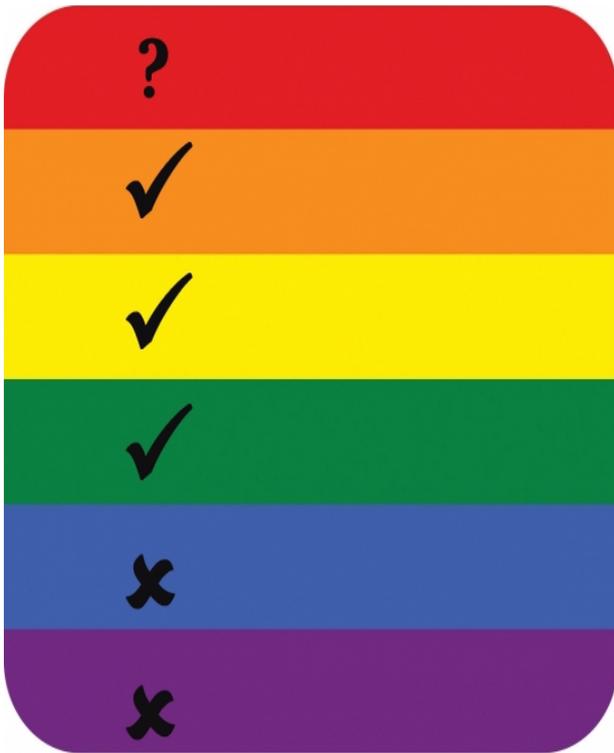


RAINBOW CHECKLIST

**for collective labour
agreements**

INTRODUCTION



Trade unions stand up for workers' rights. For **all** workers' rights: fighting discrimination and exclusion on the labour market and at the workplace has been an important element of the trade union movement since its early years. Since the 1980s, the international trade union movement has also acknowledged that the struggle against discrimination must include the issue of sexual orientation and gender identity.

This checklist was drafted as a tool for union representatives involved in collective bargaining to evaluate collective labour agreements and show how these agreements can be improved and include more provisions for lesbian, gay, bisexual and transgender (LGBT¹) workers. But not just for them: heterosexual workers with a less conventional life style might also benefit. Moreover, this is not only about preventing and combating discrimination, it is also about diversity at the workplace.

1 The Pink Network in FNV (= Netwerk Roze FNV) has included the "I" in its working area, so it also works for the rights of people with an intersex condition at the workplace and in the labour market. However, since the Dutch version of 2014 did not include this working area, it would be wrong to pretend that this brochure is about LGBTI rights.

The checklist is based on a Dutch version, which was issued in the first months of 2014, being a revision of a previous checklist drafted by the Abvakabo² LGBT group. In the Dutch version, LGBT rights already included in the Netherlands' legislation were not mentioned, since collective labour agreements are not meant to repeat rights already mentioned in laws. However, because this English brochure is meant for international use, several items have been added and more background information has been included.

We are aware of the fact that for some countries, most of the items in this list may be considered as not realistic, or even 'from another planet'. The Netherlands is a country with a rather open-minded population, a rather tolerant tradition and a legislation that can be qualified as LGBT-friendly. And yet, even in this situation, in the Dutch trade union movement we are not able to implement all the clauses necessary for full-scale diversity. We still need a checklist in the Netherlands as a tool to evaluate how far we have come. There are some items on this list that we may even never achieve. And yet, it is useful to formulate what our ideals are.

The composition of this checklist is based on the firm conviction that trade unions have an important role to play in creating diversity in companies and institutions and in encouraging the debate about best practices in diversity policies.

Not only does it contain elements for amending collective labour agreements, it also offers a basis for monitoring and evaluating existing labour agreements. After all, agreements on paper are not always properly implemented and sometimes the paper world and the real world show only vague similarities. It is important to find ways of enhancing LGBT workers' rights that are effective in practice, and not just on paper.

This checklist is not the final word about LGBT rights at work. We know that we may have 'blind spots'. That in the struggle for rights new ideas may emerge. Comments are always welcome.

The collective labour **process** is also important. Talks with employers can show their dedication to this issue, which initiatives they have taken and how effective these initiatives were.

2 Abvakabo was the largest trade union for public sector workers in the Netherlands. It merged into FNV at the beginning of 2015.

DIVERSITY POLICIES IN GENERAL



Across the world, several groups and organisations have designed hallmarks, benchmarks or charters for diversity policies, many of them including LGBT issues.

