

# **EQUAL OPPORTUNITIES COMMITTEE**

Tuesday 14 December 1999  
*(Morning)*

© Parliamentary copyright. Scottish Parliamentary Corporate Body 1999.

Applications for reproduction should be made in writing to the Copyright Unit,  
Her Majesty's Stationery Office, St Clements House, 2-16 Colegate, Norwich NR3 1BQ  
Fax 01603 723000, which is administering the copyright on behalf of the Scottish Parliamentary Corporate  
Body.

Produced and published in Scotland on behalf of the Scottish Parliamentary Corporate Body by The  
Stationery Office Ltd.

Her Majesty's Stationery Office is independent of and separate from the company now  
trading as The Stationery Office Ltd, which is responsible for printing and publishing  
Scottish Parliamentary Corporate Body publications.

---

# CONTENTS

Tuesday 14 December 1999

	Col.
"IMPROVING OUR SCHOOLS" .....	207
WORK PROGRAMME .....	221
SOCIAL PARTNERSHIPS AND RESEARCH NEEDS .....	231
PROGRESS REPORTS .....	232
CORRESPONDENCE.....	243

---

## EQUAL OPPORTUNITIES COMMITTEE 9<sup>th</sup> Meeting

### CONVENER :

\*Kate MacLean (Dundee West) (Lab)

### COMMITTEE MEMBERS :

\*Malcolm Chisholm (Edinburgh North and Leith) (Lab)  
\*Johann Lamont (Glasgow Pollok) (Lab)  
\*Marilyn Livingstone (Kirkcaldy) (Lab)  
\*Mr Jamie McGrigor (Highlands and Islands) (Con)  
\*Irene McGugan (North-East Scotland) (SNP)  
\*Mr Michael McMahon (Hamilton North and Bellshill) (Lab)  
\*Michael Matheson (Central Scotland) (SNP)  
\*Mr John Munro (Ross, Skye and Inverness West) (LD)  
\*Nora Radcliffe (Gordon) (LD)  
\*Shona Robison (North-East Scotland) (SNP)  
\*Tommy Sheridan (Glasgow) (SSP)  
\*Elaine Smith (Coatbridge and Chryston) (Lab)

\*attended

### WITNESS:

Dharmendra Kanani (Commission for Racial Equality)

### COMMITTEE CLERK:

Martin Verity

### ASSISTANT CLERK:

Rodger Evans



## Scottish Parliament

### Equal Opportunities Committee

*Tuesday 14 December 1999*

*(Morning)*

[THE CONVENER *opened the meeting at 10:10*]

**The Convener (Kate MacLean):** I am sorry about the late start. I had some difficulty getting here because of the weather. Three members of the committee have not arrived yet. They are probably having the same problem. Rowena Arshad from the Centre for Education for Racial Equality in Scotland has not arrived yet either, but she is on her way and should arrive shortly. She has said that she does not mind Dharmendra Kanani from the Commission for Racial Equality making a start before she arrives.

Welcome again, Dharmendra. Dharmendra is here to give evidence on the Scottish Executive's consultation document "Improving our Schools".

### "Improving our Schools"

**Dharmendra Kanani (Commission for Racial Equality):** Thank you very much for giving the CRE this opportunity to come and speak to you again on the improvement in Scottish education bill. I know that you are not too keen on presentations on overhead projectors—neither am I—but I hope that by using overheads I can skim through some of the key principles. You have already received a briefing from the CRE and CERES. I hope that you have had the chance to read it. We are keen to discuss ways in which the bill can be improved in terms of equality and race equality, to ensure that some improvements can be embedded in it.

With this bill, we have an important opportunity to achieve institutional equality—that is one of the key sentiments for the Commission for Racial Equality and for the Centre for Education for Racial Equality in Scotland. If we have learned anything from the Stephen Lawrence inquiry and the recommendations that emerged from it in the Macpherson report, it is that embedding principles of equality, and race equality in particular, in legislation of this kind is absolutely essential. We are concerned that, in the draft of the bill, there is no sense of how we in Scotland will achieve equality of opportunity, let alone race equality. We should focus our minds on what is actually being proposed, on what opportunities exist and on how we might effect long-term change.

