Theoretical, legal and policy literature review: Understanding the decision-making process behind LGBTQ+ teachers in the UK openly expressing their gender and sexual identity in the workplace.

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Introduction

There are up to 50,000 teachers in the UK who identify as LGBTQ+ (Lee, 2019) however, many feel unable to be 'out' in their workplace; despite cultural changes and legislative support only 37% of LGBTQ+ school staff said they felt their school would be supportive if a person came 'out' (Milsom, 2021). In order to understand the current issues affecting LGBTQ+ teachers, it was necessary to explore the historic legislation and policy, policy drivers, current policies and the current landscape in place, as well as academic literature pertaining the theory and experiences of LGBTQ+ teachers in the UK. This literature review will first set out the theoretical background that the research was conducted in, then it will explore the timeline of policy and legislation leading to the current frameworks in place and finally will explore the experiences of LGBTQ+ teachers in the UK through the thematic analysis of contemporary academic literature.

Theoretical framework

The theoretical underpinning for this made use of Foucauldian post-structural and feminist theory, with a focus on concepts such as power, heteronormativity, and normalisation, as well as social reproduction theory, inspired by Bourdieu's (1986) concept of capital (Carabine, 2004; Foucault, 1998). Heteronormativity is more than heterosexuality. It is the embedding of hegemonic heterosexuality throughout society, the *de facto* foundation for relationships, family and identity and the lens through which all society is structured affecting access to careers, education and opportunity; therefore, any sexual or gender identity that does not confirm to the heterosexual binary is 'deviant' (Richardson, 2000; Carabine, 2004; Richardson, Smith and Werndly, 2013). This research recognises the constructive and performative nature of gender and sexuality, that these are not fixed, but rather how a person presents as masculine or feminine, heterosexual or homosexual, even non-binary or transgender is influenced by a myriad of social power structures and mechanisms (Jagose, 1996; Butler, 1999; Connell and Pearse, 2015).

Educational institutions such as schools are mechanisms of social reproduction, the norms, culture and structures introduced, reinforced and passed from generation to generation (Swartz, 2018). Social reproduction theory is often used to discuss the entrenchment of class inequalities in schools; however, it is interpreted here as a mechanism of embedding external influences such as heteronormativity (Maton, 1999; Swartz, 2018). This reproduction is facilitated by the concepts of capital and risk, LGBTQ+ teachers can use their capital acquired through status in the school's hierarchy or through being established and secure in their identity as a school as a good teacher to allow them to express their LGBTQ+ identity securely (Bourdieu, 1986; Beck, 1992). There is a parallel to be drawn between this and Richardson's (2004) framing of the 'good gay' as a person who fits the normative sexual citizenship model. These theoretical perspectives will be integrated in this research examining the role of power structures of educational establishments in the performance of gender and sexuality by teachers in schools in the UK.

LGBTQ+ Policy and Legislation

To effectively discuss the issues facing LGBTQ+ teachers, it is first important to understand the history of sexual minorities in the UK. Homosexuality has been regulated in the UK since the *Buggery Act 1533*, outlawed homosexuality, making sodomy punishable by death (British Library, 2022). In 1533 Henry VIII married Anne Boleyn, an act that cemented England's break with the Roman Catholic Church, it could be argued that by outlawing homosexual practices, the King was attempting to maintain his moral superiority (Historic Royal Palaces, 2022). This is the beginning of the surveillance of homosexuality, and an enshrinement in law of heteronormativity, and the need to control sex and sexuality through domination, submission and subjugation (Weeks, 1989; Foucault, 1998). The *Offences Against the Person Act 1861*, removing the death sentence for sodomy, however concerns over the spreading of 'venereal diseases' by prostitutes and homosexual men, led to the *Criminal Law Amendment Act 1885* outlawing any male homosexual act, even in private, a further example of the state using '*scientia sexualis*' to repress homosexuality (Foucault, 1998; Gibson, Alexander and Meem, 2014). This framing of homosexuality continued until the Wolfenden Report (1957)

which stated that homosexuality should not be regarded as a disease and recommended instead government should focus on protecting the public, rather than policing the private; it took ten more years and increasing social pressure for the *Sexual Offences Act 1967* to legalise homosexual acts between men over 21. Although showing progress, the legal age of consent was not equalised until *Sexual Offences (Amendment) Act 2000* with equal marriage legalised in 2013 (*Marriage (Same Sex Couples) Act 2013*).

