



OFFICIAL REPORT
AITHISG OIFIGEIL

Equalities and Human Rights Committee

Thursday 27 April 2017

Session 5



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EQUALITIES AND HUMAN RIGHTS COMMITTEE

11th Meeting 2017, Session 5

CONVENER

*Christina McKelvie (Hamilton, Larkhall and Stonehouse) (SNP)

DEPUTY CONVENER

*Alex Cole-Hamilton (Edinburgh Western) (LD)

COMMITTEE MEMBERS

*Jeremy Balfour (Lothian) (Con)

*Mary Fee (West Scotland) (Lab)

*Gail Ross (Caithness, Sutherland and Ross) (SNP)

*David Torrance (Kirkcaldy) (SNP)

*Annie Wells (Glasgow) (Con)

*attended

THE FOLLOWING ALSO PARTICIPATED:

Professor Ali Watson (University of St Andrews)

Craig Wilson (Scottish Council for Voluntary Organisations)

CLERK TO THE COMMITTEE

Claire Menzies

LOCATION

The Robert Burns Room (CR1)

Scottish Parliament
Equalities and Human Rights
Committee

Thursday 27 April 2017

[The Convener opened the meeting at 09:30]

Decision on Taking Business in
Private

The Convener (Christina McKelvie): Good morning and welcome to the 11th meeting in 2017 of the Equalities and Human Rights Committee. I make the usual request that mobile phones be switched to silent or to airplane mode.

Our first item of business is a decision on whether to take item 4 in private. Is that agreed?

Members *indicated agreement.*

Departure of the United Kingdom
from the European Union

09:30

The Convener: Item 2 is on the implications for equalities and human rights of the United Kingdom's departure from the European Union. With us this morning are Professor Ali Watson, executive director of the third generation project, based at the University of St Andrews, which we are keen to hear about, and Craig Wilson, public affairs and parliamentary officer with the Scottish Council for Voluntary Organisations. Thank you for coming to the committee and for the evidence that you have provided to us so far. We have a deep pile of papers with us this week, so we thank you for your submissions, which are informative and helpful to our investigations.

You will understand that this committee has a line of sight on equalities and human rights, and the impact of withdrawal from the European Union and the on-going negotiations. We will tap into those things as the negotiations continue, and this morning's meeting is another example of us doing that. Our focus today is the third sector, the work that it does and the impact that Brexit could have on it. We note that Craig Wilson conducted a survey of the organisations that fall within the SCVO's ambit, and we are keen to hear about that and about some of the other impacts that Brexit will have on the work that they do. After that, we will hear from Ali Watson.

Craig Wilson (Scottish Council for Voluntary Organisations): Since the decision on Brexit, everybody has been in the same boat; we do not know much about what is happening. Our first action was to call meetings with our members to gauge their concerns and to throw ideas around, to see whether we could pin down some of the risks and any potential opportunities. We have also had round-table meetings with Scottish Government ministers and with UK Government ministers.

We do an annual state-of-the-sector survey, which brings in about 400 responses each year. This year, as a result of the vote to leave the EU, we included a separate section on Brexit and the risks that people perceived might be coming down the line. I will recap some of the stuff in that survey. Approximately 86 per cent of our members felt that leaving the EU would have a negative impact on the Scottish economy, 81 per cent felt that it would have a negative impact on poverty and social exclusion, and—of specific relevance to the committee—80 per cent felt that it would have a negative impact on human rights and equalities. Generally, there was a strong feeling in the sector

that the EU had been good for policy priorities in Scotland that related to the third sector.

You will note from our submission that Scottish third sector organisations partner up with other third sector organisations across Europe. They build networks, learn from one another and secure funding together, so the strength of the sector is impacted by the EU.

The Convener: Professor Watson, could you tell us about the project that you are working on in St Andrews? What responses have there been to your work?

Professor Ali Watson (University of St Andrews): It would be nice to put in context what we do and where we are coming from with the Brexit debate. I thank the committee for giving the third generation project the opportunity to contribute to the evidence that is being presented today. We are an independent think tank based at the University of St Andrews. We aim to further human rights institutions and cultures, so we welcome the work of the committee, especially your consideration of the impact of Brexit on human rights. That is an area where we think that there needs to be a whole lot more discussion.

