



A. Introduction

1. LGBT Foundation is a national LGBTQ+ health and wellbeing charity, founded in 1972, working to improve access to services and reduce barriers for the communities we serve. We operate a number of different services for LGBTQ+ people, including our Helpline, Trans Advocacy Service, Talking Therapies, Sexual Health Services, and Domestic Abuse support, amongst others. We are responding to the UN Human Rights Committee's call for evidence on the implementation of the International Covenant on Civil and Political rights (ICCPR) in the UK, as it pertains to LGBTQ+ communities. This has been compiled based on our experience operating within queer communities in the UK, and evidencing using our own and desk based research.

B. Executive Summary

2. This executive summary presents a comprehensive overview of significant challenges facing LGBTQ+ individuals in the United Kingdom, with a particular focus on issues affecting trans and non-binary people. The root causes of these challenges can be attributed either to direct actions taken by the UK government and its representatives or to persistent inaction despite assurances to address critical concerns within the LGBTQ+ community.

3. The issues encompass a range of areas, including the escalating anti-trans rhetoric, the inadequate state of gender-affirming healthcare, and the obstruction of reforms to legal gender recognition. Additionally, the continued delay in fulfilling the commitment to ban conversion practices underscores the persistent inaction, which contradicts earlier Assurances.

4. The forthcoming review by the UN Human Rights Committee (UNHRC) regarding the implementation of the International Covenant on Civil and Political Rights (ICCPR) in the UK provides an opportune platform for international acknowledgment of the imperative to uphold a high standard of LGBTQ+ inclusion in society. It is anticipated that recommendations from the UNHRC will carry substantial weight and influence on the UK government, potentially surpassing the impact of the ongoing but routinely disregarded concerns voiced by LGBTQ+ citizens.

5. This shadow report, contextualized within the challenges confronting the UK, will comprehensively examine the following key areas:

- Criminalization of Same-Sex Acts / Certain Forms of Gender Expression
- Hate Crimes and Discrimination
- Freedom of Assembly and Association
- LGBTQ+ Families
- Legal Gender Recognition

6. By delving into these facets, the report aims to provide a nuanced understanding of the



multifaceted challenges faced by LGBTQ+ individuals in the UK and seeks to contribute to the global discourse on human rights, inclusivity, and equality.

C. Criminalisation of Same-Sex Acts / Certain Forms of Gender Expression

i. Treatment of LGBTQ+ veterans

7. LGBTQ+ identities are not criminalised in the UK, however gaps in protection under the law remain, and those previously subjected to criminalisation due to their LGBTQ+ identity are, in many cases, yet to receive justice.

8. An official apology was issued to LGBTQ+ veterans in 2023 for the criminal prosecution and wrongful discharge of armed services personnel prior to 2000 on the grounds of their sexuality. Further restorative measures are planned, including restoration of rank and qualifications of administrative discharge, which should be complete by December 2024.

9. Access to these measures is by application only, and subject to eligibility criteria, which may restrict those for whom justice is attainable. Those who are unaware of the scheme, feel unable to apply due to shame, stigma or persecution (both historic and current), or those relying on family to apply on their behalf, either due to disability or death, may be unable to have their prior convictions expunged.

Recommendations.

The UK government should urgently address restorative measures that are yet to be implemented and make enrolment in these automatic for all veterans affected by the criminalisation of their LGBTQ+ identity. This would contribute effectively to the overall goal to “make the UK the best place in the world to be a veteran by 2028”.

ii. Treatment of LGBTQ+ people seeking asylum

10. Another significant issue is the treatment of LGBTQ+ people seeking refuge and asylum, who (under current UK regulations), may be deported to countries where they may be at risk of persecution or serious harm due to their sexuality or gender identity. The Nationality and Borders Act 2022 introduced a two-tier system which has resulted in an increased burden of proof for refuge and asylum claims based on LGBTQ+ identity. The UK already has a high rate of rejection for these claims and this is likely to negatively impact that even further.

11. The Illegal Migration Act 2023 denies LGBTQ+ people seeking refuge the right to claim asylum in the UK, unless they enter the country through ‘legal’ routes; an option unavailable to many people seeking to flee their home country. This puts LGBTQ+ people seeking refuge at risk of serious violence and harm as they face deportation to their country of origin, or a country deemed ‘safe’ by the UK, such as Rwanda.



