



**LGBT**  
IRELAND

For Inclusion  
For Equality  
For Everyone

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# **LGBT Ireland Submission on Minorities Accessing Justice**

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## Contents

Who we are .....	2
Q. 1 Challenges facing the LGBTI+ community engaging with the Justice System .....	2
A target for hate crime and hate incidents.....	2
Impact of the historical legacy of criminalisation remains .....	3
Other key findings from LGBTI+ sector / AGS Dialogue Day 2020.....	4
Lack of hate crime law .....	5
Invisibility and vulnerability of older LGBTI+ people .....	5
LGBTI+ Family Rights.....	6
Q. 2. What supports are currently available to minority groups when engaging with the justice system? .....	8
Q. 3 Additional barriers facing LGBTI+ people with intersecting identities.....	9
LGBTI+ Travellers .....	9
LGBTI+ asylum seekers.....	10
Q. 4 What improvements could be made/specialised supports be provided to improve the experience of minority groups engaging with the justice system? .....	11
Hate Crime legislation.....	11
Additional human resources in LGBT Ireland.....	11
Cultural Mediators employed by key state justice agencies .....	11
5. What is the impact of intermediaries or voluntary groups that help facilitate engagement between minorities and the justice system? .....	12

## Who we are

1. LGBT Ireland is a national charitable organisation working to improve the visibility, inclusion and rights of LGBTI+ people living in Ireland. Through our national helpline, online, and face to face services we provide confidential support and information to thousands of LGBTI+ people and their family members each year. Informed by the issues and experiences raised through our frontline services, we also work extensively in the area of policy and legislative reform to ensure that LGBTI+ people's voices are heard in the policy and practice developments that affect their lives. The submission below is informed by the issues and experiences of LGBTI+ people and their family members who contact us. As a network organisation with seven regional LGBTI+ member services, we also have a strong regional focus and the recommendations outlined below are deeply rooted in the knowledge and experience of our members working across the country.

## Q. 1 Challenges facing the LGBTI+ community engaging with the Justice System

### A target for hate crime and hate incidents

2. The National LGBT Helpline deals with approx. 2,000 contacts annually. Of these, 4% relate to 'violence'. As an expert LGBT+ Non-Government Organisation, we know from anecdotal evidence this is not reflective of the true scale of homophobic, biphobic, lesbophobic and transphobic violence that is occurring in Ireland, online and offline, on the streets and in family homes.
3. Research in 2016<sup>1</sup> conducted by GLEN and BeLonG To with LGBTI+ persons in Ireland reported a high percentage of participants having experienced harassment and violence over their lifetime:
  - 33.6% of respondents had been threatened with physical violence,
  - 21.1% had been physically assaulted,

- 14.9% had been sexually assaulted and
  - 6.3% had been attacked with a weapon because they were LGBTI+.
4. Gay men were most likely to report they had been physically assaulted, however transgender and intersex participants were most likely to report having been attacked with a weapon. Transgender and intersex participants were most likely to report having been sexually assaulted. Many LGBTI+ people struggle to openly express their identity:
    - 53% of LGBTI+ couples said they felt unsafe showing affection for one another in public.
    - 47.1% said they felt unsafe holding hands with their partner of the same sex in public.
    - Gay men and transgender people were more likely to report feeling unsafe holding hands in comparison to lesbians and bisexual people (Higgins et al. 2016).
  5. The 2019 Call It Hate survey<sup>ii</sup> by *Hate & Hostility Research Group*, University of Limerick, as part of the Call It Out campaign revealed findings upholding LGBTI+ people’s levels of hate crime and incidence:
    - **only 36%** of respondents believed that violence against the LGBTI+ community is ‘a serious problem in Ireland’
    - in reality, **1 in 5 or 21%** of those surveyed, have been punched, hit or **physically attacked** in public for being LGBTI+
    - of 1,395 people who replied **1 in 3** have been **threatened** with physical violence
  6. A normalisation of homophobia, biphobia, transphobia, even in the LGBTI+ community itself, almost as the price of being visible, the cost of visibility, is strongly reflected in the perceptions versus the reality of lived experiences above. LGBT Ireland believes this normalisation also underlies the low level of calls on the issue of violence to our helplines. Having said that in 2020 the National LGBT Helpline recorded a fourfold increase in calls relating to violence.