The overhead shows a set of principles that we will have to consider if a world-class education system is to emerge as a result of this bill. People should be able to enjoy participation of all kinds: educational participation, lifelong learning participation, social participation and cultural participation. When we consider the education system as a whole, other areas such as political participation and economic participation will have to be considered. Those are basic principles that we believe should underpin a revised bill.

In the review of section 1 of the Education (Scotland) Act 1980, we welcome the proposal that ministers should have a new duty. That presents the opportunity of making ministers more accountable and of sharing the responsibility for the provision of education in Scotland. If, by including ministers in that responsibility, the aim of the proposal in the bill is to achieve greater accountability, that duty on ministers should be clear, transparent and measurable. If that is the aim, we need some honest and open dialogue and negotiation with civil servants, this committee and others on how we can achieve it.

At the CRE, one of our key concerns is that the ministerial duty should include specific references to schedule 5 of the Scotland Act 1998. Why is the opportunity to include a reference to schedule 5 missed? If the intention is to achieve a modern world-class education system—an intention that is written throughout the bill—it seems regressive, to a certain extent, that the opportunity has been missed to include a reference to the equal opportunities responsibilities that the Executive and Parliament have. We hope that, in your scrutiny of the bill, you will ensure that that opportunity is not missed when the bill finally becomes legislation.

10:15

The tenor of the bill is continuous improvement, and the setting of objectives and national priorities, which will feed from the level of the Scottish Executive to local authorities and schools. We are concerned that across Scotland we do not have any reliable information on the education experiences of black and ethnic minority pupils. We have pockets of information, for example, from Edinburgh and Glasgow, but there is a complete absence of consistent information that identifies the education needs of black and ethnic minority pupils and others. If ministerial priorities and local objectives for improvement are to be set, how will they be achieved without that kind of information?

We recommend strongly the introduction of standard ethnic monitoring procedures across education management, provision and outcomes. We are conscious that there is a tendency among public service organisations in particular to feel

that ethnic monitoring is problematic, difficult and resource intensive, and that people do not understand it, because the notion of self-categorisation is open to confusion.

Equality agencies such as the CRE, CERES and the Equal Opportunities Commission should have the opportunity to advise Government on how ethnic monitoring can be promoted across particular sectors of the public service domain. In that respect, I hope that ethnic monitoring becomes standardised in schools and local authorities, so that we have an overall picture of what is happening in education. That would enable us to plan effectively for the education needs, current and projected, not only of black and ethnic minority pupils, but of Scottish pupils across the board.

I have made this point already, but it is important to reiterate that one of the key concerns of CERES and the CRE is the absence of a sizeable black and ethnic minority population in the teaching profession in Scotland. There must be measures to ensure that representation is balanced, and that it is increased. If there are opportunities to use positive action measures, we should use them. We can provide you with guidance on that.

My next point may be contentious, but it is important. We are in the context of setting national priorities. We said that there is an absence of evidence on some of the issues, yet locally we are aware of what is going on. Our recent casework suggests that there is still a great distance to be covered between commitments, policy manuals and practice. There are still situations in which local authorities and schools are not managing racial harassment effectively, and are not meeting the specific needs of black and ethnic minority pupils, particularly with regard to language needs.

We are not aware of what is happening in terms of educational achievement, so one of the key issues is that if we are to achieve a modern schooling system in Scotland, and abide by some of the principles of what this new Government and democracy is about, we must ensure that an equality, or race equality, priority is set at ministerial level. How we achieve that will be a matter for the coming eight months or so.

We are concerned about consultation. You will be aware that the bill suggests that there is no need to regulate how consultation takes place at a local level. Our experience suggests that the practice of consultation is patchy. Some authorities are quite robust and engage with black and ethnic minority communities and other stakeholders effectively but, across the board, the quality of consultation depends on the size of the community or the political commitment of local authorities or head teachers, for example. We have the opportunity to establish coherent

consultation guidelines and a framework for engaging with black and ethnic minority communities.

I am minded of the fact that down south, Government has sought to institute regulations on how local government should consult. In our briefing, we cited the example of the Crime and Disorder Act 1998 and the fact that local crime and disorder strategies have to be subject to rigorous consultation. We recommend that we take a similar approach in Scotland. If we cannot do that, we will want to know why.

