

## Monitoring

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### *What are the arguments for workplace monitoring?*

- Good employers and service-providers rightly want to ensure that their workforce reflects, and their services are accessible to, a fair and representative sample of local people.
- Central government encourages monitoring in general, and requires it of certain public authorities in respect of race and ethnicity.
- Trades unions and staff networks sometimes promote monitoring as an important local tool for assessing any level of discrimination.

### *What is the best community consensus Intercom can achieve?*

- Our community-consultations have regularly shown an overwhelming majority of LGB people who are not Out in the context of workforce or service-user monitoring, and do not wish to be asked about their sexual orientation. When they are asked, the consensus is that they will be forced:

- to lie, or
- to leave that section blank, or
- to tick a box such as “prefer not to say”...

...and they understandably regard the last two of these options as being “a dead giveaway”.

- Sexual orientation is a matter of private life, and as such is protected by the Human Rights Act 1998 and the European Convention. Any organisation that wishes to probe into what is for many LGB people a particularly sensitive area of their privacy must have a very good reason for doing so. Meeting artificial performance indicators is a very bad reason.
- Organisations that are considering this kind of monitoring should ask themselves what outputs and outcomes they want from the exercise. If they want to find out whether their LGB applicants or employees perceive or experience prejudice, or whether their service-users perceive barriers to accessing services, there are alternative, and wholly legitimate, means of finding the answer to these questions without a monitoring programme. Intercom can advise on this.

If they want simply to compare their workforce profile with the local population profile, or with previous years' figures, monitoring of this kind will not only be perceived negatively by the majority of the LGB people they are trying to monitor (as described above), but will be ineffective and therefore a waste of resources, since the figures they will get could not possibly be described as reliable, and cannot therefore be made useful.

### ***Intercom's position on monitoring sexual orientation***

As a result of our consultation and research, Intercom strongly advises that in order to be able to earn and retain community trust and confidence:

#### **Sexual orientation**

Employers should not attempt

- to monitor the sexual orientation of their workforce on a routine basis, or
- to monitor applicants during recruitment stage, unless in some way that clearly, convincingly, genuinely and permanently disconnects the monitoring form from the application before they are received, separately, by the employer.

Service-providers should not attempt to monitor the sexual orientation of their service-users or customers.

### ***Intercom's position on monitoring gender identity***

On this issue the community consensus appears to us to reflect that of LGB people, but there are added doubts about the lawfulness of such an exercise.

#### **Gender identity**

Intercom believes that any attempt to introduce monitoring of transgendered and transsexual people, either within the workforce or among service-users, is an unjustifiable intrusion into an area of private life that has been strongly and inclusively protected under the Gender Recognition Act 2004 and within ECtHR judgements (such as that in *Goodwin & 'I' v United Kingdom*, 2002), and may be actually unlawful.

If there were circumstances where the results of such monitoring might in themselves be justifiable, as in being in some way in the public interest, we believe such monitoring ought to be conducted only after local consultation, and then through a local community-led organisation such as the Beaumont Society or Western Boys, or a national community-led organisation such as Press for Change or The Gender Trust. We cannot ourselves think of any situation where such monitoring might be conducted for useful purposes which could be shown to be legitimate and in the public interest.