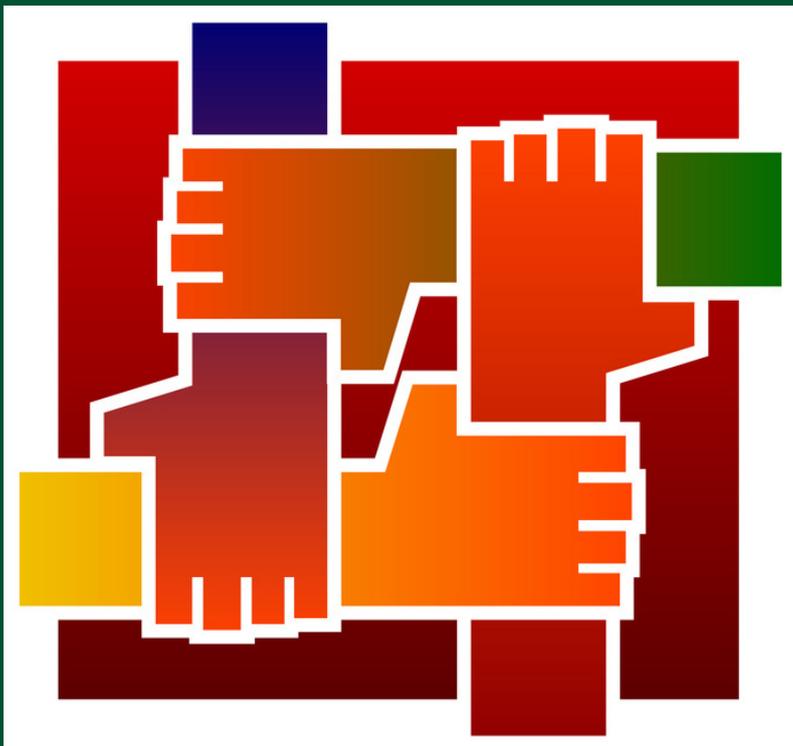


Sanctuary, Safety *and* Solidarity

**Lesbian, Gay, Bisexual, Transgender
Asylum Seekers and Refugees
in Scotland**



SUMMARY VERSION

of a report by

**Equality Network
BEMIS and GRAMNet**

Tim Cowen
Francesca Stella
Kirsty Magahy
Kendra Strauss
James Morton

This report is a summary version of

**Sanctuary, Safety and Solidarity
Lesbian, Gay, Bisexual and Transgender
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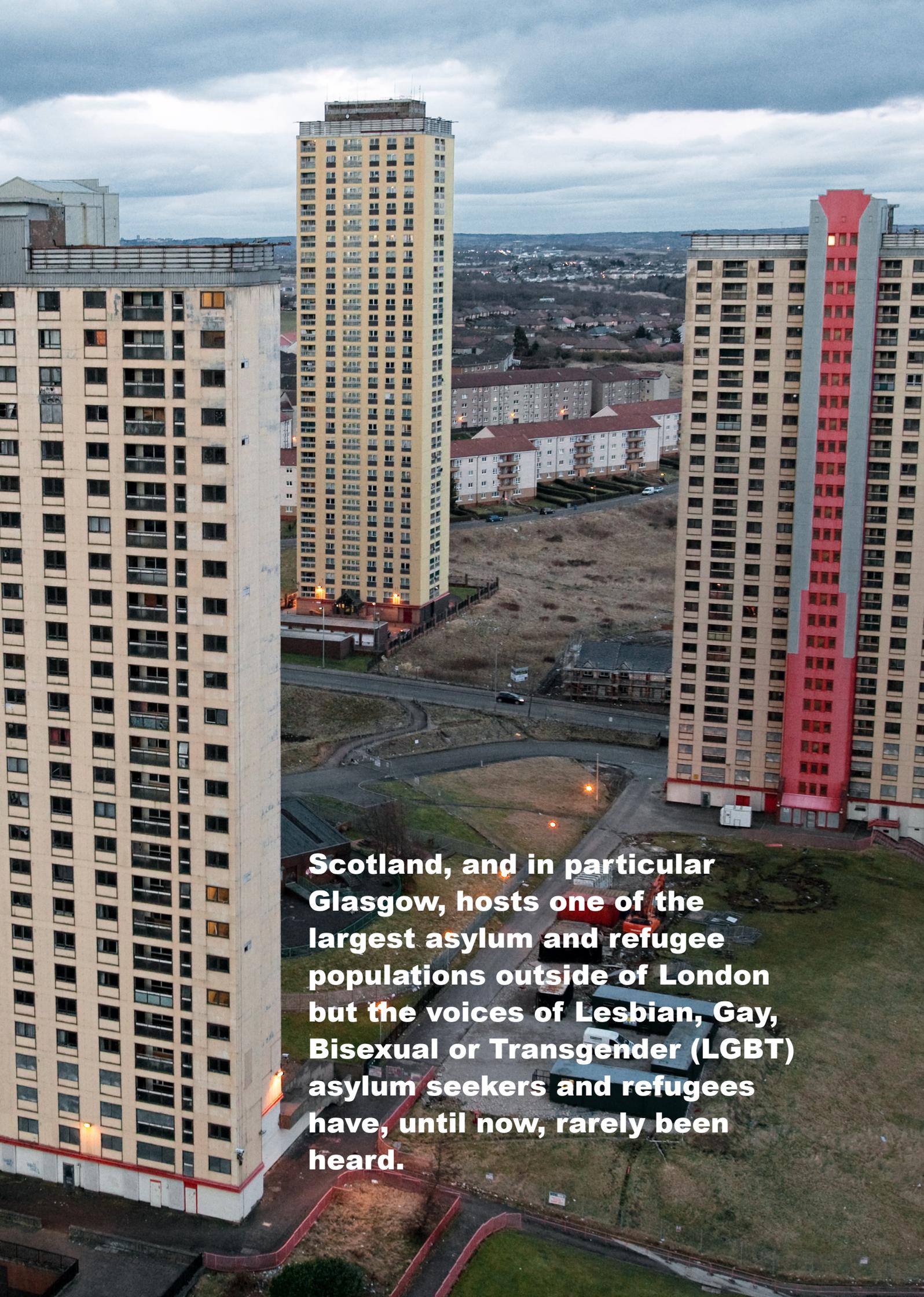
by Equality Network, BEMIS and GRAMNet

The full 202-page report was written by Tim Cowen, Francesca Stella, Kirsty Magahy, Kendra Strauss and James Morton and published in March 2011.

Chapter references within this summary version relate to the relevant chapters of the full report.

You can download the full report from
www.equality-network.org/EveryoneIn/LGBTAsylum

Everyone IN is a joint project between Equality Network and Black and Ethnic Minorities Infrastructure in Scotland (BEMIS).



Scotland, and in particular Glasgow, hosts one of the largest asylum and refugee populations outside of London but the voices of Lesbian, Gay, Bisexual or Transgender (LGBT) asylum seekers and refugees have, until now, rarely been heard.

LGBT people across the globe are being imprisoned, tortured, raped and killed, but their stories are rarely told. LGBT asylum seekers need you speak out and make it easier for people from ethnic minorities to beat the taboo that is LGBT. I am really worried how cuts in legal aid will make it more difficult for us to get justice and so it's more important than ever that we all do what we can to help.