### Impact of the historical legacy of criminalisation remains

7. In March 2020, the LGBTI+ sector organisations both national and regional, engaged in its first Dialogue Day with An Garda Síochána (AGS) as part of AGS ongoing

implementation and refinement of *An Garda Siochana Keeping People Safe* Garda National Diversity and Integration Strategy 2019-2021. Through the many discussions that day it was clear that the legacy of criminalisation looms large as a barrier until today if and when a member of our community needs to think about engaging with AGS. Many opt not to engage due to a lack of trust and a fear of being treated disrespectfully. This is especially true of gay men of those age groups directly impacted by criminalisation. Butch-presenting lesbian women would also fear judgement and disrespectful treatment and would opt not to report. Members of the Trans community and others who present in gender non-conforming ways equally fear engagement with AGS for similar reasons.

8. Given these barriers for victims of crime to report, once again LGBT Ireland and other sectoral organisations believe statistics on levels of crime against our community does not represent the true large scale of the problem.

#### Other key findings from LGBTI+ sector / AGS Dialogue Day 2020

9. Other key themes around barriers in engaging with AGS and beginning a journey of engaging with the justice system and accessing justice were:
  - Addiction issues are high in our community in those aged 40+; depending on what substance is being used, it can be difficult to seek help from AGS
  - Chemsex forms part of the social scene for many Gay men - violence and other problems at events where Chemsex is involved would present fear and barriers approaching AGS
  - LGBTI+ young people are more likely to use drugs/alcohol-
    - as an escape from stress, anxiety of their situation; this can inadvertently bring young LGBTI+ people into links with criminality
    - due to substance abuse and / or links with criminality, it's hard for young people to feel able to approach AGS
    - Vulnerable to rape/sexual assault
    - Prostitution as a means of supporting addiction or other dependencies
  - Domestic violence happens in our community as it does in the wider community; our community faces the same struggles in seeking help; plus the additional invisibility of

LGBTI+ relationships in domestic violence services making our community feel there is no support for them

- Cruising activity of some gay men, the secrecy around what they do, the fear of being discovered; these factors make it harder for gay men of a certain age to come forward to AGS
  - STAD report (Stop Transphobia And Discrimination) produced by Hate & Hostility Unit, University of Limerick and TENI
    - Stark reading- offences included rape, aggravated sexual assault, sexual assault, assault causing harm, threats to kill, and public order offences.
    - Just 10% of transphobic hate crime is reported to AGS
10. While the Dialogue Day was a very positive engagement it starkly revealed the amount of work to be done if trust and protections (laws) are to be realised for the LGBTI+ community in Ireland.

#### Lack of hate crime law

11. Another factor informing LGBTI+ people's decision not to engage with AGS is the knowledge that no hate crime law exists in Ireland. Even where there is positive engagement and relations with members of AGS they often express the limitation in what they can do in terms of prosecuting hate crimes against our community due to the lack of hate crime legislation. This weakens further our community's trust and belief that to report a crime and engage in the justice system will lead to a positive experience and outcome for the LGBTI+ victim of crime.
12. ILGA Europe's Rainbow Report 2021<sup>iii</sup> saw Ireland ranked 15<sup>th</sup> in Europe in terms of equality and protection for LGBTI+ people and a significant factor in Ireland's stalled position is the lack of hate crime law.

