

Stonewall

ABOUT THIS RESOURCE

This resource is produced by Stonewall, a UK-based charity that stands for the freedom, equity and potential of all lesbian, gay, bi, trans, queer, questioning and ace (LGBTQ+) people.

At Stonewall, we imagine a world where LGBTQ+ people everywhere can live our lives to the full.

Founded in London in 1989, we now work in each nation of the UK and have established partnerships across the globe. Over the last three decades, we have created transformative change in the lives of LGBTQ+ people in the UK, helping win equal rights around marriage, having children and inclusive education.

Our campaigns drive positive change for our communities, and our sustained change and empowerment programmes ensure that LGBTQ+ people can thrive throughout our lives. We make sure that the world hears and learns from our communities, and our work is grounded in evidence and expertise.

To find out more about our work, visit us at www.stonewall.org.uk

Registered Charity No 1101255 (England and Wales) and SC039681 (Scotland)

Stonewall is proud to provide information, support and guidance on LGBTQ+ inclusion; working towards a world where we're all free to be. This does not constitute legal advice, and is not intended to be a substitute for legal counsel on any subject matter.



Population: 6+ million



Stonewall Global Diversity Champions: 65



THE LEGAL LANDSCAPE

In Stonewall's **Global Workplace Equality Index**, broad legal zoning is used to group the differing challenges faced by organisations across their global operations.

The UAE is classified as a Zone 3 country, which means sexual acts between people of the same sex are illegal.

Two further zones exist. In Zone 1 countries, sexual acts between people of the same sex are legal and clear national employment protections exist on grounds of sexual orientation. In Zone 2 countries, sexual acts between people of the same sex are legal but no clear national employment protections exist on grounds of sexual orientation.

FREEDOM OF EXPRESSION, ASSOCIATION AND ASSEMBLY

Article 30 and 33 of the UAE Constitution protect the right to **freedom of expression and assembly "within the limits of the law"**.

Article 72 of UAE Federal Law No. 15 of 1980 for Printed Matter and Publications states that "[v]iews which are in **breach of public morality**, harm young persons or invite persons to espouse or promote destructive principles **may not be published.**"

Article 24 of Federal Law No. 5 of 2012 (Cyber Crime Law) makes it **illegal to "promote disorder, hate, racism or sectarianism and damage the national unity, social peace, public order and public decency."**

All sexual acts outside of a different-sex marriage are illegal, including consensual heterosexual acts committed outside of wedlock. Given this legal context, **expression of support for LGBT rights would likely be deemed a violation of public morality and decency.**

All private **associations must be approved and licensed** by local government authorities.

FAMILY AND RELATIONSHIPS

All **sexual activity outside of different-sex marriage is illegal**. Penalties include imprisonment for a minimum period of one year under Article 356 of the UAE Penal Code, Article 177 of Dubai's Penal Code and Article 80 of Abu Dhabi's Penal Code.

The **death penalty still exists** under Sharia law. It is **unclear whether modern courts would extend such a sentence to such offences**. To the knowledge of the international community, the death penalty has **not yet been applied** for cases of same-sex sexual acts.

Because sexual activity outside of different-sex marriage is illegal, **sexual acts** between people of the same sex are **strictly prohibited**.

EQUALITY AND EMPLOYMENT

There is **no legal prohibition of discrimination** in employment **based on sexual orientation or gender identity**.

Law No. 2 of 2015 against Discrimination and Hatred **prohibits all forms of discrimination on the basis of a limited list of characteristics** that does **not include sexual orientation or gender identity**.

Article 27 of the UAE Constitution states that all **persons shall be equal before the law** and that no discrimination shall be practiced between citizens based on a list of limited characteristics. This **list does not include sexual orientation or gender identity**.

GENDER IDENTITY

Article 7 of Federal Decree No. 4 of 2016 **legalised gender reassignment surgeries** if a person (a) suffers from gender dysphoria and (b) is provided mental health care to psychologically prepare them for the gender reassignment surgery.

It is **unclear if authorities will change a person's legal gender** on official documents **after such surgery**. The law permitting gender reassignment is very new and it is hard to predict how authorities will implement the law in this respect.

IMMIGRATION

Same-sex relationships are not recognised for immigration purposes.

Article 6 of Federal Law No.6 of 1973 allows for **deportation if security authorities see this as necessary** for the "public interest or public security or public discipline."

Under this law, **people caught engaging in illegal sexual conduct or 'cross-dressing' can be deported.**

LGBT activists previously have been denied entry into the UAE.

CONTEXT

Given the restrictive legislative framework in the UAE with regards to sexual orientation and gender identity, and particularly the threat of the death penalty, any LGBT-related activities in the region should be approached with caution. The safety and security of LGBT staff should be paramount at all times.

The Global Workplace Briefing series seeks to give employers the tools they need to create more equal and inclusive workplaces for their LGBT employees. To inform the content of the briefings and to understand the situation for LGBT people in different countries, Stonewall always consults with local LGBT groups.

However, due to the lack of known and strong civil society groups advocating for LGBT rights in the UAE, Stonewall is unable to consult with local LGBT groups for this briefing.

In the absence of a local perspective, we are limited in the guidance that we can give. As such, the content of this briefing focuses on giving employers the tools they need to support international LGBT staff working in the UAE.

