

Issues facing Older Lesbians, Gay Men and Bisexuals

1. Introduction

Older lesbians, gay men and bisexuals face many issues in respect of ageing in common with older heterosexuals; for example, reduced income following retirement, health concerns, the loss of friends and family members and ageism [1]. However, older lesbians, gay men and bisexuals may face other issues and injustices because of their sexuality, many caused by the lack of legal recognition of their relationships, as well as the double discrimination of ageism and homophobia¹. Some may face multiple-discrimination; with older lesbians, gay men and bisexuals from ethnic minorities facing racism, while lesbians may also face sexist attitudes. Older lesbians, gay men and bisexuals may find that the problems of living in rural communities and/or the experience of disability may exacerbate problems such as poverty and isolation.

Older lesbians, gay men and bisexuals are not a socially cohesive group. There are important differences in the life experiences of older lesbians and gay men. For example, women are more likely to have been married and to have children. They are also more likely than older gay men to be living in long-term relationships. However, they do face many issues of common concern which this paper addresses.

The term 'older lesbians, gay men and bisexuals' is used throughout this paper. Older transgendered people and transsexuals (those who feel that their true identity is as the opposite sex) face similar negative social attitudes and injustices and Age Concern recognises and support their rights. However, it is important to underline that sexuality and gender identity are distinct and that each faces its own set of legal and social issues that cannot be addressed

¹ Homophobia is 'the fear and hatred of those who love and sexually desire those of the same sex' [2].

concurrently. There is a need to investigate the issues facing older transgendered people or transsexuals and to develop policies to address them.

This paper is set against changing social attitudes towards lesbians, gay men and bisexuals. Over the last 50 years both awareness and legislation have changed considerably. Lesbians, gay men and bisexuals are becoming more visible in the media and on the streets. For example, the Gay Pride celebration in London in 1999 attracted over 250,000 people. However, attitudes have not completely changed towards lesbians and gay men nor led to complete safety for them.

2. Policy statement

Older lesbians, gay men and bisexuals should have the right to be open about their sexuality without being marginalised, isolated and made to feel unwelcome or subject to harassment and attack, and to have access to appropriate health, education, housing and social care services. They also should have a right to privacy about their sexuality where this is preferred. As same sex couples they should be treated in terms of legal and financial rights on the basis of equality with heterosexual couples.

3. Key issues and evidence

Little research on older lesbians', gay men's and bisexual people's needs and issues has been carried out. Therefore, we should be careful about applying uncritically what evidence does exist in the English context. A review of research undertaken in 2002 on behalf of Age Concern England [3] found that most research on older lesbians, gay men and bisexuals has been carried out in the USA, tends to focus on the 'young old' of 50 – 69 years, does not differentiate between men and women and tends to reflect the experiences of white, well-educated, affluent individuals living in large, urban communities.

Although we acknowledge the limited scope of existing research and needs assessment, this section looks at what regularly feature as the four key issues for older lesbians, gay men and bisexuals:

- Discrimination;
- Access;
- Social isolation;
- Consultation and involvement.

3.1 Discrimination

There are many examples of discriminatory attitudes and practice towards older lesbians, gay men and bisexuals, as well as major differences between the rights of married and same sex couples.

Discrimination towards older lesbians, gay men and bisexuals occurs when someone makes or sees a distinction because of their sexuality and (their age and) uses this as a basis for prejudice against and unfair treatment of that person. Discrimination can be direct or indirect (also referred to as explicit and implicit). An example of direct discrimination is the lack of legal recognition of same sex relationships, resulting in them not having access to the same rights as married couples. An example of indirect discrimination is the lack of understanding of older lesbians', gay men's and bisexuals' issues by statutory service agencies, resulting in a lack of access to and provision of appropriate services.

