

Written evidence from Bournemouth University [EAP0007]

Introduction

[1] Written evidence submitted by Dr Christopher Pullen and Dr Mengia Tschalaer, on behalf of Bournemouth University, to the Women and Equalities Committee call for evidence into Equality and the UK asylum process.

[2] This evidence is based on the data gathered from a research project funded by the [British Academy](#) entitled: '*Understanding LGBTQ (lesbian, gay, bisexual transgender and queer) Refugees' and Asylum Seekers' Support Needs through Listening to Autobiographical Storytelling*' which took place between April 2020 and July 2021.ⁱ The team conducted qualitative semi-structured interviews with three LGBTQ asylum claimants and nine managers of regional NGO service providers to asylum claimants. In May 2021, the research team organized an invitation-only community-based online workshop, with participation from 13 representatives of well-known LGBTQ support groups working across England, Wales, Scotland, and Northern Ireland. The workshop explored challenges that LGBTQ asylum claimants face regarding legal support, housing, mental health, and the 'hostile environment'.

[3] Dr. Tschalaer's project [Queer Asylum in Germany](#) and [SOGICA](#) offered a background to build upon. Our research offered the opportunity to gather important data about human rights protection standards available to LGBTQI+ (lesbian, gay, bisexual, transgender, queer, intersex, and others) asylum claimants, across the UK. We also created a network of NGO help group representatives, for the purpose of sharing concerns and good practices in relation to queer asylum.

[4] The empirical data of this project reveals a need to establish a more inclusive asylum system, sensitive to the lived realities of LGBTQI+ asylum claimants and refugees, regards socio-legal, accommodations, and mental health support. Christopher and Mengia are available to provide oral evidence or give further clarification if it would assist the inquiry.

Executive Summary

[5] There are three key areas that we have addressed:

- a) - 'advocacy and policy' – the current policies in place are not fit for purpose in protecting or caring for LGBTQI+ asylum claimants, while NGOs are currently doing good work, better understanding their needs.
- b) - 'training and mentoring' - officials working in the asylum system need training regards the nuances and diversity of LGBTQI+ asylum claimants, and mentoring schemes organised by NGOs, such as [Sahir House](#), offer good evidence of work in this area,
- c) - 'emergency support and housing' - LGBTQI+ asylum claimants experience very poor service overall, when being offered housing in the UK, and only some specialised NGOs like [Micro Rainbow](#) offer a service that is fit for purpose. There are many obstacles that inhibit the ability for LGBTQI+ asylum claimants to gain access to emergency support, such as medical care.

Biographies

[6] **Dr. Christopher Pullen**, is an Associate Professor in Media and Inclusivity at [Bournemouth University](#). His research specialisms explore LGBTQ representation and the media, including work on transnational identityⁱⁱ and LGBT asylum claimants' engagements with media technology.ⁱⁱⁱ He leads a prototype network of the regional NGO managers who took part in our research,^{iv} with an aim to share best practice in serving LGBTQ asylum claimants. **Dr. Mengia Tschalaer** is a social anthropologist and the PI on the HORIZON 2020-funded [Queer Asylum in Germany](#)-project (2018-2020) which explored the vulnerabilities of LGBTQI+ asylum claimants within Germany's asylum system. Dr. Tschalaer authored [4 policy briefs](#) on the protection standards of LGBTQI+ asylum claimants in collaboration with ILGA, Transgender Europe, and the Council of Europe and co-founded the [Queer European Asylum Network](#) (QUEAN), an umbrella organization that brings together NGO practitioners, LGBTQI+ refugees, activists, policy makers, and academics.

1) *Asylum and protected characteristics*

What is the nature and extent of UK asylum claims based on:

- 1.1. discrimination or persecution relating to the protected characteristics?*
- 1.2. Are those with certain protected characteristics more or less likely to be granted asylum in the UK?*

[7] Yes, they are less likely to be granted refugee protection. As described by [Migration Rainbow](#) (formerly UKLGIG), the UK Home Office rejects a high proportion of LGBTQI+ asylum claimants ([71%](#) in 2018). We believe this is due to the lack of understanding of:

- a) LGBTQI+ persons' lived experiences of violence and marginalization;
- b) the legacy of the 'hostile environment' for immigration which could be argued to have resulted in systemic racism and homo-transphobia at the core of the asylum system;
- c) a Western/Eurocentric bias in assessing sexual orientation and gender identity.