INTERNATIONAL INSIGHT INTO HUMAN RIGHTS IN THE UAE

Amnesty International, in its 2017/18 report on the state of the world's human rights, summarised the general human rights situation in the UAE:

"The authorities continued to arbitrarily restrict freedoms of expression and association, using criminal defamation and anti-terrorism laws to detain, prosecute, convict and imprison government critics and a prominent human rights defender. Scores of people, including prisoners of conscience, who were sentenced following unfair trials remained in prison. Authorities held detainees in conditions that could amount to torture and failed to investigate allegations of torture made in previous years. Women continued to face discrimination in law and in practice. Migrant workers remained vulnerable to exploitation and abuse. Courts continued to hand down death sentences; there was one execution."

The report also stated:

"In Dubai, two men were arrested for "dressing in a feminine way", in violation of their right to freedom of expression." **Amnesty International, Amnesty International Report 2017/18: The State of the World's Human Rights**

ILGA World, in its 2017 State Sponsored Homophobia Report, also addressed the situation for LGBT people in the UAE:

"It is through the Sharia code that the death penalty theoretically can apply to same-sex sexual relations through the offence of Zina (Article 356) which applies to sexual relations outside of marriage of any sort. However, research by leading human rights organisations concludes that although in some cases courts have gone beyond codified laws and imposed harsher sentences of stoning and flogging for Zina crimes, it appears that the law is used in rape cases only."

International Lesbian, Gay, Bisexual, Trans and Intersex Association: Carroll, A., State Sponsored Homophobia 2017: A world survey of sexual orientation laws: criminalisation, protection and recognition (Geneva; ILGA, May 2017)

LGBT INCLUSION IN THE WORKPLACE

Despite a challenging context for LGBT people in the UAE, there are several steps employers can take to create a more inclusive and supportive workplace environment for their LGBT employees. However, LGBT-inclusive activity that is appropriate elsewhere may put LGBT staff in danger in the UAE. The safety and security of LGBT staff, both from the UAE and elsewhere, should be paramount at all times and will require careful consideration.

CREATING GLOBAL STRUCTURES

It is important that multinational employers work to create a strong global LGBT diversity and inclusion framework. Global policies and structures send a signal to LGBT employees that their needs are taken seriously wherever they are or travel for work. Employers should work to:

-  **Introduce global anti-discrimination and anti-bullying and harassment policies that are explicitly inclusive of sexual orientation and gender identity**
-  **Appoint a global senior champion who addresses the importance of LGBT equality globally**
-  **Build a global LGBT employee network group and a global allies programme**
-  **Have a global diversity and inclusion team or position in place whose remit covers sexual orientation and gender identity**

SUPPORTING MOBILE STAFF

Multinational businesses may send their staff on overseas assignments to the UAE. It is vital that employers have policies and practices in place to support LGBT people ahead of and during their work travel. Employers should take the following steps:

-  **Have relocation policies in place that address additional considerations for LGBT staff and set out how such issues are to be handled by managers**
-  **When sending employees on a posting to the UAE, make sure to provide them with information on the legal and cultural situation for LGBT people in the country, and a realistic overview of how your organisation can support LGBT employees during the posting**
-  **Make sure LGBT employees do not suffer a career detriment if they decide not to accept the assignment due to their sexual orientation and gender identity, by providing equivalent alternatives**
-  **Take steps to avoid outing of LGBT employees in the UAE – this may include change of email address and social media security training**
-  **Have strong security mechanisms in place, digital and otherwise, to ensure confidential access to global employee support mechanisms for mobile and domestic staff. For example, this may include confidential membership lists and privately marked calendar invitations**
-  **Have an emergency evacuation procedure in place that explicitly takes into consideration emergency situations specific to LGBT people**

Employers can improve their initiatives by participating in Stonewall's Global Workplace Equality Index - a free benchmarking tool offering a clear roadmap to LGBT inclusion in the workplace. www.stonewall.org.uk/gwei



LEARN FROM STONEWALL'S GLOBAL DIVERSITY CHAMPIONS

Pinsent Masons

Pinsent Masons has a global commitment to equality, diversity and inclusion and work to implement this commitment in its offices around the world. While the firm is always respectful of local laws and culture, Pinsent Masons doesn't compromise on its values, or on its commitment to creating safe and inclusive workplaces for everyone. Before sending staff to work in the UAE, employees are provided with a comprehensive country guide, developed in conjunction with the employee networks including the LGBT+ employee network. This information helps employees to make an informed decision on whether it would be safe for them to take on the assignment. Additionally, a network of people happy to share their personal experiences offers one-to-one chats, so staff can discuss any concerns and gain a better understanding of the local culture before travelling. All staff can also connect remotely to a global employee assistance programme to seek confidential advice and support wherever they work in the world. This programme covers topics such as finances, health, relationships, sexual orientation and gender identity. Pinsent Masons works with the programme's suppliers so that they have a better understanding of how to support LGBT+ staff travelling internationally, for example in regard to accessing medical support or where there may be a risk to an employee's personal safety.



STONEWALL'S GLOBAL DIVERSITY CHAMPIONS PROGRAMME WORKS WITH 65 ORGANISATIONS OPERATING IN THE UNITED ARAB EMIRATES.

Our team of workplace advisors offers tailored one-to-one advice on how to create LGBT-inclusive workplaces globally. If you would like to receive support or want to be featured as a case study in one of our Global Workplace Briefings, contact Stonewall.

Stonewall
192 St John Street, London
EC1V 4JY
United Kingdom

Switchboard: +44 (0) 20 7593 1850
Info Line: +44 (0) 800 050 2020
Email: info@stonewall.org.uk
Website: stonewall.org.uk

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