

Creating Inclusive Workplaces for LGBT Employees

A Resource Guide for Employers in Hong Kong

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About Community Business

Community Business is a unique membership based non profit organisation whose mission is to lead, inspire and support businesses to improve their positive impact on people and communities. Community Business provides training, facilitation and advice to some of the world's leading companies in Corporate Social Responsibility (CSR) and its major areas of focus include CSR strategy, corporate community investment, diversity and inclusion and work-life balance. Founded in 2003 and based in Hong Kong, Community Business currently works with a number of organisations, small, medium and large, committed to CSR. For more information, visit www.communitybusiness.org

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Community Business thanks all the companies and individuals that took part in the stakeholder engagement in Hong Kong – either through participation in the facilitated discussion forums or by completing the anonymous online survey for LGBT employees and their workplace allies in Hong Kong. Community Business also thanks all the companies that agreed to be featured in this publication, for sharing their best practice in terms of policies and programmes for LGBT employees. These include both member and non-member companies of Community Business.

Finally thank you to members of the Community Business team, including Kevin Burns for project management and Sandy Chan for managing the design, print and production of this publication.

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FOREWORD BY GOLDMAN SACHS



"We are proud to be a sponsor of the Community Business study entitled 'Creating Inclusive Workplaces for LGBT Employees: A Resource Guide for Employers in Hong Kong'.

The report looks at some of the challenges faced by Lesbian, Gay, Bisexual and Transgender (LGBT) employees in Hong Kong from a historical, legal, and workplace perspective, and provides some very practical suggestions of what companies in Hong Kong can do to make their workplaces more inclusive.

At Goldman Sachs in Hong Kong and throughout Asia, our policies aim to treat all employees equally, without regard to sexual orientation, and our benefits plans apply wherever possible to same sex partners, as they would to opposite sex partners. We host training events to further educate our employees on how to be inclusive of LGBT people in the workplace and we have an active LGBT Network which runs several events throughout the year that are open to all of our people, helping to build greater visibility around our LGBT population and potential challenges they may face in the workplace.

Regardless of our actions to date, we recognise that there remains many challenges for LGBT employees in Hong Kong, where the culture has traditionally not encouraged people to be open about their sexual orientation or gender identity. We hope that this guide will help companies learn from some of the best practices that companies are already pursuing in Hong Kong, and that this serves as a starting point to open further discussions on what more we all can be doing to foster an inclusive environment.

Hong Kong has been Goldman Sachs' regional headquarters for more than twenty years. We have over 1,000 employees here, over 5% of which self-identified as LGBT in a recent confidential survey we conducted. It is crucial for Hong Kong — as a regional financial centre and a growing and dynamic economy — to fully explore the potential of its LGBT population and for companies to have fully inclusive policies that ensure everyone can work to the best of their potential. We firmly believe that creating an inclusive environment for all employees in all aspects of society is critical to the success of Hong Kong."

Paul Bernard
Mary Byron
Asia Diversity Co-Chairs
Goldman Sachs

FOREWORD BY IBM



"At IBM we are proud of our long history of honouring, valuing, and promoting diversity and inclusion in our workforce. For IBM, diversity is a defining and measurable competitive advantage and we consciously work to build diverse teams to better enable us to drive the very best results for our clients.

References to sexual orientation have been a part of our diversity and inclusion policies for over 20 years. In fact, IBM was one of the very first companies to globally and publicly formalise its commitment to our Gay, Lesbian, Bisexual and Transgender (GLBT) employees, including sexual orientation in our Manager's Handbook in 1984 and subsequently adding GLBT inclusion into our Equal Opportunity Policy.

Today, we seek to build on those groundbreaking efforts – celebrating and expanding an inclusive workplace where GLBT employees are valued, empowered to think freely and encouraged to express themselves fully. This culture frees our colleagues to think creatively, producing dramatic and innovative outcomes for our clients. This environment is also recognised and honoured by outside organisations, earning IBM the top score in the US Human Rights Campaign's Corporate Equality Index for seven years in a row and the number 1 ranking in the UK's Stonewall Workplace Equality Index in 2010.

We are delighted to be partnering with Community Business to raise awareness of LGBT issues in the workplace as we work on expanding our efforts in Asia. By working together to produce this LGBT Resource Guide for Employers we hope to encourage more companies to review their workplace policies and practices and drive positive change for the LGBT community in Hong Kong."

A handwritten signature in black ink, appearing to read "Andy Ho".

Andy Ho

**Vice President, Systems and Technology Group and Business Partners
LGBT Executive Sponsor
IBM Greater China Group**

AUTHORS' NOTE

Community Business has sought to establish itself as a thought leader on diversity issues as they relate to Asia. From the time of the launch of our first Diversity & Inclusion in Asia Conference back in November 2005, to the launch of our Diversity & Inclusion in Asia Network in 2007, we at Community Business have engaged with members of the corporate sector to create more diverse and inclusive workplaces for employees in Asia.

Through our research and events, Community Business has identified issues relevant to Asia and has made a conscious effort to put them on the corporate radar. Specifically, we have worked hard to challenge companies to think about what they are doing about the lack of Asian leadership, how to attract and retain the ageing workforce in Asia and what more they can do to employ people with disabilities. Once again we are looking to be a catalyst and drive the discussion on what has largely remained a taboo topic in Hong Kong and Asia – sexual orientation and gender identity in the workplace.

We recognise that this is a sensitive and for some even a 'controversial' subject – not just in Hong Kong but across the Asia region and in other parts of the world. For the most part, matters relating to sexual orientation and gender identity in the workplace are largely not addressed. Even for many multinational companies who may have progressive policies and programmes in the US and Europe, these are not implemented locally in Hong Kong. Despite calls for greater equality by some sectors of the Hong Kong community, the Hong Kong Government does not currently recognise same sex unions and there is no equal opportunity legislation on the grounds of sexual orientation or gender identity. This lack of legal support and protection can – and often does, result in difficulties for sexual minorities both in the community and the workplace in Hong Kong.

There is enormous scope for the corporate sector, and particularly international companies operating in Hong Kong, to drive positive change in this area.

Community Business, with sponsorship from Goldman Sachs and IBM, is looking to encourage companies to adopt best practice in promoting equality for lesbian, gay, bisexual and transgender (LGBT) employees. This resource guide is a first step in this regard - designed to inform and educate companies operating in Hong Kong. It highlights the business case for addressing the needs of LGBT employees and provides the cultural context for LGBT issues in Hong Kong. As a practical resource, it also provides a set of recommendations on what companies can do to create inclusive workplaces for LGBT employees and includes a number of examples of good practice.

It is envisaged that over time the recommendations outlined in this guide may become the basis for a corporate index for LGBT employees in Hong Kong – similar to the Human Rights Campaign's Corporate Equality Index in the US and Stonewall's Workplace Equality Index in the UK. It is also our hope that the development of a tool that encourages a proactive approach by the corporate sector will ultimately drive positive change for Hong Kong's LGBT community.

We commend our sponsors Goldman Sachs and IBM who have been the key drivers behind this initiative and through their various global accolades and awards have demonstrated their clear leadership in championing LGBT issues in the workplace. We are extremely grateful to our Advisory Group and network of individual contributors who have provided invaluable counsel and advice on how to approach this ambitious project. With their input and review we believe that we have created a resource that deals with this complex subject sensitively and in a way that is appropriate for Hong Kong.

It should be noted that as we planned this project we debated whether to include the topic of transgender or whether to just focus on issues relating to lesbian, gay and bisexual employees. There are arguments for both approaches. Indeed Stonewall in the UK consciously chooses to only address LGB as it believes that the issues for transgender individuals are very different. This is certainly true. However, others argue that the level of discrimination faced by transgender individuals is such that all efforts should be made to raise awareness and educate people on this issue. Consultation with our local Advisory Group has encouraged us to be bold and to be as inclusive as possible in our approach. We have followed their advice – and encourage you to do the same.

Finally, one of our core values at Community Business is one of collaboration and we are grateful to the many individuals and companies that have collaborated with us over the last few months as we developed this resource guide. Our stakeholder engagement on this subject continues and we welcome your opinions, comments or questions. We look forward to hearing from you.

Shalini Mahtani, MBE
Founder and Advisor

Kate Vernon
Head of Research & Marketing and
Head of Diversity & Inclusion

SECTION 1: SEXUAL ORIENTATION AND GENDER IDENTITY – A BUSINESS ISSUE?

Contributors: Mark Kaplan

Why LGB and T?

L, G and B stands for Lesbian, Gay and Bisexual and refers to sexual orientation. T stands for Transgender and refers to gender identity. So why do these two topics (and groups of people) get put together? Leading diversity specialist, Mark Kaplan, provides the following explanation:

“While not the only reason, it is likely because the common stereotypes for gay men and lesbians suggest that each is like or wants to be the other sex, and thus lesbians, gays, bisexual and transgendered people are seen as essentially the same. Because of this, sometimes these groups combine efforts and push for equal treatment based on both sexual orientation and gender identity. However these are two distinct and different aspects of diversity, each with its own set of challenges. Transgendered people’s experience has to do with their gender identity. Gender identity refers to how one experiences and expresses gender and biological sex. Sexual orientation refers to how one is oriented in love/romantic relationships. We all have a sexual orientation – whether it be heterosexual, homosexual, bisexual or asexual. And we all have a gender identity.”

For more clarity around terminology used when speaking about sexual orientation and gender identity please see Appendix 2.

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Why Should Businesses Care?

For many companies or business leaders who are asked to consider the issue of sexual orientation and gender identity in the workplace for the first time, the response is often ‘why?’ or ‘what has this got to do with business?’. An employee’s sexual orientation or behaviour are seen by many – and not just by those in Asia and Hong Kong, to be a private matter, that has little place for discussion in the corporate environment.

For those who have not addressed the issue before, the link between creating a supportive environment for LGBT employees and corporate performance may not be an obvious one. But when one considers the stress or effort involved in concealing one’s true identity and the resulting impact this may have on one’s effectiveness in the workplace, the connection becomes more obvious.

“For some constantly wondering whether to come out is an ongoing source of stress which can limit the quality and authenticity of their workplace relationships, sap their productivity, and even affect their health. Being closeted at work means being more guarded about participating in social activities and personal conversations, being less engaged, and as a result, being less authentic.”¹

Inclusive workplaces are good for business

The business case for addressing LGBT issues in the workplace starts therefore with the recognition that inclusive workplaces – environments that are free from stigma and bias, that accept people for who they are and that enable all to contribute to their full potential regardless of their background – are good for business.

“Fair workplaces are profitable workplaces, whether measured in a company’s bottom line, its market share, its broader consumer reputation, or its ability to attract and retain workers, managers or investors.”²

There is ample evidence and research to support the business case for creating inclusive workplaces for all employees – and this applies equally to LGBT employees.

Productivity and Performance

Productivity suffers when LGBT employees are on guard, worrying about the consequences of exposing such very basic parts of their lives as family and personal relationships. According to a study by the Human Rights Campaign (HRC), 54% of LGBT employees who are not open to anyone at work report lying about their personal lives.³ The inability to participate honestly in everyday conversations clearly hinders trust and cohesion with colleagues and superiors. However, when an organisation is clear and proactive about having an inclusive environment, LGBT employees have the opportunity to put all of their energy on work tasks.

A recent study of LGB employees in the UK by Stonewall, demonstrated a positive link between workplace climate and their own productivity and performance. Lesbian and gay respondents who feel able to be out at work and well supported by their employers, reported that they were significantly more effective, more motivated and built better working relationships with colleagues. Indeed, Stonewall states: “Concealing sexual orientation at work reduces productivity by up to 30 per cent.”⁴ Similarly a study by Catalyst in the US found that LGBT employees who work in organisations with employee networks, resource groups and/or mentoring programs are anywhere from 7% to 16% higher in their workplace experience scores.⁵ Feeling safe to be out at work is critical to being able to build important workplace relationships.

The Bottom Line: Companies that promote an inclusive and open working environment that enables individuals to bring their whole selves to work see a positive impact on productivity.

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Recruitment and Retention

In the war for talent, successful companies are continually working to attract and retain the best staff. Given that an estimated 5 to 10% of any working population is likely to belong to the LGBT community, it has become increasingly important to be able to show both a favourable reputation and a solid track record of inclusive practices, to attract this increasingly visible segment of the workforce.

The Bottom Line: LGBT employees have a choice where to take their talents, skills and experiences and are more likely to pursue their careers in organisations that promote an open and supportive environment.

Younger workers show evidence of being much more open to the legitimacy of all sexual orientations and gender expressions than prior generations and more likely to ask direct questions about a potential employer's diversity and inclusion practices. When a generational lens is put on the issue, the business case for an inclusive approach is even more compelling.

The Bottom Line: Forward-thinking companies will be able to distinguish themselves as preferred employers to the oncoming and more inclusive Millennial Generation workforce.

LGBT employees are more likely to stay with employers who practice inclusion. Stonewall in the UK found that LGB employees who are able to be out at work are less likely to leave.⁶ In a 2009 study by Catalyst, researchers found that LGB employees working in organisations with effective and inclusive diversity practices believed they had better workplace relationships, as well as greater organisational commitment and career satisfaction, than LGB employees working in organisations without them.⁷

The Bottom Line: Companies have the opportunity to reduce the cost of undesirable turnover, a significant expense with an average replacement cost of more than double a professional staff member's salary.

