

# UNIVERSITY OF KENT

## EQUALITY AND DIVERSITY POLICY: GUIDELINES ON SEXUAL ORIENTATION

### 1. PURPOSE

These guidelines give practical advice and consideration to issues which may affect staff and students relating to their sexual orientation. As such they follow from and strengthen the Equality and Diversity Policy of the University of Kent.

They seek to present a coherent approach rather than definitive statements.

The guidelines are written following the principles of the Employment Equality (Sexual Orientation) Regulations 2003 (which also covers education), and the Human Rights Act 1998.

### 2. AIMS

The Aims of the Equality and Diversity Policy include the statements that:

- The University of Kent is committed to the creation and support of a balanced, inclusive and diverse community which is open and accessible to all students, staff and members of the public
- The University aims to become an inclusive community where individuals are integrated within the Institution, where the diversity of individuals is recognised and there is flexibility to support their differing aspirations and goals.

These guidelines should read in conjunction with Equality and Diversity Policy, and Race Equality Policy ([www.kent.ac.uk/hr-equalityanddiversity/equality-and-diversity/index.html](http://www.kent.ac.uk/hr-equalityanddiversity/equality-and-diversity/index.html)) and the Dignity at Work and Study policy ([www.kent.ac.uk/hr-equalityanddiversity/dignity-at-work-and-study/index.html](http://www.kent.ac.uk/hr-equalityanddiversity/dignity-at-work-and-study/index.html))

### 3. DEFINITIONS and SCOPE

- 3.1 Sexual orientation** is defined as being an orientation towards persons of the same sex (this covers gay men and lesbians); the opposite sex (this covers heterosexual men and women); or both sexes (this covers bisexual men and women).

It does not extend to sexual practices and preferences (e.g. sado-masochism and paedophilia).

- 3.2 Discrimination:** A person 'A' discriminates against another person 'B', if,
- a) on the grounds of sexual orientation, A treats B less favourable than s/he treats or would treat other persons; or
  - b) A applies to B a provision, criterion or practice which s/he applies or would apply equally to persons not of the same sexual orientation as B, but
    - i) which puts or would put persons of the same sexual orientation as B at a particular disadvantage when compared to other persons,
    - ii) which puts B at that disadvantage, and
    - iii) which A cannot show to be a proportionate means of achieving a legitimate aim.
- 3.3 Harassment** on the grounds of sexual orientation includes engaging in unwanted conduct with the purpose and effect of violating another's dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment for that person. This is contrary to the University's Personal Harassment Policy.
- 3.4 Perception:** Discrimination and harassment can also include behaviour based on A's perception of B's sexual orientation, whether the perception is right or wrong. People bringing a claim of discrimination on grounds of sexual orientation will not be required to disclose their orientation – it will be sufficient that they have suffered a disadvantage because of the assumptions made about their orientation.
- 3.5 By association:** this also covers discrimination against a person by reason of the sexual orientation of someone else, e.g. a person is discriminated against because they associate with gay friends, or have lesbian family members.
- 3.6 Transgender:** Gender reassignment is a separate issue and unrelated to sexual orientation despite a general misunderstanding that the two issues are part of the same picture. It is unlawful to discriminate against or harass anyone on the grounds that the person intends to undergo treatment to change their sex, or is undergoing treatment to change their sex, or has undergone such treatment. Such people are already protected by the Sex Discrimination (Gender Reassignment) Regulations 1999, and our Equality and Diversity Policy.
- 3.7 HIV/Aids:** Beware of stereotyping! Although HIV and AIDS are not specifically lesbian and gay issues there is no doubt that the virus has intensified discrimination against gay men and lesbians. This discrimination is not necessarily on the grounds that people are known to be living with HIV, but because of homophobic (and sometimes racist) assumptions.

#### 4. VOCABULARY

The ways in which terms are used changes depending on who is speaking, to whom, and in what context. It is often appropriate to refer to people using the terms they use to refer to themselves.

#### 5. THE ISSUE OF OUTING

**5.1 Being Out** The University seeks to provide a supportive environment for all staff/students and aims to create a culture in which those who wish to be open about their sexual orientation will not face harassment or discrimination, however subtle or indirect. It is equally important, however, that if someone does not wish to disclose their sexuality, confidentiality will be maintained and the right to privacy will be respected.

Each individual will decide if they wish to be publicly open about their sexuality in the workplace. For many people the decision to come out will be determined by the culture and the environment in which they work/study.

There is a range of levels of being out. Whereas some lesbians and gay men are open with everyone they work with, others may choose to be out with only a small number of close colleagues/students.

A member of staff may need to be open about their sexuality in order to qualify for any workplace benefits. If they wish this information to be confidential to those who need to know, in order that they may receive the benefit, this must be respected.

**5.2 Outing** To out someone is to publicly declare that they are lesbian, gay or bisexual. Staff are vulnerable to being outed by students or colleagues. This can be unintentional, for example, in the way that grievance procedures are investigated, or it can be a calculated act. Either way the individual's right to privacy has been compromised. Students should never out another student.