#### Invisibility and vulnerability of older LGBTI+ people

13. Older people are LGBTI+ too and often live very invisible lives with diminished support networks compared to their heterosexual peers. There is limited Irish research on this group with *Visible Lives* (2011)<sup>iv</sup> still being the go-to text for an

insight into the issues and needs of older LGBTI+ people. Some worrying findings around isolation and loneliness, more recently corroborated by Stonewall UK research (2015)<sup>v</sup>, include:

- *“diminished support networks in comparison to heterosexual peers”*
  - *More likely to be single:* 40% (UK) / 43% (IRL) of gay and bisexual men are single, compared to 15% (UK) / 15% (IRL) for heterosexual men
  - *More likely to live alone:* 41% (UK) / 46% (IRL) of LGB people live alone compared to 28% (UK) / 29% (IRL) of heterosexual people.
  - *Less likely to have children:* just over 25% of gay and bisexual men and 50% of lesbian and bisexual women have children, compared to almost 90% of heterosexual men and women.
14. Living hidden lives isolated from regular contact with trusted friends leaves older LGBTI+ people vulnerable to crime. Older gay men are particularly vulnerable, many LGBTI+ organisations have dealt with cases of older gay men being blackmailed, however because many remain closeted and also because they grew up in the shadow of homosexuality being criminalised, it is often very difficult for them to feel safe in making a report to AGS and beginning the journey of trying to engage with and access justice.

### LGBTI+ Family Rights

15. On the 4<sup>th</sup> May 2020 Parts 2&3 of the Children and Family Relationships Act (CFRA) 2015 came into operation. These provisions were hugely significant for LGBTI+ family rights, as it meant that for the first time in Irish law two female parents could both be registered on their child’s birth certificate. The law in relation to female same-sex parents jointly registering their children at birth relates to children conceived post commencement, however retrospective provisions under S.20 of the Act allows for the re-registration children conceived prior to the commencement (i.e.) before the 4<sup>th</sup> May 2020. The retrospective provisions allow for a declaration of parentage to be applied for by the non-birth parent through the District Court for consent applications, or the Circuit Court where a joint application

is not possible, and if granted this declaration of parentage forms the basis for an application to the General Registration Office to have the birth re-registered.

16. Since the commencement of the final parts of the (CFRA) in May last year, hundreds of same-sex female parents have been able to re-register the births of their children, ending years of legal limbo for families where only one parent was legally recognised. To expedite the process for families who had already been waiting five years for this legislation to be commenced, LGBT Ireland engaged extensively with the District Court Service which resulted in six full days of dedicated online hearings being provided by the Dublin District Court. The feedback from families who were able to avail of online hearings was overwhelmingly positive, both in terms of the speed and accessibility of the process and the affirming approach of the presiding judge.
17. However, in stark contrast families outside of Dublin had a very different and, in some cases, extremely difficult experience trying to access a parental order under the legislation. There was a general lack of awareness and knowledge about the new law by solicitors, court clerks and judges, resulting in parents having to educate their local court service about the law and in many cases having to request that they contact the Dublin District Court service to get information about the process. Based on the lack of information and confusion being experienced by parents when dealing with the court system, LGBT Ireland developed sample grounding Affidavits which parents could download from our website. Several families also experienced very negative attitudes from one judge, who refused to grant parental orders under the act, and requested that other family members (such as the birth parents' mother or aunt) return to court with the applicants to act as a next friend for the child, even though these were consent applications.
18. These experiences demonstrate the lack of knowledge and understanding about the current law as it pertains to LGBTI+ parented families. With further legislation currently being drafted to regulate Assisted Human Reproduction services in Ireland including surrogacy, more LGBTI+ parented families will be engaging with the justice system to have their families legal recognised. Therefore, it is imperative that



court clerks and judges are provided with information/training when new legislation is commenced, and we would also recommend training in unconscious bias particularly for those involved in family law.

## Q. 2. What supports are currently available to minority groups when engaging with the justice system?

The current range of supports take two forms:

19. LGBT+ sector organisations none of which to date have any specific human resources or expert knowledge (lack of capacity development in this specific area) to support people as they engage with the justice system as victims of crime and hate incidents.

LGBT+ organisation rely on shared knowledge among networks and relationships they forge with local community Gardai in their communities and Garda divisions. Frequent transfers of Gardai make the building of relationships a constant part of the work and a barrier for LGBT+ organisation achieving a significant bank of knowledge and contacts to support this area of work. It is hoped that the relatively new Garda National Diversity & Integration Unit Garda National Community Engagement Bureau will help to this end.