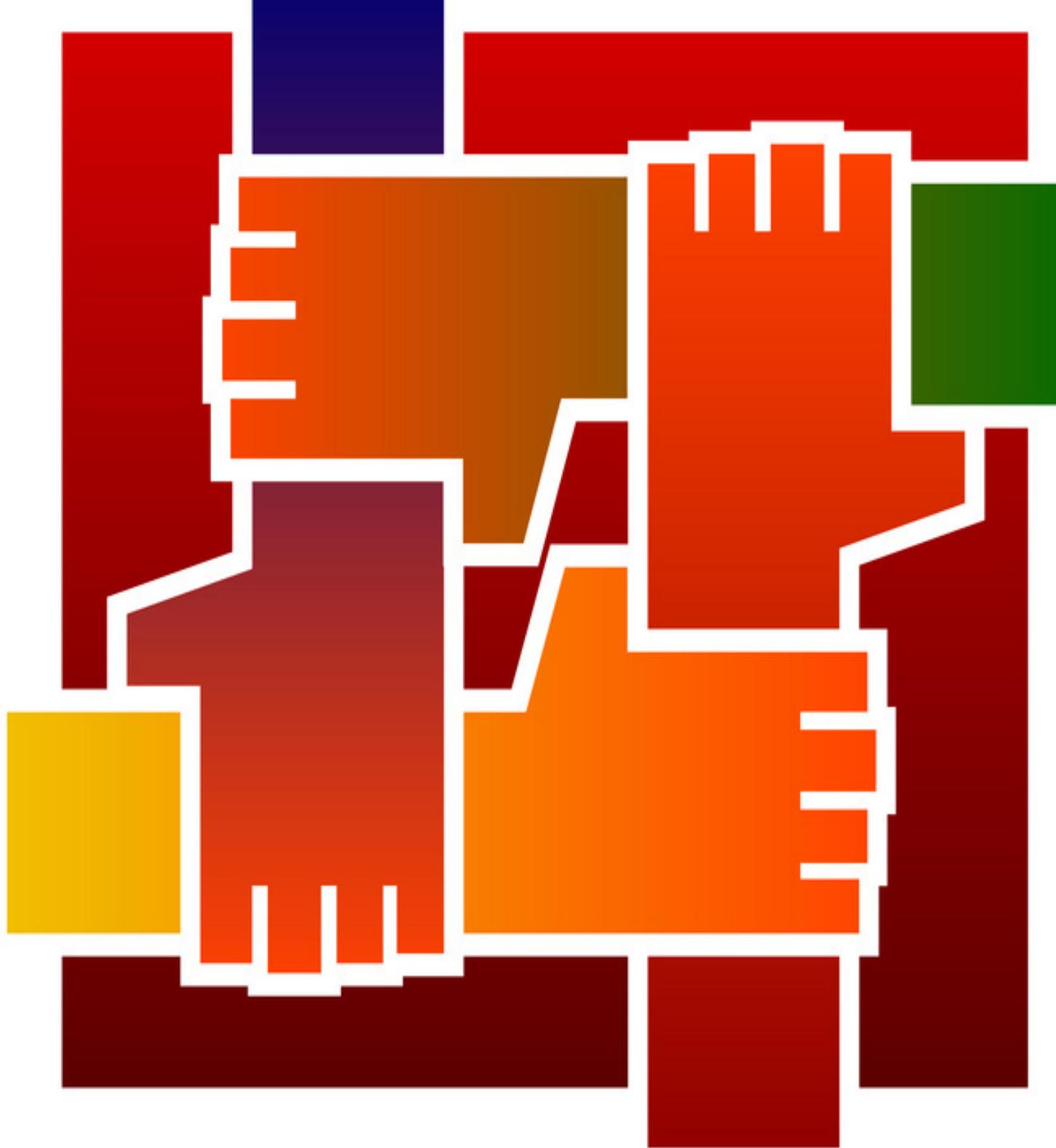
Maxwell T., Everyone IN Community Champion

Twelve years ago, when I was providing legal representation for asylum seekers in London, I helped for many months a young lesbian from Kenya. Even after all these years her story has stayed with me – both the rape and torture she faced in Kenya and the discrimination and stigma she encountered in London. Scotland has many LGBT asylum seekers, but to date their stories have not been told.

Tim Cowen, Everyone IN

There has been major progress on LGBT equality in Scotland in recent years. But we know that the situation for LGBT people in some other parts of the world is appalling, and we should be ready to help those who face homophobic and transphobic persecution. This report shows we need to ensure much better treatment for those who ask for our help to escape that persecution.

Tim Hopkins, Equality Network



Our research has documented the significant barriers LGBT asylum seekers fleeing persecution face in seeking sanctuary in Scotland ... we conclude that the current asylum system remains deeply flawed.