12. While LGBTQ+ identities are not explicitly criminalised under Rwandan law, many human rights abuses of LGBTQ+ people on the grounds of their sexuality or gender identity have been documented. The UK has continued to come under criticism from community groups for not properly assessing whether countries can be deemed “safe” for LGBTQ+ people seeking refuge and asylum, as evidenced by the latest scrutiny for proposals to include Georgia in this list.

13. Furthermore, it has been documented that the burden of proof placed on those seeking asylum due to their sexuality or gender identity has been an impossible barrier for many. Disrespectful questioning and use of language is common, and cultural assumptions about queer experiences and religious belief may cause immigration officials to deny an applicant's claim. Additionally, corroborative evidence, where it can be provided, is often rejected as ‘self-serving’, and delays in making an application itself can be seen as deceitful on the applicant's part.

14. The United Nations High Commissioner for Refugees (UNHCR) has already condemned the Illegal Migration Act, stating that the UK is failing to meet its obligations under international human rights law. Regarding the ICCPR, the UK government may be in violation of Article 6 (Right to Life), in relation to sending those seeking refuge to unsafe countries. There may also be breaches of Article 10 (Conditions of Detention) due to poor housing conditions faced by many people seeking refuge, which often has a disproportionate impact on LGBTQ+ claimants and Article 13 (Right to Remain in a State) which addresses refugee rights.

Recommendations

The UNHRC is recommended to condemn the Illegal Immigration Act in the strongest possible terms, and work with the UK government to protect the rights of all LGBTQ+ people seeking asylum.

iii. Persecution of trans and non-binary children and young people in education

15. The publication of the draft guidance on ‘Gender Questioning Children’ for schools and colleges by the Department for Education is cause for great concern for trans and non-binary children and young people and their families. While not intended to criminally persecute this cohort, if implemented in its current form, the guidance risks subjecting children and their families to discriminatory policies and unacceptable safeguarding risk, such that it has been likened to the infamous ‘Section 28’, legislation that prevented the ‘promotion’ of homosexuality in UK schools.

16. This guidance does similar for social transition in schools, requiring education staff to ‘out’ students who disclose trans or non-binary identity and wish to socially transition at school, and refuse such requests in the majority of instances.

17. While non-statutory, schools and colleges will need to provide evidenced reasons why



they will not follow its recommendations, meaning that they will be acting in violation of the Equality Act 2010, by directly discriminating against those with the protected characteristic of 'gender reassignment'. Such discriminatory suggestions include a blanket ban on trans and non-binary students using the bathroom of their affirmed gender or participating in sports within teams of their affirmed gender, and the protection of individuals who deliberately misgender a trans or non-binary student due to their own beliefs.

18. It will also expose children and young people to unacceptable risk, by requiring outing and inappropriate safeguarding referrals, which may exacerbate mental health issues for the young person or endanger them if family members respond to their identity with hostility, domestic abuse or conversion practices.

19. This guidance is in direct violation of existing UK law and may further breach Article 24 (Rights of the Child) of the ICCPR, through the acceptance of discriminatory practices aimed at trans and non-binary young people.

Recommendations

The UNHRC is therefore recommended to condemn this guidance and highlight best practices across member organisations that the UK government should adapt instead.

iv. Conversion Therapy Ban

20. The UK is yet to implement a comprehensive ban on conversion practices, despite the government first promising to do so in 2018. Since then, various debates and proposed bills have highlighted the hesitancy to include trans and non-binary people within this legislation, including the Women and Equalities Minister's disclosure that her own views about trans and non-binary people have prevented a ban from progressing. Loopholes have also been proposed to allow LGBTQ+ people to give 'consent' for the practice, despite other coercive and abusive practices not having loopholes under UK Law.

21. The United Nations Independent Expert on protection against violence and discrimination based on Sexual Orientation and Gender Identity (IESOGI) noted in a report that these practices breach internationally recognised norms and conventions related to non-discrimination, the right to health, the prohibition of torture and ill-treatment, the right to freedom of expression, and the rights of the child.

Recommendations

It is recommended that the UK government implement a full and inclusive ban on conversion practices at the earliest possible convenience.

v. Status of the EHRC



22. The Equality and Human Rights Commission (EHRC) is intended to monitor human rights in the UK and give guidance on how equality law should be implemented.

23. Under the leadership of Baroness Falkner, the EHRC has given credibility to widely discredited 'gender critical' beliefs in relation to trans and non-binary people, and issued guidance on the use of single sex spaces that blatantly ignores existing UK equality law.