As the HIV/AIDS crisis spread through the 1980's and was stereotyped as a gay and bisexual men's disease, there was increasing homophobia and biphobia, culminating in Section 28 (*Local Government Act 1988*), which prohibited the 'promotion' of homosexuality or 'pretended family relationships' in schools (Weeks, 1989). This meant teachers were unable to discuss LGBTQ+ issues, including their own identities with children, nor were they able to discuss sexual issues outside of heteronormative sexual relationships. Following political change in the late 1990s, along with wider social pressure for inclusion, this legislation was repealed in 2003, and a range of inclusive legislation, such as the *Human Rights Act 1998*, the *Adoption and Children Act 2002*, the *Gender Recognition Act 2004* and the *Equality Act 2010* was introduced.

There is no necessity for schools to have an equality and diversity policy; schools as employers must ensure that they do not actively discriminate against employees or potential employees under the *Equality Act 2010* (DfE, 2021c; DfE 2022). It could be argued that much of teachers' conduct in schools will also be covered by policy surrounding the delivery of curriculum content. When the National Curriculum (NC) was first created, there was an expectation that teachers would discuss sex for the purposes of reproduction (*Education Act 1988*). Relationship and Sex Education (RSE) became compulsory under the *Education Act 1993* to educate about sexually transmitted diseases but explicitly excluded "aspects of human sexual behaviour, other than biological aspects" (*Education Act 1993*, section 241). Provision to primary schools was expanded under the *Education Act 1996*, however, statutory guidance was not introduced until 2000, it is worth noting that Section 28 had not yet been repealed meaning that LGBTQ+ relationships were still excluded (*Local Government Act 1988;* DfE, 2000). This led to a further embedding of heteronormativity in schools through the enforced silence about LGBTQ+ topics, which was not abated by Section 28 being repealed (DePalma and Atkinson, 2006, DePalma and Atkinson, 2009; Portier-Le Cocq, 2014; Abbott, Ellis and Abbott, 2015). Heterosexuality was assumed in curriculum design and lesson delivery, LGBTQ+ issues dismissed as a phase and the lack of visibility of LGBTQ+ staff further reinforced the image of LGBTQ+ as inappropriate to discuss in schools (DePalma and Atkinson, 2010; Formby and Donovan, 2020).

Despite the *Equality Act 2010*, the NC was not updated to include LGBTQ+ relationships until September 2020, however due to COVID-19, the academic year 2021-2022 was the first full year without disruption (DFE, 2017; DFE 2021). Although LGBTQ+ relationships require coverage under NC guidance, it is at the discretion of the Head Teacher to determine when this is age appropriate, and parents have the option to withdraw their children from RSE if they choose (DFE, 2021b).

Linked with this is the requirement for teachers to abide by the Teacher Standards (DFE, 2011), much of the teaching standards relate to teaching and learning, however, part two relates to personal and professional conduct. Under this, teachers must ensure that they "maintain high standards of ethics and behaviour, within and outside school … ensuring that personal beliefs are not expressed in ways which exploit pupils' vulnerability" (DFE, 2011, p.14). This updated guidance differs from previous guidance as it covers the conduct of teachers both in and out of school, and expression of personal beliefs in schools (Training and Development Agency for Schools, 2008). It is worth noting that this was added in after Section 28 (*Local Government Act 1988*) had been revoked and following a change in government. It is under this policy framework, of being held accountable for conduct in and out of schools that teachers currently practice.

LGBTQ+ In Schools

(In)Visibility

Visibility was a key theme that emerged in several articles, there was a duality regarding visibility as an LGBTQ+ teacher in schools, the historic invisibility of LGBTQ+ teachers and the legacy of surveillance (Edwards, Brown and Smith, 2016; Lee, 2019; Stones and Glazzard, 2020). LGBTQ+ teachers were simultaneously marginalised due to their sexuality or gender identity, and therefore were invisible in the school community, however, when teachers were out, particularly to their students, there was a pressure to be extra visible to be a good role model to the students (Edwards, Brown and Smith, 2016; Lee, 2020; Llewellyn and Reynolds, 2020). Particularly linked with this was the sense of authenticity, as being out in school meant that the teacher was embracing their true self, whereas, when teachers were not out, they were not being truly authentic (Edwards, Brown and Smith, 2016; Lee, 2020; Llewellyn and Reynolds, 2020; Stones and Glazzard, 2020). This was countered by other teachers who did not feel able to discuss their sexuality and used this invisibility and assumptions about sexuality for their own purposes, teachers would also position themselves within the schools, to avoid scrutiny, working to be outstanding practitioners to avoid criticism and not seeking promotion or leadership opportunities (Gray, 2013; Lee, 2020; Llewellyn and Reynolds, 2020).

