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# Improving sexual orientation monitoring



**Equality and  
Human Rights  
Commission**



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# Abstract

The practice of ‘monitoring’ sexual orientation in employment and services has been developing for a number of years. A range of employers and services now routinely monitor data on the sexual orientation of prospective employees and service users. However, it is clear that the practice of sexual orientation monitoring is not widely embedded in the cultures of all workplaces or services.

The new Equality Act 2010 established the public sector Equality Duty, which is due to be implemented in April 2011. The most recent consultation document is *The public sector Equality Duty: Promoting equality through transparency*. A consultation proposes that public bodies should publish the data they have available on the protected characteristics of their workforce and their performance as service providers. There is no requirement to collect information routinely on protected characteristics such as sexual orientation, but public bodies are expected to take reasonable steps to fill gaps in data.

Despite considerable positive change in public attitudes towards lesbian, gay and bisexual (LGB) people, and increased equality in law in the last 20 years, the Equality and Human Rights Commission’s first *Triennial Review* identified the incidence of homophobic bullying in schools and workplaces as one of the most pressing forms of inequality and disadvantage in Britain. LGB adults are around twice as likely to report experiencing unfair treatment, discrimination, bullying or harassment at work than other employees. Some LGB adults also believe they experience less favourable treatment in accessing services and have limited confidence that the criminal justice system will protect them. Organisations that recognise this understand that monitoring the sexual orientation of their workforce or service users will help them know more about their staff and the communities they serve and use this knowledge to plan and deliver what they do more effectively. The desired outcome is to ensure fairness and equality at work, in the planning and delivery of services and ultimately within communities. Monitoring can also help organisations assess whether they are making progress over time.

The Equality and Human Rights Commission's 'Beyond Tolerance' initiative highlighted a series of issues that need to be explored and solved if sexual orientation monitoring is to be improved. The evidence shows that some individuals, employers and service providers still consider sexual orientation to be more 'private' than other characteristics for monitoring purposes. Disclosure of sexual orientation in monitoring varies according to the context, and whether people feel safe and protected against discrimination. Equally, it is not always clear to those taking part how the data will be used, and whether it can remain anonymous and confidential.

This paper was commissioned to explore the case for asking people about sexual orientation and the issues it raises, including how it might be framed more effectively, the importance of anonymity and confidentiality, the questions that work and how the information collected can be used. It is not intended to be a guide to how to monitor (guidance on how to monitor sexual orientation is currently available), or a policy statement about how routine or widespread this should be, but rather a

discussion of the challenges and dilemmas that monitoring poses and how we might tackle them. Case studies from policy and practice are drawn upon to illustrate some of the issues discussed and suggest models for change. The paper will be of interest and assistance to those seeking to improve the efficacy of monitoring.

The evidence suggests that organisations that take time to prepare the ground for monitoring through consultation, explanation and communication with their workforce and service users, will find it easier to monitor sexual orientation. We suggest that re-framing monitoring as 'personal information sharing' and as a reciprocal arrangement that can lead to better, more targeted services, rather than something that is **done to** the individual, would do much to win the trust that is necessary to make monitoring effective. This means creating cultures where the exchange of information between organisations and their staff and service users is understood to have benefits for all, including trust and confidence that data will be used appropriately.

# 1. Introduction and background

## 1.1 Introduction

The practice of monitoring sexual orientation in employment and services has been developing for a number of years. A range of employers and services now routinely monitor data on the sexual orientation of prospective employees and service users, including the NHS, police forces, universities, local authorities, and private sector companies like Goldman Sachs, Barclays, and IBM. However, it is clear that the practice of sexual orientation monitoring is not widely embedded in the cultures of all workplaces or services.

The new Equality Act 2010 established the public sector Equality Duty, which is due to be implemented in April 2011. The most recent consultation document is *The public sector Equality Duty. Promoting equality through transparency*. A consultation proposes that public bodies should publish the data they have available on the protected characteristics of their workforce and their performance as service providers. There is no requirement to routinely collect information on protected characteristics such as sexual orientation, but public bodies are expected to take reasonable steps to fill gaps in data.

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The Equality and Human Rights Commission's 'Beyond Tolerance' initiative highlighted a series of issues that need to be explored and solved if sexual orientation monitoring is to be improved. The evidence shows that some employers and service providers still consider sexual orientation to be more 'private' than other characteristics for monitoring purposes. Disclosure of sexual orientation in monitoring varies according to the context, and whether

people feel safe and protected against discrimination. Equally, it is not always clear to those taking part how the data will be used, and whether it can remain anonymous and confidential (Equality and Human Rights Commission, 2009).