Recommendations

The organisation has proven itself to no longer be fit for purpose, and it is therefore recommended that the Office of the United Nations High Commissioner for Human Rights downgrade the EHRC's rank as an 'A-status' National Human Rights Institution.

D. Hate Crimes and discrimination

i. Rising hate crime

24. Over the past 5 years, the UK has seen a marked increase in hate crime against LGBTQ+ communities. Between 2022-2023, hate crimes against trans and non-binary people rose 11%, with an overall 186% increase since 2018. Hate crimes against LGB+ people have also risen by 112% across the same period. This is reflected in Rainbow Europe's ranking of LGBTQ+ inclusion across Europe, with the UK falling from 1st in 2015, to 17th in 2023.

Brianna Ghey

25. The 2023 murder of Brianna Ghey reflects this increase in hate motivated incidents; while the motive of the murder is yet to be established at the time of writing, it has been widely speculated, and evidence presented at trial suggests, that the murder was motivated by transphobia.

26. Many have condemned Ghey's murder as a symptom of the growing trend of hate and hostility towards trans and non-binary people in the UK, with the media perpetuating attitudes and opinions that have exacerbated this. During the coverage of this incident, The Times newspaper published Ghey's deadname and removed references to her female gender identity. Additionally, both BBC News and Sky News initially omitted Ghey's gender identity from reporting, despite being an integral part of both her life and the incident itself.

ii. Anti-trans rhetoric

27. In wider reporting, anti-trans rhetoric is common, and often targeted towards LGBTQ+ (and trans specific) organisations, with many LGBTQ+ sector charities losing vital funding as a result.



28. This is further exacerbated by senior politicians, who openly share anti-trans and anti-LGBTQ+ opinions, often as a means of encouraging voters to support their platform. Examples include Boris Johnson's support for bans on trans women competing in women's sports teams, and Rishi Sunak's position that 'trans women are not women', and that people are being bullied into believing that individuals 'can be any sex they want to be'. This high profile and seemingly credible (given its espousal by the most senior politicians) support for transphobia has effectively given a visible, powerful and widely accessible platform to individuals who pursue actively anti-trans and anti-LGBTQ+ goals in policy and public life.

iii. Discrimination in wider life

29. Discrimination against LGBTQ+ people in the UK remains a key issue, particularly in the workplace and when accessing healthcare.

30. 1 in 3 employers stated that they would not hire a trans person, and within the NHS, 55% of trans and non-binary staff have experienced transphobia during their employment, either from colleagues or patients.

31. As patients within the NHS, trans and non-binary people continue to experience unequal treatment. 17% of cis LGB+ and 25% of trans and non-binary people reported experiences of discrimination while seeing their GP, while only 56% of LGBTQ+ people generally felt their GP met their needs as a queer person. This is a decrease of 12% since 2018.

32. It may be that the increasing prevalence of anti-LGBTQ+ hate crime and hate motivated incidents puts the UK in violation of Article 14 (Right to Equality Before the Courts) of the ICCPR, as many of the people targeted by hate crime are unable to access any form of justice through criminal proceedings. In addition, as per Article 20 (Propaganda for War and Advocacy for National, Racial or Religious Hatred), hate speech in the media, and low prosecutions for hate crime must be sufficiently tackled and addressed, which is not currently a priority in the UK.

33. In addition, the enshrining of 'gender critical' views as 'protected beliefs' within the framework of the Equality Act 2010 has caused confusion for many businesses, policy makers and government departments regarding what types of speech are protected, and which are deemed hateful. There is a potential conflict between these 'protected beliefs' and their capacity for harm and discrimination which may be in violation of Article 3 (Equality of Rights for Men and Women), General Comment 28 and Article 18 (Freedom of Thought, Conscience and Religion).

34. Furthermore, given the rise in both discriminatory practices and opinions, as well as the rise in hate crime listed above, it is felt that the UK government is not sufficiently meeting its obligations under Articles 2, 3 and 26 of the ICCPR which prohibit discrimination and necessitate that appropriate action is taken to address it.



Recommendations

1. It is therefore recommended that the UK government is reminded of its above stated duties under the ICCPR, and that urgent investment is provided to implement expert-led solutions for tackling hate crime and LGBTQ+ specific discrimination.
2. LGBT Foundation's own work in tackling hate crime and discrimination provides good examples of a variety of initiatives that may be adopted more widely. The Village Angels service provides first aid, hate crime reporting services and mental health support in Manchester's Gay Village, which has enabled the Village to be a safe space for LGBTQ+ people without the need for increased police presence.
3. Furthermore, training services offered by LGBT Foundation, such as the Training Academy and support delivering 'Improving Trans Experiences of Maternity Services' training within the NHS has contributed to reduced discrimination in the workplace for employers and service users.