Lack of legal recognition of same sex relationships:

In a number of areas the impact of a lack of legal recognition of same sex partnerships becomes more acute as people age. Stonewall, a voluntary organisation which campaigns for lesbian and gay equal rights, has highlighted a number of areas where same sex couples do not have access to the same rights as heterosexual couples. These include:

- No legal recognition of same sex unions, resulting in no legal claim on inheritance of property. If there is no will, a same-sex partner can make no claim under the rules of intestacy. The entirety of the deceased partner's estate would pass to his or her next of kin;
- Many pension schemes either do not recognise same sex partners as beneficiaries or grant them lesser pension provision than to widows and widowers;
- No right to fatal accident compensation;
- Tax inequities in capital gains tax, inheritance tax and married couples' allowance. For example, if a gay or lesbian couple jointly own their own home, the surviving partner would still be liable to pay inheritance tax on the value of the deceased partner's half of the house.

Other areas where a lack of legal recognition of same sex partnerships impacts on older lesbians, gay men and bisexuals include:

- When local authorities assess charging for care homes, older lesbians, gay men and bisexuals may not get the house disregarded when their partner goes into a care home. Disregards are discretionary and so this will vary according to local authority;
- There is no legal protection or recourse when confronted with discriminatory actions or attitudes (unlike discrimination based on gender or race).

Lack of understanding from statutory service agencies:

Agencies which provide care for older people often fail to take into account their sexuality and the particular needs of older lesbians, gay men and bisexuals. These agencies include local authorities, health services such as hospitals, care homes, home care and personal assistance agencies and housing providers, often leading to older lesbians, gay men and bisexuals feeling forced to conceal their sexuality.

For example, an older person spoke of his experiences of caring for his partner of 30 years who suffered from dementia and died in 2000 [4]:

“Because of his challenging behaviour, my partner David had to go into a residential home fairly soon after he was diagnosed with dementia. All the time people wanted to know why I was looking after David and who I was, so there was always the issue of needing to come out ... The whole caring system for older people assumes heterosexuality ... which was something I found difficult to deal with.”

In health services, lack of understanding of the existence of older lesbians, gay men and bisexuals means that there are many anxieties about completing forms and hospital documents which require a statement of relationship to the patient. Older lesbians, gay men and bisexuals may face difficulties gaining access to their partner’s bedside because their relationship is not recognised.

There do not appear to be any examples of specialised housing for older lesbians, gay men and bisexuals in England. Current evidence suggests that those who run sheltered accommodation and care homes for older people rarely acknowledge the existence, let alone, the needs of lesbian or gay individuals and couples. Polari’s survey of wardens of sheltered accommodation and care home managers was characterised by a lack of interest in the issue [5], with under a quarter of those contacted taking part. Many of those managers who did respond were “openly antagonistic” towards lesbians and gay men.

Often agencies which provide care for older people make assumptions that policy issues related to older lesbians, gay men and bisexuals are about sexual health and ‘safer sex’. Being a lesbian, gay man or bisexual is not just about sex; such assumptions can result in the neglect of issues that are of more importance to older lesbians, gay men and bisexuals such as mental health and depression.

One example of good practice within the NHS is that, since 1998, North Warwickshire Primary Care Trust has offered a counselling and support service to mental health users from the wider gay community. This initiative acknowledges the effect that discrimination can have on mental health. The

scheme offers specific support to older users of local mental health services who face particular problems when they decide to come out such as losing their job and / or family.

Ageism within the gay community:

Berger found that people integrated into lesbian, gay and bisexual communities are happier, more self-accepting, less depressed and less afraid of ageing [6]. However, the gay community in England is as ageist as any other, with the gay 'scene' or culture very youth orientated. The gay media generally presents a young face, with *The Pink Paper* and *Diva* rarely including older people. Lesbian, gay and bisexual venues overwhelmingly favour and attract a young clientele.

For example, an older person said that his main problem is wanting to mix with younger people without being seen as predatory [7]:

"In the gay community you are old at 28. But you want the conversation and contact with people other than older people all the time. If you go to gay bars they tend to be for the young and I have been left waiting to be served while people behind me were served first, that sort of thing."