The theme that runs throughout this presentation is that if we are to achieve some of the aims of the Scottish Executive, we must be explicit about race equality issues and school planning. One of our main concerns over devolved school management is the opportunity that schools and local authorities have to absent good practice or negate their responsibilities with regard to the bilingual education needs of pupils, and investment in equal opportunities, anti-racism and multicultural work in schools.

While we support the proposals in the bill, safeguards must be built in to ensure that schools do not opt out of their race equality and equal opportunities responsibilities, because that could happen in Scotland, where such responsibilities are not a priority and are not in the foreground of many people's thinking, particularly at a local level. We are concerned that the best-value principle of continuous improvement be embedded in performance indicators of pupil expenditure and so on.

Our casework experience suggests that schools increasingly are cutting their provision for the language needs of bilingual pupils who have English as a second language. We need to achieve a position in which we can effectively assess the situation. Our example comes from Glasgow, but I am sure that the practice extends elsewhere. If we do not safeguard against some of those issues, bad practice will emerge and persist.

Scottish police forces have agreed that next year there will be a thematic inspection of race and community policing. We recommend that there should be the opportunity to have thematic inspection of race equality. We are concerned that we have a draft code of practice on inspections, yet there is a tendency for departments not to speak to each other. Her Majesty's inspectorate of constabulary is working closely with us on framing protocols for thematic inspections for the future, which weave in some of the issues centrally; yet in the draft code of practice for school inspections there is a complete absence of any reference to equality measures.

If we are to achieve a robust system of

inspection, why are those issues not mentioned in the draft code of practice? Why is there no target setting in terms of how Her Majesty's inspectors of schools will quality assure some of the race equality issues? We feel strongly that the code of practice should be amended to include specific reference to race equality.

School boards should be asked how they intend to engage with, and seek the views of, black and ethnic minority parents. There is a lot of evidence from CERES—patchy though it is—from central region and Wester Hailes that, increasingly, parents do not feel part of the process, are not being engaged with and do not understand the process. We are all aware that parental involvement is key to achievements in lifelong learning. That is borne out in evidence from down south.

A key concern has emerged from the casework regarding placing requests that was done for local race equality councils over the past five or six years. On occasion, black and ethnic minority parents have sought to place their children in schools that our outwith their catchment area, and where places are limited. In such circumstances, the fear of racial harassment has not been given equal weighting with other considerations. We recommend that it should be, given the specific issues that face black and ethnic minority parents.

I shall end there, and we can have a discussion.

**The Convener:** You spoke about early intervention, for which new money has been made available to local authorities. Are there examples of good practice, where proper monitoring has been done or the needs of black and ethnic minority children have been taken into consideration, for example, with classroom assistants?

**Dharmendra Kanani:** Not so much in Scotland. It is unfortunate that my colleague from CERES is not here to speak about some of her experiences. I know from my experience down south that there have been opportunities, for example, in Camden with the sure start initiative, where black and ethnic minority parents have been involved from an early stage, in particular when looking at pre-school provision.

A lot of work has been invested in outreach by local education authorities. Research, particularly from Birmingham, has demonstrated the impact of early intervention on the achievements of particular communities. For example, over a number of years, children from the Bangladeshi community were tested against white pupils and those who had not had pre-school education. The difference in achievement over a five-year period was shown to be immense. There is consensus that it is important to have early intervention,

because it has a marked impact on educational performance and achievement, but in Scotland, we have not determined sufficiently the needs of black and ethnic minority community groups.

**Malcolm Chisholm (Edinburgh North and Leith) (Lab):** I guess that most people support the principles that you outlined, although I should only speak for myself. I accept what you said about training, inspection, monitoring, recording and so on. At that general level, a lot—or some—of what we are discussing may be incorporated into the bill.

We keep coming back to the details of how things will work in schools. I was interested in what you said in paragraph 3.3 of your submission. You accept that recording racist incidents is important, but you say that:

“The concentration on recording of statistics and incidents does not address a very real issue which is that young people need to be empowered to raise their complaints and know they will be effectively dealt with in the first place.”

You then talk about qualitative methods being required alongside quantitative methods. That raises the important issue that assessment can be difficult. Could you help us by telling us what kinds of indicators you want to have, because that is one of the difficult areas with which we have been trying to grapple?