To deliberately out someone is a form of harassment and should be treated as such.

#### 6. EMPLOYMENT ISSUES

**6.1** Care should be taken in the recruitment process. It is unlikely for instance, that there would be a need to know the marital status of the applicant, or details about number of children etc.

**6.2** Spent convictions: laws relating to gay men have changed significantly over time. It is possible that applicants may have acquired a criminal

conviction many years before for a matter no long unlawful. This may bear no relationship to their skills and competence for the job offered.

- 6.3 All employment policies and practices, formal and informal should refer to partners rather than spouses. If necessary, ask for 'emergency contact details' and do not refer to 'next of kin'.
- 6.4 Training: all internal and external trainers are advised to comply with our Equality and Diversity Policy. Homophobic comments, jokes, or inappropriate language will be challenged in training sessions. All training should included cases studies which involve gay, lesbian or bisexual people where appropriate.
- 6.5 All HR policies, especially family-friendly, adoption, work-life balance, and parental and dependency policies, are available to all staff regardless of sexual orientation.
- 6.6 Pensions: University Pension Providers have discretion to pay a survivor's pension to same-sex partners (if there is a proven financial inter-dependency). Forms can be mailed directly to the pension scheme's offices rather than through the employing institution, if any individual wishes, thus preserving confidentiality.

However, the new Regulations do not render unlawful anything which restricts access to a benefit by reference to marital status, and we must await national legislation before pension provision can become truly discrimination free.

## 7. STUDENT ISSUES

- 7.1 **Academic Freedom:** Nothing in these Guidelines should be read as preventing proper and informed academic discussions within the context of learning and teaching. However, teachers have responsibility to ensure respect and dignity at all times within the teaching context, and to challenge stereotypical or degrading comments.

## 8. RESPONSIBILITIES

- 8.1 **The University** will work towards a situation where all references to relationships within policies and procedures will explicitly state that these include same-sex partners.
- 8.2 **Kent Student Union** will seek to expand understanding and respect for all students, regardless of their sexual orientation, and will treat any breaches of this standard as serious offences.
- 8.3 **Managers** should be aware of these guidelines and ensure that these are brought to the attention of their staff. They are responsible for

supporting staff where appropriate, and should be ready to challenge stereotypical and humiliating behaviour or comments.

**8.4 All staff and students** are expected to follow these guidelines and treat each other with dignity and respect regardless of sexual orientation.

**8.5 Equality Promotion Group** will review these Guidelines every two years, in consultation with appropriate groups.

## **9. COMPLAINTS**

If you have complaints against the unfair operation of this policy, or of discrimination on the grounds of sexual orientation, you should bring this in accordance with the complaints procedure in the Equality and Diversity Policy.

The University Harassment Policy covers any complaints of harassment on the grounds of sexual orientation and in the first instance staff and students are advised to meet with a Harassment Adviser.

## **10. SOURCES OF FURTHER HELP**

Please contact the Equality & Diversity Manager in the first instance for clarification of any issues within these Guidelines. This will be in the strictest confidence.

Irfaan Arif extension 4781 email [i.arif@kent.ac.uk](mailto:i.arif@kent.ac.uk)

- Student Union Lesbian, Gay, Bisexual and Transgender Officer: Jack Bowman
- 
- East Kent Homophobic Incident Reporting Line 0800 328 9162 924 (hour free phone)
- Stonewall: 46-48 Grosvenor Gardens, London SW1W 0EB 020 7881 9440

## **Appendix A**

Currently acceptable working definitions, but we should be aware that such vocabulary could change over time.

Sexuality That part of a person's identity which encompasses their experience of sexual attraction and activity.

Sexual orientation The identification of an individual on the basis of whether he or she is sexually attracted to people of the other sex or same sex, or both sexes.

Sexual preference Sometimes used to refer to sexual orientation

Gay Preferred, self-chosen term. Individuals whose primary sexual attraction and activity are (or would be) with members of the same sex. This term is most commonly used to refer to men.

Lesbian self-chosen term. Women whose primary sexual attraction and activity are (or would be) with women.

Homosexual Individuals whose primary sexual attraction and activity are (or would be) with persons of the same sex. This term is disliked by some lesbians and gay men.

Bisexual Individuals whose primary sexual attraction and activity are, or would be, with persons of either sex.

Heterosexual Individuals whose primary sexual attraction and activity are (or would be) with members of the other sex.

LGB An acronym for Lesbian, Gay, and Bisexual.

LGBT An acronym for Lesbian, Gay, Bisexual, and Transgender

Out Publicly open about being lesbian, gay or bisexual.

Outing Publicly declaring that someone else is lesbian, gay or bisexual.

Homophobia Prejudice and hostility against same-sex relationships

Heterosexism The (unquestioned) presumption that everyone is heterosexual. This can put non-heterosexual people into the awkward position of having to conceal or reveal their sexuality.