Market Share

Numerous studies have documented the financial opportunity presented by the LGB(T) market internationally.⁸ Often cited as being wealthy and with large disposable incomes, research has shown that the LGBT market is very loyal to companies that are inclusive in their practices.⁹ In addition LGBT consumers have been shown to be early adapters to innovative technologies.¹⁰

If companies are looking to attract this segment of the market they should be looking at ways to differentiate their brand in the minds of these consumers. Indeed HRC in the US has recently produced a Buying for Equality Guide¹¹ in the US. Recognising that as consumers we have the ability to make informed choices about our purchases and indirectly support companies that have good employment practices, this guide features those companies that have good policies and practices in place to support the LGBT community. There is increasing recognition of the value of the 'pink dollar' in Asia too. The Singapore based gay media leader in Asia, Fridae.com seeks to be the business community's primary conduit to the Asian gay community¹² and encourages companies in Asia to market to LGBT individuals, which it describes as 'a community you cannot afford to ignore'. It points out that LGBT individuals are known to be trendsetters, opinion leaders with high disposable incomes.¹³ In Hong Kong too, the organisation Fruits in Suits has set up a Hong Kong Gay Business Directory called 'FruitMix'.¹⁴ This is described as 'the premier online source for easy to locate gay and gay friendly businesses that serve the gay, lesbian, bisexual and transgender community, composed of professionals and organisations in Hong Kong and the Asia Pacific region'.

The Bottom Line: Consumers, LGBT or otherwise, have greater choice about where and how to spend their money. Companies that implement LGBT inclusive practices have the opportunity to differentiate their brand and access an engaged, loyal market that is worth in excess of US\$660 billion in 2006 (and expected to exceed US \$835 billion by 2011)¹⁵ just in the US - and likely trillions of dollars worldwide.

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Risk Management

Even in Hong Kong where there is no formal protection on the grounds of sexual orientation or gender identity, unfair or poor treatment of LGBT employees may lead to individuals taking complaints to the Equal Opportunities Commission and/or the media. Indeed there have been several recent cases relating to both gay and transgender employees that have made the media headlines. Such cases cause significant damage to corporate image and reputation which in turn can lead to a loss of client and customer confidence.

The Bottom Line: Companies that fail to develop clear policies and guidelines for their LGBT employees run the risk of having cases raised against them and tarnishing their corporate reputation.

In concluding the business case and persuading business leaders to take proactive steps to create an open and safe working environment for LGBT employees, it is worth highlighting some of the potential costs of not addressing the needs of LGBT employees.

Cost of Ignoring Needs of LGBT Employees

Clearly there is cost to the individuals at a personal level. Discrimination, harassment – even bullying in the workplace can lead to low self-esteem, demotivation, stress, anxiety and depression. For the organisation this can lead to low staff morale, increased absenteeism, decreased productivity, recruitment and retention problems – all of which ultimately impact the profitability of the company.

The Bottom Line: Prejudice has human costs for staff, but also bottom line costs for employers.¹⁶

Yet ultimately, the business case for creating inclusive workplaces for LGBT employees is the fundamental truth highlighted by lecturer and author on gay, lesbian and bisexual issues, Brian McNaught:

“that everyone in the world seeks the same thing: to know, accept, and affirm their unique selves in an environment in which they will feel safe and valued.”¹⁷



SECTION 2: THE HONG KONG CONTEXT

Contributors: Dr Mark E King
Roddy Shaw
Dr Sam Winter

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Overview

Ask the average person in Hong Kong about their attitudes towards sexual orientation and gender identity and the majority will respond with embarrassment.

“Our society has different values than the West regarding sex because we are more traditional and more Chinese.”¹⁸

Despite being a diversified and international city, Hong Kong’s culture can still be described as traditional and conservative in many respects. For the most part, lesbian, gay, bisexual and transgender individuals are not considered within the ‘norms’ of society and the majority of LGBT individuals in Hong Kong lead dual lives, concealing their identity for fear of facing rejection and discrimination. It is estimated that fewer than 5% of lesbians or gays are ‘out’ in the Hong Kong workplace. Indeed Hong Kong is a city where social pressures to conform and live up to family expectations are such that most struggle to tell their parents, let alone be open to their employers about their sexual orientation or gender identity. Lack of legal protection against discrimination, inadequate public education and awareness mean that ignorance and misinformation prevail. In a survey conducted by Civil Rights for Sexual Diversities¹⁹ and three other NGOs²⁰ in 2005-6, 78% of the respondents polled within the lesbian and gay community reported having suffered from discrimination and about half stated they had experienced ‘neglect in public policies like housing, social welfare, marriage and the tax system.’²¹

Yet Hong Kong is making progress and attitudes are changing. Some 1,200 people turned out for Hong Kong’s first official gay-pride parade in November 2008²² - far exceeding expectations and the number increased to nearly 2,000 in 2009. A more visible gay culture is emerging as evidenced by the popularity of Hong Kong’s own annual Lesbian & Gay Film Festival and the burgeoning of various gay groups and online resources.

Traditional attitudes may still be dominant, but the younger generation seems more open and tolerant than previous ones. And whilst government action is slow - Hong Kong stills falls short of providing legal protection on the grounds of sexual orientation and gender identity and there is no recognition of same sex partnerships, steps are being taken in the right direction. Indeed Hong Kong has been described as ‘one of the most progressive cities in the region.’²³ Unlike other countries in Asia, homosexuality is no longer a crime in Hong Kong, the age of consent has been equalised and a code of practice against discrimination in employment on the grounds of sexuality has been published. Clearly much more needs to be done, but gay rights activist, Roddy Shaw is optimistic about the future:

“With... LGBT activism going strong, judicial challenges in the pipeline, mass media generally sympathetic and legislators growingly including LGBT issues on their agenda, it is a bright future ahead for the Hong Kong LGBT community.”²⁴

In order to understand current attitudes towards sexual orientation and gender identity in Hong Kong, it is useful to take a look at the cultural and legal context.

The Cultural Context²⁵

Same-sex behaviour and gender variance have been consistent strands in Chinese culture. For much of Chinese history both seem to have enjoyed a guarded tolerance. Same-sex relations were apparently regarded as sexual play, with little social disapproval, so long as the participants eventually satisfied family and society expectations to marry and procreate. Much same-sex behaviour appeared to occur without implications for sexual identity, a situation that might be described as 'homosexuality without homosexuals'. References to same-sex behaviour are not uncommon in Chinese art, literature and history. Most are to male-male sexual relations, though some refer to female-female relations.²⁶

Attitudes appear to have changed in the late imperial era. The Manchu (Qing) dynasty (ruling from AD 1644) criminalised sodomy in AD1740. Yet enforcement of the law was unclear and in the succeeding Qing Dynasty art and literature made common reference to same-sex relations, and some early Western travellers to China expressed shock at the same-sex sexual behaviour they observed.²⁷ Western and Christian ideas about same-sex relations increasingly infiltrated Chinese attitudes, to the extent that by the 1949 revolution they were seen, along with much Western thought, as expressions of modern thinking and rejection of China's feudal past. However in post-revolutionary China, homosexuality was seen as a sickness or crime though this is at last now changing and it is no longer classified as a mental disorder nor is it illegal.²⁸

Throughout much of Hong Kong's British colonial period homosexual behaviour was regarded as a mental disorder. This continued until it was removed from key diagnostic manuals (the American Psychiatric Association's Diagnostic and Statistical Manual in 1973, and the World Health Organization's International Classification of Diseases in 1990; China's Ministry of Health followed suit in 2001). Homosexuality was also criminalised in Hong Kong until 1991 and incurred a maximum sentence of life imprisonment.

Today, according to Dr Sam Winter, "the view persists among much of the Hong Kong public that homosexuality is a mental disorder. As for transpeople, the Hong Kong medical establishment, in line with much of the rest of the world, views gender identity variant persons as mentally disordered, suffering from 'transsexualism' or 'gender identity disorder', depending on the manual used."²⁹

Family

The role of the family has a key impact on prevailing attitudes towards the LGBT community in Hong Kong. Historically the Chinese family has been characterised by a culture of patriarchy and male-domination; men inheriting property, brides becoming members of their husband's family's household and parents preferring sons to daughters. In sexual relations men enjoyed freedoms denied to women; many taking multiple wives and concubines where financial resources allowed, and others employing the services of commercial sex workers.³⁰

For Hong Kong LGBT people, family poses a twofold problem. First, young men or women sensing same-sex attraction or identifying as homosexual face the dilemma of whether to tell their parents and other family members. Many remain focused on this 'coming home' challenge (opening up to family members) for a long period, rather than on the challenge of a broader community-based 'coming out'.³¹ Secondly, moves by LGBT people towards forming stable relationships through marriage or civil partnerships, are viewed by much of Hong Kong society as undermining the concept of family and maintenance of the family line.

Chinese Terminology

Hong Kong Chinese lesbians and gay men often identify as tongzhi (literally meaning 'of the same intent'), a term appropriated in the late 1980s from the word for 'comrade' used by Chinese communists until after the Cultural

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Revolution (1966-1976). By using this term gays and lesbians sought to differentiate the Chinese experience of same-sex love, while at the same time seeking to present same-sex relationships as positive.³² Several terms are used by transpeople to describe themselves, for example yik sing je ('alter sex person'), bin sing yan ('change sex person') and kwa sing bit yen sih ('crossing gender person'). Such terms are seldom used outside the community, except by the more informed and in more formal media news stories.³³ Instead a more common term is yan yiu ('human monster').

The Legal Context

Is homosexual behaviour legal in Hong Kong?	Yes
When was homosexual behaviour decriminalised in Hong Kong?	1991
What is the legal age of consent for sexual activity?	16 years, regardless of gender and/or sexual orientation. (Lowered from 21 years in 2006).
Does Hong Kong have an Anti Discrimination Law on the basis of sexual orientation?	No. However, some claims of discrimination may be covered under the Sex Discrimination Ordinance.
Does Hong Kong have an Anti Discrimination Law on the basis of gender identity?	No. However, some claims of discrimination may be covered under the Disability Discrimination Ordinance.
Are same sex marriages or civil unions recognised by law in Hong Kong?	No
Is a transgender person's gender identity recognised by law in Hong Kong?	No

Decriminalisation of Homosexuality³⁴

Hong Kong was a British colony from 1842 until it reverted to Chinese rule on July 1, 1997. During this time, Hong Kong was subject to the British legal code which defined homosexual acts between men (but not women) as illegal in all circumstances. Although the Sexual Offences Act of 1967 decriminalised consenting homosexual acts in private between adult males over the age of 21 in England and Wales, all male homosexual acts, consenting or otherwise, remained illegal in Hong Kong. The legal situation regarding male homosexual sex in Hong Kong up until its reform in 1991 is outlined in a Hong Kong Government white paper:

"A homosexual act between men is in all circumstances a criminal offence under provisions proscribing gross indecency or buggery (anal intercourse). Gross indecency is not defined by statute. It covers any act involving gross sexual indecency between two men. The maximum penalty for an act of gross indecency between men is imprisonment for two years; for an act of buggery the maximum sentence is life imprisonment. It is immaterial to the offence that the acts take place voluntarily between two adults in private. If discovered, they would both be liable to prosecution and imprisonment."³⁵

After a series of homosexual scandals involving civil servants in Hong Kong in the late 70s and early 80s, the colonial administration tried to bring Hong Kong law relating to homosexuality into line with that of Britain. However, government plans to decriminalise homosexuality met with resistance from some sectors of Hong Kong's Chinese population who saw it as an attempt to impose 'decadent' western values on a 'traditional' Chinese society.

It was only in 1991, two years after the Tiananmen Square incident, when growing concern over human rights issues as Hong Kong approached the handover to China in 1997, as well as the need to monitor the spread of HIV infection, created an environment among the Chinese community in Hong Kong in which the colonial administration could bring the laws relating to homosexuality in line with those in Britain.

Anti-Discrimination Law

For some years there has been public debate in Hong Kong on the need for a Sexual Orientation Discrimination Ordinance (SODO) which would prohibit discrimination on the basis of sexual orientation.³⁶ There have also proposals by the organisation, Civil Rights for Sexual Diversities, to cover gender identity separately under a Gender Identity Discrimination Ordinance or an expanded Sex Discrimination Ordinance to include gender reassignment status, similar to the Sex Discrimination Act in the UK. However, the Hong Kong Government has so far withstood pressure from LGBT and human rights groups to present a bill to the legislature - stating that such legislation requires a certain level of public support and that the time is not right.

The fact that the government has not enacted the SODO is felt by many to put it in breach of its domestic and international legal obligations.³⁷ Indeed the United Nations Human Rights Committee (HRC) and the Committee for Economic, Social and Cultural Rights (CESCR)³⁸ have urged Hong Kong on a number of occasions to enact laws prohibiting discrimination based on sexual orientation.³⁹

Whilst government action has so far fallen short of formal legislation, it has taken some positive steps to address the issue. In 1996 the Home Affairs Bureau introduced a non-binding Code of Practice Against Discrimination in Employment on the Grounds of Sexuality.⁴⁰ This encourages employers to eliminate discrimination on the grounds of sexual orientation from recruitment, promotion, transfer, training, dismissal and redundancy as well as terms and conditions of employment.

Following Stephen Fisher's appointment as Deputy Secretary for Home Affairs in 2004, the Hong Kong Government also took proactive steps and established a Sexual Minorities Forum and a Gender Identity and Sexual Orientation Unit.

Sexual Minorities Forum

Formed with members from LGBT, human rights and civil society organisations to study and discuss solutions to eliminate discrimination based on sexual orientation and gender identity. The Forum invites government officials to appear before the Forum to explain their policies or lack of policies on issues of concern amongst the sexual minority community. Subjects previously discussed in the Forum include immigration issues for same-sex couples, sex re-assignment surgery arrangements, access to social services by the LGBT community as well as sex education and human rights education to foster understanding and respect for the LGBT community.

