

Recommendations 6.7:
The Commissioners therefore recommend:

- 6.7.5 – That legal representatives and decision makers should be trained in the commissioning and use of medical expert reports and witnesses.
- 6.7.6 – That criteria should be developed specifying when expert opinion should be obtained, for example, in the cases of psychologically vulnerable persons where credibility issues or issues of the timing of disclosure are deemed relevant.
- 6.7.7 – That survivors of torture who are dispersed should have access to appropriate support, such as through the Medical Foundation for the Care of Victims of Torture.
- 6.7.8 – That UKBA decision-makers should receive training on the impact of torture, sexual violence or other forms of trauma on an asylum seeker's credibility, and ability to disclose details that support their case.

Interim Finding 7. At the treatment of lesbian, gay, bisexual and transgender asylum seekers in the asylum system

- Finding 7.1 – At the treatment of LGBT asylum seekers in the asylum system**
- Finding 7.2 – That some 'white-list' countries, such as Jamaica, recognised as 'safe' may not be so for LGBT asylum seekers**
- Finding 7.3 – That LGBT asylum-seekers may be slow to 'come out' and so have difficulty providing evidence to substantiate their claim**
- Finding 7.4 – That LGBT detainees are not adequately protected in detention**

UKBA response:

All detained individuals are risk-assessed for any special factors or risk and issues such as the treatment of lesbian, gay, bisexual and transgender individuals will be contained in the country specific operational guidance notes. An individual's sexual orientation and gender identity are naturally a private matter for them. Nevertheless, all detainees regardless of sexual orientation/gender identity are subject to the same degree of safety and security whilst detained in our removal centres. There are systems in place to ensure this is the case, including anti-bullying strategies and Assessment Care in Detention and Teamwork (ACDT).

*Countries are designated under Section 94 of the Nationality Immigration and Asylum Act 2002 where they are in general free from persecution and are safe for most people. There is no assumption that all claims from people entitled to reside in the listed countries will be refused and certified. Each claim is considered on its individual merits and will only be certified as clearly unfounded if it is found to be so after careful consideration of all the relevant evidence by specially trained caseworkers. The High Court found (in the case of **Husan**), that the approach taken by UKBA in deciding whether a claim was clearly unfounded was not materially different depending on whether or not the claimant was from a designated state*

Commissioners' assessment:

The concern of the Commissioners is that certain countries may be considered safe for most returnees, but that particular groups, such as lesbian, gay, bisexual and transgender people may be at particular risk. Where such risk exists, whether acknowledged or not, information about a detainee's sexuality could be used by others, including other returned asylum seekers, to pressurise them in detention or to harm them on their return. UKBA and IRC staff need to be alert to such fears and dangers and rigorously to respect confidentiality and privacy.

Recommendations 7.5: The Commissioners therefore recommend:

- 7.5.1 – That specific guidelines for UKBA case owners on the sensitivities of handling the cases of lesbian, gay, bisexual or transgender asylum seekers should be developed.
- 7.5.2 – That Country of Origin Information should be improved accurately to assess the situation of lesbian, gay, bisexual and transgender asylum seekers from countries such as Iran, and otherwise safe countries such as Jamaica.
- 7.5.3 – That there should be an assessment of the risks to lesbian, gay, bisexual and transgender asylum seekers in detention.