RESEARCH METHODOLOGY

Our research was carried out between June 2010 and March 2011. It consisted of three main elements:

- a review of both international and UK literature
- stakeholder interviews with 17 organisations, 11 in Scotland and 6 in London
- a community consultation event attended by 25 people

In addition to the more formal interviews, conversations were had with a range of individuals from organisations both in Scotland and other parts of the UK, including at events attended or facilitated to promote awareness of our work. Everyone IN has started to receive a number of calls for help or advice from organisations who have clients who are LGBT asylum seekers. Although not part of our formal work programme, staff and volunteers have already provided informal support in these cases, and their experiences have also helped to inform the content of this report.

LGBT ASYLUM IN SCOTLAND

There are many myths about asylum and often public misconceptions about the real life situation for asylum seekers in the UK. This is in part fuelled by media reporting of asylum issues which can often present a one-dimensional focus on the numbers of asylum seekers ‘flooding’ into the UK. Similarly media stories around sexual orientation and gender identity can be subject to sensationalism or stereotyping. When LGBT and asylum issues are combined the potential for misrepresentation or misunderstanding grows.

State-sponsored homophobia and transphobia remain prevalent in many parts of the globe. At least 80 countries around the world criminalise sexual contact between consenting adults of the same sex, and in some of them, for example Iran, Mauritania, Saudi Arabia, Sudan and Yemen, as well as parts of Nigeria and Somalia – homosexual conduct is punishable with the death penalty.

There is a lack of data available in Scotland about the number of LGBT asylum seekers and refugees, the issues and experiences they face and how their experiences are similar or different to LGBT asylum seekers or refugees in other parts of the UK. Two-thirds of organisations we met with in Scotland could not recall any instances of knowingly helping LGBT asylum cases. Three main reasons were given to explain an absence of recognising such clients: a lack of monitoring, a lack of openness from clients, and the organisation not needing to find out the reasons behind a person's claim for asylum.

There was also no clear pattern when we asked what countries LGBT asylum seekers had come from. It was clear from all interviewees that clients were presenting as individuals; they were not obviously linked to a group of LGBT refugees. In other words, even those organisations that had knowingly seen more than a handful of cases, saw these clients separately, at different periods in time, and each case was isolated from those which came before it.

LGBT ASYLUM LAW AND POLICY

Chapter 3 of our full report describes the legal framework for LGBT asylum seekers and refugees. It explains the

- legal definition of a refugee
- concept of 'social group'
- implications of a recent ruling from the Supreme Court
- tests that a person fleeing persecution on the grounds of sexual orientation or gender identity must satisfy in order to qualify as refugee
- potential significance of the Equality Act 2010

Despite the issuing by the UK Border Agency (UKBA) of new Asylum Policy Instructions and a positive Supreme Court ruling, a person fleeing persecution because of their sexual orientation or gender identity still faces many obstacles before they can qualify for protection.

SANCTUARY

In chapter 4 of our full report we examine both UK and international literature that examines LGBT asylum seekers' experiences of seeking sanctuary. We look in detail at:

- how sexual orientation and gender identity are recognised as valid eligibility criteria for claiming asylum
- the need to prove the claimants' sexual orientation or gender identity and the difficulties people have in satisfying adjudicators of the fact that they are gay, lesbian, bisexual or transgender
- the need to prove that the claimant's fear of being persecuted in their country of origin because of their sexual orientation or gender identity is well-founded

Our review of international literature shows many similarities between the UK and other jurisdictions for LGBT asylum seekers. There were, for example, shared concerns about the quality and availability of country of origin information and the reliance on 'safe internal relocation' as a justification for refusing cases. However, there is also evidence that the UK asylum process remains more restrictive in its approach to LGBT asylum cases than some other jurisdictions.

Despite recent progress made by the UKBA, a number of major concerns remain undiminished. These include:

- a lack of sensitivity to the difficulties that people fleeing persecution may face in being open about their sexual orientation or gender identity at the outset of their asylum claim; so as a result people's accounts of being lesbian, gay or bisexual are routinely dismissed as not credible
- that when making decisions on LGBT asylum cases there is a tendency to assess the evidence using stereotyped and highly simplistic western benchmarks as to what constitutes 'typical' LGBT behaviour which fail to acknowledge the true complex diversity of LGBT people

- insufficient attention being given to how interpreters may act as a barrier for LGBT asylum seekers in being open about their sexual orientation or gender identity

Our research interviews mirrored the findings from our literature review and also raised serious concerns about the fairness of the asylum process (as documented in chapter 5 of our full report).