Gender Identity and Sexual Orientation Unit (GISOU)⁴¹

Set up to handle discrimination complaints filed by LGBT people. Although the unit does not have the power to adjudicate any complaints, it measures the nature and magnitude of discrimination suffered. In cases against public bodies, it facilitates dialogue and possible policy change with the relevant department or bureau.

Some Legal Protection

In addition many argue that current laws in Hong Kong do provide for some level of protection for the LGBT community. The Basic Law and the Bill of Rights Ordinance both prohibit discrimination based on 'sex' and 'other status'. Both strands can be interpreted as covering sexual orientation as well.⁴² Any discriminatory act or policy based

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on sexual orientation can be rendered illegal and unconstitutional on this basis. In addition, the Sex Discrimination Ordinance includes a provision against sexual harassment which includes harassment against lesbians and gays. A number of cases of gay and lesbian harassment have been brought to the Equal Opportunities Commission based on the provision. A sample scenario can be found in Appendix 3.

Discrimination against transgender persons can be claimed under the Disability Discrimination Ordinance based on the fact that a) Gender Identity Disorder is classified as a mental disorder under the diagnostic statistic manual and b) sex reassignment surgery involves a permanent loss of a body part and is thus considered a disability under the Disability Discrimination Ordinance. It is noteworthy though that the argument in b) applies only to post-operative transgender persons. To date a number of cases have been admitted by the Equal Opportunities Commission and many have been settled out of court on this basis.

Government's Position

Yet it is clear that the Hong Kong Government, characterised by what has been described as 'Confucian conservatism',⁴³ has difficulty with issues relating to the LGBT community. This leads to some inconsistencies in its approach. For example:

- In 2006, the Hong Kong Government initiated a survey on public attitudes towards homosexuality. Although the survey was conducted by an independent agency, the LGBT community and others seriously criticised its approach.⁴⁴ The survey asked, for example, whether the respondent believed that homosexuality should be regarded as a psychological disorder. The LGBT community argued that such a question was inappropriate since such a belief runs contrary to scientific facts.
- The findings of the same survey showed solid support for legislation against discrimination in employment (41.6%), education (37.3%) and provision of services, facilities and goods (37.2%). However, legislation has been delayed until some time in the future.
- In the meantime, the Hong Kong Government does not recognise same-sex marriages or civil unions – even those that have been legitimised overseas.
- The Births and Deaths Registration Ordinance prevents a person from changing his or her sex on a birth certificate on the grounds of his or her gender identity. Yet the Immigration Department accepts applications for changes related to a person's identity, including gender changes, on Hong Kong identity cards and passports.⁴⁵
- The government provides government-funded gender therapy and subsidies for sex-change surgery in a public hospital. However it does not recognise and honour a transsexual's new identity by allowing him/her to marry someone of the opposite sex.

For some LGBT individuals, supporters and allies in Hong Kong the government is seen to be working against the LGBT community rather than for it.

"As a gay activist since 1992, I believe the Hong Kong public is generally rational, knowledgeable and sympathetic toward lesbians and gays. I believe that the civil society and mass media are balanced, reasonable and generally sympathetic towards lesbian and gay issues. The government, however, is ambiguous, inconsistent and sometimes irrational over policies toward lesbians and gays."

Roddy Shaw

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Key Events in Development of LGBT Rights in Hong Kong

1980	MacLennan Incident ⁴⁶ which led to a lot of media attention given to homosexuality and the question of legal reform.
1986	Foundation of the Ten Percent Club in Hong Kong, an LGBT NGO set up by Dr Alan Li, a medical doctor to fight social prejudice, foster mutual support as well as to advocate for gay rights.
1991	Decriminalisation of homosexual behaviour in Hong Kong and the incorporation of the International Convention on Civil and Political Rights (ICCPR) into domestic law as the Bill of Rights Ordinance.
1992	Establishment of Horizons, the first gay telephone hotline.
1994	Working Group for Equal Opportunities Bill set up by legislators such as Anna Wu ⁴² , Christine Loh, ⁴⁷ Emily Lau, ⁴⁸ and other democrats, union leaders and academics. The bill proposed outlawing discrimination based on all common grounds, including gender, disability, marital and family status, sexual orientation, age, religion, ethnicity and past convictions.
1996	Government published consultation paper regarding discrimination on the ground of sexual orientation. ⁴⁹
1996	Sex Discrimination Ordinance and Disability Discrimination Ordinance enacted.
1996	Introduction of non-binding Code of Practice Against Discrimination in Employment on the Grounds of Sexuality by Home Affairs Bureau.
1997	Family Status Discrimination Ordinance enacted.
2000-2004	Home Affairs Panel set up a sub-committee to study the question of discrimination based on sexual orientation. A report was released recommending further studies on the question by the same Panel. ⁵⁰
2004	Sexual Minorities Forum set by the government to discuss issues concerning sexual minorities.
2005	Gender Identity and Sexual Orientation Unit (GISOU) set up to enhance equal opportunities.
2005	Government launched public telephone survey to assess public attitudes towards homosexuality.
2006	William Leung v HKSAR Case which challenged and overturned the unequal age of consent (21 for homosexuals and 16 for heterosexuals).
2008	Hong Kong's first official Gay Pride Parade.

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Key Issues for LGBT Individuals in Hong Kong

Against this cultural and legal background, LGBT individuals in Hong Kong face a number of specific challenges, both in their private and professional lives.

General Challenges

Cultural and family pressure

As highlighted in the previous section on the 'Cultural Context', cultural and family pressure are a significant challenge for many LGBT individuals in Hong Kong. Fear of going against cultural norms or anxieties about possible reactions of parents and other family members often prevent many from being open about their true identity or lead many same-sex couples to keep their relationships very private.

Same-sex marriages or civil unions

The lack of recognition in Hong Kong of same-sex marriages or civil unions can lead to discrimination against LGBT individuals in various aspects of life. Gay partners are denied, for example, next-of-kin rights (whether it relates to inheritance or hospital visiting, etc), dependent's visas giving their partners the right to live and work in Hong Kong, access to public (government) housing and married couple tax benefits. There are implications for transpeople too. According to the current law they may only legally marry those who identify and present in the same gender as they do. In short, a transwoman may only marry a woman, and a transman marry a man. As Dr Sam Winter highlights: "that transpeople may only marry homogeneously but gays and lesbians may not marry homosexually, is an irony not lost on the LGBT community."

Dependent's visas

All heterosexual spouse's of employees granted permission to work in Hong Kong automatically receive a dependent's visa which also allows their married partners not only to remain in Hong Kong but also to take up local employment. However, this does not apply to same sex married or civil union partners. This causes significant problems for companies looking to attract and retain staff who are not Hong Kong residents – or indeed any employees who have partners who are not locally employed. It is a particular issue for international companies looking to relocate staff to Hong Kong. Individuals are forced to find work around solutions that enable their partners to remain in Hong Kong such as leaving Hong Kong every 90 days and renewing their tourist visa. Likewise, the lack of official recognition for same-sex couples in Hong Kong may result in difficulties for Hong Kong individuals wishing to work or emigrate abroad with their partners.

Finding accommodation

Leaving marriage aside, those gay couples who decide to live together encounter further difficulties. Accommodation costs are high in Hong Kong and many young people live with their parents well into adulthood. Gay and lesbian partners find that, as unmarried couples, they have no rights to public (government subsidised) housing. Those who can afford to rent accommodation on the open market find some landlords refuse to rent out to gay couples.

Hong Kong Identity (ID) card

All Hong Kong residents must carry an ID card. This is often needed in dealing with commercial interests such as at banks and other financial institutions, when renting accommodation, and sometimes at entertainment venues and retail outlets. It is also needed when dealing with government agencies and institutions, including educational establishments, government offices, and immigration points. The ID card serves to discriminate against transpeople as it carries a gender marker so that, even if transpeople are otherwise able to present themselves as the gender they identify with, their ID card reveals the gender they were assigned to at birth. The Hong Kong Government,

aware of these difficulties, has compromised by allowing those who have undergone sex reassignment surgery (SRS) the opportunity to get a new ID card that reflects their gender. However, those who have not yet undergone SRS (or choose not to do so) have no such opportunity. However, as mentioned previously, even those who have undergone SRS and have obtained a gender-appropriate ID card, are unable to get a new birth certificate to affirm their gender status and thus find themselves in a legal limbo concerning marriage.⁵¹

Workplace Challenges

In gathering the content for this publication, Community Business engaged with stakeholders in Hong Kong – both employers and LGBT employees. This was done through two different approaches: facilitated discussions with employers and an anonymous online survey for LGBT employees. The objective of both exercises was to gain insight into some of the key issues for LGBT employees in Hong Kong, particularly with regard to workplace challenges and what action can be taken by employers to create more inclusive workplaces. It should be noted that this was not designed to be a representative study and that the findings are not necessarily the views of the whole corporate sector in Hong Kong nor all LGBT professionals.

Views of Employers

Community Business conducted two facilitated discussions with corporate representatives (who may or may not have been LGBT individuals) from a total of twenty-eight different companies. Participating companies were predominantly multinational companies operating in Hong Kong but also included a couple of local Hong Kong companies. Through the course of these discussions the following workplace challenges for LGBT employees in Hong Kong were highlighted.

Local culture

Several participants highlighted that the local culture in Hong Kong prevents people from talking about the issues of sexual orientation and gender identity in the workplace and for the majority of Hong Kong employees it remains a taboo subject. They talked about the family and social pressures that LGBT individuals face.

Culture of ignorance among colleagues

By far the most frequently cited challenge was what was described as ‘a culture of ignorance among colleagues’. Participants expressed the view that the general level of education and awareness in Hong Kong about sexual minorities, and the challenges they face, is low. For some this leads to prejudice and misunderstanding. For example some people in Hong Kong consider homosexuality to be ‘abnormal’ or even view it as a ‘mental illness’. For the majority however, the lack of awareness leads to a low comfort level in talking openly about the issue, a fear of making inappropriate comments and a general avoidance of the topic.

Direct harassment

A few referenced the challenge of direct harassment in the workplace for LGBT employees - such as gossip and bad mouthing in the office about an individual’s sexuality and personality. As one individual said: “there is general lack of awareness among staff regarding the need to treat all employees with professional respect and dignity, regardless of their sexual orientation or gender identity. As a result, anti-gay attitudes are prevalent, as manifested by open ridicule of gay people.”

Concern about impact of ‘coming out’

Some participants shared the view that LGBT employees in Hong Kong are concerned about the impact their ‘coming out’ might have in the workplace. With little formalised process or precedent, there is uncertainty about what the response might be – from both colleagues and the organisation. LGBT individuals are also concerned that their ‘coming out’ might have a negative impact on their career and chances of advancement. Others highlighted that

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although their firms might be supportive, they were concerned about the reaction and comments from peers and feared being isolated in the workplace. An additional concern expressed about coming out at work was the fear that the news may find its way back to one's family. As many LGBT individuals are not open about their sexual orientation or gender identity at home, they may view coming out at work as too big of a risk to take.

Concealing their identity

Clearly for many of the reasons highlighted above, many cited a key challenge for LGBT employees is concealing their identity - or to quote one individual, "hiding our sexuality for fear of it being used against us." Others talked about their inability to reveal their true identity and bring their 'whole selves' to work. Examples mentioned were not discussing family life with colleagues whenever it is being discussed during official lunch and dinners. This issue can be particularly challenging for Hong Kong employees where there are many family events and holidays and the expectation of bringing along a partner. The challenge of concealing one's identity extends to beyond the workplace too; being a fairly small place it can be difficult to go out anonymously in Hong Kong and not bump into colleagues.

Lack of training and awareness of diversity issues

For many participants the lack of effective and comprehensive training on diversity issues, including LGBT subjects was seen as a key challenge. This was discussed with reference to not just general employees and management, but also to human resource departments who are not always seen to be equipped to deal with such issues.

Lack of process to deal with LGBT issues

Participants also highlighted that many LGBT employees suffer in Hong Kong because there are a lack of processes in place for dealing with LGBT related issues - whether it be coming out in the workplace or dealing with grievance issues. With no such guidelines often companies simply do not know how to deal with certain situations and struggle to find an appropriate approach.

Unequal access to benefits

Many participants talked about the unequal access to benefits for same sex partners in Hong Kong. In particular they mentioned the lack of extension of health care benefits to same- sex partners and the lack of eligibility to certain policies such as taking sick leave to care for ailing partners. It was highlighted that sometimes this was the fault of the (insurance) service provider rather than the company itself – although clearly a company has a choice about the insurance provider it chooses to use. The challenge of dependent's visas (mentioned on page 16 of this report) was also raised.

Lack of corporate support

Many participants said that the lack of corporate support was a challenge for LGBT employees in Hong Kong. In particular they referenced that often corporate policies did not clearly articulate the company's commitment to diversity with specific reference to LGBT issues. One individual mentioned the lack of regular communication from the human resources department reinforcing the message that discrimination or harassment on the basis of sexual orientation or gender identity would not be tolerated. Participants also pointed out that there are often no forums to raise issues relating to LGBT and a lack of networks or opportunities to connect with other LGBT employees.

