

ILGA-Europe submission to the European Commission's consultation on the Green Paper on Ageing

April 2021

Introduction

This submission to the European Commission's consultation on the forthcoming Green Paper on Ageing draws attention to the particular difficulties faced by ageing lesbian, gay, bisexual, trans and intersex people (LGBTI) in Europe. ILGA-Europe has drafted, with the input of AGE Platform Europe, this submission detailing challenges faced by ageing LGBTI people, as well as suggestions for relevant best practices and policy recommendations to help older LGBTI people going through those life stage transitions.

The submission focuses on three major areas affecting ageing LGBTI people: 1. Socioeconomic exclusion and social protection, 2. Health, and 3. Long-term care. It also points to commitments made by the European Commission in its LGBTIQ Equality Strategy 2020-2025, which, when read in conjunction with the future Green Paper on Ageing, can lead to concrete solutions to these issues. Where necessary, we have also provided additional suggestions for solutions, as well as best-practice examples.

Ageing LGBTI people run the risk of facing the accumulated effects of stigmas and discrimination experienced throughout their lives based on their age (ageism), actual or perceived sexual orientation (homophobia, biphobia), gender identity or gender expression (transphobia), or sex characteristics (interphobia). This is sometimes referred to as "minority stress". Most ageing LGBTI people may have concealed their sexual orientation, gender identity or sex characteristics during their life, or parts of it, due to the social and legal stigma in which they have lived. Therefore, as they get older and might get more dependent on other people (family, carers) or being faced with entering more formalised care institutions or structures, they fear having to hide this again.

On the one hand, older LGBTI people can be victims of ageism within their own LGBTI communities. Ageism often includes the unconscious presumption that older people are asexual. As a result, it is difficult for a number of people to acknowledge that older people have diverse sexual orientations. In addition, inner-community ageism often manifests itself as undesirability of older LGBTI people, particularly in cis gay spaces, which are often sites of pressure regarding normative physical appearance standards. On the other hand, many LGBTI people face discrimination from and remain invisible to older people. Older people's organisations frequently lack awareness of the needs of older LGBTI people and

hence may fail to address their needs. There are still only relatively few examples of organisations attempting to address this gap, such as Grey Pride¹ and Tonic Housing,² for example.

It is also important to recognise that neither the LGBTI community nor the older populations are homogenous groups; therefore, older LGBTI individuals often face multiple discrimination that extends beyond homophobia, transphobia, interphobia and ageism.

Socioeconomic exclusion and social protection (including social isolation)

A major source of insecurity, both in terms of socioeconomic exclusion and social protection, for older LGBTI people, is the lack of legal and social recognition of same-sex relationships or one's legal gender.

Legal recognition of same-sex couples

There remain 12 EU countries that do not recognise same-sex marriage, and in 6 EU countries same-sex couples cannot access either marriage or registered partnerships, leaving them without any legal recognition of their relationship. This can have a number of impacts including the denial of family-derived rights such as:

- Property inheritance;
- Insurance;
- Childcare responsibility;
- Next of kin;
- Tax inequality;
- Lower or denied entitlement to pensions.

Those same-sex couples residing in countries which legally recognise their partnership either through marriage or registered partnership, do not have an *automatic* access to pensions and social benefits of their partners. There can be discrepancies in particular in the case of:

- Marriage equality or registered partnerships entering the national law in recent years and having no retroactive recognition of the couple's existence with potential repercussion on the level of protection afforded;
- Lack of cross-border social security coverage in EU member states where same-sex couples are not legally recognised.

This impact on access to social protection and financial security becomes particularly worrying when people get older and cannot ensure that their (dependent) partner will have access to their pensions and assets. As a result, same-sex couples must often put in place specific and costly legal arrangements

¹ <https://www.greypride.fr/page/1311948-accueil>

² <https://www.tonichousing.org.uk/>

to try to ensure that financial decision-making and inheritance will pass to the surviving partner. Unfortunately, many older people are not aware that they need to make those arrangements or lack financial resources and the expertise to do so. Surviving partners can in some cases even end up losing their homes to hostile members of the deceased partner’s family.

