

Advice for Lesbian, Gay, Bisexual and Transgender (LGBT) refugees in Scotland



April 2011

LGBT - English

We value diversity and treat all individuals fairly, with dignity and respect.

Unfortunately, some people may suffer from discrimination and/ or harassment

because of their sexual orientation or the gender they identify with (gender identity). If you have suffered prejudice, harassment or persecution because you are lesbian, gay, bisexual or transgender (LGBT), and wish to claim asylum in the UK on this basis, this leaflet provides information about where you can get help, advice and information.



The 1951 Refugee Convention states:

“any person who - owing to a well founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion is outside the country of his nationality, and is unable to or, owing to such fear, is unwilling to avail himself of the protection of that country”

Until recently it was difficult for lesbian, gay, bisexual or transgender (LGBT) people to prove they met the above-mentioned criteria for claiming asylum in the UK. On 7 July 2010 a unanimous Supreme Court decision (ruling) - *HJ (Iran) and HT (Cameroon) v Secretary of State for the Home Department [2010] UKSC 31* – found that if people were persecuted because of their sexual orientation they should be offered protection by the Home Office. This ruling does not directly cover transgender cases but could be useful. Complete information about this judgment is available on the UK Supreme Court’s website:

http://www.supremecourt.gov.uk/docs/UKSC_2009_0054_Judgment.pdf

What does this decision by the Supreme Court mean for lesbian, gay, bisexual or transgender (LGBT) people?

If you are seeking protection because of your sexual orientation or the gender you identify with (gender identity), there is now further case law that may be helpful. It is important to remember that although barriers to applying for asylum on this basis have been removed, you will not necessarily be granted asylum in the UK.

The Court ruled that gay and lesbian asylum seekers should not be expected to protect themselves from persecution in their home country by concealing their sexual orientation. This ruling makes it more difficult for the Home Office to argue that you would be safe if you went back to your country of origin and concealed the fact that you are a lesbian, gay, bisexual or transgender.

The current UK Government's full coalition agreement published on 20 May 2010 includes the following statement:

"We will stop the deportation of asylum seekers who have had to leave particular countries because their sexual orientation or gender identification puts them at proven risk of imprisonment, torture or execution."

What should I do if I am lesbian, gay, bisexual or transgender (LGBT) and have suffered persecution in my own country because of my sexual orientation or gender identity?

If you have suffered persecution on the basis of your sexual orientation or gender identity, you should:

- Tell this to the Home Office at the **earliest possible opportunity**. Although this may be difficult, if you do not tell them about this, your credibility could be questioned and this could have serious implications on the success of your claim for asylum.
- Share this with a trusted adviser, such as one of our caseworkers, an adviser at another refugee organisation or your legal representative. Your adviser is there to help and everything you tell them is confidential. They will also be able to identify other professionals who can help you.
- Find or choose a legal representative knowledgeable in lesbian, gay, bisexual or transgender (LGBT) cases. If they are not experienced in this area, make sure they are aware of the case law as outlined above.

Who can help me?

Refugee agencies and voluntary sector groups

Refugee agencies, like Scottish Refugee Council, and other voluntary sector groups – including lesbian, gay, bisexual or transgender (LGBT) organisations – may help you find the information and support that you need. This can include helping you to access legal, health or social support groups. They can also help you if you suffer prejudice or discrimination, for example, in your accommodation or housing.

These agencies and groups will respect your privacy will not discuss your details with anyone unless you agree for them to do so. Confidentiality also applies to interpreters; they must act professionally and not discuss your information with anyone. You can also request telephone interpreting if you feel more comfortable talking to someone on the phone.

A list of other useful websites are:

Equality Network

www.equality-network.org/Equality/website.nsf/home?OpenForm

LGBT Youth Scotland

www.lgbtyouth.org.uk

Stonewall Scotland

www.stonewall.org.uk/scotland

Scottish Transgender Alliance

<http://www.scottishtrans.org/>

UK Lesbian and Gay Immigration Group

32-36 Loman Street, London, SE1 0EH

Tel: 0207 922 7811

<http://www.uklgig.org.uk/asylum.htm>

Reporting harassment

The police are also very helpful in supporting lesbian, gay, bisexual or transgender (LGBT) people. You may wish to contact their LGBT Liaison Officer.

If you are unable or unwilling to speak directly with the police, you can use a confidential third party reporting scheme. This allows you to report harassment to a trained volunteer at an agency such as Scottish Refugee Council (0800 085 6087). The person will take down all the details you provide and you can then choose whether you wish for the police to investigate.