20. Mainstream general services for all victims of crime, for example Crime Victims Helpline; and minority services which support the whole of the minority group, for example Traveller services.

Mainstream general services which our community would try to access are:

- Crime Victims Helpline
- Victim Assistance
- Victims Rights Alliance
- FLAC
- ICCL
- Various pro bono lawyers for individual case work
- AGS generally
- Garda National Diversity & Integration Unit

Minority services for the whole minority group- relevant and key examples include:

- Migrant Rights Centre Ireland
- Irish Refugee Council
- Pavee Point
- Irish Traveller Movement

21. However as elaborated in Q. 1 barriers of fear often exists between our community and such mainstream services, as well as minority services, and therefore our community often does not seek support and often does not report crime thereby forfeiting their access to justice due to a fear of a lack of appropriately sensitive and inclusive service provision.
22. LGBT Ireland, through its training department, has embarked and will continue to embark on LGBTI+ Awareness Training of these key services. Due to limited training team human and time resources to dedicate to this important service provider sector, this work will take much longer than if LGBT Ireland had a dedicated Access to Justice Capacity Development Officer focus person. Likewise, if LGBT Ireland had additional human resources to support its intersectional work, then existing bespoke supports could be further strengthened and enhanced, while mainstream support services could be trained and enhanced to better support our community.

### Q. 3 Additional barriers facing LGBTI+ people with intersecting identities

#### LGBTI+ Travellers

23. LGBT Ireland sits on the *National Action Group for LGBT Travellers & Roma*. This group was formed in 2016 with the goal of advancing greater awareness and understanding of LGBTI +Travellers and Roma and their inclusion in their support organisations and communities. LGBTI+ Travellers experience minority stress and marginalisation on the basis of living more than one minority identity. This intersectional discrimination lays out double or more sets of barriers if an LGBTI+ Traveller thinks about accessing justice. There is little research available on LGBTI+ Travellers, but what little does exist<sup>vi</sup> demonstrates high levels of mental health and

suicidality while anecdotal knowledge also suggests high levels of addiction and substance abuse, also referenced by homeless sector services. Common barriers in engaging with AGS are:

- Fear of racism; anti-Traveller feelings
- Legacy of mistrust between Travelling community and AGS

24. It should be noted that LGBT Ireland, as part of the National Action Group for LGBT Travellers & Roma, has this year secured funding to carry out peer research (Sept. 2021-Sept. 2022) into this very invisible cohort of the LGBTI+ Community and so will learn more about experiences, challenges and support needs in the coming year.

#### LGBTI+ asylum seekers

25. Since July 2018, LGBT Ireland has facilitated a monthly peer support group for LGBTI+ asylum seekers living in Direct Provision across the country. The group meets monthly in Dublin with LGBT Ireland providing transport fares and safe venues using grants from Community Foundation Ireland under their “Mental Health & Well-being” programme and a Community Integration Fund grant from Dept. of Justice & Equality through the Office for the Promotion of Migrant Integration. During the pandemic these meetings have been fortnightly via zoom and also involved a lot of one-to-one support work due to the levels of anxiety and isolation being experienced. The geographical spread of group members currently includes counties Cavan, Louth, Meath, Westmeath, Galway, Limerick, Wicklow and Dublin.
26. LGBTI+ asylum seekers and migrants likewise experience intersectional discrimination in their daily lives. If they think about engaging with AGS and the justice system the barriers commonly cited in discussions are:
- fears of racism
  - fear of questions about immigration status even when it’s not relevant to the reason they may want to go to AGS
  - language issues
  - legacy of police violence and criminalisation of homosexuality in countries of origin and subsequent fear of the police force in Ireland

Q. 4 What improvements could be made/specialised supports be provided to improve the experience of minority groups engaging with the justice system?