## 1.2 Aims

In order to consider how to improve sexual orientation monitoring, the Equality and Human Rights Commission commissioned this paper to:

- Highlight examples where sexual orientation monitoring is working well in employment and services, and what we can learn about how this was achieved.
- Identify how employers and service providers can work with employees and service users to prepare for sexual orientation monitoring.
- Reflect upon the type of question/s and approaches that work best in monitoring and whether/how they may differ from those used in surveys.
- Examine whether such data can remain confidential/anonymous and how it can be used/misused.
- Make suggestions regarding what needs to be done in order to improve the systematic and effective monitoring of sexual orientation in employment and services.

## 1.3 Outline of paper

This paper explores the case for asking people about sexual orientation and the issues it raises, including how it might be framed more effectively, the importance of anonymity and confidentiality, the questions that work and how the information collected can be used. It is not intended to be a guide to how to monitor (guidance on how to monitor sexual orientation is currently available), or a policy statement about how routine or widespread this should be, but rather a discussion of the challenges and dilemmas that monitoring poses and how we might tackle them. We have drawn on case studies from policy and practice to illustrate some of the issues discussed and suggest models for change. The paper will be of interest and assistance to those seeking to improve the efficacy of monitoring.

## 2. Re-framing monitoring as personal information sharing

### **2.1 How monitoring is framed is crucial to its success**

If monitoring is delivered poorly, it conjures up notions of surveillance and observation that can raise concerns for those being asked to share information within organisations. If monitoring is framed in a way that suggests an organisation will be keeping tabs on individuals, and sharing information about people's private lives, then this will inevitably cause anxiety and resistance. This is particularly relevant to sexual orientation, as individuals may choose to keep this private in the workplace as a means of avoiding negative treatment.

### **2.2 Framing monitoring as a reciprocal arrangement**

We suggest that framing the practice of monitoring as a reciprocal arrangement, rather than something that is done to the individual, would do much to win the trust that is necessary to make it work; especially in newer areas like sexual orientation. Reframing monitoring as 'personal information sharing', could promote the idea the employee or service user is an active participant in the process rather than a passive respondent. This would also acknowledge that it is personal information that's being asked for and will convey respect.

### **2.3 Developing better ways of communicating why collecting private information is important**

Re-framing monitoring as personal information sharing won't be enough on its own if people either don't understand why it is relevant to share such information, or are hostile to doing so (see section 3). One of the challenges, therefore, is to develop better dialogues in order to demonstrate how collecting private information is important in the public context in which we operate and, therefore, why it might be necessary to ask such questions.

### **2.4 Developing personal information sharing as a shared enterprise**

Section 5 of this paper explores how to frame the questions and explain why they are being asked. It may however be worth considering whether some kind of personal information contract is needed between the individual and their employer/service provider, whereby both agree the terms and protocol for monitoring and use of the data. The risk here is it may become a source of bureaucratic burden for the agency and anxiety for the individual. Ultimately, the contract that matters is the social one: the individuals sharing personal information



will want to be engaged and consulted in the process, witness what is done with the data and experience real change. To date this has been not easy to achieve with monitoring, which is further confirmation of the need to get it right.

## **2.5 Helping people feel they have choices about information sharing**

In practice, people do have rights about data being held about them (see section 4), and they make choices about how much they say and to whom about their sexual orientation in the context of those rights. In doing so they are exercising control and it's easy to see how monitoring, when delivered badly, may appear to take that control away from people. Good monitoring should enable individuals to feel it is their choice to share personal information with employers or service providers. Equally, individuals need to think about what happens if they don't engage in monitoring. If individuals expect to be included and their needs to be met and to see positive action on sexual orientation, then engaging in monitoring is a means to achieving change.

## **2.6 Ensuring organisations have choices about information sharing**

Organisations need to be able to make choices too about what works best for them given the size and nature of the business. For example, sharing personal information is clearly a very different proposition in a small business of less than 10 employees in one location than it is in a large enterprise

with hundreds or thousands of employees spread over a number of locations. In smaller organisations it does mean that how the question is asked, by whom, and how the information is kept, needs to be thought through differently in order to avoid disclosing the sexual orientation of individuals.

## **2.7 The value of sexual orientation information sharing**

Ultimately, the value of personal information sharing is that it can help organisations know more about their staff and their communities (whether they be customers, clients or citizens) and use this knowledge to plan and deliver what they do more effectively. The desired outcome is to ensure fairness and equality at work and in the planning and delivery of services and, ultimately, within communities.

### **■ Legislation**

Under the forthcoming public sector Equality Duty in 2011, organisations will operate in a context where a good reputation is crucial to maintaining the trust of staff and customers and is vital for sustained business success. A lack of understanding of diversity and a failure to tackle inequality can create situations which are difficult to solve – for example embarrassing and costly cases of discrimination against LGB staff or failure to recognise homophobic hate crime.