Heteronormativity

LGBTQ+ teachers fulfil an important role, bridging the gap between heteronormativity and diversity in schools, being visible allows schools to 'tolerate' LGBTQ+ and therefore allow them to appear to meet their Equality, Diversity and Inclusion (EDI) requirements (Lee, 2019; Llewellyn and Reynolds, 2020; Stones and Glazzard, 2020). Despite this schools are mechanisms for the reproduction of heteronormativity and cisgender, through policy but also through the regulation of LGBTQ+ staff (Lee, 2019; Lee, 2020; Llewellyn and Reynolds, 2020). The heteronormativity is so firmly entrenched in schools that it is difficult for teachers to overcome it, and many conform to the heteronormative standards to avoid scrutiny and discrimination, this also leads to a loss of opportunity for LGBTQ+ teachers, who will avoid leadership and promotions to escape

this gaze (Edwards, Brown and Smith, 2016; Lee, 2020; Llewellyn and Reynolds, 2020). Heteronormativity is reproduced by practices such as referring to married female teachers as 'Mrs', implying their heterosexual and cisgendered status, and through the casual way in which heterosexual and cisgendered teachers may refer to their husband or wife, nor is there recognition of non-binary honorifics (Gray, 2013; Edwards, Brown and Smith, 2016). This heteronormativity has been entrenched further by the legacy of Section 28, enhancing the status of heteronormativity and increased surveillance of LGBTQ+ teachers (Edwards, Brown and Smith, 2016; Stones and Glazzard, 2020).

Silence(d)

Section 28 (*Local Government Act 1988*) casts a shadow over modern teachers in the UK, as many teachers have taught or attended school during the time of it being in place (Edwards, Brown and Smith, 2016; Lee, 2020; Stones and Glazzard, 2020). Although there has been new RSE guidance introduced, many teachers are still unsure if sexuality and gender is something that they are allowed to discuss with children (Lee, 2020). This silence is complex, it could be a form of resistance, a refusal to conform to the enshrined binaries, or it could be due to fear of being outed and discrimination as a result (Gray, 2013; Henderson, 2019; Lee, 2019; Stones and Glazzard, 2020).

Teachers also self-impose, this silence some justifying their decision as a private matter and not something that should be discussed with students, others policing their words to avoid accidental outing, or deflecting questions (Gray, 2013; Henderson, 2019 Lee, 2019; Lee, 2020). It was also found that for teachers who did not present as LGBTQ+ then they would keep silent about their sexual orientation, particularly in the case of bisexuality, which sits outside the binary and therefore may be regarded with heightened suspicion (Gray 2013; Henderson, 2019; Lee, 2019).

Fear

Many teachers feared that by being out in school would lead to discrimination from the school, pupils or their families and a loss of authority in the classroom; this was further exasperated when teachers lived in the vicinity of the schools and would therefore also be neighbours with their colleagues and families (Gray, 2013; Edwards, Brown and Smith, 2016; Lee, 2019; Lee 2020). There was also a fear that being out as an LGBTQ+ teacher would attract accusations of impropriety, predatory behaviour or even paedophilia from pupils or families that would not be experienced if presenting as heteronormative (Edwards, Brown and Smith, 2016; Henderson, 2019; Lee, 2019). There was a fear of increased scrutiny, and teachers felt they had to out-perform their peers in order to escape judgement, in many cases this was seen as a symptom of Section 28, as a legacy of surveillance experienced by teachers in schools during the time it was in effect (Edwards, Brown and Smith, 2016; Lee, 2019).

Hope for the future

Teachers view themselves as role models for the children and young people they teach, therefore recognise their role in the lives of LGBTQ+ pupils as someone who can inspire them to be their authentic selves, distance from the surveillance of Section 28 allows some teachers to feel more comfortable embracing this role (Gray, 2013; Edwards, Brown and Smith, 2016; Lee, 2019; Lee 2020; Stones and Glazzard, 2020). The dichotomy of the public and private spheres, rigidly enforced in the past, are beginning to break down and teachers are starting to resist the heteronormativity embedded in education and embrace pride in their identities, both in and outside school (Edwards, Brown and Smith, 2016; Henderson, 2019; Llewellyn and Reynolds, 2020; Stones and Glazzard, 2020).

Conclusion

In summary, LGBTQ+ people historically have been on the periphery of society, and despite the wealth of legislation and policy in recent years, teachers still occupy a precarious position in school communities being marginalised by institutional heteronormativity, silenced and made invisible through fear. Following the introduction of new RSE guidelines (DFE, 2021), LGBTQ+ relationships must now be taught in schools acting as a challenge to this heteronormativity, yet LGBTQ+ teachers still do not feel able to be open about their identity. Much of the previous research on this topic was carried out through small qualitative research, carrying out interviews with LGBTQ+ teachers, meaning that there is a methodological gap in knowledge that will attempt to be filled by this research. Most previous research has also focussed solely on sexual orientation; this research will attempt to shine light on people from diverse genders and their experiences to allow for a more rounded view of LGBTQ+ teachers' experiences in schools in the UK.

Affiliations

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Parent publications

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