Legal gender recognition

In two EU countries trans people do not have access to any legal gender recognition procedures.³ In 10 EU countries legal gender recognition can be possible on condition of divorce,⁴ and in 6 EU countries this access is possible on condition of sterilisation.⁵ These latter two requirements impact the legal recognition of a trans persons’ relationship to their partner or possibility to bear children.

Trans people may face a number of additional barriers in accessing social and legal support, such as:

- Accessing existing pension entitlements after undergoing legal gender recognition, particularly if at a late stage in their career, due to non-recognition of pension contributions or years spent working under their former name;⁶
- Accessing pensions if they were forced to work informally due to severe social and labour market discrimination during their working years (the case for many older trans people);
- Decrease in pension due to loss of working hours due to time spent on medical treatment for transition-related healthcare;
- In countries where trans-specific healthcare is not covered by health insurance, trans people will have to spend a lot of their income on their own healthcare, thereby negatively impacting their socioeconomic situation;
- Where a psychiatric diagnosis is required for legal gender recognition, older trans people may experience barriers in access based on assessments of their personal capacity by mental health professionals and thus be unable to legally transition;
- Older trans people, particularly those who have been unable to undergo legal gender recognition, are exposed to breaches of their wishes with regard to their name, pronouns, and medical transition when their ability to express and defend those wishes diminishes.

Intersex people

According to the LGBTI Survey II of the EU’s Fundamental Rights Agency, 52% of intersex respondents stated that they have difficulty “making ends meet”, and 29% of intersex respondents indicated that they have had some kind of housing difficulty in their lifetime.⁷ This confirms that intersex people are

³ Bulgaria, Hungary

⁴ Croatia, Cyprus, Czech Republic, Greece, Italy, Latvia, Lithuania, Poland, Romania, Slovakia

⁵ Cyprus, Czech Republic, Finland, Latvia, Romania, and Slovakia

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https://ec.europa.eu/info/sites/info/files/legal_gender_recognition_in_the_eu_the_journeys_of_trans_people_towards_full_equality_sept_en.pdf

⁷ <https://fra.europa.eu/en/data-and-maps/2020/lgbti-survey-data-explorer>

particularly vulnerable to being unhoused or unable to pay bills, and as such are more likely to experience resource issues as they age, as their income throughout their lives was low to begin with, having negative impacts on their pensions and savings. Intersex people have also had to endure a lifetime of traumatic and intrusive medical experiences, due to intersex genital mutilation and the consequent physical and mental health implications. This increases healthcare costs throughout their lifetime, and also impacts on their security when faced with having to live in care homes, which could be retraumatising (see more under “Health” and “Long-term care”).

Social isolation

Older LGBTI people are at a high risk of social isolation due to smaller family networks. In some cases, older LGBTI people lost their family networks after coming out. On top of this, many LGBTI people either did not desire children or were unable to have children, so might not have the same social connections and support as other older people. It is additionally important to remember that many older LGBTI people lived through the AIDS crisis, during which time they lost relatives, friends, and partners. The AIDS epidemic’s peak was 1987-1996. In the U.S., “by 1995, one gay man in nine had been diagnosed with AIDS, one in fifteen had died, and 10% of the 1,600,000 men aged 25-44 who identified as gay had died”, constituting a severe decline in the population of gay men who were born in 1951-1970 (the generation currently aged 70-51 years old).⁸ This figure shows the impact on gay men, and is an indicator of the situation for the whole LGBTI community, all of whom were closely affected by the epidemic. This means that their social networks were diminished, and this also had strongly negative mental health implications, including distrust of authorities in taking LGBTI people’s health conditions seriously. They often face social exclusion and discrimination from service agencies such as local authorities, residential hospitals or home care agencies. Due to a lifetime of discrimination in multiple sectors, including healthcare, many older LGBTI people face insecurity when seeking healthcare as they get older, and in particular feel insecure about the social environment in institutional settings such as care homes (see sections on “Health” and “Long-term care” below). Even when this is not the case, older LGBTI people without children are likely to feel left out when others in care homes discuss their children and grandchildren.⁹ According to the 2020 AGE barometer, a large proportion of older LGBTI people are at a higher risk of isolation and poverty. A [recent UK study](#) reports that 40% of LGBT people aged 50+ are living alone. Especially during Covid-19, where physical distancing and lockdown measures have stopped the activity of several clubs and charities, people relying on those alternative social networks find themselves at [higher risk of isolation](#).