### ■ **Knowing ‘who’ and ‘what’**

Having the data is a way of recognising the changes that might be happening to a local population. It is a means to begin to challenge perceptions and discover what is really happening in an organisation, although this could mean finding out something unexpected or unwanted. This element of discovery will of course be a valuable step in understanding the culture of the organisation.

### ■ **The ‘why’ and the ‘how’**

Anchored in notions of fairness, information sharing is a key step towards identifying vulnerability and righting what’s wrong. This should make the case for monitoring easier, rooted as it is in concepts of fairness and justice. If things aren’t working then a good organisation is going to want to change them as improved satisfaction makes business sense both internally and externally. Positive change is thus a way to build the narrative that helps to market an organisation successfully.

### ■ **Making the most of talent**

Managing and developing talent are key strengths in a competitive environment. The best organisations want to attract the best recruits and in turn enable these staff to understand what they need to do for their clients. The Stonewall Workplace Equality Index is increasingly seen as demonstration of an effective and modern organisation. Indeed, the quality of monitoring systems is assessed as part of the process of ranking participants in the Index. Developing and improving these systems are key ways of improving relationships

with staff and customers as well as working the way up the Index alongside a range of other public and private organisations.

### ■ **Delivering the right decisions**

As outlined above, monitoring results may be surprising, or confirm or build on existing judgements of what is happening. Monitoring may provide evidence to support a particular decision or be the actual catalyst to the decision itself. It plays a part in the process to decide on the outcomes an organisation wants to achieve. The data that monitoring provides is therefore a reminder of how personal issues in the public arena can be inextricably linked to wider social, economic or political policymaking and service delivery – decisions which may ultimately lead to changes which help remove any anxiety about sexual orientation information sharing itself.

Research shows that developing workplace and services cultures that are inclusive of LGB people is key to tackling discrimination (see for example Colgan *et al.*, 2006 and Guasp and Balfour, 2008 for discussion about the workplace). We argue that monitoring sexual orientation through personal information sharing has a crucial role to play in supporting the development of inclusive cultures, both because it provides an explicit recognition on the part of the employer or service provider that sexual orientation is diverse and because it increases the visibility of LGB people in organisational and community profiles. There is a clear distinction to be made between maintaining privacy, choice, reciprocity and respect in monitoring and

perpetuating LGB invisibility and inequality by avoiding it, and it is this which crucially underpins the case for monitoring sexual orientation (Botcherby and Creegan, 2009).

It is important to be aware of the limitations of sexual orientation monitoring in relation to estimating the size of the LGB population in any given organisation or community.<sup>i</sup> There are some important lessons from survey research here, in particular on how the mode of data collection will impact on misreporting. Researchers tend to use self-reported sexual orientation measures in surveys. Evidence from Berg and Lien (2006) and Ellison and Gunstone (2009) suggests that certain proportions of the LGB population may choose to misreport their sexual orientation in survey and monitoring settings, or may not answer the question. Consequently, the estimates available from a variety of survey sources are likely to underestimate the true size of the LGB population (Aspinall, 2009).

# 3. Preparing the ground for personal information sharing on sexual orientation

## 3.1 Existing guidance on sexual orientation monitoring

Stonewall's 2009 guide *What's it got to do with you? 10 reasons why you should fill in those funny box things at the end of forms* has proved a popular aid to enable organisations to explain why it's important to take part in sexual orientation monitoring, and to support individuals in doing so.

Wherever you go, people want to know your business. Your age, gender, sexuality, race, religion, whether you're disabled...

Where does all this information go?

It goes to help make things better, that's where it goes.

It tells local authorities where to direct their services;

it shows organisations if certain people aren't making the most of them; and

it makes sure that you get the right slice of what you're paying for.

They can't change things without your help. (Stonewall, 2009)

Its straightforward messages are drawn from more detailed earlier work *How to monitor sexual orientation in the workplace* (Stonewall, 2006). A similar piece of work was undertaken for the health sector in the same year (Stonewall for Department of Health, 2006). The TUC (TUC, 2006) and trade unions including Unison (Unison, 2007) have also issued guidance on monitoring. Their focus is specifically on the workforce but in this section we draw on many of the issues they cover.

## 3.2 Principles for preparing the ground and examples from practice

It's crucial that organisations get the introduction and implementation of personal information sharing right. While there's more than one way of doing this it's likely to be more successful if monitoring is explicitly part of a wider equality policy and properly joined up to other policies on information security and data protection. Preparing the ground well will play a big part in determining not just the level of response but also how much people trust and embrace the initiative. Any suggestion of a casual or unthinking approach could have far reaching consequences.