Key amongst these concerns was the continuing use of detention and fast-track decision making, as well as major shortcomings in the country of origin evidence used by UKBA.

Our interviewees were heavily critical of the quality of decisions made by UKBA on LGBT asylum claims. The most vocal criticisms often related to UKBA's regular refusal to believe that someone was, as claimed, gay or lesbian.

From our interviews, we have also identified several key areas where further work in Scotland is urgently required. These include:

- examining the particular experiences of LGBT asylum seekers at Dungavel Detention Centre
- identifying and then advertising who in Scotland is able to provide expert immigration advice on sexual orientation and gender identity asylum claims
- increasing knowledge and understanding of LGBT asylum seekers' needs within both LGBT organisations and asylum support organisations

There is a real need to enable clearer routes into specialist advice for LGBT asylum seekers.

We conclude that without improved access to specialist advice, dramatic changes to the quality of decision making on cases, and a reduction in the use of both fast-track and detention, many LGBT asylum seekers in Scotland will continue to be unable to find a place of sanctuary.

EXPLORING IDENTITIES

Previous research studies into issues faced by LGB or LGBT asylum seekers have focused mainly on problems within the asylum process. They have not fully explored whether the experiences of gay men, lesbians, bisexual people and transgender people are in any way different. Chapter 6 of our full report examines both the differences and similarities in the experiences of asylum seekers who are lesbian, gay, bisexual or transgender. We show that there is a complex intersection between issues relating to gender, gender identity and sexual orientation.

Many problems for LGBT asylum seekers stem from how societies construct what is normal or accepted behaviour, particularly as it relates to gender. LGBT asylum seekers may be persecuted because of their 'difference' or failure to conform to expected norms, as well as for their actual or perceived sexual orientation or gender identity.

We were surprised by a relative lack of literature that considered the specific experiences of gay men who had claimed asylum. There was however evidence which has highlighted their vulnerability to sexual violence, both in their country of origin and here in the UK. We also remain very concerned about the abuse and violence that gay men asylum seekers are exposed to within detention centres.

There was a range of evidence which suggested that lesbian asylum seekers find it extremely difficult to succeed in their asylum claims. As well as shortcomings in the use of country evidence and criticisms of the use of 'safe internal relocation', our research suggests that UKBA is failing to fully understand the pressures that women come under to conform to their expected gender role and often unfairly refuse to accept women's accounts of being a lesbian as credible.

There is less evidence available about the experiences of bisexual asylum seekers. However, our international literature review has highlighted how ignorant and prejudiced views about bisexuality can adversely affect a case's chance of succeeding. UKBA's Asylum Policy Instructions fail to offer sufficient guidance on dealing with bisexual claims and this is an area where we would like to see more work done.

There is an extreme lack of evidence available about the particular experiences of transgender asylum seekers. The complex terminology, legal arguments and practical support issues which can be involved in transgender asylum claims create particular difficulties which need to be better understood. Strong concerns were raised during our research about transgender asylum seekers being particularly vulnerable to physical, sexual and emotional abuse within asylum detention centres and community-based single sex shared accommodation. Our research identified difficulties relating to changing name and gender on personal documents. They are likely to be at high risk of self harm or suicide, yet accessing healthcare, especially gender reassignment healthcare, is likely to be particularly difficult for transgender asylum seekers. There is an urgent need for research work to evidence the specific support needs and asylum process experiences of transgender asylum seekers.

Finally, we highlight a real gap in knowledge about the particular experiences of young LGBT people who are asylum seekers or refugees. This group of asylum seekers face particular vulnerability not just because of their age, but from potential ongoing family pressures to keep their gender identity or sexual orientation hidden. This is also an area where further work is urgently needed.

SAFETY AND SOLIDARITY

Chapter 7 of our full report considers evidence from our interviews and community consultations about the difficulties LGBT asylum seekers in Scotland face in finding places of safety and solidarity. We found that there was a consensus that LGBT asylum seekers and refugees are likely to have complex needs, but also that these needs are currently largely going unmet.