3.2 Access

One result of discriminating against people's sexual orientation is a lack of provision of appropriate services for lesbians, gay men and bisexuals in later life, such as housing, health and social care services, which recognise their existence and are responsive to their needs. This discrimination is often indirect, with a general lack of provision of mainstream services which meet older lesbians', gay men's and bisexuals' needs, as well as little recognition for the need to provide targeted services to lesbians, gay men and bisexuals.

There is also a general denial of older people's sexuality. Many service providers and key workers find it difficult to acknowledge and deal with older people as sexual beings due to embarrassment and tend to deny the importance of sexuality among older people [8]. This norm has implications for the provision of information on safer sex, which tends to be targeted at younger people. The language used about sex and relationships, even by health professionals, can be alienating or make information appear irrelevant to older people. Nearly all surveys of sexual health and behaviour tend to exclude older people, stopping at the over 50 or 55 age group.

There is little existing information, materials or guidance on this subject. The National Minimum Standards on care homes for older people [9] set out the core requirements for all care homes providing accommodation, nursing or personal care to older people. The standards do not explicitly deal with older people's sexuality or older lesbian's, gay men's and bisexuals' issues. Instead they provide a broader regulatory framework on issues such as privacy and dignity, dying and death, social contact and activities and protection from abuse.

One example of good practice is that during the mid 1990s Cheshire Social Services produced policy and guidance for staff about the sexuality for all their clients in residential care, including older people.

More recently Counsel and Care [10] have published a guide aimed at care homes and their staff, dealing with sex and relationships in homes. The guide makes some reference to issues relating to lesbians and gay men pointing out that those residents may feel 'particularly isolated' and that 'gay relationships between residents must be treated with the same respect as any other relationship.'

3.3 Social isolation

Older lesbians, gay men and bisexuals, whether they have 'come out' or not, may face greater social isolation due to both direct and indirect discrimination.

Often discrimination is indirect, with assumptions of heterosexuality a strong factor in social isolation. Examples where older lesbians, gay men and bisexuals may be indirectly discriminated against include:

- Living in rural communities, where there are few amenities for older people generally let alone for older lesbians, gay men and bisexuals. Transport problems may increase their social isolation from the mainly urban-based lesbian, gay and bisexual communities and social scene;
- Often older lesbians, gay men and bisexuals are isolated because of their invisibility. Unlike other minority groups within the population, such as black and minority ethnic elders, it can be difficult to identify people's sexuality in order to provide appropriate services. Many older people may be used to concealing their sexuality. Policies and practices which do not take into account older lesbians', gay men's and bisexuals' needs may compound their invisibility.
- The tendency of the media to focus on partnership issues can make single older lesbians, gay men and bisexuals feel even more socially isolated.

It is important to address issues of homophobia in later life, as the increasing physical and sometimes psychological dependency that can accompany the ageing process can make any older person feel vulnerable. However, the

increased possibility of experiencing homophobia and either a verbal or physical attack, combined with a heightened sense of vulnerability can increase older lesbians', gay men's and bisexual people's social isolation.

3.4 Consultation and involvement

'Open to all' policies and practices:

Open door approaches consist of policies, practices and services which are stated as 'open to everyone' without addressing the need to make direct provision for minority groups, such as older lesbians, gay men and bisexuals. However, such approaches can be ineffective and sometimes inappropriate. They are not sufficient, in themselves, to send a clear message to older lesbians, gay men and bisexuals, who may have experienced decades of discrimination, that they are welcome and can access services without further fear of discrimination. Specific promotion work is therefore required to engage older lesbians, gay men and bisexuals.

There is no clear evidence of whether older lesbians, gay men and bisexuals want specific services or not. Some studies have looked at this issue. For example, one study [5], from seven years ago, suggested that nine out of ten lesbians (91%) and three quarters of gay men (75%) welcomed the idea of separate accommodation for lesbians and/ or gay men. Some enthusiasm for gay-specific services is reflected in research evidence from the USA and Australia [11, 12, 13]. However, a study in the north-east of England showed an opposite preference [1].

