviewed so far on school education concerns homophobic bullying and its consequences.
- 3.2 Stonewall seeks to tackle homophobic bullying in Scotland's schools<sup>11</sup> via its programmes with local authorities, primary schools and secondary schools. Stonewall's report, *The School Report: The experiences of gay young people in Scotland's schools (2012)*<sup>12</sup>, presents survey results on homophobic bullying in secondary schools. The headline finding is 52% of LGB pupils reporting being bullied. Consequences for gay pupils include not feeling part of the school community, perceiving an adverse impact on their academic work, playing truant, and mental health impacts (including increased risk of suicide, self-harm and depression). Recommendations include teaching that homophobic bullying is wrong, responding quickly to instances of homophobic bullying, and training teachers to respond to bullying, to support gay pupils and to be aware of the particular mental health issues which they may face.
- 3.3 The EHRC *Sexual orientation research review*<sup>13</sup> (2008) covers evidence from across the UK, including Scotland. It finds that research on sexual orientation in education focuses on homophobic bullying, to the exclusion of most other issues (p137). It cites a 2001 study reporting a high prevalence of homophobic pejoratives and describes a 'flippant' way in which they are used<sup>14</sup>. Participants in this study also rated homophobic abuse as less serious than racist abuse.
- 3.4 Identified consequences of homophobic bullying at school include low attendance, high absenteeism and poor academic attainment<sup>15 16</sup>, in addition to longer-term impacts on the emotional well being of young people – for example lack of sleep, loss of appetite, isolation, nervousness, being upset or angry, and elevated rates of actual and attempted suicide and self-harm<sup>17 18</sup>. It should, however, be noted that these might equally affect children who are bullied for other reasons. Absenteeism and its possible effects on school outcomes were found to be key issues by Rivers (2000)<sup>19</sup>: although not all same-sex attracted young people who experienced homophobic bullying absented themselves from school (for example, by feigning illness or truanting), around two-thirds did; absenteeism and isolation were thought to impact on academic performance, particularly on 'A' level results, and/or pupils' decisions to stay on at school post-16. An indirect impact of homophobia on academic performance concerns masculinity (in some schools and among some young people) being defined in opposition to studiousness, with the effect of limiting some male pupils' will and capacity to learn, and more broadly causing studious pupils to be labelled as homosexual<sup>20</sup>. The report concludes from this that "challenging homophobia in schools may help to promote achievement among the wider school population" (p151); although, if the aim is to help the wider population, measures should perhaps aim to help the wider subset of bullied pupils, rather than the specific subset who experience homophobic bullying.

## Employment

- 3.5 The available evidence for employment is concentrated on discrimination and pay gaps.

## Discrimination

- 3.6 A TUC survey of LGB employees<sup>21</sup> in 2000 suggested that 44% had experienced some form of discrimination. Experiences of discrimination have ranged from discomfort or signs of embarrassment shown by managers and colleagues towards the person's sexual orientation, to exclusion, homophobic comments and insults, direct or constructive dismissal, lack of promotion and denial of employee benefits<sup>22</sup>. Frost (2006)<sup>23</sup> reports that 23% of LGB staff in one study had been harassed or bullied, compared to 10% of staff as a whole.
- 3.7 Colgan et al<sup>24</sup> (2006, p. 9) found that a "range of factors had influenced the work and career choices of LGB respondents including: the transition from school to work; type of work; choice of sector; organisational and workplace culture; geographical location; gender and equality politics and negotiating identities at work". Choice of work environments tended to reflect those that were perceived as being LGB-friendly. Working in a 'gay friendly' environment has positive impacts on job satisfaction, productivity and company loyalty for LGB people<sup>25</sup>, while working in a negative environment can cause LGB people to feel stressed, excluded, ostracised, self-censored and ultimately a desire to leave a job. Importantly, "discrimination and harassment were reported to have played a part in the decisions taken by some respondents to leave organisations" (p13), thereby reducing employment options and wider life opportunities.
- 3.8 An analysis of ACAS case records<sup>26</sup> of all 470 sexual orientation cases brought between January 2004 and August 2006, found that two-thirds of sexual orientation complainants were men. It found that sexual orientation claims are dominated by allegations of bullying and harassment followed by examples of direct discrimination. Examples of bullying and harassment based on sexual orientation are allegations of verbal abuse, name calling, sabotage of work, threats and physical violence, sexual harassment and unfair treatment by managers. The bullying and harassment were sometimes perpetrated by one or two individuals but in other cases was part of a wider culture of homophobia within an organisation.
- 3.9 Another ACAS study in 2007 gave examples of direct discrimination<sup>27</sup> related to allegations of discrimination in recruitment, employment contracts, pay pension entitlements and working conditions. Another theme was claimants who thought their employers were using disciplinary procedures unfairly or excessively to force them from the organisation and ultimately to use them to dismiss them. The claimants felt that the way in which the procedures were used and the judgements that were made were 'disproportionate to the professional mistakes of which they were accused', and that their heterosexual colleagues were treated differently.

- 3.10 These two ACAS studies explore the consequences of discrimination. In the former, some sexual orientation claimants asserted that the bullying and harassment that they had experienced caused them to develop mental health problems, including anxiety and depression, with some people included in the review also having contemplated suicide. In the latter, claimants also reported problems including difficulty gaining a reference, thereby restricting future work opportunities; poor self confidence and self esteem attributed to the impact of prolonged bullying; and the need to change their career or the place in which they lived in order to regain employment.

### Pay gaps

- 3.11 The EHRC report *Pay gaps across the equality strands*<sup>28</sup> (2009) claims that there is very little evidence on how sexual orientation affects pay, as quantitative measurement has been hampered by lack of data. The Census, one of the UK national datasets used for pay gap analysis, does not identify sexual orientation. The *Labour Force Survey* (LFS) has had a question on sexual orientation since 2009, before which it only identified same-sex cohabittees when respondents offered this information unprompted. Studies of the UK sexual orientation pay have therefore historically included primary data collection; no UK studies have yet been identified that draw on the more recent LFS data.
- 3.12 A UK study in 2008 on the hourly pay gap found that the unadjusted pay gap (i.e. not adjusted for differences in age, qualifications etc.) showed that same-sex cohabittees had higher hourly earnings than other cohabittees, eight percent higher for men and 17% higher for women, although the difference was not statistically significant<sup>29</sup>. Two studies using the LFS<sup>30</sup> (in 2004 and 2005) also found that the unadjusted pay gap for gay men and lesbians was in their favour. However, once differences in characteristics were taken into account, cohabiting gay men were paid less than cohabiting heterosexual men. For lesbians, the positive pay gap remained. The study also found that the advantage lesbians secured rose with age, whilst the pay gap for gay men was lower in London - which the study's authors suggest could indicate lower levels of discrimination in London, or greater anonymity over lifestyle.
- 3.13 A study of the sexual orientation pay gap for academic staff in six UK universities in 2000/01<sup>31</sup> found no evidence of a pay gap between gay, lesbian or bisexual employees and heterosexual employees. However, for gay and bisexual men, it did find evidence of disadvantage in achieving senior positions.
- 3.14 The EHRC *Sexual Orientation Research Review* (p167) disputes survey findings that claim LGB average salaries are higher than heterosexuals', on the grounds that the data collected for such surveys have not been representative, and the analyses have failed to control for education.