There are many barriers for LGBT asylum seekers and refugees in accessing services. Not least of these is the language barrier, which is made more complicated for people who are often fearful of others from their own community finding out about their sexual orientation or gender identity. Our research identified a real need for more training, ranging from transgender awareness, to confidence and skills training

as well as legal training for immigration lawyers and training for UKBA judges and tribunal adjudicators.

We found that a lack of support from within people's own communities exacerbated LGBT asylum seekers' social isolation and adversely impacted on their mental well-being. As well as concerns about the lack of work being done to promote the mental well-being of LGBT asylum seekers and refugees, we have highlighted real problems around housing, poverty, destitution and the risk of sexual exploitation.

Despite these problems, there remains a relative lack of campaigning or awareness raising activity within Scotland. There is an urgent need to forge links between LGBT activists, refugee organisations and lawyers working on asylum cases. During the course of this research, we have been encouraged at how such links are beginning to be made.

CREATING SAFE SPACES THROUGH RESEARCH

Chapter 8 of our full report is based around discussions held at our community consultation event and the recognition that there remain gaps in knowledge about LGBT asylum seekers/refugees. It sets out some of the ethical and practical considerations that should inform future research work directly undertaken with individual LGBT asylum seekers/refugees. It also offers guidance as to what is actually meant by safe space and explains how this could be best achieved through adopting a highly participatory and collaborative approach.

Participants in the discussions about conducting research with LGBT asylum seekers and refugees identified some clear priorities: the establishment of a set of ethical principles to ground the research including a core collaborative, participatory ethos; the use of an intersectional approach to understand how different aspects of identities interact; and the prioritisation of safe spaces both as part of the research design, and a desired outcome.

During the next phase of Everyone IN's work we will be acting on these findings and seeking to bring together a range of partners with whom we can collaborate both to fill in gaps in knowledge and to help in facilitating the creation of safe spaces.

PRIORITIES AND RECOMMENDATIONS

It is clear from our research that much work needs to be done to improve the lives of LGBT asylum seekers and refugees in Scotland. LGBT asylum has until very recently been absent from discussions about how Scotland is meeting the needs of its asylum and refugee population. There remain huge gaps in knowledge and understanding and many challenges to overcome to reach out to a vulnerable group within a vulnerable group. These challenges are undoubtedly exacerbated by the current economic climate and the pressures that services across Scotland will be facing over the year(s) ahead.

Within chapter 9 of our full report we summarise the key findings from our research, dividing these into three categories:

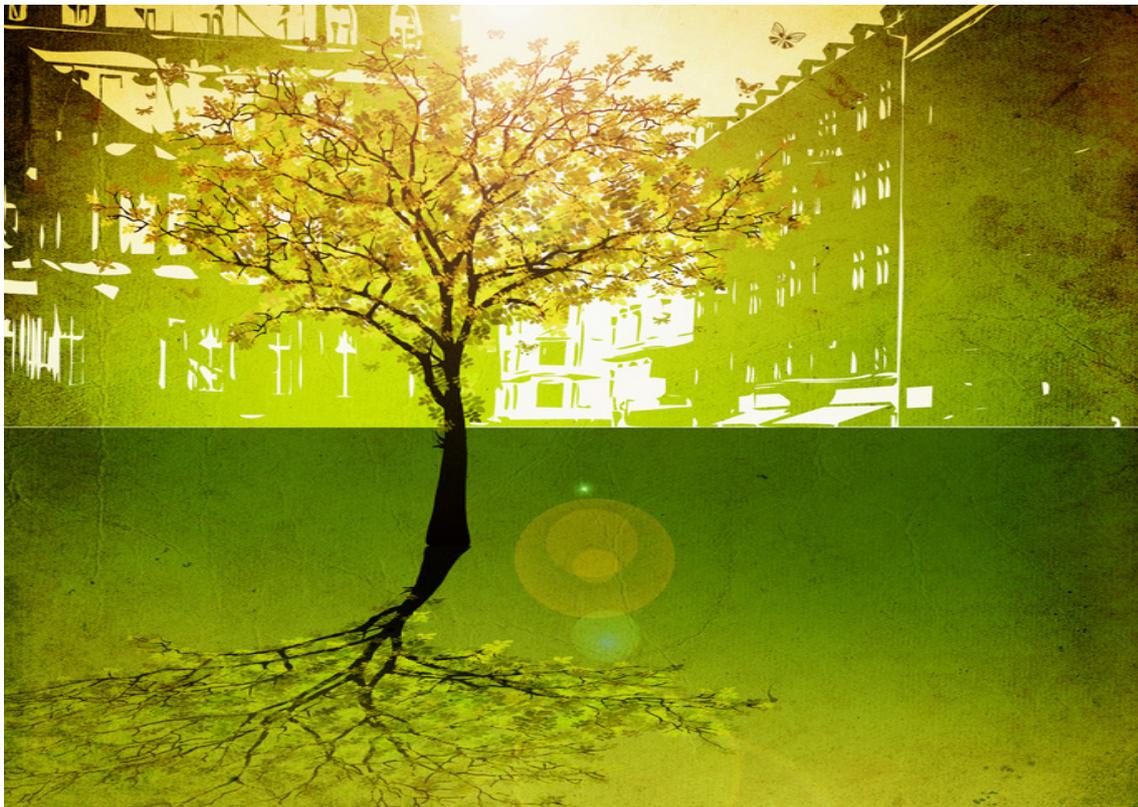
- **Sanctuary:** changes needed within the process of claiming asylum
- **Safety:** changes needed in the way LGBT asylum seekers are supported and made to feel safe
- **Solidarity:** changes needed to raise awareness of the issues faced by LGBT asylum seekers and to improve the way people work together to bring about lasting improvements