[8] Key Findings

- **Visibility:** LGBTQI+ people seeking asylum appear invisible in the asylum system unless they reveal themselves. Many are reluctant to 'come out' due to their specific life situations, such as contexts of family, marriage, and community. Many have feelings of shame and are fearful to talk about their sexuality/gender identity. Many lack safe accommodation and other spaces that would allow for a 'coming out'.
- **Credibility assessment:** The response is one of hostility, prejudice, and/or disbelief. Cases may be denied as not credible because: a) sexual orientation/gender identity is deemed as not being a credible reason to seek asylum; b) their experience of violence is not accepted, or it is treated as not amounting to persecution; c) the person needed to hide their sexual orientation in their country of origin and/or they were previously married to and/or are in a relationship with an opposite sex partner.

- **Homo-/Transphobia:** The language in asylum interviews and welcome information maybe homophobic, and rely on gender-binary narratives and practices, that is detrimental for the safety of trans and non-binary persons.
- **Stereotyping:** Immigration staff often rely on Western concepts of sexuality and gender identity, to identify LGBTQI+ persons, leaving many LGBTQI+ asylum claimants to be overlooked. There is very little to no awareness of LGBTQI+ issues amongst border control officers.

[9] Policy Implications

- **Visibility:** Decision-makers and practitioners within the asylum process need to improve their perception, of the often-invisible narratives of homosexuality, gender identity and gender expression. Safe spaces should be established where LGBTQI+ asylum claimants feel comfortable in outing themselves.
- **Credibility assessment:** Interviewers within the asylum process, should assign more credibility to LGBTQI+ applicants, in an individualized and sensitive manner (see [DSSH model](#)), better understanding Individual and structural issues ‘coming out’. The Home Office should work more closely with the NHS to establish credibility through mental health care services.
- **Homo-/Transphobia and Stereotyping:** Decision makers and translators would benefit from training in LGBTQI+ issues and the appropriate use of language to detect (un)conscious biases regarding gender and sexuality, ensuring the upholding of the protection standards of the Equalities Act 2010.

2. *The asylum process for individuals with protected characteristics*

Is the UK asylum process safe and fair for those with protected characteristics?

2.1. *Are individuals with certain protected characteristics more at risk of harm or unfair treatment when going through the UK asylum process?*

[10] Yes, LGBTQI+ asylum claimants face increased discrimination, unfair treatment, and experience harm in the context of:

- a) accommodation;
- b) refusal of their applications;
- c) access to health and social support groups.

The [data](#) from Dr. Tschalaer’s research highlights that lesbian identifying women seeking asylum tend to remain unrecognized with the asylum system, also evident in UK [research](#).

[11] Key Findings

- **Accommodations:** LGBTQI+ asylum claimants kept in cramped low-quality accommodations and detention facilities, live in constant fear of emotional abuse and sexual violence due to

trans/homophobia on the part of staff and other asylum claimants. This creates feelings of isolation and depression and risks re-traumatization through being forced to remain in the closet (breaking the legal protections offered by the Equality Act 2010), as evidenced in our data. **There is a wide-spread fear of reporting anti-LGBT hate crime, violence and harassment - which can lead to LGBTQI+ asylum claimants leaving Home Office assigned accommodation and becoming homeless.** And even if reported, victims of physical, sexual, and emotional abuse in accommodation are often not relocated, further contributing to their homelessness. **Lastly, intersex and trans persons are put into accommodation based on their ‘wrong’ gender identity.**

- **Hostile Environment:** The ‘hostile environment’ in the UK has led to a [‘culture of disbelief’](#), and [‘impossible burden of proof’](#) and risks violating the human rights protection standards for LGBT asylum claimants and refugees.
- **Access to Support Services:** The rural location of most accommodation centres prevents LGBTQI+ asylum claimants from easily accessing legal and social support from LGBTQI+ NGO help groups which are most likely located in urban areas.
- **Lesbians:** Lesbians remain often invisible because they are often not believed to be homosexual,^v particularly if they have been married with children and if their biographies lack long-term same-sex relationships and/or if such relationships have been lived secretly. It is difficult to present evidence for prosecution if there is a lack proof of gender-based and sexual violence. **While lesbians are often expected to have sought police protection within homophobic state contexts, them doing so could lead to a rejection based on the perceived lack of state persecution.**