## Poverty

- 3.15 The EHRC *Triennial Review* (2010, Chapter 12) offers the view that, while large-scale data are not available, many surveys suggest that the LGB community has a generally favourable socio-economic position<sup>32</sup>. A qualitative study from 2008 suggests that poverty is not a major factor (or concern) for LGB people, with LGB people not feeling particularly anxious about their economic future/security<sup>33</sup>.
- 3.16 In contrast, a study by the Combat Poverty Agency, part of Ireland's Department of Social Protection<sup>34</sup>, found a significantly increased risk of poverty and exclusion for LGB people. Although the study dates from 1995, it sheds useful light on the difficulty of surveying a representative sample - it used a wide variety of approaches to reach potential survey participants in the absence of any LGB population data - and these methodological problems still apply.
- 3.17 Regarding welfare reform, the Department for Work and Pensions (DWP) has published an *Equalities Impact Assessment for the Universal Credit*<sup>35</sup>. This explains that the DWP does not hold information on its administrative systems on the sexual orientation of claimants, but also that it does not envisage any adverse impacts on these grounds.

## Hate crime and good relations

- 3.18 Hate crime is generally understood to be a crime motivated by malice and ill-will towards a social group<sup>36</sup>. The Offences (Aggravation by Prejudice) (Scotland) Act 2009 provides for statutory aggravations for crimes motivated by malice and ill-will towards an individual based on their sexual orientation.
- 3.19 As noted in the EHRC *Triennial Review*<sup>37</sup> (2010), trend analysis of hate crime should be treated with caution as its recording might be expected to fluctuate until it has become embedded in institutional practice. The EHRC further warns that analysis based on a single year is limited: it gives the example of the *British Crime Survey* (2010), where the only types of offence for which more than 100 respondents reported that they had been victims, related to 'age' and 'race and religion'. Smaller numbers are estimated by *British Crime Survey* data to be affected by hate crimes relating to sexual orientation.
- 3.20 This section looks at reported levels of homophobic crime, fear of such crime, and toleration of prejudice.

### Levels of crime

- 3.21 The Scottish Government's report, *Hate Crime in Scotland 2011-12*<sup>38</sup>, explains that the legislation for the newer categories of hate crime, including sexual orientation, came into force on 24 March 2010. The data in this publication therefore cover 2010-11 and 2011-12 only. The figures quoted relate to the number of charges reported, rather than the number of individuals charged or the number of incidents that gave rise to such charges. In 2011-12, 652 charges were reported with an aggravation of prejudice relating to sexual orientation. This is 46% more than the number reported in 2010-11, the first full year of implementation of the legislation. This increase is thought to be due to increased awareness, reporting and recording of these crimes, following several incidents relating to religious prejudice which received significant media attention during the year and which may have increased awareness of other hate crimes as well. Court proceedings were commenced in 82% of charges.

### Fear of crime

- 3.22 The EHRC *Review of Research*<sup>39</sup> summarises a study on the violence and harassment experienced by gay men in the city of Edinburgh<sup>40</sup> in 2000, experienced in the home, neighbourhood, workplace and public places. They found that gay men, in order to avoid threats, make choices daily about how to protect themselves, often by being as invisible as they can be and, if attacked, by keeping silent in the hope that the fear, anger and distress might pass.
- 3.23 The EHRC's *Triennial Review*<sup>41</sup> reports on UK data from 2008 for fear of violent crime, concluding that LGB people worry about being the victim of crime to a greater degree than other minority groups. It cites the findings of Stonewall's *Gay British Crime Survey*: about 40% of the respondents said they were worried about being the victim of a crime, almost half thought they

were at greater risk of being physically assaulted, and 70% thought they were at greater risk of being insulted or harassed than heterosexuals. As Stonewall were studying homophobic hate crime, their report does not offer comparator figures for the wider population.

### Prejudice and good relations

3.24 Drawing on the *Scottish Social Attitudes Survey (2010)*<sup>42</sup>, Table 1 shows whether respondents know anyone who is lesbian or gay, cross-referenced against the question about tolerance of prejudice, to explore whether those who have contact with different kinds of people less accepting of prejudice in general. The survey reports that knowing someone who is gay or lesbian does not appear to be significantly associated with being less likely to feel prejudice is sometimes justifiable. These findings do not, however, rule out the idea that having more contact with people who are gay or lesbian, for example, might have an impact on people's views about diversity and prejudice. Perhaps how much contact people have and what type of contact makes a difference, and not simply whether or not they know someone from a particular group. Or perhaps contact with particular groups makes a difference to their attitudes to that group, but not their willingness to accept or reject prejudice in general.

**Table 1: Attitudes to prejudice, by whether or not respondent knows anyone from different groups (row %) (Source: *Scottish Social Attitudes Survey, 2010*)**

Knows anyone who is gay or lesbian?	Scotland should get rid of all prejudice	Sometimes there is good reason to be prejudiced	(It depends)	Sample size
Yes	69	27	4	982
No	60	33	6	278

3.21 Reports of domestic abuse from same-sex couples were reported to be minimal in 2002<sup>43</sup>, and at the time this was considered to be an issue that required further analysis and investigation to build a clearer picture of the issues that may have been affecting same-sex couples. The *Scottish Crime and Justice Survey (2010-11)*<sup>44</sup> reported that, of those respondents who had experienced partner abuse since the age of 16, five percent of men and two percent of women were of the same gender as their abusive partners. Eight percent of men who had experienced partner abuse in the last 12 months said their most recent/only abusive partner in that time was male and three percent of women said their most recent/only abusive partner in that time was female.

3.22 The UK-wide *Equalities Review on Sexual Orientation*<sup>45</sup> suggests that while there is growing recognition that domestic abuse occurs in same-sex relationships, it is rarely acknowledged within the gay community; it concludes that there is a need to develop research to examine the extent of this problem in order that effective services can be developed to support people in same-sex relationships.

## Justice

- 3.23 This section reviews LGB people's views of the criminal justice system, and the composition of the legal profession.
- 3.24 The EHRC *Triennial Review* (Chapter 8) reports on Stonewall's 2008 study<sup>46</sup> into the attitudes of British LGB people towards the criminal justice system. This found that 1 in 5 of the 1,658 LGB people they surveyed would expect discrimination from the police if they reported an offence; a quarter thought they would be treated worse than any other victim if they reported a homophobic incident; a third thought that they would be treated worse than a heterosexual person if they were accused of committing a crime; and nearly a quarter thought they would be treated worse if they appeared before a judge for a major offence.
- 3.25 A 2006 survey of the legal profession in Scotland<sup>47</sup> found that:
- 95% of respondents indicated they were heterosexual,
  - Two percent indicated they were gay men,
  - Less than one percent indicated they were in the categories of lesbian, bisexual men, bisexual women and other,
  - Two percent did not state their sexual orientation.
- 3.26 Regarding access to justice and legal aid, no information has been found on the sexual orientation of applicants for civil or criminal legal aid.



## Public appointments

- 3.27 A Public Appointment is an appointment to the board of any of the public bodies across Scotland - either as a member, or as the chair<sup>48</sup>. The board's role is to provide leadership, direction and guidance, it is not involved in the day-to-day running of the public body.
- 3.28 The EHRC *Sexual orientation research review*<sup>49</sup> contains a chapter on representation and participation in public life, but nothing specifically about public appointments. It reviews literature on LGB engagement with local communities, politics and trades unions, identifies barriers to participation, and describes examples of best practice in engaging with LGB people.
- 3.29 The Scottish Government's website for public appointments<sup>50</sup> reports that, in the public appointments rounds for 2011-12, 2.4% of applicants were LGB and 4.8% of appointments were to LGB people. It is anticipated that data to 2013 will be published on the same website later this year.