Unconscious bias in policies and practices

Some participants talked about the challenge of unconscious bias in many corporate policies that serves to discriminate against LGBT employees – either directly or indirectly. They focused especially on the lack of use of inclusive language in corporate communications. Reference to 'family' or 'spouses' for example can be perceived as discriminatory and lead to LGBT employees feeling excluded. In addition certain corporate activities - such as celebrating the birth of a child or family photo competitions, can alienate LGBT individuals. Included in this

discussion was the fact that LGBT employees can feel uncomfortable attending social and business events where there is an expectation to bring a partner.

Lack of openly gay role models

Participants highlighted that in Hong Kong there is a lack of openly gay leaders or visible role models. This was seen to be important not only in terms of 'normalising' the issue and creating an environment where it is acceptable for individuals to be open about their identity in the workplace, but also in terms of showing that career progression for openly gay individuals is possible in their organisation.

Dealing with customers

Some participants mentioned that whilst companies might be accepting of their sexual orientation or gender identity internally, it was made clear to them that they were expected to behave as if they were heterosexuals externally or when dealing with clients and customers.

No external body to refer to

It was highlighted that a key challenge in Hong Kong is that there is no external body, equivalent to Human Rights Foundation in the US or Stonewall in the UK that LGBT employees can refer to for advice. (It should be noted however that Civil Rights for Sexual Diversities in Hong Kong provides advice and assistance to cases of possible discrimination, harassment and rights violation.)⁵²

Views of LGBT Employees

In addition Community Business conducted an anonymous online survey targeted at LGBT employees and their workplace allies in Hong Kong. The online survey was prepared in English and Chinese and was promoted on Community Business' website as well as to various LGBT networks in Hong Kong. Over 130 people responded to the survey, including 101 in English and 36 in Chinese. A summary of the survey findings, including the profile of respondents can be found in Appendix 4. The top 10 challenges cited by both English and Chinese language survey respondents are summarised in the table below. It can be seen that there is overlap with the views expressed through the facilitated discussions.

Top 10 Challenges for LGBT Employees in Hong Kong

[Source: Community Business Anonymous Online Survey for LGBT Employees and Their Workplace Allies in Hong Kong, Feb/March 2010]

- 1. Coming out generally (cultural, social and family issues)**
- 2. Coming out at work**
- 3. Ignorance of colleagues**
- 4. Concern about negative effect on career**
- 5. Lack of benefits extended to same-sex partners**
- 6. Fear of name calling and retaliation**
- 7. Legal environment (lack of protection and visa issues)**
- 8. Pressure from conservative groups**
- 9. Lack of non-discrimination policies**
- 10. Isolation in the workplace and connection with other LGBT employees**



SECTION 3: CREATING INCLUSIVE WORKPLACES FOR LGBT EMPLOYEES

An Approach for Hong Kong

As we seek to encourage companies in Hong Kong to create more inclusive working environments for LGBT employees, Community Business has put together a number of recommendations. These have been developed through a structured process.

1. Drawn from international best practice

Community Business started by sourcing criteria from international LGBT indexes such as HRC's Corporate Equality Index⁵³ and Stonewall's Workplace Equality Index,⁵⁴ taking into account not just the current versions but earlier ones too. In addition Community Business reviewed Out & Equal Workplace Advocate's '20 Steps to an Out & Equal Workplace'⁵⁵ and the '10 Equality Principles'.⁵⁶ These were combined to form a consolidated list of recommendations.

2. Reviewed and localised for Hong Kong

Community Business, its sponsors and members of its Advisory Group reviewed these recommendations, removing those that were considered duplicates, not appropriate or too early for Hong Kong, categorising, localising and rewording the statements as necessary.

3. Validated by local stakeholders

The proposed list of 18 recommendations in 8 categories were reviewed by participants at two separate stakeholder engagement sessions facilitated by Community Business in February 2010. Their role was to assess how important and how realistic they considered each recommendation to be for their company operating in Hong Kong.

As a result of this process we believe that we have developed a set of recommendations that are appropriate and realistic for companies operating in Hong Kong. The recommendations fall into the 8 categories listed below:

1. Equal Opportunity Policies

2. Diversity Training

3. Diversity Structure

4. Benefits

5. Corporate Culture

6. Market Positioning

7. Monitoring

8. Community and Advocacy

It is recognised that the majority of companies in Hong Kong are at the early stages of their diversity journey and may be looking at this topic for the first time. Nonetheless, companies are encouraged to recognise the business case, to honour their role as responsible employers and to take the lead and differentiate their workplaces as great places to work for all employees – including LGBT professionals.

Please note, we have referred to LGB and T throughout rather than just LGB. This is because we want to encourage as comprehensive approach as possible. However, some companies may not feel ready to focus on transgender issues, but nonetheless, should seek to follow the recommendations with relation to their lesbian, gay and bisexual employees.

Recommendations for Employers

The symbol '►' denotes those recommendations that were deemed both important and realistic by the majority of participants in the local stakeholder engagement.

1. EQUAL OPPORTUNITY POLICIES

- Ensure equal opportunity policy for Hong Kong includes sexual orientation and gender identity or expression
- Prohibit discrimination based on sexual orientation and gender identity or expression as part of written employment policy statement in Hong Kong
- Develop policy and procedure in Hong Kong for handling LGBT related bullying and harassment or workplace grievances and complaints

Ensuring a comprehensive policy that includes issues relating to sexual orientation and gender identity or expression is a critical starting point for any company looking to create safe and productive working environments for LGBT employees. Given that the level of understanding of issues relating to LGBT is generally low and to avoid misunderstanding or confusion, it is advisable for companies to define the specific terms used in the policy, such as 'sexual orientation' (a person's physical and/or emotional attraction to someone else) and 'gender identity and expression' (a person's internal sense of gender, which may or may not align with the gender assigned at birth, as well as how a person behaves, appears or presents oneself with regard to societal expectations of gender). Appendix 2 of this guide which provides a list of LGBT terminology and definitions should be useful in this respect.

The policy should also provide a written declaration that discrimination on the grounds of sexual orientation or gender identity or expression is prohibited and will not be tolerated. It may be useful to provide examples of anti-gay bullying and harassment and types of behaviour that are deemed unacceptable. If this statement is to be taken seriously, it is critical that companies develop not just a policy but also a procedure for handling any LGBT related issues – whether direct acts of bullying or harassment or other workplace related grievances. This point is extremely important for employers in Hong Kong, for it could be argued that if companies do not have procedures in place to handle such issues they are potentially failing their legal obligations. As mentioned on page 14, harassment on the grounds of sexual orientation may be regarded as sexual harassment and therefore in breach of the Sex Discrimination Ordinance; whilst harassment on the grounds of transgender may be regarded as disability harassment and therefore in breach of the Disability Discrimination Ordinance. Regardless of the legal situation, having a procedure in place is critical to supporting both LGBT individuals and their managers in dealing with potentially sensitive and unfamiliar situations.

2. DIVERSITY TRAINING

- Provide diversity training to all employees in Hong Kong, with specific reference to LGBT issues

Education and awareness is the first crucial step in overcoming prejudice and stereotypes and creating a positive workplace culture. This is particularly true when it comes to a subject as sensitive as sexual orientation and gender identity. As Brian McNaught points out:

"Ignorance (or lack of exposure) is the parent of fear and fear is the parent of hatred. Anyone who has been to a foreign country and not known the language understands that [their] possible discomfort with gay and transgender issues is because they don't know the language."⁵⁷

In developing their broader programme of diversity training, companies are advised to incorporate the subject of LGBT, providing clarity on the terminology, the issues involved and the policies in place to support. For those that who are concerned that LGBT training may not be appropriate in Asia or that their employees in Asia may not be receptive, leading diversity trainer Mark Kaplan has this to say:

"After conducting workshops with more than 600 participants from several companies across Asia, I have found a high level of openness and curiosity - a real desire to learn how to create an LGBT-inclusive culture. This is counter to the stereotypical notion that Asians are not open to learning on LGBT issues. To the contrary, many see this as critical to being successful in an increasingly global business environment."

Companies may choose to deliver such diversity training through a variety of means, be it online or classroom based, with the use of external trainers or in-house diversity or HR practitioners. What is important is that the training is delivered to, or undertaken by, employees at all levels of the organisation – from new recruits through to senior managers.

Some companies have taken further steps to promote a positive workplace culture towards LGBT employees by making management accountable and including LGBT diversity objectives in their performance.

CASE STUDY 1

Organisation: Credit Suisse

Diversity Training

Credit Suisse recognises the importance of educating and raising the awareness of its employees on diversity and inclusion issues, in Hong Kong and globally - as part of the overall new employee induction process and as part of leadership development. For the latter, the company believes that senior leaders play an important role in managing diverse teams and in ensuring they foster an environment where innovation and opportunity can thrive. The company has previously engaged external trainers to run sessions for managers focused on Creating One Franchise Through Inclusion - managing all employees to full potential, providing them with the skills and resources needed to ensure that 'differences' including LGBT are not just acknowledged and accepted, but leveraged for business outcomes and competitive advantage. The emphasis is on the importance of ensuring all individuals feel valued for their contribution and looking to promote a workplace which empowers employees and ensures managers are aware of the role they play in creating a safe and inclusive workplace culture where LGBT individuals are free to be themselves.

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3. DIVERSITY STRUCTURE

- ▶ Ensure there is a person, team or working group with responsibility for addressing LGBT issues
- ▶ Establish and support an LGBT employee network in Hong Kong - where there is interest
- ▶ Identify an executive sponsor for LGBT issues in Hong Kong

As with all aspects of diversity, it is important to set up an appropriate diversity structure to support a company's diversity efforts. Some companies establish formal diversity councils or working groups, often at a regional level to address different diversity interests. Whether a company has a formal structure or it is simply part of the responsibility of the human resources function, what is important is that a company nominates a specific individual to be responsible for addressing LGBT issues. This ensures that matters relating to the LGBT community are appropriately championed and addressed. Indeed where possible, the individual or team should be responsible not just for dealing with problems related to LGBT but also proactively promoting greater LGBT diversity within the organisation.

CASE STUDY 2

Organisation: UBS

Diversity Working Group and Senior Management Support

To provide more support for employees of diverse sexual orientation in Hong Kong, UBS set up a working group chaired by a senior manager and consisting of LGBT and non-LGBT employees across different business areas. The working group meets quarterly and provides a forum for discussion of how the firm can progress the development, retention and recruitment of employees of diverse sexual orientations. Over the past two years the group has made significant progress in updating policies available to LGBT employees and making them inclusive where possible. The group also hosts internal LGBT awareness events, has set up an internal Pride network group and participates in the Hong Kong Interbank LGBT Forum. The success of creating further awareness and understanding of LGBT issues in the workplace at UBS is accredited to the support and commitment the working group receives from its senior management. Without senior management sponsorship, it is challenging to create a climate where diversity is valued.

As highlighted in earlier sections of this guide, LGBT individuals in Hong Kong face many personal and professional challenges. There is great support to be found from being part of a network and formalised employee networks are a popular approach in many multinational companies. Such networks provide not only a support mechanism for employees who share common interests or concerns, but equally important a forum or channel to express views or raise issues of concern to the company.

Given the cultural context of Hong Kong, the formation of an LGBT network needs to be thought through carefully and handled in a way that is sensitive and appropriate. It may be, for instance, that LGBT employees, particularly those who are not 'out' in the workplace, are uncomfortable in taking part. Or, if not properly communicated or supported by the company, there may be backlash and opposition from other employees. The success of an LGBT network is ultimately dependent on the support offered by the company and the openness of the wider corporate environment.

A company should be willing to allow LGBT employees to use its facilities, electronic and other resources to form an officially recognised group if there is interest in doing so. If there is not sufficient interest from employees internally, or there is a sense that LGBT employees are not yet ready to self-identify, it may be worth promoting the work of a cross-company or non-corporate LGBT network, such as the Hong Kong Interbank LGBT Forum and Fruits in Suits in Hong Kong – both of which organise regular activities and events.

CASE STUDY 3

Organisation: IBM

EAGLE Network

IBM's EAGLE (Employee Alliance for Gay, Lesbian Bi-sexual and Transgender Empowerment) Network, launched officially in 1995, is designed to promote a safe and open working environment for LGBT employees. Today EAGLE provides LGBT employees around the world with opportunities for professional and social networking, mentoring and career development, participation in community outreach programmes as well as input into IBM's overall business strategy. For example, EAGLE's mentoring initiatives ensure that LGBT employees have someone to talk to in confidence about LGBT issues at work, share experiences and offer coping strategies and solutions. At IBM the EAGLE Network serves as a critical business function. The company's Global LGBT Sales Team, the only dedicated sales team of its kind, has leveraged EAGLE's client networks to identify new business opportunities in traditional and emerging markets worldwide.

Recognising that the acceptance level and understanding of issues relating to LGBT was low in Asia, IBM initiated discussions around diversity, and LGBT issues in particular, with its managers in management meetings. In 2008 and 2009 a senior openly gay IBM executive, the Co-Chair of the Global Diversity Council, also conducted a number of roundtables in the region. This created the environment where a couple of local employees in Greater China (including Mainland China, Hong Kong and Taiwan) were willing to come out and champion the launch of a local network. In March 2009, IBM introduced the Greater China Chapter of the EAGLE Network and in the first month, EAGLE saw an increase in membership from 2 to 20. Drawing in the network's global resources and support, the EAGLE leaders design and implement programmes that are specifically tailored to local culture and environment. The network plays an important role in creating a supportive workplace for LGBT employees across the Greater China region, providing advice on appropriate language and behaviour and assisting with the induction of new LGBT hires.