We are looking at Brexit and human rights from a wide international, UK and Scottish perspective. We are looking specifically at how individual and collective human rights are understood in Scotland and around the world, and at how those understandings are adapting to the current political landscape, given that there is a lot of on-going upheaval.

Today, I will focus on the collective rights implications of Brexit. Before I go on, I should clarify that, when I differentiate between individual and collective rights, I am really referring to the fact that there are three dimensions of human rights. The first dimension is civil and political; the second is economic and structural; and the third concerns rights that are held by certain marginalised or minority groups, and rights that are held by all of us who access collective commons such as water, food and our environment. There is a direct crossover between what we are looking at in our work on marginalising minority groups and the work that Craig Wilson is doing.

The committee has seen our submission; I will focus on the human rights implications of climate change. It is important to look at that area, because it is fair to say that it has received scant attention so far in Brexit discussions. For example, there was no mention of climate change or the phrase "human rights" in the letter that triggered Brexit.

In the UK, environmental policy is closely linked to EU policy, and Brexit will therefore affect almost

every part of the UK's environmental policy. In any case, that policy has been heavily influenced by Europe. Brexit will require that measures that are already in place are safeguarded under the great repeal bill, but that will aim only to preserve the status quo when in fact much more is needed.

There are some opportunities too. It is important to think about opportunities from Brexit because, given that it is happening, we have to think about how we work within it. Scotland already has a strong focus on environmental policy, and a lot of effort has been put into securing its resources, but we are not protected from the wider geography of climate change. Being a member of the European Union gave the UK a place at the table in environmental negotiations, and it will no longer have that place.

It is important to be clear that there are human rights implications of environmental policy in the Scottish context as well as in the UK and international contexts. One example is geopolitical instability. Climate change can be referred to as a threat multiplier because it creates instability and worsens it where it already exists. Another example is displacement. Large numbers of people are already being displaced as a result of climate change, and it is estimated that the impact of that displacement will far exceed the impact of the current refugee crisis.

We are also thinking about how climate change has an impact on food security and water rights. It might seem as if all those things are happening very much elsewhere, but it is important for us to consider what addressing those issues head-on would mean in terms of job creation and the possibilities for increased research and innovation. At the third generation project, we are thinking not only about those human rights concerns around climate change, but about what the opportunities are.

The Convener: We move on to questions from committee members, starting with Gail Ross.

Gail Ross (Caithness, Sutherland and Ross) (SNP): I have a couple of questions for the SCVO, but first I want to take Professor Ali Watson's route of thinking about climate change. Scotland has our own ambitious climate change targets, and we hit the previous one six years early. Are any particular EU policies under threat? How easy or difficult will it be to incorporate those into Scots law?

Professor Watson: I am not a lawyer, and a lot is still up in the air.

Gail Ross: I appreciate that.

Professor Watson: However, I think that, when we talk about Scotland's policy and how ambitious it is, and about the great repeal bill and things just being transferred, there is a tendency to think of

that policy as being the ceiling of where we could potentially go. Scotland has already highlighted that it could go much, much further. There is a great quote that we are talking about a ceiling but we should be thinking about a floor.

On climate change policies in particular, it is really important to think about the human rights implications and the rights frameworks—for example, to ensure that water quality is maintained and that, if at least some agriculture and fisheries policies are returned to Scotland, it is done with the intention of moving forward.

We have to see environmental policy as involving not just carbon emissions but fisheries, agriculture and the ways in which land and water are managed. Scotland has led on those things previously and is doing so now, and it is important to maintain that position. Given that we have the UK negotiating as the EU member state, and given its current position in the EU, the worry is that the policies will be weakened not only in a UK context but in a European context, because the UK will not be there. That could become problematic, with Scotland swimming in a sea of policies that are not moving forward as quickly as they could.

Gail Ross: As part of our programme of legislation, we are going to have a good food nation bill, which will cover food security, environmental impacts and things like that. When we consider that bill, should we focus on the things you have just talked about?

Professor Watson: Yes. Food security is vital in the national context. In some of the research that we do, we work with communities that are dealing with land rights issues and the food security issues that arise as a result; the significance of that in human rights terms cannot be overestimated. There is a tendency to think that human rights are one thing and land rights, the environment, climate change issues and development are something else, but the two are increasingly interlinked.

Gail Ross: That is a good point.

Good morning, Craig. I am interested in the survey that you opened by speaking about. Which parts of your sector will face the biggest challenges from Brexit?