## Health

3.30 This section reviews health outcomes, health behaviours and access to health care. It draws heavily on the findings of the *Scottish Health Survey Topic Report for Equality Groups (2012)*<sup>51</sup>, where data from four consecutive years (2008-2011) have been combined in order to allow a more in-depth analysis of the small populations which would not be possible for individual survey years.

### Health outcomes

3.31 In the *Scottish Health Survey*, respondents who identified themselves as bisexual were less likely to report being in good or very good health than the national average (68% compared with 76%). Those who self-identified as 'other' sexual orientation and those who chose not to provide details on their sexual orientation were the least likely to assess their health as good or very good, significantly less than the average. There was no significant difference between those who identified as heterosexual or as gay or lesbian in terms of self-assessed health.

3.32 Heterosexual respondents had significantly higher scores for mental wellbeing (with a mean WEMWBS score of 50.0), than bisexual respondents (scoring 47.9), those with other sexual orientations (47.0) and those that preferred not to disclose their sexual orientation (47.3). The mental wellbeing of gay men and lesbians (48.8) was not significantly different from the average. Bisexual respondents were more likely to have a high GHQ12 score (which indicates mental ill-health) than heterosexuals (23% against 15%). Gay men and lesbians (16%) were not significantly different from the average.

3.33 Regarding dental health, there were no significant differences in the proportion of heterosexual, lesbian and gay, or bisexual respondents who had 20 or more teeth. There was also no significant association between toothache and sexual orientation.

### Health behaviours

3.34 In the *Scottish Health Survey*, respondents who identified themselves as lesbian or gay (34%) were significantly more likely to drink at hazardous or harmful levels than the average (23%). They were also more likely to exceed daily limits (50%) as were those who identified themselves as bisexual (49%) when compared to the average (39%). There was no significant difference in alcohol consumption between non-heterosexual groups, although gay and lesbian respondents had the highest levels of both hazardous/harmful drinking and exceeding daily limits. The *Survey* states that this corroborates with other research that found that lesbians and gay men may run increased health risks due to high levels of drinking and smoking.

3.35 Self-identified bisexual (27%) and gay and lesbian respondents (28%) had a slightly higher smoking prevalence than heterosexuals, but the difference was not statistically significant. Those who self-identified as having an 'other' sexual orientation were significantly more likely to smoke than heterosexual

respondents (36% compared to 24%). Those who preferred not to answer the question on sexual orientation also had significantly higher smoking prevalence (33%). Gay and lesbian smokers smoked significantly more than the national average (17.8 compared with 14.2 cigarettes per day). Bisexual smokers started smoking at 15.9 years old on average, significantly younger than heterosexual smokers (17.5 years).

- 3.36 Respondents who identified themselves as lesbian or gay were the most likely to have eaten 5 or more portions of fruit and vegetables on the day prior to interview (28%) and had the highest mean daily portions (3.7), although this wasn't significantly different from the national average (22%, 3.2 portions). A significantly lower proportion of those who reported their sexual orientation as 'other' and those that preferred not to answer the question (both 15%) ate the recommended quantities of fruit and vegetables than the national average. These two groups also ate the lowest number of daily portions on average (both 2.7).
- 3.37 There was no significant association between sexual orientation and the prevalence of being overweight, of obesity or of cardio-vascular disease. Respondents who self-identified as gay or lesbian had a significantly lower prevalence of diabetes (two percent) than the national average (five percent).

### **Access to care**

- 3.38 The EHRC's *Sexual orientation research review* (2008)<sup>52</sup> addresses both health and social care. It observes that the Equality Act (Sexual Orientation) Regulations (2007) prohibit discrimination on the grounds of sexual orientation in the provision of goods and services, including health and social care. The Regulations cover public, private and voluntary organisations.
- 3.39 The EHRC's *Sexual orientation research review* observes that, for LGB people, coverage by health policies and strategies is variable. Citing examples UK-based policies and strategies, the *Review* judges there to be relatively good coverage for sexual health, which it finds particularly relevant to gay and bisexual men who it says are disproportionately likely to be affected by poor sexual health. In contrast, the *Review* found that LGB people were particularly weakly represented in policies on mental health, even though cited research suggests that LGB people have specific mental health needs. The *Review* concludes that this appears to support Creegan et al's (2007, p. 59)<sup>53</sup> general claim that "the needs of lesbian, gay and bisexual people are often ignored in policy development in relation to inequalities in health and social care".
- 3.40 The EHRC's *Sexual orientation research review* suggests that LGB health needs are still under-researched relative to the needs of the general population, despite what it describes as a "considerable amount of useful literature in relation to health and social care". A key problem it identifies in relation to information on health and social care inequalities is the absence of Census data from which to gain baseline comparative data with the general population, and the substantial difficulties associated with developing a sampling frame from which to generate a representative sample of LGB

people. Despite such problems, the *Review* gives examples of national and local survey work that have attempted to address the need to achieve sufficiently large and robust samples.

- 3.41 The EHRC's *Sexual orientation research review* states that the literature it reviews suggests that LGB people's access to health and social care is limited by a wide range of factors. Generally, these factors fall under the three umbrellas of: LGB people's own fears of discrimination; actual incidences of discrimination; and a wider institutionalised heterosexism within health and social care. These factors may both limit the range of provision available for LGB people, and make this group's experiences of the provision that does exist negative. While the majority of the research paints a negative picture of health and social care vis-à-vis LGB people, this is not to suggest that LGB people's experiences are wholly negative or to ignore the significant progress that has been made in removing many barriers; rather, it highlights the barriers that still do exist in the hope that future strategies may remove them. The *Review* balances the above negative reports by noting that many LGB people have positive experiences of health and social care: it cites the example of the Commission for Social Care Inspection's survey (2008)<sup>54</sup> of 92 LGB people who had used social care services, which found that 62% felt that all or most staff treated them with respect as an LGB person.
- 3.42 The report on the 2010 *Inpatient Experience Survey*<sup>55</sup> shows differences between heterosexual patients and LGB patients for the six overall questions regarding their experience in hospital, but concludes that there are no obvious patterns in the answers and there is little that can be inferred from them. Furthermore, the survey report warns that its findings must be interpreted with caution for LGB patients, because of the high level of non-response for the demographic question on sexual orientation: many more people did not answer the question than the total number that answered that they were LGB or 'other'. Furthermore, the rate of non-response for this question (13%) was greater than that of any other demographic question.

## Social care

- 3.43 This section looks at shortcomings in the approaches of social care providers to residents' sexual orientation, and the lack of data on LGB care needs.
- 3.44 The EHRC's *Sexual orientation research review* (2008)<sup>56</sup> reports that the different relationship LGB people in care have with providers is illustrated in intersectional research on LGB older people and LGB disabled people, particularly in relation to access to social care. It cites studies<sup>57</sup> finding that care staff may assume that such individuals are either asexual or heterosexual. The *Review* suggests that LGB disabled or older people may not challenge these misconceptions because of fears of discrimination: an LGB older person in residential care may be the only LGB person living there and so might feel isolated and hide his/her sexual orientation.
- 3.45 The EHRC *Triennial Review*<sup>58</sup> further finds that the care and support needs of the LGB community are not reflected in large-scale datasets. However, it also finds that smaller-scale research into the healthcare experiences of LGB people indicates that they may not always receive help and support which meets their needs. It cites a study<sup>59</sup> based on: a survey of 92 LGB people who had used social care services, feedback from a Commission for Social Care Inspectorate conference of LGB issues, a representative sample of 400 Annual Quality Assurance Assessment Forms from service providers, and discussions with service providers and users. The study found that only seven percent of older people's care homes had worked specifically on equality around sexual orientation.