10:30

**Dharmendra Kanani:** A more imaginative approach to assessment and standard setting is required. For example, if the sole indicator of success were to be simply recording racial incidents, we would not get the full picture. One could conduct pupil research—ad hoc, dip sampling of pupils' experiences—to identify whether pupils feel more confident. One could examine how anti-racism is raised in the curriculum. One could measure parental involvement, by asking whether black and ethnic minority parents feel confident that the school is addressing their concerns or whether they are sufficiently engaged with the school's procedures—one could examine the number of inquiries about schooling issues and the outcomes to those inquiries. One could measure involvement in parents' evenings and so on. A plethora of indicators could be established, from what happens in the classroom through to school mechanisms for parental involvement.

**Malcolm Chisholm:** That was a helpful response.

On addressing anti-racism through the curriculum, do you think that the current mechanisms—guidelines and so on—are adequate? You have had much experience in

England, where there is a national curriculum. While I am not advocating that approach, is it your perception that it might be more difficult for such issues to be addressed by the curriculum in Scotland, or are you satisfied that—

**Dharmendra Kanani:** No, we are not satisfied. Scotland does not have a particularly robust approach to anti-racist work within the school system, although I have come across a lot of good practice in areas such as Edinburgh, the Lothians and Glasgow. The situation is not much better down south where, most recently, a regressive position has been taken in the new opportunities available in the national curriculum, in that much of the anti-racist work will be placed in citizenship education, without much sophisticated methodology. We need guidance across Scotland on how to introduce, in a variety of ways, concepts of equality, race equality and anti-racism into the classroom.

**Malcolm Chisholm:** Therefore, there are two issues: the content of the curriculum and the mechanism with which to enforce it. You say that you are not happy with the content, either in England or in Scotland.

**Dharmendra Kanani:** The content is patchy and inconsistent.

**Malcolm Chisholm:** Are you satisfied that we have the mechanisms to ensure that, once we have developed good content, the curriculum is delivered in Scotland?

**Dharmendra Kanani:** I do not think so—there is no coherence. Ultimately, it is not clear from the draft bill how the curriculum content will be measured or monitored, apart from figures for achievement. While we appreciate that the system has operated for some time in Scotland, there is scope for a clearer approach to standardising work around equality issues within the curriculum.

**Irene McGugan (North-East Scotland) (SNP):** To follow on from Malcolm Chisholm's first point, you have made a number of valid recommendations in your submission. Has the CRE or CERES proposed amendments to the bill?

**Dharmendra Kanani:** We will be doing so as the bill journeys through its passage. One of our key priorities will be to ensure that the new duty on ministers will include specific reference to equal opportunities and to schedule 5 to the Scotland Act 1998. We hope that progress will follow on from that, but before the bill obtains royal assent, we will do our best to ensure that all opportunities to discuss amendments are taken, including close work with the committee.

Once the committee has concluded its consultation process, we would like to know what members' priorities are—the minimum level of the

equality duty that you expect the bill to deliver and the changes that you expect to propose, to increase that level.

**Mr Jamie McGrigor (Highlands and Islands) (Con):** What practical action is needed to recruit more black and ethnic teachers in Scotland?

**Dharmendra Kanani:** We need to conduct a snapshot study of why there is only the current number of black and ethnic minority teachers in the teaching profession.

**Mr McGrigor:** Is it very low?

**Dharmendra Kanani:** Yes—it is extremely low.

We should also engage in positive action measures to make the profession attractive, and we should identify whether there are unjustifiable stumbling blocks. Colleges and institutions should consider how they recruit and try to understand the problem better.

**Mr McGrigor:** The issue of bullying is very worrying. You talked about the fear of racial harassment and about schools that have limited places—what practical solution is there to that problem?

**Dharmendra Kanani:** Currently, schools and education departments have clear criteria for agreeing placing requests. When committees assess such requests, a parent's assertion, based on experience, that the child's fear of racial harassment is a feature of the request, should be considered equally with the other criteria. The fear of racial harassment should be written into the current criteria.

**Tommy Sheridan (Glasgow) (SSP):** I am concerned whether the bill concentrates enough on improving other aspects of education, such as the health and fitness of our school-age youngsters and making them aware of the importance of health and fitness, particularly given that recent reports show an alarming rise in obesity.