Rather than making individual policy recommendations we set out three guiding principles which we believe should act as the basis for future work on LGBT asylum in Scotland. These principles and the values captured within them should underpin a new approach to the way LGBT asylum seekers are offered sanctuary, safety and solidarity.

A radically different asylum process: SANCTUARY

We wish to see a radically different asylum process for LGBT asylum seekers, one which

- **is fair, informed and without prejudice**
- **places respect for human rights at the cornerstone of all its decision making**
- **allows sufficient time for LGBT asylum seekers to safely tell their stories**
- **ensures sufficient access to specialist legal advice and representation throughout**
- **celebrates the importance of offering protection to those fleeing persecution**
- **does not routinely rely on the use of detention and fast-track decision making**



Ending isolation and suffering: SAFETY

We wish to see a reduction in the social isolation and mental health suffering experienced by LGBT asylum seekers/refugees, including by

- **restoring the right to work for asylum seekers**
- **having an asylum support system in which no one is left in poverty and all have a sufficient income to lead a dignified life**
- **ensuring access to suitable housing throughout the whole asylum process**
- **encouraging the provision of safe spaces for LGBT asylum seekers to access support within community settings**
- **enabling services to be sensitive to the individual needs of lesbian, gay bisexual and transgender asylum seekers/refugees, including children and young adults**
- **giving a voice to LGBT asylum seekers/refugees to have their stories heard and to influence service development**



Campaigning for change: SOLIDARITY

We wish to forge new and innovative partnerships in order to bring about lasting change for people fleeing persecution because of their sexual orientation or gender identity, including by

- **enhancing links between LGBT organisations, refugee community groups, immigration lawyers, academics and activists**
- **facilitating the development of a network of organisations in Scotland which by pooling resources and knowledge will act as a co-ordinating hub, source of expert help and a catalyst for change**
- **celebrating diversity and creating unity through the use of arts and cultural activity**
- **developing a range of information and educational tools that improve awareness of the human rights abuses suffered by LGBT people across the globe**
- **creating pathways for joint work between Scottish LGBT and human rights organisations and international NGOs working in countries where LGBT people face persecution**



CONCLUSION

For LGBT asylum seekers in Scotland there continue to be great challenges in just surviving. We are determined to find ways to change this and to allow people who are currently suffering greatly, to flourish rather than just survive.

This can only be achieved by having an asylum system which operates fundamentally differently from how it currently does. Most importantly, we need a system that actively celebrates providing sanctuary to those fleeing persecution and has a support system in place built around concepts of fairness, dignity and respect. This can only be achieved by bringing more people together to support LGBT asylum seekers/refugees and to create links between organisations, lawyers, academics and activists already working in the fields of equality and human rights.