## **Sport**

- 3.46 The EHRC<sup>60</sup> cites the finding of Stonewall's *School Report* that 65% of lesbian and gay young people experience homophobic bullying, and they are 22% more likely not to like playing team sports than those who are not bullied.
- 3.47 In the *Scottish Health Survey 2012*<sup>61</sup>, respondents who identified as having an 'other' sexual orientation were significantly less likely to meet the physical activity recommendations than the national average (29% did so compared to a national average of 38%). There was a similar pattern in relation to sport participation, where 39% of respondents who identified as other sexual orientation and those who preferred not to answer the sexual orientation question, did sport in the previous 4 weeks compared to a national average of 49%. Bisexual, lesbian and gay respondents were not significantly different from heterosexuals in relation to sport and physical activity.

## **Culture**

- 3.48 No evidence has been found, as yet, addressing the experiences of LGB or Transgender people in relation to cultural engagement.

## 4 TRANSGENDER

- 4.1 It is important to note the severe limitations on Transgender data. The EHRC *Transgender Research Review*<sup>62</sup> presents a wealth of methodological material concerning definitions, research and data on Transgender people. It observes that, although there is a considerable amount of literature produced for campaigning or lobbying purposes, commentary on the legal position of Transgender people and anecdotal discussion of experiences, there is only a small number of robust studies. Where primary research has been conducted, difficulties associated with identifying Transgender people mean that samples were often too small to make robust generalisations from the data, or that reliance on convenience sampling meant that it was not possible to be sure that the studies had mapped sufficient diversity within the Transgender community to draw substantive conclusions. The *Review* specifically points out the methodological difficulties of conducting international comparative research, due to broad variations in administration, finance and ethics in different countries, in addition to the small amounts of Transgender research being undertaken in any country.

## School education

- 4.2 The evidence reviewed for Transgender people and school education focuses on harassment and discrimination.
- 4.3 The EHRC *Transgender Research Review* brings together a number of UK studies, all sharing a focus on harassment – the data are not specific to Scotland. In an LGBT study in London that included 24 Transgender respondents and 430 LGB respondents<sup>63</sup>, experiencing problems in school was more widely reported by Transgender respondents (75%) than LGB respondents (21%). The authors report that Transgender people face problems similar to those they may encounter within the workplace: respondents “felt isolated and needed to stay ‘in the closet’”, or were harassed by teachers and other students.
- 4.4 Whittle et al (2007)<sup>64</sup> report similar problems in schools from their much larger sample of 872 Transgender people (of all ages). 64% of young Transgender men and 44% of young Transgender women experienced harassment or bullying at school, not just from their fellow pupils but also from school staff including teachers. The authors report that these are higher rates than shown in many studies on young lesbians and gay men at school. The research also counters the commonly held belief that there is less tolerance of gender variant boys than girls, finding that females who became Transgender men later in life faced the most harassment and bullying at school.
- 4.5 Despite the apparently high incidence of discrimination against Transgender people in schools, Whittle et al (2007) report that their respondents were on average better educated than the national average. To explain the higher achievers, Whittle et al (2007) note that – for those of their respondents who had undergone gender reassignment - the gender reassignment process itself is so complex that the better educated may find it easier to progress. The EHRC *Transgender Review* also suggests that the methodology Whittle et al used may have favoured the better-educated: the 30-minute online self-completion questionnaire may have favoured those Transgender people with IT knowledge and better education.
- 4.6 An online survey of Transgender people in the UK in April 2011<sup>65</sup> sought adults’ points of view regarding children’s experiences in school:
- Almost half of respondents (44%) thought that the behaviour of other children presented the most challenges to gender variant children;
  - Nearly two-thirds of respondents (47%) thought that intervention, such as guidance or training, would be best focussed in secondary school;
  - Nearly half of respondents (45%) thought that teachers did not have the tools to tackle the bullying of gender variant children in schools.



## Employment

- 4.7 This section begins with a summary of issues in employment from the Scottish Transgender Alliance, followed by a number of UK-based studies drawn from the EHRC *Transgender Review*.
- 4.8 The Scottish Transgender Alliance<sup>66</sup> observes that the workplace is one of the most likely locations for transphobic discrimination and harassment to occur, and as a result many Transgender people are unemployed, under-employed or self-employed - Morton (2008)<sup>67</sup> found that 19.7% of the respondents to his survey in Scotland were self-employed, although no comparison should be made from this sample to a national average.
- 4.9 The three key issues identified by the Scottish Transgender Alliance for Transgender people in employment are:
- the risk of transphobic workplace gossip, bullying and harassment occurring if their work colleagues or managers find out they are Transgender;
  - discrimination during the recruitment process, especially at interview; and
  - for employees undergoing gender reassignment, arranging with their employer to get the necessary time off for medical appointments and any surgery.
- 4.10 Whittle et al (2007)<sup>68</sup> surveyed respondents on their experiences of discrimination at work. They report that “nearly 29% of respondents experienced verbal harassment (comments) at work and some also experienced verbal abuse (name calling) and threatening behaviour or physical abuse” (p. 37).
- 4.11 Keogh et al (2006)<sup>69</sup> found that Transgender respondents were more likely than LGB respondents to experience problems at work, at 33% versus 13%.
- 4.12 a:gender<sup>70</sup> report on research by Transgender campaigning groups which suggested that over 50% of transsexual people suffer discrimination and harassment at their place of work. One in four felt obliged to move to another job as a consequence of bullying and harassment and 42% of those who identified as having an unfulfilled need for gender transition, cited the workplace as the reason for their not living in that gender.
- 4.13 In an online survey of Transgender people in the UK in April 2011<sup>71</sup>, employment was identified as being the second top area of concern for the Transgender community, with around a third (31%) of respondents selecting it as their priority. Difficulty in gaining and retaining employment was considered the most important challenge that Transgender people face, with two-thirds of respondents (66%) identifying it as the most important challenge. In the third phase of this survey in August 2011, six broad areas were addressed:

#### 4.14 (A) Awareness of Transgender issues:

- A majority of respondents (88%) said ignorance was the biggest challenge Transgender people faced in employment.
- Over a third of respondents (37%) said ignorance was the biggest problem amongst colleagues and other employees in their organisation.
- A majority of respondents (86%) cited employers fearful of possible customer/client reaction towards a Transgender employee as an additional barrier in employment.

#### 4.15 (B) Discrimination and harassment

- Half of respondents (50%) said they had been harassed or discriminated against because of their gender identity in their previous or current job.
- Around a third of respondents (32%) said the main source of discrimination or harassment came from their colleagues.

#### 4.16 (C) Challenging discrimination and harassment

- Nearly two thirds of respondents (63%) raised the discrimination and/or harassment they experienced within their organisation, with most going to their senior manager.
- Nearly a third of respondents (30%) said their complaint was handled poorly.

#### 4.17 (D) Employers' Transgender policy

- Over half of respondents (57%) said their current or last employer did not have an employment policy to support Transgender employees.
- Most respondents (93%) said their employer had never asked to see a Gender Recognition Certificate, regardless of whether the respondent had one.

#### 4.18 (E) Job seeking

- Most respondents (96%) said they had never been given any support because of their gender identity in finding a job.