Possible solutions

⁸ Rosenfeld, Dana (2018), “The AIDS epidemic’s lasting impact on gay men”, The British Academy Blog. <https://www.thebritishacademy.ac.uk/blog/aids-epidemic-lasting-impact-gay-men/>

⁹ Research from Communities Scotland (2005), The housing and support needs of older lesbian, gay, bisexual and transgender people in Scotland.

The EU's LGBTIQ Equality Strategy 2020-2025 foresees a number of commitments which would contribute to alleviating some of these issues. These commitments should be clearly reiterated and picked up in the Green Paper to ensure older LGBTI people are included in the planning and implementation.

For example, the European Commission has committed to gathering evidence regarding the barriers to equality experienced in social protection and employment for LGBTIQ people, including FRA data. They then will produce "guidelines to Member States to ensure that their social protection programmes reach LGBTI people, who are a particularly vulnerable group, and that assistance is provided in a non-discriminatory manner". This is an important step to improve LGBTI people's access to formal employment throughout their lives, reducing the risk of financial resource issues in their later years. It will also help to ensure the inclusion of LGBTI people in healthcare settings and other social services, without discrimination, allowing for greater inclusion and security when faced with longer term healthcare or support in older age. This measure will also ensure LGBTI people are supported through social protection and employment, even when they do not have support networks in the form of family or friends.

In addition, the Commission will draft a horizontal legislative initiative to support the mutual recognition of parenthood between Member States, which would cover the recognition in one Member State of the parenthood validly attributed in another Member State, presenting it in 2022. Such a legislation would help to ensure that same-sex couples do not lose their family ties and associated social benefits when moving across borders. To help tackle the barriers faced by trans people in accessing legal gender recognition procedures that are quick, accessible and transparent, the European Commission will organise good-practice exchanges between Member States on legal gender recognition. To help alleviate the inequalities faced by trans and intersex people, in particular in accessing the formal labour market, the Commission has committed to preparing guidance for Member States and businesses regarding accessing the labour market, and exchange of good practice to end harmful medical practices against trans and intersex people. This is crucial also in improving the security of older trans and intersex people when faced with relying on medical institutions.

In addition to the measures set out in the LGBTIQ Equality Strategy, we suggest the following:

- Assess with Member States how to ensure equitable access for LGBTI people to pensions without discrimination;
- Exchange good practices regarding social inclusion of older LGBTI people in care homes;
- Ensure that transition-related healthcare is covered by health insurance, including for those in assisted living facilities;
- Expressly mandate equality bodies to investigate multiple discrimination and matters affecting older LGBTI people and make sure that older people are able to report abuses or discriminatory practices easily through publicised mechanisms and are informed of their rights;

- Assess the needed legislative changes to allow for succession rights and joint tenancies to be available for all couples and provide specific information and support to older LGBTI people on possibilities of passing their benefits, assets and inheritance to their surviving partner;
- Make sure that support services available to older people are inclusive and respectful of all, including LGBTI people.

Health

Research confirms that a lifetime of stigma, misgendering, and/or non-consented procedures is leading to worse physical and mental health, poorer access to health and social care.¹⁰ It can also deter LGBTI people from seeking medical care, leading to later entry into medical systems or no entry at all.¹¹ This particularly affects trans and intersex people, who have very specific healthcare needs.¹² On top of this, many LGBTI people experience discrimination from the healthcare sector itself.¹³