Equally important is the need for LGBT and human rights organisations within Scotland and the UK to be outward thinking, and to focus more on how they can act in solidarity with struggles to bring about justice and change in the countries from which LGBT asylum seekers have fled.

By all of us doing this together, we will also enable the individual stories of LGBT asylum seekers in Scotland to be told and understood; and only then may LGBT asylum seekers in Scotland feel that they have found a place of **sanctuary, safety** and **solidarity**.

Black and Ethnic Minorities Infrastructure in Scotland (BEMIS) have always strived to support innovative work across equality strands and to work with groups who have been marginalised. The Everyone IN project has been a successful partnership which we helped set up with Equality Network to achieve greater recognition of the complex needs of Scotland's ethnic minority LGBT population. In addition to effecting a cultural shift in understanding and addressing the needs of such disadvantaged community group, this joint research has greatly improved our understanding of the unmet needs of Scotland's LGBT asylum seekers. No doubt, this research will stand as a tremendous resource for all people and stakeholders working towards achieving equality for this client group.

Rami Ousta, Chief Executive BEMIS

A key inspiration in establishing GRAMNet was the enormous potential for academics, activists, service providers and policy makers to work together around issues of asylum and migration in order to make a positive difference to how some of the most vulnerable people are treated in our societies. This report, and the work which went into bringing it about, represents an excellent example of this potential in practice.

Rebecca Kay, Co-Convener, Glasgow Refugee Asylum Migrant Network (GRAMNet)



useful websites

LGBT ASYLUM:

LGBT Asylum News <http://madikazemi.blogspot.com/>
UKLGIG <http://www.uklgig.org.uk/>
UKBA Asylum Policy Instructions <http://www.ukba.homeoffice.gov.uk/sitecontent/documents/policyandlaw/asylumpolicyinstructions/apis/sexual-orientation-gender-ident?view=Binary>
Justice for Gay Africans <http://jfga.org.uk/>
Iraqi LGBT <http://iraqilgbt.org.uk/>
Organisation for Refugee Asylum Migration <http://www.oraminternational.org/>

ASYLUM & REFUGEE:

BEMIS <http://www.bemis.org.uk/>
GRAMNet <http://www.gla.ac.uk/departments/gramnet/>
UNITY Centre Glasgow <http://unitycentreglasgow.org/>
Scottish Refugee Council <http://www.scottishrefugeecouncil.org.uk>
Positive Action in Housing <http://www.paih.org/>
ICAR <http://www.icar.org.uk/>
National Coalition of Anti-Deportation Campaigns <http://www.ncadc.org.uk/>
UKBA <http://www.ukba.homeoffice.gov.uk/asylum/>

LGBT:

Equality Network <http://www.equality-network.org/>
Scottish Transgender Alliance <http://www.scottishtrans.org/>
LGBT Youth Scotland <http://www.lgbtyouth.org.uk/>
Stonewall Scotland <http://www.stonewall.org.uk/scotland/>
National LGBT Forum <http://www.scottishlgbt.org/>
ILGA <http://ilga.org/ilga/en/index.html>

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Particular thanks go to Kirsty Magahy for her help in reviewing both the law and policy documents and for being a sounding board for ideas; Francesca Stella from GRAMNet for getting the report started by writing up her analysis of international research and Kendra Strauss from GRAMNet for stepping in late in the day to write a chapter on creating safe spaces. A huge thank you also goes to Maxwell T. who has volunteered with us as a community champion. His advice and comments added greatly to our understanding of the issues faced by LGBT asylum seekers and helped us prioritise areas for our research.

We wish to acknowledge the many organisations and individuals who contributed through taking part in stakeholder interviews, attending training or workshops, as well as those people who braved the snow and ice to make it to our community consultation event.

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Certain images in this report are credited to photoecosse.net

Tim Cowen, Everyone IN, June 2011







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Sanctuary, Safety and Solidarity FULL REPORT is available
to download at www.equality-network.org/EveryoneIn/LGBTAsylum