[12] Policy Implications

- **Accommodation:** LGBTQI+ refugees should be offered special accommodation facilities for LGBTQI+ persons, such as offered by [Micro Rainbow](#) with access to local LGBTQI+ groups. We need to establish LGBTQI+ offices/authorities throughout the UK, where LGBTQI+ people seeking asylum can make a complaint when they are treated unfairly during the asylum process or face discrimination in their accommodation. Safe spaces should be provided for female-, transgender/transsexual and intersex identifying LBQTI asylum claimants, such as Micro Rainbow’s SisterSister program does.
- **Hostile Environment:** The Home Office, UKVI, Immigration Enforcement and Immigration Tribunals need to identify credible LGBTQI+ allies and work with them on training and resources. LGBTQI+ organizations should further forge tactical alliances in support of asylum claimants, that allow for collaboration with allies within parliament, NHS, advocacy, and civil rights groups.
- **Access to Support Services:** There is a need to set up a system of early referrals and identification of LGBTQI+ asylum claimants and migrants and a need to improve digital access for LGBTQI+ asylum claimants to access social and legal support. Services might be easier accessed, with the development smart phone/digital technology, that might provide information about local resources.
- **Lesbians:** Decision-makers and practitioners should receive training that allows them to recognize the ‘often invisible’ narratives around homosexuality in lesbians’ asylum accounts and the multi-faceted ways in which non-heterosexual women try to protect themselves in their everyday lives (incl. heterosexual marriages, children, and absence of any form of relationships). Safe spaces should be provided that allow for lesbian women to fully disclose their claims during the asylum interview without being subject to gender, race, and sexuality stereotypes. Decision-makers and practitioners should consider the ways in which sexual orientation and/or gender identity exacerbates violence against women within families, communities, and governmental settings, when making asylum decisions.

2.2. *What challenges do those with protected characteristics face on the basis of those characteristics if they are granted asylum in the UK? What specific issues do those with certain protected characteristics face?*

[13] The data reveals that despite having received refugee protection status, LGBTQI+ persons continue to face challenges caused by the Hostile Environment around:

- a) housing;
- b) employment; and
- c) healthcare and mental health.

[14] **Key Findings:**

- **Housing:** Homelessness is prevalent as refugees only have 28-30 days to find housing after a positive case decision. Unemployment, lack of landlord references, unwelcoming landlords, and lacking a credit history, contributes to homelessness.
- **Employment:** It's often difficult for LGBTQI+ refugees to find employment because:
 - o they have been out of the workforce for a prolonged period,
 - o their educational/professional qualifications are not recognized,
 - o they may experience racism, homo-/and transphobia within the mainstream employment sector,
 - o In addition, LGBTQI+ asylum claimants and refugees have no recourse to public funds, contributing to the likelihood of homelessness and poverty.
- **Healthcare and mental health:** The healthcare system in the UK, is not easily accessible for LGBTQI+ asylum seekers because of fear being outed. Particularly trans sex workers and LGBTQI+ persons living with HIV were found to be reluctant to access the healthcare system (particularly during COVID-19) due to fear of stigmatization. LGBTQI+ asylum seekers and refugees additionally reported that the lack of information, indifferent language, and racial prejudice on the part of health officials deterred them from getting adequate medical and mental help during the pandemic. This problem was exacerbated in areas that are more rural.

[15] **Policy Implications**

- **Housing:** The Home Office must establish more flexible housing policy that allow people to find an accommodation before they leave the asylum accommodation/detention.
- **Employment:** LGBTQI+ refugees should be paired with organizations that can support and prepare them for seeking employments and provide letters of recommendation.
- **Healthcare and mental health:** Specific efforts should be made to ensure accessible health care for all – regardless of residence status and there is a need to improve access to trans healthcare pathways for trans, non-binary and intersex persons. The healthcare system should also establish better protection standards for LGBTQI+ asylum claimants with regards to privacy and the possible disclosure of sexual identity.

2.3. *Do current domestic and international laws and conventions governing the UK's asylum process provide effective protection against discrimination for those with protected characteristics?*

[16] No. We are concerned that there will be fewer protections for LGBTQI+ asylum claimants now that the UK is no longer subject to the jurisdiction of the European courts and will not be applying European case law. Participants in our community workshop raised this as a specific concern.

[17] **Policy Implications:**

- Recognize in law and protections the LGBT dimension in the EU Settlement and other immigration schemes to have an effect.

2.4. *How has the Covid-19 pandemic affected those with protected characteristics who are seeking asylum?*

[18] While the UK government recognizes that the call to “stay home and safe lives” potentially puts vulnerable groups such as victims of domestic violence at risk and increases isolation, persons seeking asylum find themselves in increasingly cramped accommodations with less access to community and legal services, contributing to increased instances of violence and trauma. The Covid-19 pandemic exacerbated the precarity of LGBTQI+ asylum claimants with regard to food security, mental and physical health, isolation, accommodation, digital poverty, also impinging access to social and legal support services (see also [Stonewall](#)).