Older LGBTI people have often had to cope with minority stress during most of their life, which has a detrimental impact on health outcomes in old age.¹⁴ There is evidence, for example, of impacts on cognitive decline among LGBT people, and increased symptoms of major depressive disorder among over 50s due to minority stress,¹⁵ though significantly more research is needed on this population. Older LGBTI people are likely to have grown up in a period that was less accepting, where issues around sexuality and gender were hidden and where they frequently had to conceal their identities, including to their doctor. This is still the case for many LGBTI people in the EU. A 2017 study of EU countries showed that in 11 EU countries, many LGBTI respondents of all ages would feel uncomfortable coming out to their GP.¹⁶ A 2019 study from the UK found that 18% of older LGBT people would feel uncomfortable disclosing their sexual orientation to their GP.¹⁷ Many older LGBTI people have lived through the AIDS crisis, losing close friends, resulting in long-term mental health impacts. It was only in 1990 that the World Health Organisation removed “homosexuality” from the list of mental disorders, and only in 2019 that the World Health Organisation removed trans identities from the list of mental disorders. Even

¹⁰ Health4LGBTI (2017) State-of-the-art study focusing on the health inequalities faced by LGBTI people https://ec.europa.eu/health/sites/health/files/social_determinants/docs/stateofart_report_en.pdf

¹¹ Ibid.

¹² Ibid.

¹³ Ibid.

¹⁴ Brian Beach (2019) Raising the equality flag - Health inequalities among older LGBT people in the UK, International Longevity Centre UK <https://ilcuk.org.uk/wp-content/uploads/2019/05/ILC-Raising-the-equality-flag.pdf>

¹⁵ Anthony N. Corrojo II & Kristy A. Nielson (2019): A review of minority stress as a risk factor for cognitive decline in lesbian, gay, bisexual, and transgender (LGBT) elders, Journal of Gay & Lesbian Mental Health, DOI: 10.1080/19359705.2019.1644570

¹⁶ Health4LGBTI (2017) State-of-the-art study focusing on the health inequalities faced by LGBTI people https://ec.europa.eu/health/sites/health/files/social_determinants/docs/stateofart_report_en.pdf

¹⁷ Brian Beach (2019) Raising the equality flag - Health inequalities among older LGBT people in the UK, International Longevity Centre UK <https://ilcuk.org.uk/wp-content/uploads/2019/05/ILC-Raising-the-equality-flag.pdf>

today, in every EU country, apart from Malta, Portugal, Germany and some regions of Spain, it is legal for doctors to perform medically unnecessary surgery on intersex infants and children without their informed consent, often leading to health complications later in their lives. Even in those areas where this surgery is now banned, the bans are extremely recent and therefore do not affect the current older intersex population. Thus, many older LGBTI people have been convinced throughout their life that the health sector has little to offer them other than stigmatisation and discrimination. Therefore, getting older and depending almost entirely on healthcare professionals can be traumatic for them.

Many older trans people of today [transitioned at a time](#) when families, communities and even legal systems struggled to comprehend trans identities and transitioning. Others did not transition at all because legal gender recognition or medical transition were not available. Those who have gone through medical transition face difficult challenges when getting older as they have to disclose intimate information about their bodies to healthcare providers who they do not necessarily trust or who are largely ignorant about their situations. Very often, they do not have an option to keep their gender history a secret as their bodies may carry scars or other physical evidence and because transition-related medical care can be a lifelong process, particularly in terms of hormone therapies. This may cause questioning by healthcare providers, and even discrimination, physical or sexual violence, hostility or disrespectful behaviour.

Older intersex people are often reluctant to seek healthcare due to their high exposure to traumatic experiences when receiving healthcare throughout their life. Intersex people of all ages have lower physical and mental health outcomes¹⁸, with nearly four times the prevalence of suicide attempts than the general population, according to one European study¹⁹. Furthermore, the high exposure to unconsented medical procedures among intersex people²⁰ leads to a widespread distrust of the medical system, including assisted care facilities and in-home care workers.

In addition, it seems that independent of their past experiences, a number of older LGBTI people consider that the care treatment they currently receive is still unsatisfactory.²¹

Another difficulty faced by older LGBTI people when seeking healthcare is the fact that in many cases, same-sex partners are not acknowledged by healthcare workers, being excluded from access to

¹⁸ Rosenwohl-Mack A, Tamar-Mattis S, Baratz AB, Dalke KB, Ittelson A, Zieselman K, et al. (2020) A national study on the physical and mental health of intersex adults in the U.S.. PLoS ONE 15(10): e0240088. <https://doi.org/10.1371/journal.pone.0240088>