Good practice examples:

Information gathered through Age Concern England's 'Opening Doors' Resources pack [1] and conference in April 2002 [14] has identified many examples of good practice in consulting and involving older lesbians, gay men and bisexuals, which should be disseminated, replicated and built upon:

- Age Concern Nottingham and Nottinghamshire forged working links with a local organisation called OUTHOUSE in 1999. OUTHOUSE will eventually become a community centre for older lesbians and gay men. It will include rooms that Age Concern can use to provide information and advice. Meanwhile, Age Concern and OUTHOUSE are maintaining close links and cross referring users as appropriate.
- Age Concern Waltham Forest liaised with a local group, Lesbian and Gay Action (LaGa), resulting in a workshop in 2000. The working relationship with LaGa has continued and a report on local needs is planned.
- In 2000 The Alzheimer's Society set up The Gay and Lesbian Carer's Network. Since then the network has established a telephone befriending service, produced a dedicated web page for gay and lesbian carers on the

Alzheimer's Society website, and publicised the service at gay pride events and in gay/lesbian publications.

- Based on research undertaken by the University of Brighton into the views and needs of older lesbians and gay men [15], Age Concern Brighton, Hove and Portslade have set up a Older Lesbian's and Gay Men's Forum, which provides social contact, and information service and acts as a campaigning group.

4. Public Policy

The policies and initiatives listed below demonstrate the changing societal and governmental attitudes towards homosexuality from a historical perspective. More recently Government appears to be willing to promote greater cultural diversity and has promoted policies to tackle discrimination on the grounds of sexual orientation.

Homosexual Law Reform Act 1967

Homosexuality was decriminalised in England and Wales, although its definition of 'in private' left many situations in which prosecutions could still be made. Scotland had to wait until 1980 and Northern Ireland until 1982.

Section 28 of the Local Government Act 1988

This clause states that no local authority shall 'promote homosexuality' nor the 'acceptability of homosexuality as a pretended family relationship'. Section 28 is highly controversial and widely disliked by the lesbian and gay communities and human rights groups. Although no local authority has ever been charged or prosecuted under section 28, Stonewall argues that the fear of its effect has hindered the work of local authorities in providing services and support to their lesbian and gay communities.

A move to repeal section 28 as part of the Local Government Bill was defeated in the House of Lords in July 2000. However, in March 2001, the then Home Secretary, Jack Straw, reaffirmed the Government's commitment to repealing section 28 [16].

1994

The age of consent for gay men was lowered from 21 to 18.

Human Rights Act 1998

The Act came into force in October 2000. It incorporates the European Convention on Human Rights into national law and guarantees a range of political rights and freedoms of the individual against the state including an individual's rights to privacy, freedom of religion, expression, association and assembly, to marry and found a family. These rights must be guaranteed to each individual irrespective of sex, race, sexual orientation and a range of

other grounds, providing litigants with a range of positive entitlements to assert when in dispute with any public body.

Parliament Act 2000

The age of consent for gay men was equalised with that of heterosexuals at 16.

European Framework Directive/ Employment Equality Directive (Article 13 of the Amsterdam Treaty) (2000)

The purpose of the directive is to lay down a general framework for combating direct and indirect discrimination on the grounds of religion or belief, disability, age, and sexual orientation as regards employment and occupation. The Directive must be implemented in the UK in relation to sexual orientation by December 2003 and in relation to age discrimination by December 2006.

Towards Equality and Diversity (2001)

The Government published its consultation paper 'Towards Equality and Diversity' setting out its proposals to implement the European Directive.

Supporting Inclusive Communities – Lesbians, Gay Men and Local Democracy (2001)

These joint guidelines have been produced by the Local Government Association, Employer's Organisation and the Association of London Government, with support from Stonewall. They are designed to address local authorities' concerns about their relationship with lesbian and gay communities in light of recent debates and changes including the duty of best value, the new statutory community strategies and the equalisation of the age of consent.