If it's going to be perceived as a genuinely reciprocal and mutually beneficial practice, then involving staff and service users in developing the right approach for the organisation is essential. Consultation, explanation and communication are all critical to the successful introduction of personal information sharing. The following actions are important:

### **3.2.1 Working through ideas about who should be responsible for monitoring, and what the questions look like with the people who will be directly affected**

For an employer this could be via the use of existing consultation mechanisms, like a recognised trade union or a staff forum. For a service provider it may be through an existing service users group or by commissioning focus groups with a cross section of people who will be affected.

#### **Example 1**

Although the NHS has collected sexual orientation information since 2002, in 2008 examination of the sexual orientation data highlighted that almost 50 per cent of staff at Sussex Partnership NHS Trust were either 'undefined' or 'preferred not to say'. Some Human Resources staff were not using the declarations collected as many of them did not understand why the information was being collected and what was being done with it. Some also felt that their enquiries could be interpreted as asking people what they did in bed.

#### **Example 1 continued**

Senior management recognised that staff would have to understand the reason for asking the questions and be confident about answering them before they could ask them of service users. Training 'beyond ticking boxes' was developed and all those applying for it were asked to complete an equality monitoring questionnaire. By using this method the Trust was able to improve the quality of its staff data. Ethnic minority, disabled and lesbian, gay, bisexual and transgender (LGBT) staff equality networks were established and used to explore the challenges in the organisation. At the same time every member of staff received a 'what's it got to do with you' leaflet designed to be shared with service users. All this activity became part of an 'expect respect' campaign covering all strands of equality but specifically highlighting sexual orientation.

In 2009 the Trust reported an overall sexual orientation disclosure rate of 67.7 per cent.

### **3.2.2 Making sure the explanation for asking for the information is clear and understandable to everyone involved**

Explaining clearly what the benefits are for the individual and the organisation are key. It's also vital to explain what is meant by terms like anonymity and confidentiality.

### Example 2

The London Borough of Tower Hamlets produced postcards for both residents and staff designed to answer people's queries. Headed 'Ever wondered why we ask our residents so many personal questions? Well, we're not just being nosy – asking these questions can help to improve the services we deliver to the community' they go on to explain that if monitoring shows certain groups of people aren't using particular services the organisation can address this. The postcards emphasise the council's commitment to ensuring everyone equal access – regardless of their age, disability, gender, race, religion/belief or sexual orientation. They also include questions reflecting local circumstances and the concerns of those being monitored, for example how the data protection legislation applies to the exchange of information, that information given won't be passed on to any other organisation and won't be used to check nationality or citizenship status. Finally they remind people that they 'are not obliged to provide this information... but it is our duty to ask all the questions!'

### 3.2.3 Ensuring the right training has been provided for staff

If undertaken correctly, this will identify and address anxieties, explain and explore the value of the exercise, rehearse the questions and explore how these are actually explained to service users and employees. At the same time it will be important to promote that monitoring is going to happen in a way that fits local circumstances. This

could include promotional events or supplementary material.

### 3.2.4 Communicating to people that it's part of a process rather than a one-off event

Asking for the information once and then never mentioning it again won't be helpful. Clear communication about the results and what action will follow is crucial.

### Example 3

Goldman Sachs monitors sexual orientation at application, job offer, internal promotion and at exit. Staff are also given the opportunity to self-identify using their own terms for sexual orientation and a People Survey is run every other year. Results are analysed by region and demographic, giving senior leadership a detailed analysis of the results which is then taken on board during the business planning process. Any resulting actions by a Division Head or Network Champion are then disseminated to ensure the message reaches the wider community. The CEO for Goldman Sachs also sends an all-staff email summarising the key findings which is posted on the intranet.

### 3.2.5 Building in a review process involving staff and service users

Organisations will need to reflect, with those involved, upon the introduction of sexual orientation monitoring and what it has achieved, including a review of what has worked and what needs to be improved for the future.

# 4. Anonymity and confidentiality – data protection and rights

## 4.1 Anonymity and confidentiality principles

The principles of anonymity and confidentiality are sometimes used as if they are interchangeable. We know from social and market research practitioners that they need to be used with care and the meaning that we attach to them needs explanation.

In survey research, guaranteeing anonymity is undertaken by way of an assurance to respondents that no information which could be used to identify them will be made available without their agreement. While the manner in which this assurance is given will vary by mode of data collection, in all cases no personal identifiers such as names are included in the survey data and steps are taken to ensure that any published datasets do not facilitate the disclosure of respondent identities via association with particular combinations of responses. In terms of confidentiality only those who carry out the interviews and those who need to check or process the data would usually have access to names and addresses.