You talked earlier of the need to measure black and ethnic minority pupils' educational attainment and the standards that are not being achieved within our schools. Do you plan to try to establish whether there is a greater problem in the black and ethnic minority community in relation to rates of health and fitness, particularly given some of the cultural barriers that might prevent pupils from taking part in physical education in current school curricula? If you have such plans, could you outline them and, if not, will you give some thought to that issue?

**Dharmendra Kanani:** There are no such plans. We are looking at the whole picture. As I said earlier, it is quite alarming that, both in Scotland and elsewhere to a certain extent, there is no

reliable information about what is happening to black and ethnic minority pupils in our schools. Therefore, it is difficult to get to the stage where we can discuss what is happening at pre-school level or, in schools, the levels of attainment of black and ethnic minority pupils, let alone consider fitness or health issues.

We know that there are certain patterns of ill health in black and ethnic minority communities, such as diabetes or thalassaemia in particular Asian communities. However, there is only patchy information about and awareness of the traits and patterns of ill health later in life. The connection with education is not clear and there are generational differences. Our starting point must be a more meaningful scrutiny of what is taking place in schools, so that we are able to meet specific needs and to plan for the future. The present system does not allow for that and we must achieve a position where it does.

**Michael Matheson (Central Scotland) (SNP):** At paragraph 2 of your written submission and in your presentation, you refer to your concerns about the potential for the bill to be in conflict with, or to override, the Race Relations Act 1976. Could you expand on that?

**Dharmendra Kanani:** A significant case involving the local education authority in Cleveland dealt with the concept of parental choice. In that case, a white parent chose to remove her child from a predominantly black school because she was concerned that the child was losing its ethnic identity. On that occasion, the Education Act 1980 took precedence over the Race Relations Act 1976, although we felt that the actions and choices that were taken were discriminatory. We are concerned that primary weighting should be given to the Race Relations Act 1976, which would be consistent with the obligations placed on local authorities under the education sections of the act. The CRE's "Code of Practice (Scotland) for the Elimination of Racial Discrimination in Education", which we circulated to members in our initial, thick briefing pack, contains more detail on that issue.

**Michael Matheson:** In paragraph 4 of your written submission, which deals with the arrangements for consultation, you note that ministers do not intend to regulate local consultation processes. In paragraph 4.3, you say that guidance should be issued by the Scottish Executive on local consultation. Do you think that guidance would be sufficient, or should there be a reference to local consultation in the bill, by way of an amendment?

**Dharmendra Kanani:** The paper reflects our desire to compromise, because we understand how things happen and the minimum level of guidance that we might achieve. However, we would welcome regulation and a specific provision

on consultation in the bill, which would make it clear that people have to consult and that there are ways in which consultation should take place. Guidance would follow on from that—that is our optimum position.

**Johann Lamont (Glasgow Pollok) (Lab):** I apologise for being late. Please forgive me if I ask about something that has been addressed already.

I was interested in what you had to say about pre-school education and youngsters with special educational needs. Are there specific issues about consultation with black and ethnic minority parents? In both those areas, parental involvement is crucial, but you say that our education system is flawed in the way in which it works with black and ethnic minority families. What solutions should we consider, particularly in relation to special educational needs and whether young people are placed outwith mainstream education inappropriately?

You said that there was little evidence about what happens to young black people in schools. Do you have anecdotal evidence on truancy among young black people, which might arise from their school experiences or from the way in which, if the cause of a disciplinary problem is not correctly identified, the disciplinary system might deal with them inappropriately?

**Dharmendra Kanani:** I will deal first with your question about consultation with parents on pre-school education and special educational needs.

As can be seen from the Birmingham research that I quoted and from the work that has been carried out in London, there is consensus down south that while pre-school education is good for everyone, it is an absolute must for groups such as Bangladeshi pupils, given the differential patterns of achievement for such groups. In Scotland, there is a lack of information, but we can draw on the experience down south.

The CRE undertook a formal investigation of the education department of the then Strathclyde Regional Council and its provision for bilingual learners with special educational needs. We found that there was a tendency to confuse language issues with special educational needs. There are huge issues there, in terms of understanding what a child's needs are. Bilingual learners have specific needs. We found that parental involvement, from the beginning of the process to its conclusion, was minimal. Parents were not effectively consulted or involved and their language needs were not taken on board.