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CASE STUDY 4

Organisation: Bank of America Merrill Lynch

LGBT PRIDE Resource Group

Bank of America Merrill Lynch is committed to ensuring the workplace is inclusive and that associates feel valued. Globally, the bank supports LGBT individuals through its LGBT PRIDE Resource Group and in Asia Pacific through LGBT Pride Asia Pacific. LGBT Pride helps promote a safe and equitable workplace for LGBT associates and fosters a work environment that attracts and retains the best LGBT talent. It serves as a resource to its members and all levels of management by focusing on issues important to the LGBT community and by organising activities for its members and allies to meet, mentor, network and support one another. LGBT Pride Asia Pacific consists of sub-chapters in Hong Kong, Singapore, Japan and Australia. It began in 2007 with a focus on raising awareness through education and networking as well as fostering an environment of mutual understanding. It has made great strides regionally and locally through programs and partnerships including the Hong Kong Lesbian and Gay Film Festival, the Hong Kong Pride Parade Committee, the Hong Kong Interbank LGBT Forum and Horizons. It has won recognition for its support in helping associates and others understand LGBT issues and challenges, whether they impact the individual directly, their family or a friend. The group has assisted associates with such issues as “What is the difference between sexual orientation and gender identity” to subjects like “How to be a parent of an LGBT child” as well as how to approach topics like transgender and coming out about your sexual orientation at the office. These conversations have helped managers and associates alike to support an open dialogue for a more inclusive work environment.

Building on the message of corporate support, it can be enormously helpful for a company to identify an executive sponsor, or someone at a senior level, who is happy to be an advocate of LGBT issues. Indeed 90% of companies in Stonewall’s Top 100 Employers 2010 had a senior champion at board level.⁵⁸ That person may or may not be an LGBT individual; what is important is that he or she is willing to engage with LGBT employees and where appropriate champion their interests or represent their views – either to senior management or in general employee communications. Hong Kong in general lacks senior openly gay role models and based on experience with other employee groups such as women, it is clear role models play a key part in supporting, encouraging and inspiring others.

4. BENEFITS

- ▶ Offer same benefits to employees in Hong Kong to cover their same-sex partners regardless of the employee's marital status, sexual orientation, gender expression or gender identity
- ▶ Offer LGBT-specific benefits or support, such as counselling or mentoring to employees in Hong Kong

As highlighted in the earlier section of this guide, one of the biggest areas of concern for LGBT employees in Hong Kong is that because same-sex partnerships are not legally recognised in Hong Kong, most companies do not offer same sex partners the same benefits as spouses. This particularly impacts financial benefits such as: healthcare provision, dental care and retirement benefits. However, it also extends to softer benefits, such as bereavement leave, employee assistance programmes and relocation assistance. Whilst coverage is extended to an employee's husband or wife, for many companies it is not extended to their partner (heterosexual or otherwise). Whilst it may not be a legal requirement, employers that wish to be employers of choice and fair employers are encouraged to go beyond the law and ensure they offer equal benefits to partners, including same-sex partners. This requires individual employees sharing details of their same-sex partners and therefore companies need to handle the issue of data privacy and confidentiality carefully.

Recognising that many benefits are geared to heterosexuals and families, it is recommended that companies also take the time to consider the specific needs and interests of their LGBT employees. Companies may wish to consider an audit of all benefits and policies. In recognition of the challenges that LGBT individuals face, it is recommended that companies offer LGBT-specific support, such as counselling or mentoring to their employees in Hong Kong.

CASE STUDY 5

Organisation: British Council Hong Kong

Equal Benefits

At the British Council treating people equally is embedded into everything that they do and this applies when it comes to offering benefits to same sex partners too. All nominated partners of employees, locally hired or international staff, teachers or office based staff, are entitled to the same benefits as a legal spouse. This includes: basic medical cover (in and out patient care), dental care as well as relocation benefits and annual leave flights between Hong Kong and the UK. The British Council believes that its inclusive approach, a hallmark of the organisation's overall philosophy, is a major differentiating factor when it comes to recruitment and retention of staff – particularly in a conservative working environment such as Hong Kong.

Health insurance cover is a significant issue for transgender employees. Most insurance plans do not cover 'transgender treatment' which refers to sex-reassignment and related treatment as defined by the World Professional Association for Transgender Health (WPATH).⁵⁹ In addition many corporate health insurance policies have a 'transgender exclusion clause' which denies or excludes transgender employees from coverage for commonplace treatments and procedures that are otherwise covered for most employees. As HRC points out, transgender-inclusive health benefits are critically important for many transgender people and are historically of insignificant cost to an employer.

Employers are therefore encouraged to examine their insurance policies and ensure that they offer transgender-inclusive coverage for at least one type of benefit, whether it be: counselling by a mental health professional; pharmacy benefits covering hormone therapy; medical visits to monitor the effects of hormone therapy and other associated lab procedures; medically necessary surgical procedures such as hysterectomy; or short-term disability leave for surgical procedures.⁶⁰

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5. CORPORATE CULTURE

- ▶ Engage with LGBT staff in Hong Kong via: posters, emails or intranet pages, diversity meetings, etc
- ▶ Communicate to all employees in Hong Kong about how the company supports and values its LGBT workforce

The over-riding corporate culture of an organisation will go along way to determining how accepted and comfortable LGBT employees feel. This can be articulated in a number of ways. Firstly companies are advised to engage with LGBT staff in Hong Kong on a regular basis. This might be via posters, emails or intranet pages, or through specific diversity meetings and forums. As they do so companies should make a conscious effort to ensure they develop activities that appeal to all segments of the employee base and use language that is inclusive, paying attention not to use phrases that might alienate certain groups. As far as possible communications should come 'from the top' with a company's senior leader mentioning equality issues as part of his or her regular communications. Secondly companies are advised to take steps to communicate to all employees in Hong Kong about how the company supports and values its LGBT workforce. As Brian McNaught says:

"Companies need to ensure that their gay, lesbian, bisexual, and transgender employees feel welcome and valued for the unique contributions they can make. To communicate their goals of attracting and retaining the best and brightest gay and transgender employees they need to effectively advertise their commitment to valuing all diversity."⁶¹

CASE STUDY 6

Organisation: Goldman Sachs

Corporate Culture

Goldman Sachs sees ensuring an open and inclusive corporate culture as critical to business success – and this extends to its approach to LGBT. Unlike other strands of diversity, matters relating to sexual orientation and gender identity may not be immediately obvious in the workplace. That's why Goldman Sachs proactively works to raise the visibility of LGBT issues and has a number of programmes and initiatives in this respect. In addition to its comprehensive diversity training which includes a module that focuses exclusively on sexual orientation and is attended by employees of all levels, the company takes steps to communicate regularly about and to its LGBT community. Updates on news and events relating to LGBT are provided through:

- a dedicated Asia LGBT intranet site;
- a diversity newsletter distributed by email to all employees; and
- senior leadership-hosted quarterly forums held across Asia and including diversity topics.

The month of June is designated as Asia Diversity Month and coincides with the firm's global Pride month so LGBT activities are widely promoted. Of particular note, is the firm's practice of sending out an email on an annual basis to all employees reminding them of LGBT-specific benefits, in particular equitable benefits that are available to employees and their partners, regardless of their gender or marital status. The firm believes that this open and proactive approach has a positive impact on the corporate culture. It creates an environment where all employees feel gradually more comfortable addressing the subject and participating in LGBT related events – and LGBT employees themselves feel valued and respected.

6. MARKET POSITIONING

- Engage in respectful and appropriate marketing to the LGBT community in Hong Kong

Looking beyond the workplace, it is important for companies to think about how they approach the wider LGBT community in the external marketplace in Hong Kong. Indeed the external LGBT community presents an enormous opportunity for companies – whether it be for recruitment or business purposes. In the struggle to attract bright young students, some companies in Hong Kong are already targeting their recruitment efforts at LGBT students, seeking to differentiate their brands in the eyes of prospective candidates. As HRC highlights:

“Professional recruiting events provide employers the opportunity to engage LGBT and allied employees in bringing new talent to the organization, and provide attendees the opportunity to speak directly to LGBT and allied employees about their workplace environment and prospects as an LGBT professional and other insider tips.”⁶²

From the business perspective, the LGBT community represents a sizeable market segment. Whilst no figures are available for Asia, the value of the so-called ‘pink dollar’ in the US is estimated to reach US\$835 billion by 2011.⁶³ As companies begin to focus their marketing efforts on capturing the market share of the LGBT community, it is important to do so in a way that is respectful and appropriate – and this should be reflected in the use of appropriate images and language. Stuart Koe, CEO of Fridae.com provides the following advice to companies:⁶⁴

DO	DON'T
<ul style="list-style-type: none">• Include gay channels as part of a larger media strategy• Review messages so as to not alienate target audience• Maintain branding consistency• Establish and build rapport with the community• Listen to feedback	<ul style="list-style-type: none">• Apply a generic approach• Use stereotypes• Assume Western model is applicable to Asia• Limit to a single channel• Expect magic with a single campaign• Resort to ‘sex sells’

CASE STUDY 7

Organisation: Fruits in Suits

Market Positioning

Established in 2004, Fruits in Suits (FinS) is a LGBT informal monthly professional networking event that takes place in Hong Kong. It is dedicated to fostering access to and information about gay owned, gay operated, gay friendly and gay employed business in the Hong Kong and Asia Pacific region. Its events are held on the third Tuesday of every month where like-minded people come together in an exclusive private venue. Through a series of regular events, FinS showcases businesses from the LGBT community and those who wish to market to that community. As of Jan 2010 the organisation had nearly 1000 members, mostly professionals - from lawyers and bankers to teachers, community workers, journalists, businessmen/women and young professionals just starting out in the workforce. However, as the marketing material highlights: “... whatever our members’ professions, FinS is for everyone and you do not have to wear a suit!” For location and more information, see: www.fruitsinsuits.com.hk

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7. MONITORING

- Include gender identity and sexual orientation as an optional data point in Hong Kong employee surveys or data collection forms
- Track recruitment and career development metrics for LGBT employees in Hong Kong who choose to self-identify
- Track complaints or grievances reported involving LGBT employees

Whilst data privacy and protection is a sensitive subject when looking to track any employee group, it is particularly so for LGBT employees because of the challenges they face in terms of potential discrimination – perceived or otherwise. Yet facilitating the collection of data around gender identity and sexual orientation, by adding LGBT demographic questions to employee engagement or satisfaction surveys, is important if companies are to monitor the performance of their LGBT employees and ensure equality in the workplace.

Companies should be wary of making such data collection mandatory and should be clear in their communications with employees their reasons for collecting data. Even in countries such as the UK and US where discussion of LGBT issues is far more advanced than Hong Kong, such matters are dealt with carefully. Even where questions are mandatory, employers should give employees the option to opt-out of self-identifying by including the option 'Prefer Not to Say'.

HRC have compiled a report on the topic of self-identification in the workplace called 'Where are our LGBT employees?' and in it provide the following useful advice:⁶⁵

- Provide separate questions for gender identity and sexual orientation — everyone has a gender identity and a sexual orientation, but the two are distinct, unique characteristics even though the community is known collectively as LGBT;
- Provide the employer's diversity and inclusion statement prior to asking any demographic questions, including questions about ethnicity, race and gender, to reinforce messages about confidentiality and employee privacy;
- Provide space for employees to express their identity in their own words. Look for ways to fully encompass all aspects of a category – e.g. heterosexual/straight, gay, bisexual or all genders including transgender options;
- Ask about an employee's level of being open about their gender identity and sexual orientation (e.g. workplace vs. personal life; team vs. organization; management vs. co-workers) to identify trends and deficiencies.

The report also provides examples of questions that can be included around gender identity and sexual orientation.

Example Questions – Gender Identity

- Is your gender identity different from the sex you were assigned at birth? (Yes/No)
- Are you / do you identify as transgender? (Yes/No)

Gender identity can conceptually be more nuanced and fluid than simply 'female' or 'male'. The above questions may be followed up with additional questions to determine how transgender employees prefer to be identified and whether or not they are open about their transgender identity:

- What best describes your gender identity? (Female / Male / Other _____)
- If you identify as transgender, are you open about your gender identity:

Yes	Partially	No
a. At home		
b. With colleagues		
c. With your manager		
d. At work generally		

Example Questions – Sexual Orientation

The following questions were derived from the Stonewall Monitoring Report. The first question can be used independently or in conjunction with the second question.

1. What is your sexual orientation?

a. Bisexual
b. Gay man
c. Gay woman/ lesbian
d. Heterosexual/ straight
e. Asexual – attraction to neither
f. Other _____
g. Prefer not to say
2. If you identify as lesbian, gay, bisexual or other, are you open about your sexual orientation:

Yes	Partially	No
a. At home		
b. With colleagues		
c. With your manager		
d. At work generally		

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The very level of data that LGBT employees share will be an indication of how comfortable LGBT employees are to be open about their sexual orientation and gender identity. However the key point about beginning to monitor such information is to ensure that LGBT employees are being treated equitably in career development and promotion opportunities, to ensure that are appropriately represented at all levels and in all areas of the business and to build a pipeline of future LGBT executives. A lack of LGBT employees in a certain department or at a certain level, for example, may point to potential problems with internal bias – conscious or unconscious. With such data, a company is better able to ensure that its policies are effective and take any remedial action if necessary. It is also important that companies track any complaints or grievances reported involving LGBT employees. In fact this is a Global Reporting Initiative (GRI)⁶⁷ guideline in the category of social reporting.