Guaranteeing anonymity in qualitative research generally means that the participant won't become identifiable in any published output. But guaranteeing anonymity is more complex than simply not publishing someone's name. It means that published outputs must be produced in a way so that the whole narrative shores up that anonymity. It would clearly be unhelpful, having not published someone's name, if they effectively became identifiable anyway through the description of the context in question.

Guaranteeing confidentiality in qualitative research means that the exchange will only be shared with a limited number of people. It's always going to be shared with someone, because it won't be possible to use it for the purposes intended otherwise. So, for example, it may be that the people concerned are the research interviewer, a transcriber if the interviewer is being recorded and other members of the research team. And even where a number of people and exchanges are involved steps will usually be taken to ensure that when data is in transit, the identity of the participant will be protected, for example by storing the names and addresses separately from the transcripts and labelling the recordings in a particular way.



For employers and service providers the contexts will vary. But both anonymity and confidentiality are relevant and need to be thought through carefully in the specific context in which personal information sharing is being introduced. It's vital to minimise the risk of misunderstanding and misinterpretation which can damage the trust crucial to personal information sharing.

### **4.2 The Data Protection Act 1998**

The Data Protection Act doesn't guarantee personal privacy at all costs, but aims to strike a balance between the rights of individuals and the sometimes competing interests of those with legitimate reasons for using personal information. It applies to some paper records as well as computer records.

The Act works in two ways. Firstly, it states that anyone who processes personal information must comply with eight principles, making sure that personal information is:

- fairly and lawfully processed
- processed for limited purposes
- adequate, relevant and not excessive
- accurate and up-to-date
- not kept for longer than is necessary
- processed in line with the rights of the individual
- secure
- not transferred to other countries without adequate protection.

The second area covered by the Act provides individuals with important rights, including the right to find out what personal information is held on computer and most paper records. The Information Commissioner's Office has developed a short checklist to help organisations to comply with the Data Protection Act. Being able to answer 'yes' to every question does not guarantee compliance, and organisations may need more advice in particular areas, but it should mean that they are heading in the right direction. It provides a framework to ensure that personal information is handled properly.

### **4.3 Checklist to help organisations to comply with the Data Protection Act**

- Do I really need this information about an individual? Do I know what I'm going to use it for?
- Do the people whose information I hold know that I've got it, and are they likely to understand what it will be used for?
- If I'm asked to pass on personal information, would the people about whom I hold information expect me to do this?
- Am I satisfied the information is being held securely, whether it's on paper or on computer? And what about my website? Is it secure?
- Is access to personal information limited to those with a strict need to know?
- Am I sure the personal information is accurate and up-to-date?



- Do I delete or destroy personal information as soon as I have no more need for it?
- Have I trained my staff in their duties and responsibilities under the Data Protection Act, and are they putting them into practice?
- Do I need to notify the Information Commissioner and if so is my notification up-to-date?

Having discussed the steps that need to be taken when introducing personal information sharing within organisations, and what needs to be considered to safeguard the interests of those involved, we turn to the questions themselves. If organisations don't get these right, the process will ultimately be flawed and have little chance of generating the robust evidence that is needed.

# 5. Questions that work and those that don't in employment and services

## 5.1 'Knowing' communities

The development of sophisticated customer insight over recent years points to the practice of the big national supermarkets who are adept at understanding their customers. Accurately identifying the shopping habits of a local population is a way of meeting needs and wants that leads to satisfaction. For public service providers the 'Tesco model' is often heralded as one which needs to be emulated (Guardian, 2009). Early in 2010, Local Government Improvement and Development conducted a survey of all English councils to ask their views on its self-assessment tool, the Equality Framework for Local Government, and included a question about where they might need to improve their practice. Given that 'local' sits at the heart of what councils do, it does seem surprising that 'knowing your community and equality mapping' was identified by almost 50 per cent of respondents as the performance area of the Framework where they needed most support (Local Government Improvement and Development, 2010). This is a challenging finding in an environment where the concept of personalised services tailored to individual needs is seen as the way to modernise public services, particularly in a climate of reduced expenditure.

A report produced for the Northwest Regional Development Agency about improving the knowledge base of their LGBT population calculated that by using a figure of 7 per cent in urban areas and 3.4 per cent in smaller towns and rural areas that 430,000 people met this category, approximating the population of Liverpool. It's worth noting of course that such calculations made using national estimates need to be questioned for reliability (Ecotec, 2009). It has become generally accepted that the national figure may be around 5 to 7 per cent (see for example the DTI's regulatory estimate for the Civil Partnership Act 2003). Other estimates vary from 2 to 10 per cent (Aspinall, 2009).