Craig Wilson: Funding is a huge issue across the board. We are not yet sure how that will pan out, and all our members are concerned about it.

On the aims of particular third sector organisations, the organisations that tackle and deal with the symptoms of poverty will probably find that, if there is an economic shock, as people are predicting, or if inflation increases, there will be increased demand for their services. That

represents something of a perfect storm, because, if their funding is cut or reduces at the same time as demand for their services increases, it will cause them real problems. Organisations that tackle poverty are the ones that are most likely to see an uptake in their services in the short to medium term, at a time when funding is uncertain.

09:45

Gail Ross: Yes. I find it ironic that Brexit is likely to increase the need for advocacy and charitable services when their funding will be going down.

The chancellor has pledged to underwrite EU-funded projects that are signed off before Britain leaves the EU, but his guarantees are not backed up by any legislation or formal policy. Also, the UK Government has stated that it will honour or replace only EU funding for projects that are judged to be “good value for money” or

“in line with domestic strategic priorities”.

Do you think that that is a good way in which to distribute funding?

Craig Wilson: It is great that the funding is underwritten up until the UK leaves the EU—that has given some certainty to our members, who were in shock the day after the vote. It seems that, going forward, the UK and potentially Scotland will have to establish their own funding streams for the future delivery of charitable funding or strategic funding. We are not yet sure how that will work. We do not know whether it will be addressed at a UK level or whether money will come to the UK and be Barnetted back to Scotland, which will have its own priorities. That would seem sensible, as we could then target our specific needs.

At the moment, under the 2014 to 2020 funding structures, the third sector has been able to tap into funding for specific things such as employability pipelines, social inclusion, poverty reduction and growing the social economy. To tap into that funding, which exists for those purposes, organisations must have very specific aims. If the judgment is going to be as vague as whether those aims are

“in line with domestic strategic priorities”

or “good causes”, that will worry people, because it is capricious and it could be up to the Government of the day to decide what the priorities are. We hope that any new funding system, whether it is at a UK level or at a Scottish level, will continue to have specific aims and ambitions that the third sector can apply itself to.

Gail Ross: You mentioned project-to-project funding. We all know that, following the financial crisis in 2008, fewer grants were available to charitable organisations. A lot of those organisations have no reserves and rely on

project-to-project funding. What advice are you giving them?

Craig Wilson: In many cases, they are drawing on reserves to keep going. There is very little advice that we can give at the moment. Money is money and, if it is not there, it is not there. We are struggling to give advice in that context. The SCVO runs a funding advice line that charities are always welcome to call for assistance, and we try to point them to funding that they might not be aware of. However, it is just something that we must get to grips with.

When the new funding streams are in place, we will have to hit the ground running. At the moment, European funding is not perfect; it is like turning an oil tanker round—it is hard to get things off the ground or up and running. We hope that serious consideration is being given to what funding will look like in the future and to ensuring that it starts on time as it means to go on.

Gail Ross: Do you see any particular challenges for charities and the third sector in rural areas?

Craig Wilson: From what we can gather, LEADER funding is particularly important to rural areas. As a general rule, rural areas get a greater percentage share of funding from Europe. We therefore anticipate that any shortfall or reduction will hit rural areas disproportionately.

Gail Ross: Do you think that the voluntary sector can have any influence over the Brexit process?

Craig Wilson: As I mentioned at the start, we have been engaging with the Scottish Government and the UK Government. Lord Dunlop from the Scotland Office visited us quite early on after the Brexit vote. We have been bending the ear of anyone who will listen.

We and our members agreed that the debate was becoming very arid and focused on the economy, jobs and agriculture. There is no doubt that those areas are hugely important, but we felt that as the debate went on, people were maybe starting to switch off and were missing the bigger picture of what Europe is about: solidarity between European nations, networks of third sector organisations, human rights, freedom of movement and, in essence, people. We have been trying hard to inject that into the debate to offer a bigger picture of what Europe means with the hope that we can make people aware of what might be at stake.

Gail Ross: I have another question, but I will give other members a chance.

The Convener: I will see whether we have time at the end for your question.

Alex Cole-Hamilton (Edinburgh Western)

(LD): I have not quite done my homework in the way that Gail Ross has. However, I welcome the panel and I have a couple of questions for it. My first question is about the human rights environment that we will find ourselves in if, or when, we leave the European Union. I say “if” because my party is still fighting very hard to keep the United Kingdom in the European Union. Nevertheless, that is the trajectory that we are on.