#### 4.19 (F) Privacy and Identity

- Approximately a third of respondents (31%) said that gossip, as a threat to their privacy, had the greatest impact on their life.
- Nearly three-quarters of respondents (72%) did not feel their current identity was secure from disclosure.
- Nearly half of respondents (46%) said they did not have any difficulty living in their current gender identity in their local community.

4.20 A UK survey of 208 transsexual people<sup>72</sup> found that pre-transition, 28% of respondents worked in the public sector, but this rose to 42% post-transition.

## Poverty

- 4.21 The EHRC *Triennial Review*<sup>73</sup> cites two studies, but warns of their small sample sizes:
- 4.22 Research conducted for the Scottish Transgender Alliance<sup>74</sup> suggests that Transgender people's income is low. For example, a 2007 survey of 71 Transgender people in Scotland found that 30% of respondents had an income of over £20,000, and 48% of respondents had an income under £10,001.
- 4.23 According to a questionnaire and focus-group based survey of 819 lesbian, gay, bisexual and Transgender people in Brighton and Hove<sup>75</sup>, the Transgender people in the sample were over three times as likely as LGB people to have an income under £10,000, and 11 times less likely than LGB people to earn over £30,000 a year, although it should be noted that only five percent of the sample in question identified themselves as Transgender.
- 4.24 Regarding welfare reform, the Department for Work and Pensions has published an *Equality Impact Assessment for the Universal Credit*<sup>76</sup>. This explains that the Department for Work and Pensions does not hold information on its administrative systems on gender reassignment, but also that it does not envisage any adverse impacts on these grounds.

## Housing

4.25 This section addresses tenure, homelessness, and service provision.

### Tenure

4.26 A Scottish Transgender Alliance survey in 2012<sup>77</sup> addressed tenure and homelessness. It reported that 22% of 526 respondents owned their own property, with 11% renting privately as a joint tenant and nine percent renting privately as a single tenant. Most respondents lived in a city - 53% of the 545 answering this question - with a further 20% living in a town near a city; only 23% lived in an area that they described as rural.

### Homelessness

4.27 In the Scottish Transgender Alliance survey cited above, 19% of the 542 respondents reported having been homeless at some point, with 11% having been homeless more than once. 171 respondents provided information about having to leave housing:

- “7% stated that they had left their parental home due to people’s reactions upon finding out that they were trans or had a trans history,
- 6% had left a home shared with a partner,
- 4% had left a home that was shared with other people,
- 3% had had to leave their own home which they lived in alone due to other people’s reactions to their trans status”.

4.28 In an earlier Scottish Transgender Alliance survey, *Transgender experience in Scotland (2008)*<sup>78</sup>, four percent of the 71 respondents were currently homeless, and 25% stated that they had previously had to move out of their home (often ending up homeless) due to the transphobic reactions of their families, flat-mates or neighbours.

### Service provision

4.29 Stonewall Scotland’s project report, *Safe and secure? LGBT experiences of social housing in Scotland, February 2007*<sup>79</sup> has a short section specifically on Transgender people’s experiences of housing access and service provision (p21). These include concern as to how they will be treated by housing officers, and the need for privacy within B&B or hostel accommodation.

4.30 The UK-wide views from the EHRC *Transgender Review*<sup>80</sup> conclude that abuse or exclusion by neighbours or family may trigger a housing crisis, potentially leading to homelessness. Whittle et al. (2007)<sup>81</sup> recommend that Transgender status be taken into account in assessing prioritisation of need for social housing. The EHRC *Transgender Review* states that there are no examples of Transgender-only housing initiatives designed to meet their

specific needs, placing Transgender people at great risk of housing vulnerability and crisis; however, the *Review* concludes that the value of housing dedicated to the needs of Transgender people requires exploration.

## Transport

- 4.31 Regarding air travel and hence airport security checks, the American Transportation Security Administration<sup>82</sup> specifies that “Pat-downs are conducted by an officer of the same gender *as presented* by the individual at the checkpoint” (emphasis added). The National Center for Transgender Equality<sup>83</sup> (NCTE), also in the USA, observes that “Obviously, this could lead to difficulties or challenges for many Transgender people. NCTE recommends that you decide at the time what you believe to be the safest and most comfortable options [sic] for you”.

## Hate crime and good relations

- 4.32 Hate crime is generally understood to be a crime motivated by malice and ill-will towards a social group<sup>84</sup>. The Offences (Aggravation by Prejudice) (Scotland) Act 2009 provides for statutory aggravations for crimes motivated by malice and ill-will towards an individual based on their gender identity.
- 4.33 This section reviews the levels of abuse against Transgender people, and a reported disinclination to involve the police. This section closes with a review of attitudes towards Transgender people.

### Levels of abuse, and reporting

- 4.34 Summary figures are available from the *Hate Crime in Scotland* report<sup>85</sup>. This reports that in 2011-12, 16 charges were reported with an aggravation of prejudice relating to Transgender identity, compared with 14 charges the previous year.
- 4.35 Detailed survey data of 71 respondents from *Transgender experience in Scotland*<sup>86</sup> show that:
- 46% of respondents stated they had previously experienced transphobic abuse in domestic relationships: mostly this took the form of verbal abuse but 17% experienced threatening behaviour; 11% experienced physical abuse and six percent experienced sexual abuse.
  - 62% of respondents stated that they had experienced transphobic harassment from strangers in public places who perceived them to be Transgender: mostly this took the form of verbal abuse but 31% experienced threatening behaviour, 17% experienced physical assault and four percent experienced sexual assault.
  - Although 38% did not describe experiencing transphobic harassment from strangers, it must be taken into account that 23% of respondents stated they have never been perceived to be Transgender by any strangers. Therefore, just 15% of respondents had been perceived as Transgender by strangers on one or more occasion but never experienced any transphobic harassment.
  - Only 15% of respondents had ever reported any transphobic harassment to the police. Of those 11 respondents, only five stated they were satisfied with the response they received from the police.
- 4.36 The EHRC *Review of Research*<sup>87</sup> reports a UK study in 2007 (N.B. not specific to Scotland) on Transgender and transsexual people<sup>88</sup> that highlighted evidence of high levels of verbal, physical and sexual abuse occurring when in public places, with 73% of people stating they had experienced some form of abuse. Far fewer (37%) of those who chose to present their acquired gender permanently reported experiencing negative comments about their gender when out socially. The authors suggest that some may have 'disappeared'; that is, in day-to-day activities they may pass well enough to be treated as 'ordinary' men or women. For others, however, it is thought to be more likely that there is under-reporting as a result of not

seeing incidents of violence or harassment as relating to their Transgender status.

- 4.37 In an online survey of 1,275 Transgender people in the UK in April 2011<sup>89</sup>, respondents' most widely-reported fear was for their safety on the streets and when using public transport, whilst just under half of respondents (47%) said their greatest worry was being a victim of a violent crime or harassment. Around three-quarters of respondents (76%) had never brought a complaint to the police, and nearly half of respondents (47%) cited the police's lack of understanding/sensitivity as being the greatest challenge in bringing about a complaint.