## 5.2 Questions that work and those that don't

The Equality Act 2010 defines sexual orientation as 'a person's sexual orientation towards (a) persons of the same sex, (b) persons of the opposite sex, or (c) persons of either sex. In relation to the protected characteristic of sexual orientation (a) a reference to a person who has a particular protected characteristic is a reference to a person who is of a particular sexual orientation; (b) a reference to persons who

share a protected characteristic is a reference to persons who are of the same sexual orientation.<sup>ii</sup>

Although questions have been empirically tested in Britain for use in surveys for a range of characteristics, there is no consensus regarding the best and most appropriate questions for monitoring, either in services or employment. The Office for National Statistics (ONS) recommends a sexual identity question for self-completion surveys:

### Which of the following options best describes how you think of yourself?

1. Heterosexual or Straight
2. Gay or Lesbian
3. Bisexual
4. Other
5. Prefer not to say

While organisations may prefer other categorisations, the advantage of using the ONS question is that it allows organisations to compare themselves against others if they use the same question. Eventually it would also create the potential for comparing individual against national data as it becomes available.

The category **‘other’ (please state)** is often included with the above list of categories. This gives individuals the opportunity to define their own sexual orientation.

The category **‘prefer not to say’** gives individuals the choice not to disclose. Some employers and service providers reduce the use of this category, or don’t provide it, as it yields data that is difficult to use and is not considered to be meaningful for analysis.

The term **‘homosexual’** is still used in some contexts. Many regard this as an imposed term that is offensive, has medical connotations, and is best avoided (Aspinall, 2009).

Including categories such as **‘trans’**, **‘transgendered’** and **‘transsexual’** in sexual orientation questions is inappropriate as they are not a form of sexual orientation (Aspinall, 2009).

The Civil Service consulted with ONS, the Council for Civil Service Trade Unions and the Civil Service Rainbow Alliance. Their recommended question is:

### Which of the following options best describes how you think of yourself?

- Heterosexual/Straight
- Gay Man
- Gay Woman/Lesbian
- Bisexual
- Other

**The following examples are current practice in sexual orientation monitoring:**

**Example 1**

IBM, the top ranking organisation in the 2010 Stonewall Workplace Index, simply asks:

Are you:  
Heterosexual  
Gay/Lesbian  
Bisexual  
Other

**Example 2**

Brighton and Hove Council, who have a strong track record in engaging with sexual orientation equality, ask:

Select the option which best describes your sexual orientation:  
Heterosexual/Straight  
Gay  
Lesbian  
Bisexual  
Other

Examples 1 and 2 would be considered to be promising practice. They are part of a series of monitoring questions, reflecting the cultures for which they were designed and the different responsibilities of the organisations. Each of them locates the sexual orientation questions as part of a longer script which has a clear statement about why an organisation monitors its staff, customers and the delivery of services, for example to ensure that they are representative of all communities and that all service users are treated fairly. It is also clear that the information will remain strictly confidential in accordance with the Data Protection Act.

**5.3 Points to consider**

- The language used should be as straightforward as possible. Depending upon the audience, it may be appropriate to provide an explanation of the terms heterosexual/straight, gay, lesbian and bisexual. Given that clear communications sits at the heart of effective monitoring, it is important to check that people understand what is being asked.
- There should be no qualifying or judgemental statements that preface the questions. This is easier to achieve when the questions are self-completed. Interviewers conducting face-to-face monitoring need to be trained to ask the question neutrally, without embarrassment, or qualification.

- Locating sexual orientation within the full range of diversity monitoring will help prevent anxiety about stigmatising or prioritising one particular group over another. It also serves as a reminder of how equality monitoring is a way of gathering a whole picture of individuals and organisations. Better understanding of the intersection of identities may also help to address multiple discrimination.
- ONS testing has shown that in order to improve the accuracy of responses the question on sexual orientation should feature before that on religion. They found that if the question on religion preceded that on sexual orientation it adversely impacted the sexual orientation response (Civil Service, 2009).
- Taking part in monitoring should be optional, and this applies to any form of personal disclosure, including sexual orientation. Highlighting sexual orientation **only** as optional is unhelpful and reinforces the message that it is unusual. Introducing sexual orientation monitoring is a process and it will take time for individuals to trust it. Declaration of sexual orientation in monitoring rose by 66 per cent between 2008 and 2009 in the Home Office (see the example below).
- Consideration should be given to developing systems for collecting and recording personal information data, whereby the respondent remains anonymous, though their characteristics can be analysed by the organisation. It is possible to develop online systems that allow individuals to update/revise their own personal data. The data is anonymised and access is secure for the individual.

### Example – Home Office diversity declaration rates through monitoring

	March 2008 %	April 2009 %
Ethnicity	60	97
Disability	79	98
Sexual Orientation	29	95
Religion and Belief	31	95

Source: Civil Service, 2009.