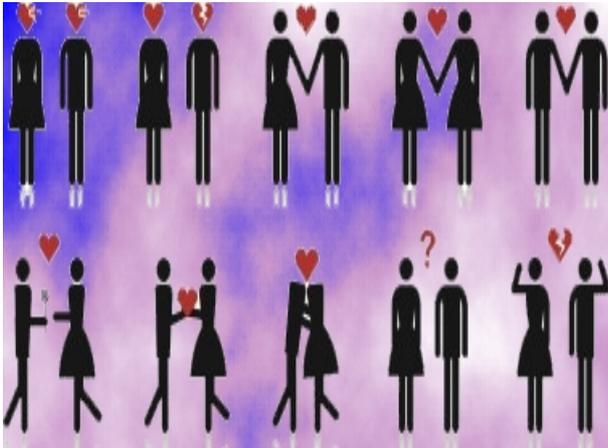
1. Has the company or institution or sector for which the collective labour agreement is evaluated ever issued a **declaration of intent** on using or signing such a hallmark, benchmark or charter?
2. Did the company/institution actually use or **sign** it?
3. Does its use cover all aspects of the policies with **equal importance** or do the company's or institution's policies show an imbalance between e.g. gender policies, race policies and sexual orientation policies?
4. Are the criteria for diversity policies worded **explicitly** in the company's/institution's policies?
5. Does the company/institution **show** in its publications and other media that it is dedicated to LGBT policies?
6. Does the company or institution **monitor** the results of its diversity policy and check if

the targets are met? Are these evaluations published, for instance in an annual social report?

7. Does the company/institution show its commitment to LGBT policies in the introduction procedures for **new workers**?
8. Does the HRM³ department or the person responsible for HRM have **means and tools** to create an LGBT-friendly policy?
9. If anti-discrimination legislation exists at national or regional scale, is it clear that the collective labour agreement **follows the law** on all grounds of discrimination, including sexual orientation and (if mentioned) gender identity?
10. Is it clear that discrimination on the basis of **gender identity and gender expression** is also 'not done' in this company/institution?
11. Does the collective labour agreement mention and respect **non-traditional life styles and families** (to be elaborated later)?
12. If the company/institution is organised on a multinational scale, does it explicitly apply its diversity policies in **all the countries** where it operates? Does it include sexual and gender diversity policies in all the countries?

³ Human Resources Management.

WORKERS AND THEIR RELATIONSHIPS



1. If workers' rights are based on relationships (e.g. clauses for paid leave, for a death benefit), which **terms** are used for these relationships: legal spouses? legal partners? partners? Which wording can be chosen to be the most inclusive?
2. Do workers have to **show** a marriage certificate, a partnership contract or a paper signed at a notary's office to show their employer that they have a relationship with someone else? Is this standard procedure or is it only used for workers with a non-conventional life style?
3. Where-ever workers' rights are based upon or extended to their relationships, is it clear that relations do **not** need to share the **same address**?
4. Is a worker able to change the rights, if she or he starts a **new relationship**?⁴ How difficult or easy is that procedure?
5. Are the rights based on, or extended to, the workers' relationships, based on '**couples**' or

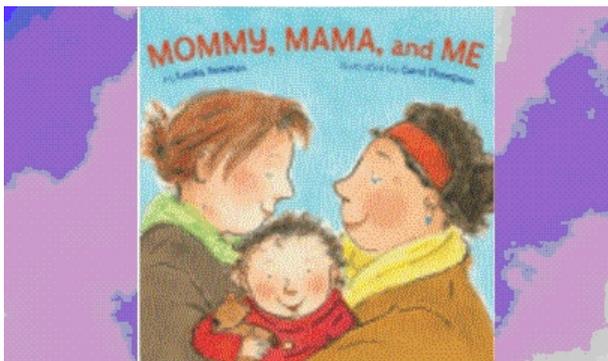
do relationships with more persons also pertain to these rights? (e.g. a bisexual worker with both a male and a female partner).

6. Is there any chance to amend the rules for (paid) days off and create a system of '**personal days**'?⁵
7. If a 'personal days' system is not possible, are the circumstances under which workers can get special leave, **strictly defined** or is it also possible for a worker to arrange special leave in case of emergencies not related to her/his direct family or spouse? Is it also possible for **singles** to get special leave if a friend needs their presence?
8. If workers can get special leave for taking care of a relative or friend, is there any provision by which they can be **assisted by professionals** in the health or social care system?
9. Does the employer offer a special **insurance** for cases in which a worker needs a long period of leave to take care of a family member or friend?
10. If there is a huge work load and the company/institution wants workers to perform extra shifts or work at **unsociable hours**, is there a mechanism by which workers with traditional families are saved from this burden or is the burden shared more democratically?
11. If workers want to arrange a **working schedule** different from the normal pattern, will their family status or life style in a decision about their request or not?

⁴ Changing clauses for how relationships are registered at a workplace should not lead to the disqualification of workers' ex-partners for e.g. partnership pension.

⁵ A system in which every worker has a maximum number of days for 'special occasions', which may be happy ones (weddings in general, special birthdays, anniversaries, etc.) or sad ones (death, illness, a dear friend crying for help, etc.). Workers can use these days during each year as they see fit.

WORKERS AND CHILDREN



1. Many collective labour agreements contain clauses for pregnancy leave and maternity leave. Most collective labour agreements also provide an option for special (paid) leave when 'his wife' delivers a baby. Is this type of special leave also available for **adopting** or **fostering** a child?
2. Is this type of special leave also available for a worker in a lesbian or bisexual relationship if **her partner** delivers a baby?
3. Is this type of special leave also available for workers who act as sperm donors and who intend to **play a parent role** ?
4. Is this type of special leave also available to e.g. a gay worker who does **not have a biological relationship with the baby**, but who intends to play a parental role for the newborn baby?
5. If the collective labour agreement includes clauses about parental leave (e.g. for taking care of a child when it is seriously ill), is this **restricted to children in a marriage-based family**, or is it more inclusive?
6. Which are the legal obligations for the employer to allow (paid, partly paid, unpaid) parental leave and can they be **extended** in the collective labour agreement by taking a broader definition of family?