Civil Partnerships Bill (2002)

The Bill provides the framework for a legally responsible relationship of civil partnership. Couples who assume joint responsibility for their common affairs and who choose to enter a civil partnership, will have specified legal rights and obligations. Both same sex and heterosexual couples will be eligible to enter into the scheme upon satisfying qualifying criteria. The Bill provides a procedure for registration of the partnership and the legal consequences that follow.

The Bill, having passed two readings in the House of Lords, was withdrawn following an undertaking by Government to introduce its own legislation. Should Government legislation not be forthcoming, the Civil Partnerships Bill will be reintroduced.

Single Equalities Commission /Equalities Bill

In May 2002, the Government announced its intention to have a single, omnibus equalities body. It is intended that a single equalities commission will eventually be responsible for discrimination on all grounds, including age, sexual orientation and religion. The Government claims that the new body will

not just fight court cases but act as an advocate for "fairness for all", while reducing the regulatory burden on business. The new body may not be created for several years.

Renting Homes 2: Co-occupation, Transfer and Succession (2002)

In September, The Law Commission published a consultation paper dealing with the rights of tenancy succession. It proposes equalising the tenancy rights of co-habiting and / or same sex couples with those of married couples, giving them the right to take over the tenancy of their home after the death of their partner and extending family rights to two successions, so that children would also have the right to take over their parent's home even after the tenancy has already passed from one parent to another. Their proposals would remove a key area of discrimination against same sex couples under current law.

Court of Appeal Ruling (November 2002)

Since the publication of the above consultation, the Court of Appeal has ruled that it is discriminatory to differentiate between heterosexual couples living together as husband and wife and same-sex partners. The court used the Human Rights Act to overturn a House of Lords ruling that gay partners can be treated as members of the same family for the purposes of succeeding to a statutory tenancy, but are not entitled to the stronger rights of heterosexual partners living together as husband and wife.

The court held that limiting the right to pass on a tenancy to same sex partners was discrimination, in breach of article 14 of the European Convention on Human Rights.

5. Age Concern policy objectives

5.1 Research

- To promote the need to listen to the voices of older lesbians, gay men and bisexuals and provide them with opportunities to express them, either through existing frameworks such as 'Better Government for Older People', or the development of specific consultation groups.
- To highlight the need for further research on the needs and experiences of older lesbians, gay men and bisexuals in the UK:
 - a) To validate existing, mainly small-scale American evidence;
 - b) To improve national data on the socio-economic circumstances of older lesbians, gay men and bisexuals, for example, in rural areas; and
 - c) To assess the impact of government policies and schemes on older lesbians, gay men and bisexuals to see if they improve access to and the provision of services.

- To encourage the greater use of monitoring of take up of services and initiatives by older lesbians, gay men and bisexuals, to identify problems and any good practice, and to encourage the development of protocols covering issues of privacy to enable this to happen without discouraging take-up.

5.2 Public Policy

To promote the need for a strategic Governmental approach to understanding and meeting older lesbians', gay men's and bisexuals' needs and concerns;

- To promote the inclusion of older lesbians', gay men's and bisexual people's issues into mainstream policy-making and service delivery;
- To promote the need for social and legal recognition of same sex relationships through support of the Civil Partnerships Bill, to build equality into the frameworks that affect everyone's lives;
- To promote the need for legal mechanisms to address discriminatory actions or attitudes in the provision of goods and services on the grounds of sexual orientation

5.3 Service provision and practice

- To encourage the development of partnership working between policy makers, public service providers, mainstream voluntary organisations and lesbian, gay and bisexual groups, to enable older lesbians', gay men's and bisexuals' voices to be heard, to support and promote initiatives and to achieve lasting changes in attitudes and practice.
- To put the case to Government to promote the need for lesbian, gay and bisexual-friendly and inclusive statutory working practices, through staff training and other initiatives, to ensure that mainstream services are accessible;
- To promote the need for specific provision of housing, health and social care services, where demand is expressed by older lesbians, gay men and bisexuals.
- To raise the general public's awareness and understanding of issues facing older lesbians, gay men and bisexuals, through Age Concern's policy, media and campaigning work.

- To challenge ageism within lesbian, gay and bisexual organisations.

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