E. Freedom of Assembly and Association

i. Public Order Act 2023

35. The Public Order Act 2023 has increased police stop and search powers, with the stated intention of reducing the disruption caused by protests. There is concern that the Act may be used to reduce public dissent or active protest against government policies or proposed laws, which is particularly concerning given the actively hostile stance taken against trans and non-binary communities specifically, and damaging policies such as the recent draft 'Gender Questioning Children' guidance for schools and colleges.

36. The Act has previously been condemned by the government's own committee on human rights, and the UN High Commissioner for Human Rights, for its broad and overarching powers allowing suspicionless stop and search, and potential criminalisation of those exercising their right to protest.

37. Concerns remain about the impact this law may have for LGBTQ+ communities and it is felt that the Act is in direct violation of Articles 19 (Freedom of Expression) and Article 21 (Freedom of Assembly).

Recommendations

Recommendations on this point are that the Public Order Act 2023 be heavily amended or entirely revoked, and that the rights of the public to protest be fully upheld as a fundamental pillar of democratic society.

F. LGBTQ+ Families



i. Fertility Access

38. LGBTQ+ families continue to face barriers in equal access. While measures taken by the NHS to remove financial barriers for LGBTQ+ people seeking IVF treatment are welcome, the 'postcode lottery' for inclusive fertility clinics remains an issue, particularly for trans and non-binary people seeking gamete storage.

39. The waiting times for fertility preservation are particularly difficult, as this causes delays for trans and non-binary people seeking hormone therapy, which itself has egregious waiting times, far beyond the accepted standards set out in the NHS Constitution.

ii. Trans and non-binary parental recognition

40. Another issue facing LGBTQ+ families is the position of parents who have transitioned, or are undergoing transition, to be recognised as the legal parent of their child, in their affirmed gender.

41. Under UK law, it is currently impossible for trans and non-binary people to retroactively alter their child's birth certificate to change their parental designation (mother or father), or their name (even if this has been legally changed). Additionally, birthing trans men are unable to be registered as their child's father, and must instead be listed as 'mother', regardless of their legally recognised gender identity (i.e., even if they have a Gender Recognition Certificate).

42. This is despite the gender-neutral term, 'parent', being commonly used on parental orders to amend the birth certificate of children delivered through surrogacy.

43. This general lack of provision for LGBTQ+, and specifically trans and non-binary parents, appears in direct contradiction to Article 16 (Recognition as a Person Before the Law), Article 17 (Right to Privacy), and Article 24 (Rights of the Child).

44. It is therefore recommended that more funding is given to fertility providers to expand their services and deliver these with a focus on LGBTQ+ inclusion. The UNHRC is urged to recommend changes to UK law to enable trans and non-binary parents to be recognised as the parents of their children within the parameters of their affirmed Gender.

iii. Children and young people's gender services

45. Following recommendations from the Interim Cass Report, the Tavistock and Portman's Gender Identity Development Service (GIDS) (the only provider of NHS gender affirming care for children and young people in England) was closed for new referrals in April 2023. Since then, the service has focused on 'continuity of care', and has provided no new first appointments to any young people on the waiting list,



currently around 8000.

46. Tavistock and Portman GIDS is set to be replaced by two regional centres; one in London and another in the Northwest. Detail is scant regarding the operation of these services, how they will be staffed, or when they will open. New referrals to GIDS are being held by the Arden and Gem National Referral Support Service, however it is unclear when those on the waiting list can expect to be seen.

47. Furthermore, proposals for care delivered by the new regional services are extremely concerning; children and young people will only receive a referral to the new Service from a paediatrician or Child and Adolescent Mental Health provider, who may lack sufficient training to hold that young person's identity or related feelings with dignity and respect.

48. Once seen by the Service, a 'gender exploratory' approach will be taken, in which social transition will be discouraged until providers are satisfied that a child has sufficiently met the relevant criteria (criteria which has not been provided for review).