## 6. What can be done with information that's shared?

Explaining what will be done with data is crucial. It's reasonable to question the purpose of monitoring if the data is never used. There is no systematic and widespread evidence yet regarding how sexual orientation monitoring has led to measurable improvements for organisations or individuals, as it is a relatively new development. The following information is a sample of the evidence that is available.

### 6.1 Examples of positive improvements through sexual orientation monitoring

Every organisation in the *Stonewall Top 100 Employers 2010* collects monitoring data on the sexual orientation of their employees – either through HR records, an employee attitude survey or both. Of the top 100:

- 55 per cent monitor sexual orientation throughout the employment cycle – at application, at job offer, through internal promotion and at exit
- 61 per cent collect data which aims to establish the statistical representation of LGB staff at all grades
- 86 per cent monitor sexual orientation as part of a staff attitude survey (Stonewall, 2010).

#### 6.1.1 Career progression and tackling homophobic bullying

As part of the **London Borough of Tower Hamlets'** commitment to achieve a workforce that reflects their community, sexual orientation is monitored at all stages of the recruitment process. Each year the council produces an employment monitoring report which analyses employment information including sexual orientation. In 2008/09 the council undertook a strategic assessment of career progression across all six equality strands. This included statistical analysis of the progression of LGB staff within the organisation and qualitative analysis of the experiences of LGB employees. Following this the council has been implementing new measures to help staff understand the benefits of completing monitoring exercises, including responding to questions about sexual orientation. To address gaps in monitoring data, the council has produced promotional postcards and guidance to explain the reasons for collecting data.

Tower Hamlets has also used tried to develop practice in the wider community by introducing the monitoring of homophobic hate crime in schools. Set within the organisational context of testing how services and policies are LGBT inclusive, an equality impact assessment of the

authority's Anti-Bullying Policy and Guidance enabled a greater understanding of the experience of homophobic bullying in schools. The Behaviour Support Team, in the Children, Schools and Families Directorate, audited anti-bullying policies and worked with schools to ensure that they address issues of homophobia. They have specifically redesigned the racial incidents reporting form to include homophobic incidents and introduced a bullying hotline, which specifically includes homophobic bullying. This information is reported to the LGBT Community Forum and the No Place for Hate Forum, which brings together council and police officers, voluntary and community organisations to develop initiatives to tackle hate crime and feed into the broader community cohesion initiatives of the local authority and its partners. In this example therefore the monitoring exercise not only helps to tackle an acute problem but adds to the evidence, demonstrating a coordinated response to building local cohesion among a range of different agencies and all sections of the community.

### **6.1.2 Developing LGB employee networks and improving awareness in employment and crime prevention services**

Sexual orientation monitoring was introduced throughout **Staffordshire Police Authority's** HR functions and included in its Employee Opinion Survey in 2001. This has since fed into the organisation's diversity strategies and action plans. Over time, membership of the LGB employee network has increased and the number of 'out' LGB officers has also risen.

All officers within the force are made aware of the importance of LGB issues, in both employment and crime prevention services.

In **Nacro's** first equality and diversity survey, staff were asked if they wanted an LGB employee network group. The response was positive and 'Pride at Nacro' was formed.

### **6.1.3 Informing staff development and training programmes**

**The University of Salford** was keen to collect data on the sexual orientation of its staff so that it could identify whether being LGB affected the experience of working at the university. Despite already having undertaken a lot of work on sexual orientation equality, policy issues around data collection remained unresolved until the preparations for the institution's first staff experience survey in October 2008 helped to focus that discussion. Encouraged by its chair, the equality and diversity committee decided that questions on sexual orientation should be included in the first survey. The response was encouraging: within an overall response rate of 48 per cent, only 12 per cent of respondents declined to identify their sexual orientation, and the data that emerged have already helped to inform staff development and training programmes – especially around bullying and harassment. Since including sexual orientation in the staff survey, the university has gone on to extend such monitoring to other areas of personnel practice, such as the annual update of personnel records and staff recruitment.

## 6.2 Consultation and engagement through surveys and other methods

The focus of this paper has been on improving the routine monitoring of employees and service users. There are numerous other ways of understanding the perspectives of employees and service users including: staff/service user surveys, support groups, networks and advisory committees, and other forms of consultation and engagement with individuals and groups, for example through events, focus groups, online forums and face-to-face interviews. Gathering perspectives in this way may provide an alternative to routine monitoring, or can complement it by adding a richer range of evidence.

For example, it is now possible to analyse user satisfaction with GP services by sexual orientation, as the NHS GP patient survey has introduced the question. The first findings reveal a range of issues, for example, heterosexual patients are more likely to be 'very satisfied' with the care they receive in the GP surgery, than gay/lesbian and bisexual patients (55 per cent, compared with 48 per cent and 45 per cent respectively) (Ipsos Mori, 2010).