10:45

The investigation, which we concluded some

years ago, resulted in guidance and recommendations for local authorities and schools across Scotland; that is contained in the pack that we circulated in the initial briefing. There are clear recommendations for what schools should be doing. In the development of the bill, we should all be mindful of that experience and ensure that there are safeguards so that what we witnessed in one authority is not replicated elsewhere. On special educational needs, we have to be clear that despite guidance being in place, practice can be far removed from what it suggests should take place. That formal investigation gave us the opportunity to research that more effectively; it is time to consider it again.

The commission does not have even anecdotal information on truancy. Some of our racial equality councils have raised issues, but no consistent pattern or trend has emerged. Research was undertaken in Glasgow—which led to the bid from the Glasgow Anti-Racist Alliance for social inclusion partnership funding—that identified high levels of disaffection among young black Glaswegians, with the implications for future aspirations and full participation. We do not yet have sufficient information to comment on levels and patterns in the school system itself.

**Johann Lamont:** The Government is targeting money at alternatives to exclusion and trying to maintain young people in mainstream education. If it is not aware that there are race equality issues that are making young black people disaffected with school, some of that money might not be targeted to their needs. Targeting will be much more general. It is an area that would be worth exploring.

**Dharmendra Kanani:** I think so. In fact, one of the key themes for us is that the bill provides a significant opportunity to do a lot of good. Our concern is that, in relation to race equality issues, there will be a tendency to say, "We do not know about that, so it is not a problem," or, "Let us wait and see what the impact is." A modern approach, based on experience elsewhere, suggests that we should pre-empt the issues and ensure that we embed some key principles, not only in the framework of the bill but in the guidance, so that we achieve the minimum positions that we have articulated. It is important, for this committee in particular, to raise that consistently in the next eight to 10 months.

**Mr Michael McMahon (Hamilton North and Bellshill) (Lab):** How would the differences in the demographics of ethnic minority communities affect the delivery of improvements in the way in which equal opportunities in education are dealt with from local authority to local authority? I would imagine that in Glasgow, where a higher proportion of the population is from ethnic

minorities, the impact would be different from that in, say, one of the local authorities in my area, North Lanarkshire, where the proportion is much less. What are the disparities and what is the impact?

**Dharmendra Kanani:** There are disparities which will have an impact on the quality of what is achieved locally. Whereas in areas such as Glasgow there will be sufficient pressure on the authority to do something effective, other areas will be perceived to be predominantly white, and it will be felt that they are not a priority.

One of the key issues for us is that we have to move away from the argument about numbers and how we define equality issues as they emerge. A commitment to equal opportunities and race equality should not be dependent on the size of the ethnic community in a locality. In the Highlands, for example, would it be sufficient that, because of the size of the population, not even scant attention was paid to specific needs? Is it sufficient that pupils in the Highlands do not have the conceptual tools to deal with equal opportunities and an anti-racist position, or a clear sense of gender and disability issues? Some of those philosophical and practical questions need to be asked in the framework that is being established.

There is a tendency in Scotland, in our approach to some of those issues, for development on equality issues to be proportionate to the size of the community. We need to move away from such an approach; at the end of the day it depends on the societal value system that we want to create in Scotland. On a practical level, we know that the approach will differ according to the size of the community. Individually and collectively, people in all parts of Scotland need radically to scrutinise their approach to what is being planned and what they think they are achieving in the delivery and management of education. We need standard approaches which, to a certain extent, cannot be open to negotiation. There have to be minimum levels throughout Scotland. That also relates to the advice that we are giving to police authorities and police forces. We need to standardise emerging practice across Scotland so that it does not rely on the size of the community.

**Elaine Smith (Coatbridge and Chryston) (Lab):** I apologise for being late.

Following on from what you said, in paragraph 6 of your submission, on supporting best performance in schools, you say:

"Sanctions should be considered if schools remain resistant to change."

What sort of sanctions do you have in mind?

**Dharmendra Kanani:** Perhaps financial?

Through discussion with the committee, Scottish Executive officials and so on, we should work out a formula for a meaningful sanction for schools that resist development in the area of equal opportunities and racial equality. People always move quickly in response to something tangible such as financial sanctions. That might be one means of imposing sanctions, but I am sure that there are others.

**Mr McGrigor:** I was slightly puzzled by paragraph 7:

"Performance indicators relating to pupil expenditure should not affect the provision for special and specific needs."