The great repeal bill will continue our observance of certain treaties and rights that we have adopted through our membership of the European Union, but after that it is up to us to continue the progress on rights. Can the panel reflect on what Scotland can do, particularly with regard to incorporation? Certainly, from my perspective, we have been working hard to convince the Government to incorporate the United Nations Convention on the Rights of the Child into Scots law. However, in the Brexit context, where are the other gaps? What are the other things that we should do to progress that human rights agenda—what are the low-hanging fruit and the easy wins?

Professor Watson: There is an area that I see as an opportunity because it involves quite a gap. At the moment, we are talking a lot about economics and security in the Brexit context. However, in the economic context, it is necessary to highlight continually the importance of human rights in trade policy. If Brexit happens and the UK negotiates a trade deal with the European Union, the EU is already sitting with all those rights and wants its trading partners to adhere to them. It is therefore necessary to highlight continually the benefits of human rights in trade policy. If we do not do that, we create the possibility of having cheaper labour and rights being taken away, rather than constantly moving human rights goals forward.

It is important that we ensure that individual and collective rights do not lose traction as a result of Brexit. That focus will open up a space for a much more visible championing of human rights in trade policy, which could also form the basis of future policy leadership. It would be a different type of trade policy that is mindful of the wider scale of human rights implications. In both economic and security terms, issues that were maybe regarded as soft-politics issues now have hard-politics implications if they are not addressed. Given that there is a tremendous amount of political will when it comes to the economic and security dimensions but not much is mentioned about the human rights dimensions, the trade policy context is one way of pushing human rights forward.

Craig Wilson: The great repeal bill and the transfer of European legislation on to the UK

statute books is, on the face of it, excellent news. It is a great starting point; it gives people peace of mind. However, we are quite cautious about how that will fit into UK legislation and about the use of statutory instruments and the so-called Henry VIII clauses to do that. The work will be done en masse, with thousands of statutory instruments laid. The risk is that the letter of the law is not quite remembered and it is translated in a different way. There may be accidental changes or—although I would hope not—deliberate changes to those pieces of legislation. We want people to be vigilant to that. It will be difficult, because the amount of legislation that we are talking about is monumental.

What can Scotland do? I am not a lawyer either—I do not know exactly what is and is not devolved and how this all works. However, I understand that, as procurement law is freed from EU legislation, there may be opportunities to build in more equality aspects to the new legislation that might encourage more disabled people to be employed or whatever it might be. That may be worth looking at in order to improve procurement.

Essentially, we should ratify as much into Scots law as possible that we think is good. If that is doable, that should be done.

On the role of the Parliament in bringing rights into focus, a by-product of the Brexit vote is that we are talking about these issues. Since the European convention on human rights was established in the 1950s, human rights have almost been taken for granted in some respects. This is an opportunity for us all to look at what is important to us and to safeguard against any potential regression.

Alex Cole-Hamilton: I mentioned the United Nations Convention on the Rights of the Child and our desire to see that incorporated into Scots law. Without that, children's rights will not be justiciable and children will have no recourse to justice if their rights are impinged upon under the terms of the treaty. Therefore, we need to take legislation in this country beyond part 1 of the Children and Young People (Scotland) Act 2014, which simply places a duty on ministers to raise awareness of the UNCRC, rather than to do anything that will bring about justiciability. Access to justice is crucial in making rights real. Without recourse to justice and testing rights in court, rights are meaningless—they are not worth the paper they are written on.

As I understand it, even though we are—potentially—leaving the European Union, we will still have access to the European Court of Human Rights. Will the panel reflect on the risks to our access to justice and our rights being made real, which is crucial, in that estrangement from the wider European continent, albeit not physically?

Craig Wilson: A risk is that we would lose not only the protections that we have through the European charter of fundamental rights, but the oversight. The idea that people can go to another court is a great leveller between citizens in their state. If they feel that they have been wronged, they can appeal to a higher power. In that sense, it would be a loss.