8. COMMUNITY & ADVOCACY

- ▶ Engage in external LGBT-specific efforts in Hong Kong, including: recruiting, supplier diversity, marketing or advertising, philanthropy, non-profit group or public support for legal LGBT equality
- Be a visible role model for LGBT workplace equality in the Hong Kong community
- ▶ Share leading practices on LGBT workplace equality in Hong Kong

The final set of recommendations in this resource guide recognises the sphere of influence that companies have and focuses on community and advocacy. If we are to see positive change within not just the corporate sector of Hong Kong but amongst the wider community in Hong Kong, companies need to take an active role in, if not promoting, then supporting, the rights of LGBT individuals. It is therefore recommended that companies engage in some kind of external LGBT specific activities in Hong Kong – some of which are already addressed in earlier recommendations. This may be as simple as targeting LGBT groups for recruitment or marketing purposes, or a more direct advocacy role in terms of supporting the work of NGOs or organisations that work for LGBT equality. Encouraging gay and transgender employees to participate in public events, such as Hong Kong's Pride Parade or sponsoring efforts such as the Hong Kong Gay & Lesbian Film Festival are examples of how companies might show their support.

Companies who are more advanced in their diversity strategies are also looking at supplier diversity. This involves not only actively seeking to select companies run or owned by LGBT individuals but also requiring suppliers to demonstrate that they have an equality and diversity policy that includes sexual orientation and gender identity. Some companies even require their suppliers to go through LGBT-diversity training.

Companies are also encouraged to be visible role models for LGBT workplace equality – demonstrating good practice and publicising their efforts through the media or otherwise. Finally, if we are to see real change in Hong Kong and the wider adoption of best practice for LGBT employees, it is critical that companies share examples of their best practice and take steps to encourage other companies to follow their lead. The companies that have agreed to be featured in this resource guide have taken a key step in this regard – and we thank them for their contribution.

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Conclusion – Towards an Index

It is early days for Hong Kong in terms of the readiness of the corporate sector to proactively address the topic of LGBT in the workplace. This resource guide has sought to highlight some examples of best practice already being adopted by companies in Hong Kong and we applaud the good work that these companies are doing. Yet these case studies were not easy to find. Community Business' own process of stakeholder engagement with some of the more progressive companies, has highlighted that the majority of companies are only at the early stages of their diversity journey and simply not ready to dig deep and tackle the issues facing LGBT employees.

Yet the very fact that so little is being done and that the topic is not on the corporate agenda of the majority of companies in Hong Kong is business case enough to drive positive change in this area. We know from our stakeholder engagement process that significant challenges do exist for LGBT professionals in Hong Kong, preventing many from being open in the workplace and limiting their ability to contribute their full potential. By overlooking the needs of LGBT professionals and not taking steps to remove some of the barriers that exist, companies are limiting not only their ability to attract and retain the best talent but also their ability to take advantage of the opportunities presented by the LGBT marketplace.

The challenge for companies therefore is to be bold and to take the lead on this 'sensitive' subject, surfacing the issues and taking steps to address them. Indeed the experience from our sponsors, Goldman Sachs and IBM shows that what is required is a conscious decision on the part of leadership to ensure that LGBT employees are able to realise their full potential and to make this subject more visible. It is only through a proactive approach that progress can be made in terms of increasing openness and facilitating a safe and productive work environment.

Certainly, Community Business will continue its work in this respect: raising awareness, educating companies and working towards the introduction of a workplace index for LGBT employees as a way to encourage companies to examine their policies and initiatives. The tool that we develop will align with many of the recommendations outlined in this guide – focusing on the more basic elements in the interest of encouraging more companies to participate. Experience in other geographies has shown that such tools need to reflect the stage of development of the wider marketplace and evolve over time.

Notwithstanding the introduction of an LGBT index for Hong Kong, taking steps to follow the recommendations outlined in this publication is imperative for companies in Hong Kong looking to be employers of choice. It is our hope that this resource guide will play a key role in changing corporate culture and achieving greater equality for LGBT employees in the workplace in Hong Kong.

Appendix 1: Advisory Group and Individual Contributors

Advisory Group



Human Rights Campaign

As the largest civil rights organization working to achieve equality for lesbian, gay, bisexual and transgender Americans, the Human Rights Campaign represents a grassroots force of over 750,000 members and supporters nationwide — all committed to making HRC's vision a reality. Founded in 1980, the Human Rights Campaign advocates on behalf of LGBT Americans, mobilizes grassroots actions in diverse communities, invests strategically to elect fair-minded individuals to office and educates the public about LGBT issues



Out & Equal Workplace Advocates

Out & Equal Workplace Advocates is the preeminent national nonprofit organization exclusively devoted to lesbian, gay, bisexual and transgender workplace equality. The organization works to advance LGBT workplace equality through its highly respected diversity training courses and programs, including the annual Out & Equal Workplace Summit, the world's premier conference on LGBT workplace equality. Other Out & Equal programs include the annual Executive Forum, the Employee Resource Group Registry and the Town Call speaker series. Through its programs and services, Out & Equal educates and empowers organizations, human resources professionals, employee resource groups and individual employees to establish equal policies, opportunities, practices and benefits in the workplace, regardless of sexual orientation, gender identity, expression or characteristics.



Tongzhi Community Joint Meeting (TCJM)

A coalition representing many of Hong Kong's LGBT groups. The Central Committee of the TCJM meets quarterly and operates bilingually, drawing its information from the organisations represented in it and using their widespread links to get the word out. The TCJM is chaired by Reggie Ho, Honorary Chairman of Horizons, and currently includes representation from AIDS Concern, the Chi Heng Foundation, Satsanga, Fruits in Suits, Horizons, Les Peches, Queer Straight Alliance and the Tongzhi Literary Group. The TCJM has appointed specific liaison officers to Interbank, Hong Kong AIDS Foundation, Gay Harmony, the Community Movement Network, the Association for the Advancement of Feminism, GayStation.com.hk, Unitarian Universalists Hong Kong and Amnesty International Hong Kong's LGBT Section. The TCJM is advised by the solicitor Michael Vidler, who won the recent Hong Kong cases involving Billy Leung and Siu Cho. The TCJM is assisted in its work by a series of Groups which meet on an as required basis: Research Groups in both Chinese and English; Fund Raising Group; Communications Group; and Letter Writing Groups in both Chinese and English. The TCJM's aims include: linking the tongzhi organisations operating in Hong Kong; providing a forum for the discussion of LGBT issues; providing a resource for tongzhi information and expertise, and a network to acquire and disseminate it; providing a focal point for the Government and other bodies; developing strategies on tongzhi issues; assisting with and implementing campaigns; and developing public relations campaigns to mobilise the LGBT community and to influence public opinion.

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Individual Contributors



Mark Kaplan, President of MGK Consulting LLC

Mark Kaplan is President of MGK Consulting LLC, an international consulting practice headquartered in the U.S. He has worked since 1991 with more than a dozen large companies in the U.S., Europe and Asia to assist them in creating and developing LGB(T) inclusion initiatives.



Dr Mark King

Currently a Research Assistant Professor in Sexual and Gender Diversity in the Faculty of Education at the University of Hong Kong, Mark's research interests include public health policy, practice and education. He has investigated transprejudice and Chinese people's attitudes towards transgenderism and transgender civil rights as well as minority stress and mental health issues in sexual minority populations in Hong Kong. He is now working with international scholars on sex education policy and practice in the Asia-Pacific. He is also working with neuroscientists in China using MRI to investigate functional and structural changes to the brain as a result of posttraumatic stress disorder in victims of sexual violence.



Roddy Shaw, Principal Consultant, Diversity Factor

Roddy has been a leading advocate for LGBT equality in Hong Kong. He has been representing clients at the EOC since 1999 and has ample experience advising corporate and individual clients regarding discrimination claims and ways to prevent them. He worked for Business & Human Rights Resource Centre on various corporate responsibility issues including diversity. He now teaches a diversity course at the City University of Hong Kong. Before his human rights career, Roddy worked for major corporations. He also had a consulting practice serving a range of clients. He had been the convenor for the Tongzhi Laws & Policies Task Force for TCJM and founder of legal advocacy group, Civil Rights for Sexual Diversities. He is consulted by the HKSAR government at the Human Rights Forum, Sexual Minorities Forum as well as Ethnic Minorities Forum.



Dr Sam Winter

Sam is an expert on transgender issues in Asia and is a director of Transgender ASIA Research Centre at Hong Kong University. The Centre seeks to bring together psychologists, sociologists, anthropologists, as well as medical and legal experts who share a desire to better understand the phenomenon of transgenderism, as well as the circumstances in which transpeople (transgendered people) live, in Asia. This website aims to promote and disseminate research and understanding of, as well as contributing towards efforts to effect social change in regard to, transgenderism in Asia.

Appendix 2: LGBT Terminology

The following is a list of LGBT terms and definitions. It is taken primarily from the Gay and Lesbian Alliance Against Defamation (GLAAD) Media Reference Guide published in the US. However, it has been adapted to the Hong Kong context as there is some variation in usage of terms. In addition some of the terms that are no longer deemed appropriate in the US may still be commonly and acceptably used in Hong Kong – including by members of the LGBT community themselves.

GENERAL TERMINOLOGY⁶⁸

Sex

The traditional classification of people as male or female. At birth, infants are assigned a sex based on a combination of bodily characteristics including: chromosomes, hormones, internal reproductive organs, and genitals. There is also more variety than the duality of male/female suggests – see Intersex.

Gender Identity

One's internal, personal sense of being a man or a woman (or a boy or girl.) For transgender people, their birth-assigned sex and their own internal sense of gender identity do not match.

Gender Expression

External manifestation of one's gender identity, usually expressed through 'masculine', 'feminine' or gender variant behaviour, clothing, haircut, voice or body characteristics. Typically, transgender people seek to make their gender expression match their gender identity, rather than their birth-assigned sex.

Sexual Orientation

Describes an individual's enduring physical, romantic, emotional and/or spiritual attraction to members of the same and/or opposite sex including lesbian, gay, bisexual, heterosexual and asexual orientations or neither, asexual. Avoid the offensive term 'sexual preference', which is used to suggest that being gay or lesbian is a choice and therefore 'curable'. Gender identity and sexual orientation are not the same. Transgender people may be heterosexual, lesbian, gay, bisexual or asexual. For example, a man who becomes a woman and is attracted to other women would be identified as a lesbian.

LESBIAN, GAY AND BISEXUAL SPECIFIC TERMINOLOGY⁶⁹

Asexual

An individual who is not physically, romantically, emotionally and/or spiritually attracted to men or women. Asexuals need not have had equal sexual experience with both men and women; in fact, they need not have had any sexual experience at all to identify as asexual.

Bisexual

An individual who is physically, romantically, emotionally and/or spiritually attracted to men and women. Bisexuals need not have had equal sexual experience with both men and women; in fact, they need not have had any sexual experience at all to identify as bisexual.

Closeted

Describes a person who is not open about his or her sexual orientation.

Coming Out (of the Closet)

The act of disclosure of one's sexual orientation and/or gender identity. Coming out can happen at different levels or all levels (i.e. to oneself, to families, to friends, to colleagues or to the public).

Gay

The adjective used to describe people whose enduring physical, romantic, emotional and/or spiritual attractions are to people of the same sex (e.g., gay man, gay people). Lesbian (n.) is usually the preferred term for women. Rather than use the term 'homosexuals', it is better to use 'gay men and lesbians'.

Heterosexual Man / Woman

A person whose enduring physical, romantic, emotional and/or spiritual attraction is to people of the opposite sex.

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Heterosexism

The attitude that heterosexuality is the only valid sexual orientation. Often takes the form of ignoring lesbians, gay men and bisexuals.

Homophobia

Fear or hatred of lesbians and gay men.

Homosexual

Older term to describe people who are attracted to members of the same sex. Gay and/or lesbian are the preferred terms by some.

Lesbian

A woman whose enduring physical, romantic, emotional and/or spiritual attraction is to other women.

LGBT / GLBT

Acronyms for 'lesbian, gay, bisexual and transgender'. LGBT and/or GLBT are often used because they are more inclusive of the diversity of the community.

Lifestyle

Inaccurate term often used by anti-gay extremists to denigrate lesbian, gay, bisexual and transgender lives. Avoid using. As there is no one heterosexual or straight lifestyle, there is no one lesbian, gay, bisexual or transgender lifestyle.

Men Who Have Sex With Men (MSM)

A term used to describe in neutral terms men who have sex with other men but do not identify as gay or bisexual.

Openly Gay

Describes people who self-identify as lesbian or gay in their public and/or professional lives. Also openly lesbian, openly bisexual, openly transgender.

Outing

The act of publicly declaring (sometimes based on rumor and/or speculation) or revealing another person's sexual orientation or gender identity without his or her consent. Considered inappropriate by a large portion of the LGBT community.

Queer

An originally abusive epithet for a gay man, now often used by academics to refer to anything sexually or gender diverse or by gay activists who have 'reclaimed' the word and use it instead of 'gay'. Queer Studies are

the academic field which investigates all aspects of the sexually or gender diverse.

Straight

A colloquial term used to describe heterosexuals.

Tongzhi⁷⁰

Tongzhi is a term which literally means 'same will' or 'same purpose' in Chinese. Idiomatically, it means 'comrade'. It has taken on various meanings in various contexts since the 20th century, and now its use among the younger generation is slang for the LGBT community.

TRANSGENDER SPECIFIC TERMINOLOGY⁷¹

Cross-Dressing

To occasionally wear clothes traditionally associated with people of the other sex. Cross-dressers are usually comfortable with the sex they were assigned at birth and do not wish to change it. 'Cross-dresser' should NOT be used to describe someone who has transitioned to live full-time as the other sex, or who intends to do so in the future. Cross-dressing is a form of gender expression and is not necessarily tied to erotic activity. Cross-dressing is not indicative of sexual orientation.