¹⁹ Falhammar H, Claahsen-van der Grinten H, Reisch N, Slowikowska-Hilczner J, Nordenstroöm A, Roehle R, et al. Health status in 1040 adults with disorders of sex development (DSD): a European multicentre study. Endocrine connections. 2018; 7(3):466–78. <https://doi.org/10.1530/EC-18-0031> PMID: 29490934

²⁰ <https://fra.europa.eu/en/data-and-maps/2020/lgbti-survey-data-explorer>

²¹ A study examining the experiences and needs of older LGBT people has been carried out by the Irish organisation, Gay and Lesbian Equality Network (GLEN). A. Higgins et al. (2011). Visible lives : identifying the experiences and needs of older lesbian, gay, bisexual and transgender people in Ireland, <http://www.glen.ie/newspost.aspx?contentid=1294&name=glenlaunchesmajorresearchintolivesofold>.

information on the health condition of their partner or even being denied the right to visit a partner in hospital.²² This adds to the discrimination older LGBTI people can face from health and social care environments just for being LGBTI.²³

When it comes to accessing education and information on sexual health, often the available information and education is aimed solely at younger people who are exploring their sexuality for the first time, and can therefore miss reaching older LGBTI people, including those coming out later on in life.

During the COVID-19 pandemic, older LGBTI people with underlying medical conditions have been particularly exposed to serious consequences if infected. This includes people living with HIV/AIDS who are not taking treatment, [specifies](#) the UK charity NAM. Older trans people have also had their access to transition-related medical services radically curtailed, due to deprioritisation of medical transition during the pandemic.²⁴

Possible solutions

The EU's LGBTIQ Equality Strategy 2020-2025 foresees a number of commitments to improve the health of LGBTIQ people. These commitments should be clearly reiterated and picked up in the Green Paper to ensure older LGBTI people are included in the planning and implementation.

The European Commission will:

- Encourage EU Member States to organise trainings for healthcare professionals, where the health needs of LGBTIQ people - including older LGBTIQ people - should be highlighted in order to avoid stigmatisation and discrimination in access to health services;
- Facilitate exchanges of good practice with MS on mental health challenges – this should include as they impact older LGBTI people;
- Disseminate training material from the Health4LGBTI project – this should also include a focus on care homes and elder care providers;
- Host an EU wide conference through the EU Health Policy Platform where research results from Horizon Europe on intersectional health needs will be presented – this should include research on the health needs of older LGBTI people;
- Enhance LGBTIQ equality mainstreaming in relevant education, health and employment initiatives – this should include in initiatives focussing on older people, mental health and HIV/AIDS prevention, such as via Erasmus+ and EU4Health;

²² Health4LGBTI (2017) State-of-the-art study focusing on the health inequalities faced by LGBTI people https://ec.europa.eu/health/sites/health/files/social_determinants/docs/stateofart_report_en.pdf

²³ https://www.ilga-europe.org/sites/default/files/info_silver_correct.pdf

²⁴ Koehler, A., Motmans, J., Alvarez, L. M., Azul, D., Badalyan, K., Basar, K., et al. (2020). How the COVID-19 pandemic affects transgender health care in upper-middle-income and high-income countries—A worldwide, cross-sectional survey. medRxiv 2020.12.23.20248794; doi: <https://doi.org/10.1101/2020.12.23.20248794>

- Propose that the Steering Group on Promotion and Prevention (SGPP) considers validated health-related good practice in the area of intersectional health, such as LGBTI older people, that could be implemented by Member States.

In addition to these commitments, we would encourage schools and universities teaching medical and social care students, and specifically courses covering healthcare for older people, to also reflect the health and care needs of older LGBTI people in their curricula. Training and support should also be provided to informal and professional carers on the needs of older LGBTI people.