The SCVO contributed to the British Institute for Human Rights report to the UN, which looked at the state of human rights in the UK. The picture in the UK was not great; the picture in Scotland was not great either. There are lots of problems. For example, the criminal age for children is low in Scotland. However, regression was already happening in some areas under the EU. An issue was access to justice and the changes made to legal aid and people's ability to go to court to seek justice. There are concerns that the trajectory is not a good one, but the oversight and the checks and balances that other courts outside Scotland and the UK provide would also be lost.

10:00

Professor Watson: I agree with Craig Wilson that oversight and monitoring are important.

It is also important to look at the instruments that exist, such as the UN Convention on the Rights of the Child, even to the extent of thinking about their efficacy and whether they necessarily do all that they can do. What they do is provide international standards, but the age of criminal responsibility, for example, changes wherever one goes in Europe; different views are taken of childhood and children across Europe. It is important to consider that, because in the European Union there is no standardisation of law with regard to children.

It is very important that the UN Convention on the Rights of the Child is there; it is the most widely ratified piece of human rights legislation. However, that instrument does not stop child labour—or even the worst forms of child labour—continuing to exist. Under article 12, children's voices are meant to be heard more in decision making, but that does not really happen except in particular contexts—some countries are much better than others in that regard. We might even consider the idea of the universality of age in the convention, which states that "child" means everyone up to the age of 18. In human rights terms, what does a 16-year-old who is in charge of the family and needs to access land rights do? That is very difficult.

There is a view of children that comes from the UN Convention on the Rights of the Child that is somewhat idealistic, although I do not think that the convention is wrong to have that view. In a

sense, there is a notion that one can give a childhood back to a child who has suffered a large amount of abuse, when really what one can do is help the child to deal with what has happened to them, rather than giving anything back.

The UNCRC is a global standard, but it is also important to see it as a flawed document, and there is a lot of discussion in academic circles and elsewhere about what it restricts as well as what it allows to go forward. In that context, we need to think about what we in Scotland and the UK can do about the age of criminal responsibility, what it should be, and what it says about our view of childhood.

Alex Cole-Hamilton: Thank you both. For the record, I refer to my entry in the register of members' interests and remind members that I was previously convener of the Scottish alliance for children's rights.

The Convener: I want to pick up on something that Craig Wilson said in response to Alex Cole-Hamilton's point about where people go for recourse to justice. I know a number of the member organisations of the SCVO that provide advice, guidance and support to enable people to access their rights and seek redress through the justice system. If there is no EU funding for projects and funding is not forthcoming from the chancellor, what will happen to people when they seek justice?

Craig Wilson: Some of the organisations receive EU funding and some do not. Some of the funding will be guaranteed—I understand that anything that is signed off before the UK leaves the EU will be guaranteed, so there is no immediate threat.

If any moneys come back, they must be fed into a funding stream that is able to continue. If that happens at Scottish level, the same priorities should continue to be met. If it is at UK level and the money is described vaguely as being for good causes, that could be a concern, because "good cause" is open to interpretation.

Organisations that do not have funding cannot do their jobs and will not be able to signpost people as they did in the past, so it is important to ensure that funding is sustained.

Mary Fee (West Scotland) (Lab): I wish to explore further the issue of funding. We have concentrated heavily on that, but it is one of the key issues for third sector organisations as we leave through Brexit. Many third sector organisations have their core function, but they are usually highly inventive in how they use their funding to go above and beyond what they are required to do—which they usually do 100 per cent of the time. My question is specifically for Craig Wilson. Have you assessed the level of

unrest among third sector organisations over how much of their whole package they will need to pull back? Will they be left with just the core service that they provide and for which they get funding?

Craig Wilson: There is certainly unrest. Some organisations rely on EU funding more than others. Some will receive very little, or perhaps none at all, and they are more concerned about the economic impact and what it means for demand. If they are already stretched, that makes things harder. Organisations that rely on EU funding as a core element of what they provide are concerned.

It is hard to pin down who gets what and under what mechanism, because some money comes via the Scottish Government, whereas some comes directly from the European Commission. There are sister organisations across Europe that partner up and bid for funding together. It is almost impossible to keep track of that. To give a straight answer about what the overall impact would be in terms of lost funding is nigh on impossible, I am afraid.

Mary Fee: On another area of concern, we have been given a degree of guarantee that the funding will carry on, and an assurance has been given that the funding will be matched. Given the way in which the funding system currently works, when third sector organisations are planning what they do there is almost a confidence that funding will be given to them so that they can carry on with their services. Is there a concern that they will have to stop supporting people or providing services that would normally just carry on as each funding period comes round, and that people will fall through the gap?