GENDER IDENTITY

1. How are workers registered in the company's or the institution's administration: does the registration include the gender, and if so, is that based on the state-attributed gender or the **gender under which workers want to be registered**?
2. If **employment contracts** are used, can workers sign and use the gender under which they want they want to be registered?
3. Does the company or institution provide mechanisms for **changing** the gender registered in the administration?
4. Once the administrative data for a transgender worker have been changed, will the 'new gender' apply for the **complete labour history** at this company/institution, or only for the period after a (step in the) gender transition?⁶
5. If a worker wants to change her or his gender identity, is the company or institution willing to discuss the options of **remaining in the same position** and of changing to a new position (and/or department)?



⁶ Consider the consequences: if recommendations to a new employer should be provided and a manager, not aware of the transition, might check the administration and write to the new employer that *Mr. So-and-so has worked here for three years* – not realizing that in the previous ten years, So-and-so was registered under Ms. So-and-so. Another mistake might be to write about Ms. So-and-so, overlooking the note about the gender transition.

BULLYING, HARASSMENT, SEXUAL INTIMIDATION AT WORK AND DOMESTIC VIOLENCE



6. Does the collective labour agreement acknowledge **gender transition periods as causes for special (paid) leave**, comparable with pregnancy leave?
7. Is the company/institution willing to inform and **educate co-workers** during a worker's transition from one gender to another, if wanted by the worker?
8. If medical issues related to working conditions are not dealt with by the company or institution itself, but by a specialised organisation, does this organisation have the **proper expertise** to deal with gender transitions?
9. Which procedures can be established to safeguard **privacy** if the worker in transition does not want information to be known all over the workplace?
10. Which flexibility can be provided in **gender-specific protocols and rules** within the company/institution (e.g. use of toilets and showers, dress code)
1. Which **complaint procedures** in the company or institution have been established to prevent and combat unwanted behaviour (such as bullying etc.)? Do these procedures include the appointment of (a) councillors? Have these procedures been monitored? Does the company/institution report on cases of unwanted behaviour (without details or names)? Are the procedures effective?
2. Do the procedures **include** specific attention to unwanted behaviour based on homophobia, lesbophobia, biphobia, transphobia? How do these relate to unwanted behaviour based on for instance racism?
3. Are the **councillors qualified** and able to recognise problems rooted in LGBT exclusion? Can they keep the cases they work on private so that the rest of the company/institution does not know any details?
4. Do the complaint procedures include the behaviour of **third parties** (customers, suppliers, pupils, the company's insurance agents, recruitment agencies etc.)?
5. If a worker appears to be the victim of **domestic violence**, is there any mechanism at work to assist him or her? If so, what are the guarantees for keeping personal information private?

SKILLS AND EXPERTISE IN THE MANAGEMENT



1. Which **skills and expertise** about diversity is present in the general management, in the lower management, the HRM department and the (group of) councillor(s)? Do these people regularly update their knowledge and skills?

COMPANY POLICIES

1. In case of a restructuring or merging process in the company or institution, does the employer provide a guarantee that **diversity in the work force will be respected** (i.e. that dismissals will not strike extra harshly in specific groups of workers)?
2. Does the company or institution have regular **evaluations of labour satisfaction**? If so, are LGBT workers included in such evaluations? Do the evaluation forms include questions relevant to them?
3. If such evaluations exist, what happens with the **outcome**? Does the employer take the responses serious?
4. If the company/institution takes the outcome of evaluations **serious** and (e.g.) writes a plan of action, are the planned actions worded as procedures to be followed, as targets to be achieved in the future, or both?

RECRUITEMENT AND SELECTION

1. Which are the company's or institution's recruitment procedures? Is there a policy to **'reach out' to new potential LGBT workers** (for instance, by showing up at LGBT Pride events, by advertising in LGBT magazines and websites)?
2. If selection procedures include medical, personality, intelligence or psychological **tests**, have these tests been monitored or can they still contain **heteronormative or gender-stereotypic** elements?

POLICIES TOWARDS CUSTOMERS, CLIENTS, PUPILS, PATIENTS



1. Do the policies for providing goods, services and/or education to customers, clients, pupils and/or patients also **include diversity aims**?
2. If customers, clients, pupils or patients would use **offensive language** or **try to avoid being helped** by a worker because of her/his (supposed) sexual orientation or gender identity, which procedures would be followed?
3. (How) does the company or institution **show** to these groups that it defends diversity policies, including sexual and gender diversity?
4. If the collective labour agreement is for a school, what is its policy about **sexual education and teaching respect for sexual and gender diversity**? Which procedures see that pupils can develop their own sexual orientation in a safe school environment?