Written evidence from LGB Alliance (HCS0036)

Submitted by Katharine Harris, Director at LGB Alliance

LGB Alliance welcomes the opportunity to respond to the Committee's call for evidence on Protecting Human Rights in Care Settings and hopes this submission is of interest. If you have any questions regarding our response, please contact Katharine Harris

LGB Alliance is a group that represents the interests of a rapidly growing number of lesbian, gay and bisexual people – LGB people who have grave concerns about the loss of our rights. Specifically, we are concerned by moves to replace, in law and elsewhere, the category of "sex" with "gender identity", "gender expression" or "sex characteristics".

Many of us are long-time gay and lesbian activists who fought for many years to defend and promote the rights of people with same-sex sexual orientation. These hard-won rights are now under serious threat.

Summary of our main concerns

Our main areas of interest are the human rights of LGB people, fact-based relationships and sex education for children and young people, and the creation of a positive environment for all "gender non-conforming" people in the UK. LGB Alliance believes that "gender identity theory" reinforces outdated and regressive stereotypes. We would like to see a world where any boy or girl, man or woman, can dress and be whoever they would like to be as long as they respect the rights of others. In line with these views, we challenge the central tenet of gender identity theory: the notion that everyone has a "gender identity", which may differ from, and must take precedence over, biological sex.

Comments

We provide below several comments in response to some of the specific questions set out in the Committee's call for evidence.

Sex not gender

LGB Alliance wishes to address the areas in which we have expertise, namely the human rights issues that need to be addressed in care settings concerning lesbian, gay and bisexual people, and the related issue of the substitution of gender identity for sex (a protected characteristic in the Equality Act 2010) in various care contexts.

Introduction

Over many decades, since the 1970s, concerns have been raised about the best approach to lesbians, gay men and bisexual people (LGB) in contexts throughout society, including care settings. In some areas, there have been examples of good practice, but elsewhere the assumption of heterosexuality still causes problems for those, either as couples or as single people, who are dependent on others within sheltered accommodation or care homes.

That used to be the sum of the problem – that staff would assume everyone in their care was heterosexual and this had the potential to make LGB people so uncomfortable that there is anecdotal evidence of elderly people "going back into the closet" in care homes.

Today we have an even worse situation to resolve, which affects not only LGB people but also women. This is a consequence of the conflation of LGB issues with the "gender identity" of those referred to under the "trans umbrella", which includes not only those seeking "gender reassignment" but a wide range of trans-identifying individuals – those who refer to themselves as non-binary, queer, ace (asexual) and more.

The needs of these groups are quite different from those of the LGB individuals whom we represent. It is thus a matter of considerable concern that training and advice, in many contexts, appears to be largely provided by those organisations which conflate LGB people with these entirely different groups. Indeed, they appear rather to emphasise the needs of those who "identify" as trans, queer, or non-binary.

Under this set of beliefs (promoted across the NHS and care sector by a range of well-funded LGBTQIA+ lobby groups), biological sex is considered less important than how someone "identifies". In other words, a person with a male body who says he is a woman or a lesbian must be believed. This is a challenge which much be reviewed as a matter of urgency and needs to considered quite separately from the needs of LGB people. Well- meaning people are being encouraged to group LGB and T people together, to the detriment of gays, lesbians and bisexuals.

For example, the guidance on the SCIE website explicitly says that despite not having been updated since 2011, it still provides valuable guidance. This was written with LGBT Consortium, which, despite its name, promotes gender identify theory and thus fails to represent LGB people adequately. We are concerned that this may now be the standard approach among trainers and providers of CPD in care homes and services.

If intimate care is provided to an individual, it is reasonable to expect that they will have some choice about who provides such care so that they are comfortable with it. We have seen in many contexts that trans-identifying males (transwomen) are undertaking e.g. body searches of women, cervical smear tests etc. For many women this is totally unacceptable, and the need to ensure that it is women providing intimate care for women, unless the individual woman has explicitly stated her willingness to receive such care from a male person, is crucial. This is particularly the case for women and men of some religions, in which strict segregation of the sexes is required (Orthodox and Charedi Jews, Muslims).

Lesbians, gay men and bisexuals in care settings are frequently alone, and may, like their heterosexual counterparts, be grieving following the death of a long-term partner or have lived alone for a long time prior to entering a care setting. There is often an assumption of heterosexuality, which can make it difficult for them to speak about their real experience, and the prejudice against homosexuality from some people may lead to unpleasant comments if

they do. Care staff need to be alert to this, which entails awareness that anyone for whom care is provided at home or who enters a care home may not be heterosexual, rather than waiting for something to be said by the individual.

The key point we wish to make is that the human rights of lesbians, gay men and bisexual people cannot be met if all are understood to be part of some amorphous LGBTQIA+ group. This group of letters represents many quite separate groups, each with their own particular needs. In recent times, this has meant that the needs of trans people dominate, lesbians and gay men are understood to be "same-gender" rather than same-sex attracted, and their experience and understandings are dismissed.

What human rights issues need to be addressed in care settings in England, beyond the immediate concerns arising from the Covid-19 pandemic?
The human rights of all protected characteristics must be respected; no one group should have priority over another. Today we are seeing the erasure of women and lesbians from the language and campaigns of many LGBTQIA+ lobby groups. This is a dangerous step to take in any situation, but especially indefensible – both medically and socially – in a care setting. Language must state clear facts and reflect the law to ensure that correct diagnosis and care can be given. Gender identity has no legal status – biological sex and same-sex sexual orientation do.

How effective are providers at respecting the human rights of people under their care?
Providers are only as good as the resources that are available to them to ensure high standards of staff training and management. As of now, LGBTQIA+ lobby groups dominate in the training of NHS and care staff. There is a need for NHS and care regulators to recognise that these groups are promoting a niche ideology which we consider to be regressive and homophobic.

How effective are regulators in protecting residents from human rights breaches and in supporting patients and residents who make complaints about their care provider?
See answer above. LGB people must be treated as a group of people with a particular protected characteristic and not lumped together with other groups with distinct requirements. LGB people are proud of who we are. We are not victims and wish to have our human rights respected in the same way as everyone else.

What lessons need to be learned from the pandemic to prevent breaches of human rights legislation in future?
Not applicable

02/11/2021