In 2010, **Rotherham council** in South Yorkshire constructed a local LGBT profile. This has been achieved through a survey, where it is made clear that the information is not about compiling a dossier on individual respondents but rather about capturing a picture of LGBT residents, workers and visitors, in order to provide the right services to them.

**Transport for London (TfL)** launched its first Sexual Orientation Equality Scheme in February 2009. Building on consultation with LGB passenger service users and staff, the scheme makes a commitment to ensuring that TfL takes account of their specific experiences and addresses their needs. An action plan sets out how TfL will deliver on this commitment between 2008 through to 2011. Safety while travelling on public transport is a priority for everybody and personal safety and security are particular concerns for LGB passengers. Among those consulted for the scheme, there were specific concerns about antisocial and sometimes homophobic behaviour on buses, especially among some young people. The consultation found that transport and safety information should be better aimed at LGB people.



## 7. Conclusion

This paper was written in the context of austerity measures and challenging cuts to public spending affecting both employers and service providers. There is now more consensus than ever before that equality in relation to sexual orientation matters. This consensus extends across the political spectrum, nations and regions, the public, private and third sectors. The wider economic context, at least for the foreseeable future, means organisations will need to make tough choices. These choices will need to translate into informed financial and policy decisions which enable that consensus to flourish. So organisations need to know who their staff, customers and communities are to meet their needs appropriately. Continuing to guess and approximate about sexual orientation won't be enough to make that commitment real.

A commitment to equality requires action which needs to be informed by knowledge and evidence. The sharing of personal information and monitoring provides knowledge and evidence for organisations that can help them to be better employers and service providers. And it enables them to play a part in the wider dialogue about equality in Britain today.

Getting it right won't happen overnight. The context of discrimination and exclusion in relation to sexual orientation has long meant that issues of visibility and disclosure are very real for LGB people. 'Who can I trust?

Who will I tell? How will I say it?' are questions that form some of the lived experiences of everyday lives. Creating equality and inclusion means greater visibility, and less risk associated with disclosure, but concerns and suspicions won't disappear overnight.

There are a series of issues that need to be explored and solved if sexual orientation monitoring is to be improved. The limited evidence suggests that if monitoring is delivered poorly, and framed in a way that suggests an organisation will be keeping tabs on individuals and sharing the information with others, then this will inevitably cause anxiety and resistance.

In this paper we argue that framing the practice of monitoring as a reciprocal arrangement and 'personal information sharing', rather than something that is done to the individual would do much to win the trust that is necessary to make it work. The evidence suggests that sexual orientation monitoring can be developed successfully in organisations and services and does improve with time. Reciprocity, trust and choice are key to its success. In practice it needs to be understandable, justifiable and relevant. If organisations get the sort of basic steps we've discussed here right and think sensitively and carefully about the way it's done, sharing personal information on sexual orientation will be a tool for change and will help underpin progress on the road to equality.

### Endnotes

**i** Media reporting of ONS's initial estimate of the size of the LGB population needs to be treated with caution. This is because what the Integrated Household Survey is likely to measure is those people who are willing to identify their sexual orientation within, rather than outside, the household and even though concealed response showcards are used, household members are interviewed together. These factors are likely to lead to under-estimation resulting from under-reporting of LGB identity. Sex surveys may give larger and more accurate estimates because they typically use self-completion methods but it is important to distinguish between engagement in sexual activity and sexual identity.

**ii** The explanatory note adds that 'this section defines the protected characteristic of sexual orientation as being a person's sexual orientation towards: people of the same sex as him or her (in other words the person is a gay man or a lesbian); people of the opposite sex from him or her (the person is heterosexual) people of both sexes (the person is bisexual).' It also explains that references to people sharing a sexual orientation mean that they are of the same sexual orientation. The definition is designed to replicate the effect of similar provisions in the Employment Equality (Sexual Orientation) Regulations 2003 and the Equality Act 2006. Some examples are provided: (1) A man who experiences sexual attraction towards both men and women is 'bisexual' in terms of sexual orientation even if he has only had relationships with women. (2) A man and a woman who are both attracted only to people of the opposite sex from them share a sexual orientation. (3) A man who is attracted only to other men is a gay man. A woman who is attracted only to other women is a lesbian. So a gay man and a lesbian share a sexual orientation. ([http://www.opsi.gov.uk/acts/acts2010/ukpga\\_20100015\\_en\\_3#pt2-ch1](http://www.opsi.gov.uk/acts/acts2010/ukpga_20100015_en_3#pt2-ch1))

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