#### Hate Crime legislation

27. A speedy enactment of Hate Crime legislation following consultation with key stakeholders and earnest consideration of their inputs to make the legislation as effective, inclusive and durable as possible

#### Additional human resources in LGBT Ireland

28. A dedicated Access to Justice Capacity Development Officer who would strengthen the LGBT+ sector in their awareness of support services, including the new online reporting mechanism of AGS as well as the Third Party Referral mechanism which will soon come on stream. This ATJ Officer would also train AGS and other mainstream support services to enhance their knowledge and skills in supporting our community
29. Additional human resources- Intersectional Key Worker position- to support LGBT Ireland intersectional work so that existing bespoke supports can be further strengthened and enhanced, while mainstream support services could be trained and enhanced to better support our minorities within our community

#### Cultural Mediators employed by key state justice agencies

30. Similar to International Organisation for Migration (IOM)<sup>vii</sup> state justice agencies capacity to offer effective service to minority communities would greatly benefit from the employment of Cultural Mediators to liaise with relevant minority community members and sector organisations to assist in accessing justice. Such cultural mediators working in partnerships with sectoral organisations would be best placed to co-develop whatever systemic changes may be needed to create a more accessible justice for all.

## 5. What is the impact of intermediaries or voluntary groups that help facilitate engagement between minorities and the justice system?

31. The impact of intermediaries / voluntary groups is that they are the bridge-builders between minority communities and individual in need of access to justice and the state agencies duty-bound to protect and enable citizens and residents right to access justice. Without such 'bridges' to offer encouragement and support for a crossing over to engage with mainstream services, many minorities go without access to justice, as has been elaborated above.
  
32. Intermediaries such as LGBT Ireland for the LGBT+ minority has:
  - gained the trust of the community as they are of the community and therefore have strong empathy and insights into the struggles and barriers for those seeking justice
  - has expert knowledge of the community and its myriad of struggles through providing their frontline services and having consistent contact with the community nationally, regionally and locally
  - has strong sectoral networks so that wherever in the country someone needs support, they can be linked in and LGBT Ireland continues to learn and share knowledge with networks
  - has effective partnerships across all relevant sectors- and with increased human resources these partnerships can be further developed, expanded and rendered even more effective
  - has long experience of engaging with various state systems (political, health, education etc.) and forging both system changes and social change; intermediaries, like LGBT Ireland, are very resourceful problem-solvers and solution-oriented actors who need to be enabled to engage more with the justice system to ensure access to justice for all is a reality for the LGBT+ community in all its diversity in Ireland.

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- <sup>i</sup> Higgins, Agnes, Doyle, L, Downes, C; Murphy, R; Sharek, D; DeVries, J; Begley, T; McCann, E; Sheerin, F & Smyth, S (2016). *The LGBTIreland report: National study of the mental health and wellbeing of lesbian, gay, bisexual, transgender & intersex people in Ireland*. Dublin: [www.belongto.org](http://www.belongto.org)
- <sup>ii</sup> Ireland and our LGBT Community (2019) Haynes, A. and Scheweppe, J.  
<https://www.ilga-europe.org/rainboweurope/2021>
- <sup>iv</sup> Higgins, A., Sharek, D., McCann, E., Sheerin, F., Glacken, M. Breen, M. & McCarron, M. (2011). *Visible lives: identifying the experiences and needs of older LGBT people in Ireland*. [http://lgbt.ie/wp-content/uploads/2018/06/attachment\\_233\\_Visible\\_Lives\\_-\\_Key\\_Findings\\_Nov\\_2011.pdf](http://lgbt.ie/wp-content/uploads/2018/06/attachment_233_Visible_Lives_-_Key_Findings_Nov_2011.pdf)
- <sup>v</sup> Stonewall UK. (2011). *Lesbian, Gay & Bisexual People & Later Life*  
[https://www.stonewall.org.uk/sites/default/files/LGB\\_people\\_in\\_Later\\_Life\\_2011\\_.pdf](https://www.stonewall.org.uk/sites/default/files/LGB_people_in_Later_Life_2011_.pdf)
- <sup>vi</sup> *LGBT Traveller Health Report EARTH\* Area*” Dempsey, C. (2012)
- <sup>vii</sup> Cultural Mediator Role Description (IOM)- <http://iomireland.ie/who-are-we/vacancies/>