[19] **Key Findings**

- **Accommodation and social isolation:** The pandemic exacerbated inequalities and social isolation for LGBTQI+ asylum claimants with many living in hotels, former military camps, and privately managed accommodations. The ‘stay at home’ message and ‘social distancing’ legislations, pushed many into extreme isolation while living in compromised living and sleeping arrangements, while trying to ‘hide’ to shield themselves from gender-based and sexual violence.
- **Lack of legal and social services and digital poverty:** There is a lack of steady and affordable WIFI in accommodation centres which prevents asylum claimants from staying in touch with legal and social support services and members of the LGBTQI+ community. As a result, they experience further isolation that can result in traumatization, depression, and self-harm.
- **Healthcare:** Healthcare is not always easily accessible for LGBTQI+ claimants. Trans sex workers and LGBTQI+ persons living with HIV were particularly reluctant to access the healthcare system during COVID-19 due to fear of stigmatization.

[20] **Policy Implications**

- **Accommodation and social isolation:** The system of immigration detention should be abolished, and refugee camps and privatised and hotel accommodation should be closely monitored to ensure safety and health standards for all refugees. **In the short term, it is essential that LGBTQI+ persons are assigned single rooms in reception and accommodation camps, or assigned safe LGBTQI+ housing**, to minimise risks of violence and stigmatisation, while taking into consideration their health.
- **Lack of legal and social services and digital poverty:** All asylum accommodations should offer free high-quality internet access, enabling LGBTQI+ persons to stay in touch with their counsellors, LGBTQI+ community organizations and friends, tackling the effects of extreme isolation. LGBTQI+ refugee groups and networks need to receive comprehensive funding, to support the costs of essential

help and support services. LGBTQI+ persons should have access to quality services to minimise risks of re-traumatisation, depression, self-harm and substance abuse.

- **Healthcare:** We ask that the Government make specific efforts to significantly improve LGBTQI+ asylum claimants' access to health care during a health crisis, to minimise their stigmatisation, discrimination, and inherent vulnerability. The NHS and Social Services need to be more proactive in better understanding the unique challenges of the LGBTQI+ asylum claimant community during a pandemic. Also, NGO help providers need a closer partnership with the NHS and Social Services, working together to offer adequate healthcare support.

Conclusion

[21] We offer three key recommendations:

1. That a consortium of NGOs should respond to our evidence, led by, or reporting to, a representative from the Women and Equalities Select Committee to consider the key themes of 'advocacy and policy', 'training and mentoring', and 'emergency support and housing'.
2. That more effort is made to understand and adapt systems for the specific challenges experienced by LGBTQI+ asylum claimants in the UK. We advocate that the government should put into place mechanisms and structures, that treats LGBTQI+ asylum claimants with empathy and respect within the asylum process, specifically bearing in mind the often 'invisible nature' of their 'protected characteristics' within the Equalities Act 2010.
3. More effort should be made to address the specific housing needs, and inherent vulnerability of LGBTQI+ asylum claimants who are within the system. We advocate that a UK wide policy needs to be formed, where safe housing is offered to LGBTQI+ asylum claimants across all nations, potentially following the model of the NGO [Micro Rainbow](#).

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ⁱ British Academy reference: SRG 1920\100567. Dr Pullen was principal investigator, Dr. Ieuan Franklin was co-investigator, and Dr Tschalaer was research assistant.

ⁱⁱ Pullen, C. ed., 2012. *LGBT Transnational Identity and the Media*. Basingstoke: Palgrave MacMillan.

ⁱⁱⁱ Pullen, C. 2018. Queer Youth Refugees and the Pursuit of the Happy Object: Documentary, Technology and Vulnerability, in P. Aggleton, R. Cover, D. Marshall and M. L. Rasmussen, eds., *Youth, Sexuality and Sexual Citizenship*. New York: Routledge, pp. 184-200.

^{iv} Network of (NGO) Regional Supporters to LGBTQI Asylum Claimants

^v See - Tschalaer, M. 2021. Victimhood and femininities in Black lesbian asylum cases in Germany, *Journal of Ethnic and Migration Studies*, 47:15, 3531-3548, DOI: [10.1080/1369183X.2020.1772735](https://doi.org/10.1080/1369183X.2020.1772735)