Gender Identity Disorder (GID)

A controversial DSM-IV diagnosis given to transgender and other gender-variant people. Because it labels people as 'disordered', Gender Identity Disorder is often considered offensive. The diagnosis is frequently given to children who don't conform to expected gender norms in terms of dress, play or behaviour. Such children are often subjected to intense psychotherapy, behaviour modification and/or institutionalisation.

Intersex

Describing a person whose biological sex is ambiguous. There are many genetic, hormonal or anatomical variations which make a person's sex ambiguous (i.e., Klinefelter Syndrome, Adrenal Hyperplasia). Parents and medical professionals usually assign intersex infants a sex and perform surgical operations to conform the infant's body to that assignment. This practice has become increasingly controversial as intersex adults are speaking out against the practice, accusing doctors of genital mutilation.

Sex Reassignment Surgery (SRS)

Refers to surgical alteration, and is only one small part

of transition. Preferred term to 'sex change operation.'
Not all transgender people choose to or can afford to have SRS.

Transgender

An umbrella term for people whose gender identity and/or gender expression differs from the sex they were assigned at birth. The term may include but is not limited to: transsexuals, cross-dressers, and other gender-variant people. Transgender people may identify as female-to-male (FTM) or male-to-female (MTF). Use the descriptive term (transgender, transsexual, cross-dresser, FTM or MTF) preferred by the individual. Transgender people may or may not choose to alter their bodies hormonally and/or surgically.

Transphobia/Transprejudice

Fear or hatred of transgender individuals.

Transsexual (also Transexual)

Whilst there is some debate about the accurate use of this term, generally it is used to describe those who have actually begun transition through hormone treatment and/or surgery

Transvestite

Old fashioned term for Cross-Dressing.

Transition

Altering one's birth sex is not a one-step procedure; it is a complex process that occurs over a long period of time. Transition includes some or all of the following cultural, legal and medical adjustments: telling one's family, friends, and/or co-workers; changing one's name and/or sex on legal documents; hormone therapy; and possibly (though not always) some form of surgical alteration.

Appendix 3: Sample LGBT Discrimination Case

The following case study is an example of how protection against sexual harassment covered by the Sex Discrimination Ordinance may apply to issues relating to sexual orientation or gender identity. It has been provided by Roddy Shaw.

Lesbian Is Transferred Due to Refusal to Comply with Female Uniform

Just graduated from university, Ho-nam was a lesbian working in a branch office of a bank as a customer service officer. She liked short hairstyles and often wore 'masculine' outfits. From the time she was small she had always refused to dress in skirts and she never wore skirts as an adult. However, the bank required that all female employees in the Customer Service Department wear skirts as part of their uniform. Ho-nam had no choice but to comply with the rule, but she raised the issue with Management highlighting that since trousers were part of the uniform for male employees, female employees should be allowed to wear trousers to work too. The bank's response was that the dress code was an important part of creating a good corporate identity for the bank and female employees should wear skirts to portray this company image. Women could wear trousers only when the weather was extremely cold and it was against company policy to allow exceptions for individual employees.

Ho-nam was not satisfied with the reply and lodged a complaint with the Equal Opportunities Commission. After learning about the complaint, the bank transferred Ho-nam to a lower-paid position in the Telemarketing Department on the grounds that her appearance was not aligned with the bank's corporate identity. The same set of dress codes were implemented in the Telemarketing Department. Ho-nam believed the practice was unreasonable because the job nature did not require face-to-face contact with clients, thus showing no relevance to the bank's corporate identity.

In addition, Ho-nam's colleagues did not respond positively to her 'masculine' appearance. They saw her having lunch with her partner and started to ask about her relationship status, such as if she was 'dating' a girl. Ho-nam did not take the questions seriously and often dismissed them with a smile. Thinking that Ho-nam did not mind, her male colleagues started to treat her as their 'brother', and continued their jokes. In one incident, a colleague surnamed Lee asked Ho-nam in the pantry how she could 'satisfy' her girlfriend. Ho-nam was enraged and warned Lee on his action. The conversation deteriorated into an argument. Ho-nam was transferred before the investigation results from the Equal Opportunities Commission were released and she was mocked by her colleagues. She was afraid that the worst was yet to come.

Question 1: Are sex-stereotyping dress codes unlawful?

Response: Although dress codes are not prohibited under the Sex Discrimination Ordinance, the Good Management Practice Guidelines formulated by the Equal Opportunity Commission openly suggests that employers should avoid establishing dress codes, as the provisions may constitute disability or sex discrimination. The Guidelines also state that the provisions should be expressed in general principles, such as 'professional and presentable clothing', instead of rigid prescriptions such as 'skirts for women'. As separate dress codes are applied to the sexes at the bank, it may be interpreted as sex discrimination. In this case, Ho-nam was required by the bank to wear skirts owing to her biological gender. This may constitute violation of the Sex Discrimination Ordinance.

Question 2: Can Ho-nam enjoy legal protection if she is transferred, demoted or terminated after lodging a complaint against her employer?

Response: All discrimination ordinances in Hong Kong include a provision of victimisation, which protects the complainants against any unfavourable treatments by the defendant (in this case, the employer). If the complainant has lodged a complaint or expressed concern over any discriminatory conduct of the defendant, this protection will be effective once the complaint is made, regardless of the validity of the complaint. If, after lodging a complaint, the complainant is ill-treated by the defendant out of hostility, retaliation or persecution, the defendant may have already violated the provision of victimisation. In this case, even though the dress code itself may not have violated the Discrimination Ordinance, Ho-nam is still protected under the provision of victimisation and can demand for reinstatement or other compensation.

Question 3: Do the actions of her colleague Lee constitute unlawful discrimination?

Response: Asking Ho-nam how she could satisfy her girlfriend can constitute sexual harassment. As other workers may not necessarily approve of the masculine appearance and tone of Ho-nam, and value judgment alone is not discriminatory, Ho-nam must prove that she has suffered from a detriment, either psychologically or materially. However, the repeated inquiry on the sexual and intimate relationship status of Ho-nam has created a sexually hostile environment, which is within the purview of the Sex Discrimination Ordinance. Although Lee may argue that the conversation happened in the pantry, which is not part of the workplace, and he also had no intention to offend Ho-nam as he treated her as a friend/brother, most sexual harassment actions happen in places that do not appear to be a workplace (such as the pantry, backstairs, restaurants where lunch/client meetings are held, as well as hotels in which employees stay during business trips), and at times that do not seem to be within working hours (such as after work, during relationship building activities and the break hours in business trips). Since these times and places are closely related to work, they are included in the protection against sexual harassment. As for the motive, it is not necessary for Lee to be sexually interested in Ho-nam. The key point lies in how Ho-nam feels with these harassment actions. Her rejecting tone and warning given to Lee have expressed that the actions are unwelcome.

Appendix 4: Summary of Findings from Anonymous Online Survey for LGBT Employees and their Workplace Allies in Hong Kong

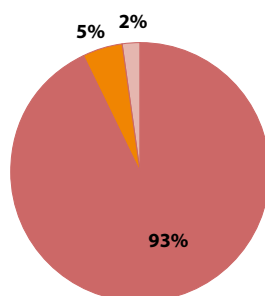
From 3 February to 12 March 2010, Community Business conducted an anonymous online survey targeted at LGBT employees and their workplace allies in Hong Kong. The survey was conducted in English and Chinese. The purpose was to get an insight into some of the key challenges for LGBT employees in Hong Kong and to ascertain their views on what employers in Hong Kong can do to create more inclusive workplaces. In addition Community Business used this survey as an opportunity to collect some information about the extent to which the respondents are open about their sexual orientation and gender identity. However this was a secondary objective and the questions were optional.

In total 137 online surveys were completed, including 101 in English and 36 in Chinese. The data in the charts below represents the combined response from both the English and Chinese language surveys. Where there were distinct differences in the responses, these have been highlighted.

Profile of Respondents

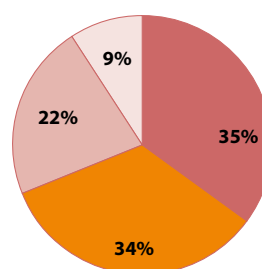
Where They Are Based

- Hong Kong
- Asia - not Hong Kong
- Outside Asia



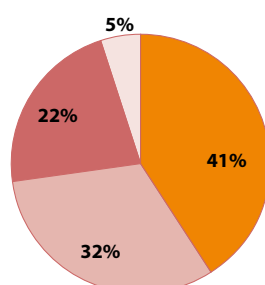
Age Brackets

- <30
- 31-40
- 41-50
- >50



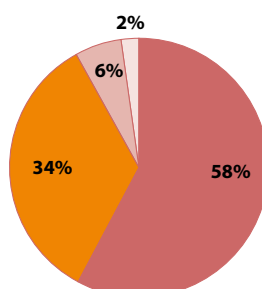
Position in Organisation

- Junior Level
- Middle Level
- Senior Level
- Other



Ethnicity

- Chinese
- Other
- Asian (non Chinese)
- Prefer not to say

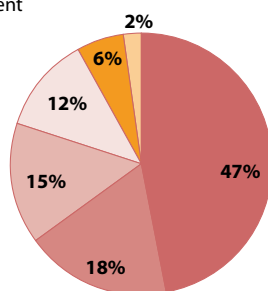


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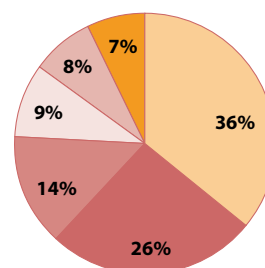
Type of Organisation

- Private sector - international company
- Private sector - local company
- Academic/Educational
- NGO/NPO
- Government
- Other



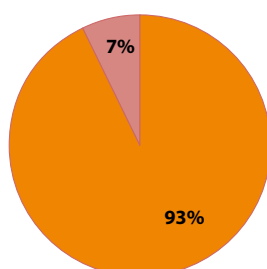
Industry

- Banks and Finance
- Education
- Law, Accountancy, Professional Information Services
- Medical, Hygiene Welfare
- Media
- Other



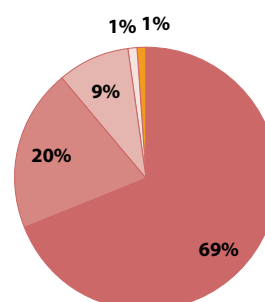
Transgender

- No
- Yes



Sexual Orientation

- Gay / lesbian / homosexual
- Heterosexual / straight
- Bisexual
- Prefer not to say
- Other



Difference in Profile of Chinese Language and English Language Survey Respondents

Respondents to the Chinese language survey were younger, less senior and from a broader range of industries than the respondents to the English language survey.

- Only 3% of respondents to the Chinese language survey identified as being between the ages of 41-50 – none were over 50. Conversely, over 40% of respondents to the English language survey identified as being over 41 years old.
- More than 40% of respondents to the English language survey said they held senior level positions in their organisations. Yet only 8% of respondents to the Chinese language survey said they held senior level positions.
- Nearly 35% of respondents to the English language survey said they worked in the Finance or Banking industry, compared with only 5% of respondents to the Chinese language survey. The largest industry identified by respondents to the Chinese language survey was Medical, Hygiene Welfare, representing over one-quarter of all responses.

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Who They Are Open To

There were distinct differences between the responses given by those who completed the English language survey and the Chinese language survey, so the findings have been presented separately.

Respondents to English language survey

	At Home	With Colleagues	With Manager	With HR Department	At Work, Generally
Open	67%	47%	58%	45%	35%
Partially	18%	36%	18%	18%	33%
Not Open	15%	17%	25%	37%	32%

Respondents to Chinese language survey

	At Home	With Colleagues	With Manager	With HR Department	At Work, Generally
Open	20%	10%	13%	7%	7%
Partially	27%	40%	10%	3%	17%
Not Open	53%	50%	77%	90%	77%

Main Reasons Selected for Not Being Open (Ranked)

1. Lack of policies to protect LGBT employees
2. Possibility of losing connections or relationships with co-workers
3. Possibility of being stereotyped
4. Because it's nobody's business
5. Possibly making people feel uncomfortable
6. May not be considered for advancement or development opportunities
7. Fear of upsetting family
8. Fear of getting fired
9. Fear of being rejected by family
10. I or someone I know has been humiliated at work for being LGBT

Top 10 Challenges for LGBT Employees in Hong Kong

1. Coming out generally (cultural, social and family issues)
2. Coming out at work
3. Ignorance of colleagues
4. Concern about negative effect on career
5. Lack of benefits extended to same-sex partners
6. Fear of name calling and retaliation
7. Legal environment (lack of protection and visa issues)
8. Pressure from conservative groups
9. Lack of non-discrimination policies
10. Isolation in the workplace and connection with other LGBT employees

Top 10 Recommendations for Employers

1. Have a diversity policy
2. Offer partner benefits
3. Provide education and training programmes
4. Profile senior champions
5. Facilitate an LGBT resource group, network
6. Mention in corporate communications
7. Sponsor LGBT events
8. Recognise gay marriages / partnership
9. Recruit LGBT employees
10. Invite guest speakers

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References

All website references are accurate as of 21 April 2010.