### **Attitudes towards Transgender people**

- 4.38 The *Scottish Social Attitudes Survey* (2010)<sup>90</sup> asked people how they would feel if a close relative married or formed a long-term relationship with someone of a different race or religion, or:
- someone who has had a sex change operation
  - someone who cross-dresses in public.
- 4.39 2010 was the first time the *Survey* included a question about people who cross-dress in public. This question was added to find out whether people who cross-dress attract more prejudiced responses than people who have had sex change operations. It was suggested that people who cross-dress might attract more prejudice because they are seen as more challenging of the male/female dichotomy, while people who have had sex change operations may be more likely to be accepted in their self identified gender. The findings suggest that this is indeed the case – 55% said they would be unhappy if a close relative married or formed a relationship with someone who cross-dresses in public. This was the highest level of unhappiness expressed for any of the 10 groups the survey asked about, although at 49% the proportion that would be unhappy if a close relative married someone who has had a sex change operation was not far behind. The proportion that was unhappy with the idea of a person who has had a sex change joining their family circle was 12 percentage points higher than the proportion that was unhappy with a Gypsy/Traveller doing so (37%). It appears then that Transgender people are particularly likely to attract prejudiced attitudes in the context of personal relationships. The report concludes that, while it is true that for the most part only a minority express discriminatory views, that minority is not always a small one. Some groups – particularly Gypsies/Travellers and Transgender people – appear to be the subjects of fairly widespread discriminatory attitudes.



## Justice

- 4.40 This section looks at confidence in the justice system, the composition of the legal profession, and legal recognition of the acquired gender.
- 4.41 The EHRC *Triennial Review*<sup>91</sup> reports a survey of attitudes and experiences among 872 Transgender people in 2007<sup>92</sup>. This found that two-thirds felt confident that they would be treated appropriately by members of the police service as their acquired gender. However, around 1 in 5 of those who had had contact with the police felt that they were treated inappropriately, with attacks against them not being taken seriously and inappropriate searches being carried out.
- 4.42 A 2006 survey of the legal profession in Scotland<sup>93</sup> found that:
- Six percent did not state whether they consider themselves to be Transgender.
  - Less than one percent considered themselves to be Transgender.
- 4.43 Regarding access to justice and legal aid, no information has yet been found on the gender identity of applicants for civil or criminal legal aid.
- 4.44 The Gender Recognition Act 2004 provides a mechanism for Transgender people to apply for legal recognition of their acquired gender<sup>94</sup>. The Act came into force across the UK on April 4, 2005. Under the Divorce (Scotland) Act 1976, a ground for divorce and for dissolution of civil partnership is the granting of an interim gender recognition certificate to one of the parties to the relationship. Under the current law, a marriage must be between a man and a woman. A civil partnership must be between two people of the same sex. Therefore if a Transgender person wants to be legally recognised in his or her acquired gender, he or she cannot remain in a marriage or civil partnership. It is open to the couple to form a new legal relationship. But the couple's responsibilities and rights may be affected - for example, survivors' pension benefits. It can also affect rights to "matrimonial property", as defined in the Family Law (Scotland) Act 1985, in the event that the couple divorce or dissolve their civil partnership. This means that Transgender people may face a choice between staying in their marriage or civil partnership, or obtaining full legal recognition in their acquired gender.

## Health

4.45 This section addresses the health of Transgender people, and their concerns with the provision of health care.

### Transgender people's health issues

4.46 It is recognised by the Scottish Government and the EHRC that there is limited evidence into the health of Transgender people in Scotland<sup>95</sup>. Currently, there is no fully tested recommended question with which to collect information on gender identity in surveys or other data sources.

4.47 In an online survey of Transgender people in the UK in April 2011<sup>96</sup>, the top area of concern for Transgender people was their health, with nearly half of respondents (49%) selecting this as their priority.

4.48 In addition to care during gender reassignment, the EHRC *Transgender Research Review*<sup>97</sup> considers that Transgender healthcare needs “may relate to experiences of isolation, discrimination and transphobia... these experiences place many Transgender people at risk of alcohol abuse, depression, suicide, self-harm, violence, substance abuse and HIV” (p55).

4.49 Regarding Transgender people's mental health, the Scottish Transgender Alliance describes its 2012 survey<sup>98</sup> as the largest survey of its kind in Europe, providing vital data on Transgender people's mental health needs and experiences, explored in the context of daily life, social/support mechanisms and when accessing healthcare and mental health services. It explores how the process of transitioning (social and/or medical) impacts on mental health and wellbeing, in both positive and negative terms. Its findings include:

- 74% of respondents felt that their mental health had improved as a result of transitioning. The five percent who reported a decline in their mental health since transitioning felt that their issues related to a lack of appropriate support, losing family and loved ones, or for reasons which respondents felt were unrelated or 'not directly related' to the transition, such as employment or cultural/environmental issues.
- Rates of current and previously diagnosed mental ill health were high, with many participants additionally feeling that they might have experienced issues which remained undiagnosed. Depression was the most prevalent issue with 88% feeling that they were currently or had previously experienced it. Stress was the next most prevalent issue at 80%, followed by anxiety at 75%.

### Issues with health care provision

4.50 The Scottish Transgender Alliance's 2012 survey of Transgender people's mental health (cited above) found that:

- Of those respondents who had attended Gender Identity Clinics, 60% were seen within a year, 32% waited 1-3 years, and less than ten percent waited over three years for an appointment. 58% of the participants felt that this wait had led to their mental health or emotional wellbeing worsening during this time.
- Once seen at a Gender Identity Clinic, 46% of the respondents felt that they had experienced difficulties obtaining the treatment or assistance that they needed. These included administrative errors, restrictive protocols, problematic attitudes, and unnecessary questions/tests.
- Within mental health services,
  - 29% of the respondents felt that their gender identity was not validated as genuine, instead being perceived as a symptom of mental ill-health.
  - 17% were also told that their mental health issues were because they were transgender.
  - 45% of respondents used mental health services more before transition than after, 18% more during, and less than one percent used mental health services more post-transition.

4.51 In the online survey of Transgender people cited above (2011):

- Nearly half of respondents (40%) thought that delays in treatment were the greatest challenge they had experienced with regard to Transgender health care.
- Just over half of respondents (53%) thought that GPs were doing an excellent or good job in addressing their health needs.
- In the second phase of this survey in June 2011, almost half of respondents (47%) thought awareness-raising of Transgender issues would be most important amongst GPs. Respondents felt that awareness-raising was most needed on the gender reassignment process itself, followed by general healthcare treatment for Transgender people.

4.52 The EHRC *Transgender Research Review* addresses discrimination by health care staff in the UK, citing the work of Whittle et al (2007): “21 per cent of respondents’ GPs either did not want to help, or in 6 per cent of cases, actually refused to help. This is an improvement of 50 per cent compared with the experience of services over 15 years ago” (p. 16)<sup>99</sup>. “Beyond gender reassignment treatment, 29 per cent of Whittle et al’s (2007) respondents felt that their Transgender identity affected their experiences of healthcare in other areas” (p. 46). Through their qualitative evidence, Whittle et al (2007) cite examples of inappropriate treatment for non-Transgender-related issues from medical practitioners to whom the patient’s Transgender status had been revealed.

4.53 The EHRC *Transgender Research Review* also looks at lack of awareness by health care staff in Scotland, citing a study from 2003<sup>100</sup>: “focus groups reported experiences of GPs and psychiatrists having little or no knowledge of Transgender issues, or giving inappropriate advice.” The study also describes offering inappropriate medical services, or failing to offer appropriate services, in relation to the acquired gender (p58).