Long-term care

Many of the concerns older LGBTI people have about healthcare providers are true also of long-term care institutions. Many studies conclude that the most preferred option for older LGBTI people in advanced old age is to live in their own homes.²⁵ The least preferred option is to live in a nursing home. Some expressed a preference for living in an LGBTI-exclusive retirement community or an older-age facility that is sensitive and respectful of LGBTI needs. They are concerned about discrimination in their new home environment, from residents, staff and institutional structures.²⁶ According to participants of the European Commission's 2020 study "Legal gender recognition in the EU: the journeys of trans people towards full equality", around 25% of those with direct personal experience of long-term healthcare services later in life experienced discrimination, harassment and prejudice linked to their gender identity, including physical and verbal abuse.²⁷ Some older LGBTI residents of care settings might even feel obliged to conceal differences in gender identity, sexual orientation and sex characteristics (going "back into the closet") when they enter institutions. Trans and intersex older people are particularly vulnerable to invasions and breaches of privacy as well as dismissal of their identities and wishes (such as their wish to continue transition-related healthcare such as hormone therapy) when they rely on physical care services in facilities that may expose their bodies to others.

²⁵ P. Musingarimi (2008), Health issues affecting older gay, lesbian and bisexual people in the UK, a policy brief, the International Longevity Centre.

A study examining the experiences and needs of older LGBT people has been carried out by the Irish organisation, Gay and Lesbian Equality Network (GLEN). A. Higgins et al. (2011). Visible lives : identifying the experiences and needs of older lesbian, gay, bisexual and transgender people in Ireland,

<http://www.glen.ie/newspost.aspx?contentid=1294&name=glenlaunchesmajorresearchintolivesofold>.

Research from Communities Scotland (2005), The housing and support needs of older lesbian, gay, bisexual and transgender people in Scotland.

²⁶ Bristowe, K., Hodson, M., Wee, B., Almack, K., Johnson, K., Daveson, B., Koffman, J., McEnhill, L. and Harding, R. (2017). Recommendations to reduce inequalities for LGBT people facing advanced illness: ACCESSCare national qualitative interview study. *Palliative Medicine*, 32(1), 23-35.

²⁷ https://ec.europa.eu/info/policies/justice-and-fundamental-rights/combatting-discrimination/lesbian-gay-bi-trans-and-intersex-equality/studies-and-research-lgbti-equality_en

Discrimination can also be encountered, for example, when those assisting older LGBTI people to fill in forms assume or ridicule their pronouns, details about their family members and so on. There are also many anxieties about completing forms and hospital documents which require a statement of relationship to the patient. Trans people often have worries related to care staff 'choosing' their gender for them or using the wrong pronoun in order to ridicule them. As pointed out by OII (Organization Intersex International),²⁸ questionnaires and forms to be filled in when applying for residential care facilities comprise extensive questions on specific conditions that must be disclosed. Staff going through the answers have very little knowledge on intersex people and might treat them with less respect than other residents.

Possible solutions

Part of the issue is that decisions taken by health and social care bodies are very heteronormative, and it is rare that decisions are made by LGBTI people or with the input of the residents. In order to improve the inclusion of older LGBTI people in long-term care we suggest the European Commission facilitate the exchange of best practices and fund training programmes related to:

- Accessible services for LGBTI residents, provider sensitivity, and affirming visibility of older LGBTI people;
- Legal security for LGBTI older people who may not have their relationships legally recognised;
- Equality policies for residents and staff of long-term care facilities.

Best practice example of long-term care provision for older LGBTIQ people:

Cavaria is the main LGBTI organisation in Flanders (Belgium), and its education and training center, Kliq, carried out a [project](#) training care home staff in Flanders in 2018. The project focused on respect for privacy, human dignity and autonomy of care home residents. Recommendations from the project, once completed, included the following:

- Set up a working group within the structure of the care home to review policies and activities;
- Create privacy policies addressing needs when it comes to the sexuality and privacy of all residents;
- Encourage staff to discuss LGBTI issues with residents (ensure there is trust first, so that residents feel comfortable to speak openly);

²⁸ Press release by OII Australia (November 2011), On the Tenth Day of Intersex we draw your attention to the aged, to aged care and how that affects intersex lives", <http://oiaustralia.com/15328/media-release-today-friday-4th-november-istenth-day-of-intersex/>

- Review forms and other bureaucratic documents to update terminology, e.g. “partner” instead of “husband or wife”;
- Adopt a code of conduct on non-discrimination which protects from discrimination and establishes effective complaint procedures;
- Distribute informational material about SOGIGESC;
- Work with LGBTI organisations.