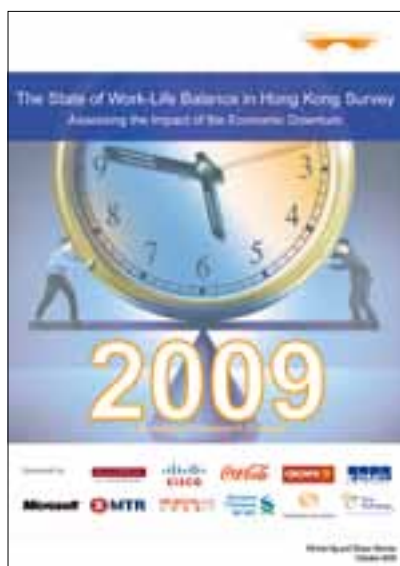
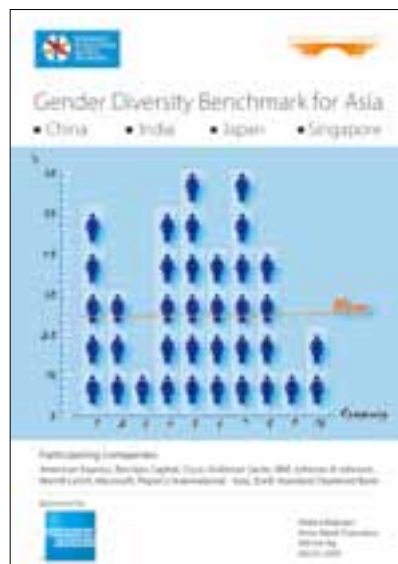
- ¹ See: http://www.diversityintheworkplace.ca/newsletters/apr_08/diversity_online_apr08_article9_lgbt.pdf
- ² See: <http://outandequal.org/documents/CouncilforGlobalEqualityReport.pdf> ; p9.
- ³ Human Rights Campaign, Degrees of Equality: A National Study Examining Workplace Climate for LGBT Employees, 2009.
- ⁴ Stonewall Top 100 Employers 2010; p3.
- ⁵ Catalyst, 2009 www.catalyst.org
- ⁶ Stonewall, Gay People and Productivity, 2008.
- ⁷ Catalyst, 2009 www.catalyst.org
- ⁸ Packaged Facts and Witeck-Combs 2007, 2008.
- ⁹ Harris Interactive, Witeck-Combs and mygayweb.com
- ¹⁰ Harris Interaction and Witeck-Combs.
- ¹¹ See: <http://www.hrc.org/buyersguide2010/>
- ¹² See: <http://www.fridae.com/about/>
- ¹³ Presentation by Stuart Koe, CEO of Fridae.com at Community Business' Diversity & Inclusion in Asia 2008 Conference in November 2008.
- ¹⁴ See: http://www.fruitsinsuits.com.hk/index.php?_p=fruitmix
- ¹⁵ Packaged Facts and Witeck-Combs 2007, 2008.
- ¹⁶ Stonewall Top 100 Employers 2010; p3.
- ¹⁷ Brian McNaught, A Parent's Love Trumps Bias, 7 January 2010. See: http://diversityguides.com/gay_workplace/?p=278
- ¹⁸ Time, A Gay Pride Revolution in Hong Kong, 14 December 2008.
See: <http://www.time.com/time/world/article/0,8599,1866308,00.html>
- ¹⁹ Civil Rights for Sexual Diversities is an NGO working on legal advocacy for rights of LGBT people in Hong Kong.
- ²⁰ Hong Kong Christian Institute, Blessed Minority Christian Fellowship.
- ²¹ The Standard, Mimi Lau, Gays the victims of hateful attitudes, 26 May 2006.
- ²² Fridae.com, Nigel Collet, 1,200 march at Hong Kong's first official gay pride parade, 15 December 2008.
See: <http://www.fridae.com/newsfeatures/2008/12/15/2173.1200-march-at-hong-kongs-first-official-gay-pride-parade>
- ²³ Time Out Hong Kong, Tina Lee, Hong Kong Lesbian and Gay Film Festival, 5 November 2008.
See: <http://www.timeout.com.hk/gay-lesbian/features/16258/hong-kong-lesbian-gay-film-festival.html>
- ²⁴ Roddy Shaw, Lesbian, Gay, Bisexual and Transgender (LGBT) rights working in Hong Kong.
- ²⁵ This section is extracted from Winter, S. and King, M. (2009) Hong Kong. In Stewart, C., (Ed.) Encyclopedia of LGBT Issues, Greenwood Press, Santa Barbara, CA, USA.
- ²⁶ Lieh-Mak, F., O'Hoy, K., & Luk, S. L. (1985). Lesbianism in the Chinese of Hong Kong. Archives of Sexual Behavior, 12(1), 21-30.
- ²⁷ 'The commission of this detestable and unnatural act is attended with so little sense of shame, or feelings of delicacy, that many of the First Officers of the State seemed to make no hesitation in publicly avowing it.' (John Barrow: 'Travels in China', 1806, quoted on p239 of Crompton, L. (2006). Homosexuality and Civilization. Cambridge: Harvard University Press.
- ²⁸ Ruan, Fang-Fu., & Lau, M. P. (1997). China. In Robert Francoeur (Ed.), International Encyclopedia of Sexuality. New York: Continuum. <http://www2.hu-berlin.de/sexology/IES/china.html>

- ²⁹ American Psychiatric Association (1994) Diagnostic and Statistical Manual of Mental Disorders, 4th Revision. Washington: American Psychiatric Association; World Health Organisation (1992). International Classification of Diseases and Related Health Problems (10th Edition) Geneva: World Health Organisation.
- ³⁰ Ruan and Lau (1997). (op.cit.).
- ³¹ Chou, Wah-shan (2001). Homosexuality and the cultural politics of tongzhi in Chinese societies. *Journal of Homosexuality*, 40(3/4), 27-46; Kong, Travis Shiu-ki. (2004). Queer at your own risk: marginality, community and Hong Kong gay male bodies. *Sexualities*, 7(1), 5-30; Ho, Petula Sik-yin (1995). Male-Homosexual Identity in Hong Kong – a social construction. *Journal of Homosexuality*, 29, 1, 71-88.
- ³² Chou Wah-Shan. *Tongzhi: Politics of Same-Sex Eroticism in Chinese Societies*, Haworth Press, 2000.
- ³³ Amanda Lam, personal communication, May 29, 2008.
- ³⁴ The following section is taken from http://intersections.anu.edu.au/issue4/interview_mclelland.html#n1
- ³⁵ Homosexual Offences: Should the Law Be Changed? - A Consultation Paper, June 1988.
- ³⁶ In fact, former legislators Ms Anna Wu and Mr Lau Chin-shek have respectively sponsored private members anti-discrimination bills in 1995 and 1997 to include sexuality as a ground for protection. Both bills were defeated and the 1997 bill only by a narrow margin of 2 votes. Some argue that the votes received in support of LGB equality contrast starkly with the government's position that the community is predominantly in opposition against the proposed law.
- ³⁷ Chan, Phil (2005). The lack of sexual orientation antidiscrimination legislation in Hong Kong: breach of international and domestic legal obligations. *International Journal of Human Rights*, 9(1), 69-106.
- ³⁸ The UN treaty bodies to safeguard rights enshrined respectively under the International Covenant for Civil and Political Rights (ICCPR) and the International Covenant for Economic, Social and Cultural Rights (ICESCR).
- ³⁹ Concluding observations of the Committee on Economic, Social and Cultural Rights (Hong Kong): China, U.N. Doc. E/C.12/1/Add.107, 2005; Concluding observations of the Committee on Economic, Social and Cultural Rights (Hong Kong): China, U.N. Doc. E/C.12/1/Add.58, 2001; and Concluding Observations of the Human Rights Committee (Hong Kong): China, U.N. Doc. CCPR/C/79/Add.117, 1999.
- ⁴⁰ See: <http://www.cmab.gov.hk/en/issues/sexual.htm>
- ⁴¹ See: http://www.hab.gov.hk/en/policy_responsibilities/the_rights_of_the_individuals/equal_gender.htm
- ⁴² c.f. William Roy Leung v HKSAR, Toonen v Australia, Joslin v New Zealand.
- ⁴³ See: <http://www.atimes.com/atimes/China/KK17Ad01.html>
- ⁴⁴ South China Morning Post, Tim Cribb, Gay groups blast survey questions as prejudiced, 24 June 2005.
- ⁴⁵ See: <http://www.atimes.com/atimes/China/KK17Ad01.html>
- ⁴⁶ On January 15 1980, Inspector John MacLennan of the Royal Hong Kong Police Force was found dead with five bullet wounds in his chest by a group of fellow officers who had come to arrest him on suspicion of having engaged in homosexual activities. The coroner's inquiry returned an 'open' verdict on cause of death and there was much media speculation that he had been murdered to prevent him from going public with the names of high-ranking police officers who were also under investigation for homosexual 'offences'.
- ⁴⁷ Chair of Equal Opportunities Commission between 1999 and 2003 and sponsor of many anti-discrimination bills including Equal Opportunities Bill which encompassed protection for a number of grounds, including sexual orientation.
- ⁴⁸ Legislator between 1992 and 2000 and current CEO of Civic Exchange, a Hong Kong think-tank on social policy issues. See: <http://www.civic-exchange.org/index.php?cat=46>
- ⁴⁹ Hong Kong Government, Equal Opportunities: A Study on Discrimination on the ground of Sexual Orientation – A Consultation Paper, 1996.
- ⁵⁰ The policy responsibility is now transferred to the Constitutional & Mainland Affairs Bureau.

Creating Inclusive Workplaces for LGBT Employees

A Resource Guide for Employers in Hong Kong

- ⁵¹ Emerton, Robyn. (2004). Neither here nor there: the current status of transsexual and other transgender persons under Hong Kong law. *Hong Kong Law Journal*, 34, 245-277; Emerton, Robyn. (2004). Time for change: a call for the legal recognition of transsexual and other transgender persons in Hong Kong. *Hong Kong Law Journal*, 34, 515-555.
- ⁵¹ Emerton, Robyn. (2006). Finding a voice, fighting for rights: the emergence of the transgender movement in Hong Kong. *Inter-Asia Cultural Studies*, 7(2), 243-269.
- ⁵² Civil Rights for Sexual Diversities has fought the famous Dragon Airline gay flight attendant harassment case, the Hong Kong Examination & Assessment Authority case where transgender people's sex reassignment status is revealed on the certificate, the United World College refusal of unmarried partners including same-sex ones of the teaching staff to live on campus.
- ⁵³ See: <http://www.hrc.org/issues/cei.htm>
- ⁵⁴ See: <http://www.stonewall.org.uk/workplace/1477.asp>
- ⁵⁵ See: <http://www.outandequal.org/steps-to-equal-workplace>
- ⁵⁶ 10 touch points for businesses demonstrating their commitment to equal treatment of employees, consumers and investors, irrespective of their sexual orientation and gender identity or expression.
- ⁵⁷ Brian McNaught, The NSA, Reporter's Questions & Summer Vacation, 12 June 2008.
See: http://diversityguides.com/gay_workplace/?p=43
- ⁵⁸ Stonewall Top 100 Employers 2010, p13: See: <http://www.stonewall.org.uk/workplace/1477.asp>
- ⁵⁹ The World Professional Association for Transgender Health's Standards of Care for Gender Identity Disorders articulates the organisation's professional consensus about the psychiatric, psychological, medical, and surgical management of gender identity disorders. Professionals may use this document to understand the parameters within which they may offer assistance to those with these problems. See: Standards of Care, 6th Version; <http://www.wpath.org/documents2/socv6.pdf>
- ⁶⁰ HRC 2009 Corporate Equality Index Survey, Q13.
- ⁶¹ Brian McNaught, The NSA, Reporter's Questions & Summer Vacation, 12 June 2008.
See: http://diversityguides.com/gay_workplace/?p=43
- ⁶² HRC Corporate Equality Index 2010. See: http://www.hrc.org/documents/HRC_Corporate_Equality_Index_2010.pdf ; p24
- ⁶³ PRNewswire, Buying Power of US Gays and Lesbians to Exceed \$835 Billion by 2011, 25 January 2007.
- ⁶⁴ Presentation by Stuart Koe, CEO of Fridae.com at Community Business' Diversity & Inclusion in Asia 2008 Conference.
- ⁶⁵ Taken from HRC Report, Where are our LGBT employees; p8. See: http://www.hrc.org/documents/LGBT_Self-Identification_Report_-_2009-05-08.pdf
- ⁶⁶ Additional option recommended by Out & Equal Workplace Advocates.
- ⁶⁷ See: <http://www.globalreporting.org/ReportingFramework/G3Online/DMA/>
- ⁶⁸ Largely taken from <http://www.glaad.org/Page.aspx?pid=376> but includes editing of definitions and adding of terms as deemed appropriate for Hong Kong.
- ⁶⁹ <http://www.glaad.org/Page.aspx?pid=375>
- ⁷⁰ Wikipedia, 13 April 2010. See: <http://en.wikipedia.org/wiki/Tongzhi>
- ⁷¹ <http://www.glaad.org/Page.aspx?pid=376>



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"Stonewall has been working since 1989 for equality for gay people. Through our Diversity Champions programme we now work with the employers of 5.5 million people in Britain to improve the working environment for lesbian, gay and bisexual people and each year we produce Stonewall's Workplace Equality Index, an annual benchmarking exercise that showcases Britain's top employers for gay people. We congratulate Community Business and its sponsors, Goldman Sachs and IBM, for initiating this important piece of work for Hong Kong. We hope that it will pave the way for greater awareness of the issues facing the LGBT community and also inspire companies to take positive steps to create open and productive workplaces for all."

Ben Summerskill
Chief Executive
Stonewall

For more information on Stonewall's workplace programmes go to www.stonewall.org.uk/workplace

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