Craig Wilson: Security and stability for the organisation itself certainly allow it to forward plan. The survey that I have mentioned was part of a wider survey—I can forward it to you later—and it gives the sense of confidence in the third sector. It is not great. This is a time of uncertainty, so that makes sense, but it seems that charities have gone into survival mode, and they are not developing new projects or innovating in the way that we know they can. They are just trying to shore things up and to survive. There is a general confidence that they can do that, but that is not getting the best out of the sector. We are in a freeze-frame moment, and we have to wait and see what is going to come next.

Mary Fee: I will now ask you about the role that the EU has played in tackling violence against women and human trafficking. A huge amount of work has been done and has filtered down on violence against women and in particular on human trafficking and information sharing. What is the impact of Brexit on all of that?

Craig Wilson: That is not an area that I am particularly expert on. One of our concerns is about ensuring that the Istanbul convention is ratified. So far, the UK has signed it but not ratified it. We understand that it is progressing through Westminster at the moment. Sooner rather than later would be great, if that can be done.

That leads to a wider point. The EU is set up to take on such international conventions, and it can easily absorb them through a set framework. That has been hugely successful in the past. We would like the UK to be able to adapt to such things in the way that it has been as a member of the EU. Adherence to international conventions is something that we are keen to see continue.

Professor Watson: I am not an expert in this area either, but when there are not adequate laws to protect vulnerable groups, those groups will become vulnerable to other forms of human rights abuse. Individual rights are crucial, but collective rights are also important in protecting vulnerable groups. It is very important to remember that human trafficking, for example, is the end result of something before that, which in turn is the end result of something before that. At times, it might seem difficult to identify exactly where the rights regime can operate in that context. It is extremely important that we monitor the rights regime right the way along so that vulnerable groups do not become even more vulnerable.

Jeremy Balfour (Lothian) (Con): Good morning and thank you for coming along. I declare that I have worked in the third sector for the past 10 years and that, as well as being employed in it, I have been and still am a director of a number of third sector charities.

I am slightly concerned that we are hearing a narrative that lacks evidence. We are presuming that everything is linked to Brexit and that that is why the things that we are discussing are happening. I have a number of questions, but first I want to ask Craig Wilson about a point that he made about entitlement to legal aid. The decision in question was made by the Scottish Government. What is the link between Brexit and whether people get legal aid? Access to legal aid has been an issue since I was in private practice 25 years ago, which was way before Brexit. How can Brexit be linked to entitlement to legal aid, the decision on which was made by the Scottish Parliament and the Scottish Government?

Craig Wilson: I was trying to make the point that, when it comes to human rights in this country, the situation is not perfect even when we are a member of the EU. If the trajectory is a move away from a progressive approach, that is of concern. The issue is that, as we lose layers of oversight and the ability to challenge decisions, the situation can become worse. As things are

whittled down, Governments can become freer to do what they want because they will be subject to fewer challenges. I was making a general point about the loss of oversight.

Jeremy Balfour: We have to be careful that we do not link Brexit to the issue of civil legal aid. There is no evidential link between Brexit and whether people are entitled to legal aid. I am challenging the presumption that you seemed to be making; we need to be careful about making such presumptions.

Craig Wilson: I brought up the issue only because it was mentioned in the report of the British Institute of Human Rights to the United Nations universal periodic review of human rights. That was a specific area in which it said that there had been regression. I was just making the point that there can be regression even while we are part of the EU. I was suggesting that, if oversight is lost, such things become easier. However, I take your point that the situation with regard to access to legal aid is not directly linked to Brexit.

Jeremy Balfour: Your submission is interesting. How many people replied to your survey?

Craig Wilson: Four hundred.

Jeremy Balfour: Am I right to say that that was out of 1,400?

Craig Wilson: The SCVO has a membership of about 1,500.

Jeremy Balfour: Were the majority of those who responded bigger charities or smaller ones, or was it a fair mix?

10:15

Craig Wilson: I do not have the breakdown of that, but I could probably find out for you and let you know. The survey ran for a couple of months and we encouraged responses from charities big and small in order to get the widest possible picture.

Jeremy Balfour: It would be interesting to see the questions that were asked and, without necessarily naming specific charities—there could well be data protection issues in that—to know what types of charities responded. That would be helpful.