4.54 In a more general Transgender survey in Scotland<sup>101</sup> touching on general practice (p15): “46% of the respondents who have used an NHS General Practice as Transgender patients rated the quality of the service they received as ‘Very Good’ or ‘Extremely Good’ while 14% rated the service quality as ‘Very Poor’ or ‘Extremely Poor’. A frequent problem reported was that General Practitioners lack knowledge about Transgender health needs, for example in regard to long-term prescription of hormones and also post-operative care and possible complications after genital surgeries. The most major problem reported was difficulty getting NHS records fully updated to correctly reflect a change in gender.” This survey also identifies areas of dissatisfaction (p17): “The NHS services which the survey respondents were least satisfied with were NHS24 (which provides telephone-based medical advice and assistance out with standard GP surgery hours) and Mental Health Services.... The main problem reported with Mental Health Services was that lack of understanding and knowledge about Transgender issues by general psychiatrists often results in Transgender people being given inappropriate treatment which fails to assist them with their gender dysphoria and causes many months or even years of delay in getting access to assessment by an experienced gender specialist.”

## Sport

- 4.55 The Equality Network's research report *Out for Sport*<sup>102</sup> discusses two major issues raised by Transgender people in Scotland: changing rooms and access to competition.
- 4.56 Transgender interviewees identified a number of issues around changing rooms including the fact that they might be gender specific rather than gender-neutral, or have communal areas without private cubicles. Concerns about their ability to pass as their acquired gender, issues around body scarring or body image and fears of being challenged meant that many Transgender people were anxious about entering sports facilities and taking part in sport.
- 4.57 The report cites the UK Department for Culture, Media and Sport's Transgender guidance for sporting bodies. This has been superseded by the Equality Act (2010), but the central point still stands<sup>103</sup>: whilst Transgender people should generally be treated as belonging to the gender in which they present, exceptions should be made in sporting competition if this would give them an unfair advantage or pose a risk to the safety of other competitors – for example in some contact sports.

## 5 LGBT

- 5.1 Many of the sources consulted in the preparation of this Evidence Review refer to LGBT people as a single group with common interests. This section presents this LGBT evidence for both the LGB and Transgender protected characteristics together, as it has not been possible to divide it down into its component groups for reporting in the preceding sections for LGB and for Transgender.

### School education

- 5.2 The evidence for LGBT school pupils focuses on bullying and the protection of rights.
- 5.3 The EHRC's *Equality issues in Scotland: a review of research, 2000-08*<sup>104</sup> reports homophobic bullying as a "common concern" (p45) for LGBT young people in Scotland, with negative impacts on physical and mental health, and on educational performance. It reports a research gap in the long-term impact of school bullying on LGBT young people in Scotland; in the UK, Stonewall has suggested that bullying impacts on adult mental health<sup>105</sup>.
- 5.4 A paper from LGBT Youth Scotland<sup>106</sup> reports the findings of its survey conducted with LGBT young people, aged 13-25. The survey revealed that LGBT young people identified education as the environment where they faced the most discrimination; within education, schools appear to be the place where LGBT young people feel least protected. A slight improvement was seen in college, with university providing the least homophobic, biphobic or transphobic environment.
- 5.5 LGBT Youth Scotland<sup>107</sup> has also drafted a *Charter of LGBT Rights*, addressing areas of the United Nations Convention on the Rights of the Child and the Universal Declaration of Human Rights that some LGBT people feel that they are denied due to their sexual orientation or gender identity. It includes a "right to education", expecting all "places of learning" to recognise and value diversity. These are further reflected in the six strategic outcomes<sup>108</sup> that guide the work of LGBT Youth Scotland.

## Further and higher education

- 5.6 The Scottish Government does not currently have information on the experiences of LGBT people in further and higher education<sup>109</sup>.
- 5.7 The EHRC *Triennial Review*<sup>110</sup> reports that the UK's Higher Education Statistics Authority does not collect data on sexual orientation or Transgender status, that no robust statistics are collected from other sources, and that little research has been conducted into the experiences of LGBT students in higher education. It does, however, summarise the results of a study by the Equality Challenge Unit (2009)<sup>111</sup>:

The study was based on 2,704 online responses of LGBT students in Higher Education Institutions in England, Wales and Northern Ireland; 12 focus groups with LGB staff and students; and 18 individual interviews. It found that LGBT students report being treated negatively on the grounds of their sexual orientation or gender status by fellow students, and to a lesser degree by tutors, lecturers and other staff. In the same study, Transgender students reported encountering higher levels of negative treatment than LGB students.

- 5.8 A report on diversity in the further education workforce (2005)<sup>112</sup> found virtually no research on staff experiences in relation to sexual orientation or gender identity. The case studies of colleges in this report found that, whilst most of the staff interviewed suggested that there was no discrimination on grounds of sexual orientation, there were several suggestions that this is a sensitive area and some felt it was a private matter that should not necessarily be discussed.

## Housing

5.9 The evidence for housing focuses on needs and homelessness. The limited amount of published research is supported by papers from the voluntary sector.

### Housing needs

5.10 The EHRC's *Review of Research*<sup>113</sup> observes that little research has explored the housing situation of LGBT people, and with no population-based information on LGBT people, it is not possible to identify even baseline information relating to housing tenure. The *Review* cites a survey of 1,000 LGBT people in Scotland (Morgan and Bell, 2003)<sup>114</sup> which asked about a broad range of issues affecting LGBT people's lives: the issues raised by respondents included ageing and the fear of losing one's home, access to information, and limited awareness of housing rights.

5.11 The LGBT Housing Project<sup>115</sup> was led by the LGBT Centre for Health and Wellbeing, and involved the Scottish Federation of Housing Associations and Stonewall Scotland. It conducted consultations and focus groups, which contributed to the five standards it drafted for housing providers:

- Showing leadership on LGBT issues
- Tackling discrimination against LGBT employees
- LGBT housing applicants welcomed
- Services take account of LGBT people's needs and concerns
- Associations talk to LGBT people and groups.

5.12 The LGBT Housing Project's report, *Safe and secure? LGBT experiences of social housing in Scotland*<sup>116</sup>, is based on focus groups for LGBT social housing tenants, and it identifies and addresses issues of housing access and service provision. Problems centre on LGBT people's distrust of housing authority staff, homophobic abuse (verbal, physical, vandalism), and the failure of housing authorities to respond to abuse. There is frustration that such incidents are perceived not to be taken as seriously as racial abuse, and that LGBT people are not given more priority in housing allocation (in terms of re-housing following abuse). Some focus group participants suggest stronger policies against discrimination of all types, rather than focusing on LGBT in particular. The report reiterates (p27) the LGBT Housing Standards listed above, supported by key tasks required to achieve each standard, and examples of evidence that would show that the task has been completed.

### Homelessness

5.13 A research study by the National Centre for Social Research, in collaboration with Stonewall<sup>117</sup> and based on interviews held in six UK cities, highlighted that LGBT individuals may experience a range of causes of housing crisis that are familiar to others such as family breakdown, disruptive parental behaviour, violence, abuse, leaving care, bullying, and religious and cultural expectations. Moreover, Stonewall Housing<sup>118</sup> observes that LGB people can face further marginalisation on multiple levels when trying to find appropriate



accommodation - for example, if they are disabled or are from black, Asian or other ethnic minority groups, or are Gypsies/Travellers, migrants, refugees or asylum seekers.

- 5.14 Two papers by the voluntary sector add further detail. According to Homeless Link's 2011 *Survey of Needs and Provision (SNAP)*<sup>119</sup>, on average approximately seven percent of clients in projects for homeless people identify as being lesbian, gay, bisexual or Transgender. A literature review by Crisis (2005) entitled *Sexuality and Homelessness*<sup>120</sup> suggests that sexuality issues are often overlooked for homeless people, particularly for those who are older; it reiterates that organisations often assume clients are heterosexual which can have a negative effect on LGBT people's ability to reveal their sexuality or gender identity.