49. Furthermore, to access a prescription of puberty blockers, a young person must meet specific eligibility criteria (again, not yet provided), and both themselves and their parents must consent for them to take part in a research trial examining the safety and effectiveness of the medication. While such research trials are not uncommon in paediatric medicine, it would be unfathomable for known and effective treatment to be withheld unless a young person consented to participate in research, without the unique and nuanced identity-based issues presented for trans and non-binary children and young people in this regard.

50. Regarding the ICCPR, the above-mentioned research protocol may be in violation of Article 7 (Prohibition of Torture), prohibiting medical experimentation without free consent. This may be the case due to the need for young people and their families to consent to participate in the proposed research in order to be prescribed hormone blockers. As this is the only route for this cohort to be prescribed this medication, free consent may not be possible.

51. The proposed plans for the new Service may also be in violation of Article 24 (Rights of the Child), as they do not sufficiently consider the views of children and young people in relation to their ability to take steps to affirm their gender. This is particularly clear in training commissioned by the NHS for use by paediatric and Child and Adolescent Mental Health providers who may make GIDS referrals. This training has been widely condemned for its rejection of gender affirming practices for children and young people, which fails to account for the autonomy and independence of young people seeking to begin transition. It also platforms the views of conversion practice lobbyists, who believe trans and non-binary young people can be 'cured'; a clear (and additional) violation of Article 7.



Recommendations

It is recommended that the UNHRC strongly condemn these proposals and urge the government and the NHS to re-establish gender affirming models of care, in line with known and existing best practices.

G. Legal Gender Recognition

52. The process of legal gender recognition in the UK continues to present issues for trans and non-binary communities.

53. Successful applicants need to prove that they have been 'living in their acquired gender' for at least two years prior to their application, however little information is provided about which evidence is acceptable. Additionally, trans people who have been closeted for personal or safety reasons, and those on low incomes, or those who are unable to manage their own administrative affairs, may not have access to the necessary forms of 'proof' required.

54. The need for a medical diagnosis of gender incongruence, and statement of confirmation by a gender specialist further delay the process, given the lengthy waiting times for diagnosis on the NHS. Further, for trans people who do not wish to pursue medical interventions, and do not require a diagnosis to be satisfied in their affirmed gender, have no route to legal gender recognition at all.

55. Spousal consent (otherwise known as spousal veto) is a particularly contentious issue in the recognition process, which could leave a trans person unable to pursue legal recognition if their spouse will not consent to the process or begin divorce proceedings.

56. Non-binary people are completely unrepresented in the legal recognition process, with only binary male or female options available. There is also no route to legal gender recognition for children and young people, which has implications for how trans and non-binary pupils are treated in education, as illustrated in the above discussion of the draft 'Gender Questioning Children' guidance for schools and colleges.

57. Dual citizens also face a myriad of issues when pursuing gender recognition to amend UK birth certificates. Even when following the Overseas Route, dual citizens may be unable to provide the proof required by the UK government, either due to conflicting (or absent) laws in their country of residence, or regulations that require them to undergo diagnosis in the UK despite their residence elsewhere. In LGBT Foundation's experience supporting these individuals, UK embassies abroad have been very little help, and often do not know the provisions of the Gender Recognition Act 2004 in any Detail.

58. These issues illustrate a lack of regard for Articles 3 (Equality of Rights for Men and Women), Articles 16 (Recognition as a Person Before the Law), Article 23 (Right to



Family), as they pertain to the 'spousal veto', and the right to accurate personal identity Documents.

i. Scottish Reform of the Gender Recognition Act 2004

59. It is also relevant that the UK government has blocked reform to the Gender Recognition Act 2004 passed by the Scottish Parliament. This reform would have removed the requirement for Scottish citizens to obtain a diagnosis of 'gender incongruence' to receive legal gender recognition.

60. Gender recognition is a devolved matter, thus allowing the Scottish Parliament to vote on legislation relevant to gender recognition for its citizens. The ascent of this reform was blocked by the UK government, who for the first time since devolution was established, invoked Section 35 to do so. A subsequent legal review found that the UK government had acted lawfully by invoking this clause of the Scotland Act 1998.

61. This may constitute a violation of Article 1 (Right of Peoples to Self-determination), as the proposed reforms were passed in the Scottish parliament with a majority of 86-39, by MSPs democratically elected by Scottish citizens; illustrating a clear disregard for self-determination by the UK government.

Recommendations

It is recommended that the UK government reform the Gender Recognition Act 2004 to make legal recognition easier and less intrusive, that they clarify provisions for dual citizens and that non-binary identities and young people are represented within its framework.