Craig Wilson: I can look into that.

Jeremy Balfour: My next question arises from my ignorance. Again, you might not know the answer off the top of your head. How many of your members receive European funding at present?

Craig Wilson: I am not sure about that. The third sector is quite slippery and it can be difficult to get people to respond to things. We do not have the central resources that bodies such as the

national health service have, which mean that they can easily rhyme off statistics, so we have to do things such as surveys in order to try to collect as much information as possible.

It is a difficult question, but we know that about 40 per cent of Scottish charities have or have had in the recent past partnerships with European organisations, so at least 40 per cent will have had some sort of EU funding through networks that they have established on their own. There will then be money that comes directly through the funding streams. I cannot give you a figure, but I would think that we are talking about at least 40 per cent.

Jeremy Balfour: This is probably another unfair question because you might not know the answer, but would it predominantly be larger charities that have those partnerships and relationships, or do they exist across the sector?

Craig Wilson: All charities bid for funding. The larger charities bid for tens of thousands of pounds and small community organisations benefit from things such as the LEADER fund, which I mentioned to Gail Ross. That applies across the board. Again, it is quite hard to pin down. However, I will certainly take all those issues away and find out what I can for you.

Jeremy Balfour: Thank you.

The Convener: For information, I note that, in the previous session of Parliament, when the European and External Relations Committee attempted to map funding across Scotland, that proved to be very difficult to do, because there are so many avenues through which organisations can attract funding. I commiserate with Craig Wilson, because we attempted to do that over five years and it was very difficult. If you can do it, please tell us how, as that would be helpful.

Professor Watson, do you want to come in on any of Jeremy Balfour's questions? They were specifically about the survey, but have any of the partners that you work with had similar experiences or mentioned any risks or opportunities to you?

Professor Watson: Sorry, but who are you referring to?

The Convener: Your partner organisations in the third generation project and maybe those in the wider academic arena.

Professor Watson: In the third generation project, we work very much at the grass-roots and community level. Geographically, we work in North America and east Africa. I would like to make a point that picks up on some of the earlier points about EU funding. Purely in the academic field, in research partnerships in Europe, there are certainly concerns from European partners about

having UK partners at the head of bids. That is anecdotal, but there are concerns.

From a community perspective, in funding terms, given the way that research is developing, it is important to have collaborations between community organisations, academia, policy makers and practitioners, and that is the way that we work. In the third generation project, we definitely advocate that approach. We want to facilitate conversations and research by acting as a hub, and we want to partner with community organisations, policy makers and practitioners.

We have noticed—this has happened in the Brexit discussions, but it happens more generally, too—that the lines of communication and even the day-to-day interactions between different knowledge sectors are not as fruitful as they could be. It is important to think about the opportunities in that respect.

The Convener: On the back of Mary Fee's question, it is important to consider that the research and development elements of policy development around social cohesion and the building of capacity and resilience in communities have generally come via our universities working in partnership with other universities. Organisations—such as yours—that are attached to universities are engaged in policy development and in enabling policy to develop Europe-wide, and the work to enable that is essentially funded via Europe.

If that funding is no longer there, will the university sector still have the capacity to maintain those networks and that work? Those pieces of work have changed nations. In many cases, they have changed policy and cultures for the better, especially in areas such as domestic violence, human trafficking, criminal justice, social care and healthcare. How do we make it work?

Professor Watson: European funding is only part of the university sector's funding, but there is significant concern right across academic disciplines. There is no real sense yet of what is going to fill the gap, which represents a significant chunk of funding. Projects will be able to continue, but not necessarily with UK lead partners or principal investigators. That might be fine, but it will change the nature of the collaboration process.

On research and working with community organisations and communities, it is important that we as academics think about what the sector needs, whether questions need to be asked and, if so, which questions. We also need to consider the knowledge that already exists on the subject that academics are perhaps not party to. It is fundamental that there is collaboration between

different types of knowledge, because academic knowledge is certainly not the only type.

The Convener: Before I bring in Gail Ross to ask the rest of her questions, do other colleagues have any further questions for our panel?

Members: No.

The Convener: In that case, I bring in Gail.

Gail Ross: I have a question to wrap up the discussion, unless the convener wants to come in at the end. The status of EU nationals in the UK is quite uncertain at present. Do you feel that that is a human rights issue?