## Transport

- 5.15 The Scottish Government's user strategy for the *National Transport Strategy*<sup>121</sup> found that LGBT respondents were one of the most likely equality groups to report that they did not have specific transport needs. When asked for issues of relevance to the LGBT community, many spontaneously said that there were no real issues, and they only raised concerns over safety and training after more detailed consideration. Some interviewees felt that while safety and training were key transport issues that LGBT people would raise, they were primarily issues for the general population as well.
- 5.16 Transport Scotland's report on its *Consultation on initiatives related to the ScotRail franchise extension*<sup>122</sup> reports that it found little information about LGBT experiences on trains or other forms of public transport. It concludes that it is not clear whether there are any specific concerns or issues for LGBT people regarding rail transport. Similarly, the *Equalities impact assessment for Scotland's cycling strategy*<sup>123</sup> found no information about the particular needs or experiences of LGBT groups regarding cycling, and adds that "we have no reason to believe that there are any particular issues to consider".
- 5.17 In a more extensive piece of research into the barriers that prevent people from using the Tube more, Transport for London<sup>124</sup> also reports that very few differences exist between heterosexual and LGBT people regarding spontaneously mentioned barriers to increased Tube use. Some differences exist when people are prompted with a list of potential barriers: LGBT people are more likely to cite overcrowded services (73% compared to 60% of all respondents), the cost of tickets (54% vs. 43%) and unreliable services (50% vs. 33%) as potential barriers to increased Tube use. Fears of intimidation and/or abuse are sometimes mentioned by people from LGBT communities. The Transport for London authors suggest that the extent to which these fears affect travel behaviour depends on "people's personalities, previous experiences and the degree to which they perceive themselves as being visibly LGBT" (p184).

## Harassment and good relations

5.18 This section addresses harassment of LGBT people, and relations between LGBT people and the wider population.

### Harassment

5.19 The EHRC *Review of Research* reports on a 2003 research study, comprising a survey<sup>125</sup> (with 920 responses) and focus groups of LGBT people in Scotland. The survey found that 68% of respondents had been verbally abused or threatened at some time in their lives by someone who had assumed that they were LGBT. One-third (35%) had experienced this in the previous year, with most incidents taking place in the street. A quarter (23%) had experienced a physical assault because someone had assumed that they were LGBT, with five percent having experienced this within the previous year. Only 17% of those who experienced verbal or physical abuse reported the incident to the police, with 29% of those who had experienced both verbal and physical abuse reporting it. Focus group participants stated that it was not worth reporting incidents to the police, as previous experience showed that nothing was done or that it would be too difficult to explain what had happened.

### Good relations

5.20 In its briefing on *The Offensive Behaviour at Football and Threatening Communications (Scotland) Bill*<sup>126</sup>, the Equality Network questioned the Bill's definition of threatening communication that only includes religious hatred. In its submission of evidence to the Justice Committee dated 20/6/2011<sup>127</sup>, the Equality Network specifies its criticism of the offence - communication of any threats intended to stir up religious hatred (p3) – that it feels ought to include sexual orientation. It points out that in England and Wales, hatred offences include both religion and sexual orientation. The bill passed on 14/12/2011<sup>128</sup> retains its reference to threatening communications “intended to incite religious hatred”.

## Sport

- 5.21 In a summary of sports research over a 15 year period<sup>129</sup>, the EHRC reports that it found no comprehensive research into LGBT people's participation in sport.
- 5.22 The Equality Network's report *Out for Sport*<sup>130</sup> (2012) supports this by citing gaps in data<sup>131</sup>, which they attribute to self-censorship by survey authors who choose not to ask about gender identity and issues. The Equality Network report further claims that that Sport Scotland, sports governing bodies, local authorities and clubs are all looking to the Scottish Government for clear leadership on the issue of LGBT participation in sport. In its survey (with 1,722 respondents who replied to advertisements by the Equality Network, sportscotland and the Scottish Sports Association) 79% of respondents felt that "there is a problem with homophobia in sport", and 66% felt that "there is a problem with transphobia in sport"; 66% again felt that homophobia and transphobia were barriers to the participation of LGBT people in sport. The report gives quotes in which interviewees attribute their reluctance to participate in sport with their past bad experiences, which are generally associated with bullying in school; the commentary observes that the fear of possible abuse might be a bigger barrier to participation than actual abuse suffered.
- 5.23 Research conducted in 2003<sup>132</sup> for the Department of Culture, Arts and Leisure, explored barriers to participation in certain sporting activities. It reported a perception that facilities in leisure centres did not meet the needs of LGBT people. Reasons included issues relating to changing rooms, lack of privacy, feeling 'threatened' by the presence of heterosexual people in the same changing room, and the exclusivity of changing rooms for either men or women.

## 6 CONCLUSIONS

6.1 This review has observed that much of the evidence on sexual orientation and gender identity recommends actions specific to these equality groups. Whilst this is only natural, given that each piece of evidence is specific to an equality group, it should be borne in mind that the Scottish Government's Equalities Outcomes will address all of the equality groups.

### **Cross-cutting summary**

6.2 Areas in which LGB people are thought to be treated less well than other people include:

- Education: with bullying and harassment both in school, and in further and higher education,
- Employment: in the form of discrimination, harassment or bullying,
- Dealings with officials: with reluctance to engage with, or low confidence in, housing officials, police officers, the judicial system, and reporting hate-crime,
- Fear of crime, and
- Access to healthcare: this is hindered by perceived or actual discrimination.

6.3 In contrast, LGB people do not have specific or unmet transport needs, they appear to be successful in securing in public appointments, and they are not different to the average in self-reported health (lesbian and gay people only) or participation in sport. Contradictory evidence makes us unsure of the LGB position in terms of pay gaps and poverty.

6.4 In the main, problem areas for Transgender people tend to reflect those experienced by LGB people. Areas where treatment appears to be different for Transgender than LGB people include higher reported levels of harassment in education and employment, clearer figures for below-average incomes, widely-held discriminatory attitudes, and barriers to participation in sport. In healthcare, there were specific issues with awareness of Transgender needs and timescales for accessing services, but also widespread satisfaction with GPs' services.

## 7 APPENDIX: METHODS

- 7.1 Limitations of the research: it should be noted that, due to the time constraints under which this review was prepared, the evidence search has been selective rather than systematic or exhaustive.
- 7.2 The criteria for inclusion of evidence in this review were that it should have been produced within approximately the last ten years, be based on ideally on Scottish or else on UK data where this is available, and address the relevant policy areas. It should be noted that survey data disaggregated for this group in Scotland yield very small sample sizes, from which firm conclusions cannot be drawn.
- 7.3 The principal sources that have been checked in detail include:
- Equality Network<sup>133</sup>
  - LGBT Youth Scotland<sup>134</sup>
  - Stonewall Scotland<sup>135</sup>
  - EHRC *Equality issues in Scotland: a review of research, 2000-08*<sup>136</sup>
  - EHRC *Sexual orientation research review*<sup>137</sup>
  - EHRC: *How fair is Britain?*<sup>138</sup>
  - EHRC: *Pay gaps across the equality strands*<sup>139</sup>
  - Scottish Government *Hate Crime in Scotland 2011-12*<sup>140</sup>
  - EHRC *Transgender Research Review*<sup>141</sup>
  - *Transgender experience in Scotland*<sup>142</sup>

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