Professor Watson: Personally or professionally?

Gail Ross: Both, or either.

Professor Watson: I would say that it is a human rights issue because there is a level of uncertainty in people's day-to-day lives, and in their family lives, in that they do not know how the situation will move forward. There is still so much uncertainty about what the outcome is going to be, so it would not be fair for me to make a blanket statement that this is a human rights issue. Whatever comes out of the negotiations might deal with what I see as the human rights dimensions. However, if it was a worst-case scenario and people felt that those rights were not there, it would be a human rights issue, because this is about the right to a family life and the right to education—it is about those fundamental rights.

Sometimes the abuse of human rights is seen as being about patterns of major abuse. It is important that we focus on that, but there are daily abuses as well, such as the inability to have a family life. Mary Fee mentioned violence against women, and that is a daily abuse, too. It is also important to think of those everyday considerations in relation to Brexit.

Gail Ross: Craig, do you have any comments on EU nationals either benefiting from or contributing to the third sector?

Craig Wilson: One of the areas where a specific cohort of EU nationals is working is health and social care. If they were to leave, it would have a direct impact on disability rights and people's ability to realise them. Approximately 5 per cent of the health and social care sector workforce are EU nationals, so if even a small percentage of them were to leave, it would have a massive impact on the delivery of health and social care services. As we mention in our submission, a cross-bench peer in the House of Lords has pointed out that many of the personal assistants that disabled people rely on are EU nationals as well, so they provide a lot of services.

A lot of EU nationals work in the third sector, but there is a specific cohort in health and social care. There could be challenges if there are changes to their immigration status or if people just decide to leave.

Gail Ross: Thank you.

The Convener: I think that we have exhausted our questions. I thank both witnesses for their attendance.

David Torrance (Kirkcaldy) (SNP): Sorry, convener—I have a question. On Tuesday night, in the Parliament, I hosted a briefing session by the Finn-Guild, which is an organisation for Finnish nationals who stay in Scotland. They discussed the possibility of a two-tier system for EU nationals, with different rights for those who already live here and those who come in to support sectors such as healthcare. Would there be a human rights issue if there was a group of EU nationals who did not benefit from the sorts of things that we have in the UK?

Craig Wilson: That is a good question. I suppose it would depend on whether they were able to enjoy the same rights in terms of access to justice. If so, there would be less of an issue in human rights terms. The idea is unusual, but I understand that immigration systems can target certain sectors if they have a shortfall, and health and social care may be one of those areas. We received some suggestions that the new Scottish tax code with the "S" prefix could be used. There is sufficient manoeuvrability within immigration systems to achieve that, but if it was to come about, we would expect those people to have the same legal and human rights protections in the eyes of the law.

David Torrance: Their argument is that people who already stay here and have been here for a long time should still be entitled to all the benefits and so on, whereas people who come from the EU after Brexit would have a different entitlement.

Craig Wilson: There is an issue with the right to remain. The Home Office has introduced an 85-page document for people to apply to remain, which even medical doctors are struggling with and giving up on. It includes demands for details about health insurance and there are quite a few hoops to jump through. However, the Home Office is now dissuading people from applying for that and saying that they can sign up for email alerts instead.

There is an issue in that people who are already resident here may not have the proper documentation to remain following Brexit. I think that the issue is that the Home Office is inundated, but it is concerning that people are unable to get the information that they are looking for before all of this happens.

The Convener: You have touched on something that I thought about yesterday when I read that people can sign up for Home Office news alerts. I could not find any details on how that data may then be used by the Home Office. Have any of your organisations picked that up? I could not find any disclaimer to confirm whether people's data would be used only for the alerts or could be used in a wider context by the Home Office.

Craig Wilson: We do not know that, either. We picked up on the email alert thing only recently. You might want to check that with the Home Office.

The Convener: Thank you—we will do that.

I think that we have exhausted our questions now. Thank you so much for your contributions this morning. My usual rider applies: if, when you go away, you think of something else that you should have said, please let us know, because we will be considering the issue right through the process of the negotiations, up to when we leave the EU, or if—on Alex Cole-Hamilton's behalf—we leave the EU.

Alex Cole-Hamilton: Not on my behalf. I was talking about preventing us from leaving.

The Convener: Yes—that was your point. We move into private session.

10:31

Meeting continued in private until 11:21.

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