Why?

**Dharmendra Kanani:** If a school wishes to stick to a spend formula, there might be a tendency to reduce pupil expenditure. Recently in one authority, we came across the provision of English as a second language being cut, simply because of money. Because it was seen as ad hoc, and as something that might not address the needs of the whole school population, it had not featured as a priority in the mainstream budget spend. We are concerned that if performance indicators are related to pupil expenditure as a whole, it is more likely that specific provision will be cut.

May I ask the committee a couple of questions? First, much evidence has been provided to you over the past few months, and you have heard from many groups. I was quite heartened by the dialogue that emerged when civil servants made representations to you some time ago. Is any consensus emerging about what you might ask for in terms of the bill's development, and about your recommendations to the Executive?

Secondly, do you have any intention of inviting Sam Galbraith to the committee, either before the revised bill is published or during its first stages? We recommend that you do, but you might have your own thoughts on that.

**The Convener:** We have not yet discussed any of the evidence from organisations. At the conveners group, I raised the issue of where the Equal Opportunities Committee fits into the progress of the bill. The committee will either give a draft stage 1 report to the Executive or we will add our proposals to those of the Education, Culture and Sport Committee. That committee has not yet begun to consider the bill, so we have a bit of time. I hope that we will have Sam Galbraith back, so that we can ask him further questions in the light of the briefings that we have had. We might also invite other organisations back.

Are there any other issues?

**Mr McGrigor:** I have had representations from several people on the issue of keeping disabled

children in the mainstream of education, rather than having special schools.

**The Convener:** It is a bit early to reach any conclusions on that, because the committee has not discussed it or taken evidence from parents who do not want special needs education to be mainstreamed.

**Malcolm Chisholm:** We have taken a lot of evidence, so we will probably discuss the next stage when we consider our work programme. What strikes me is that we were not involved in the consultation period, partly because it ended in October. The first piece of work that we did—which I am sure you would approve—was on the Macpherson report, which meant that we were unable to get all the education work done in time for the consultation.

It is emerging that the Parliament provides many opportunities to feed into the process. The revised bill will probably be published before we have the chance to question Sam Galbraith, but we can still feed into stage 1 of the bill. As we saw last week, with the Adults with Incapacity (Scotland) Bill, there is a report at stage 1 and amendments at stage 2, so although we have missed the consultation period, we have not missed the boat.

**The Convener:** Although we did not submit an official report on the Adults with Incapacity (Scotland) Bill, I raised the issue of same-sex relationships at the Justice and Home Affairs Committee, of which I am a member. I do not know whether the minister said that same-sex couples would have equal status, but adults with incapacity would be counted as spouses and cohabitants, and so on.

We will discuss our work plan later, and how we will prioritise issues to ensure that we have the maximum opportunity to contribute to everything that is happening in the Parliament. You are welcome to stay for that discussion.

**Dharmendra Kanani:** Thank you.

There are cross-cutting issues in our recommendations in response to the action plan. It would be useful to know how the Scottish Executive intends to meld what is stated in the plan with the opportunities that the bill provides. At some point, it would be useful to find out what you as a committee think about our proposals on the new duty including specific reference to schedule 5 to the Scotland Act 1998. After you have called Sam Galbraith to the committee, we would welcome the opportunity to come back to discuss some of the specifics, on the amendments and other measures.

**The Convener:** We would be happy with that, too. Does anyone else have anything to add?

Thank you for coming and giving evidence to the

committee. We will no doubt see you again—you are welcome to stay, but I can understand it if you have other things to do.

**Dharmendra Kanani:** I have Jackie Baillie's forum.

**The Convener:** That is much more important. [Laughter.] I was joking.

## Work Programme

11:00

**The Convener:** We now move to our next item. All members have a copy of the work programme report that was sent out last week. Do members have any initial questions on that report? We have received many requests from members to hear briefings from various organisations, and it has been difficult to keep up with the legislative timetable. We thought that it would be a good idea to get a firm idea, at this meeting, of whom we are going to hear briefings from and in what order we will deal with issues.

**Tommy Sheridan:** Could we invite representatives of the Scottish Human Rights Centre to the meeting on 1 February? I have two reasons for making that request. First, the request to hear from that organisation was made a long time ago. Secondly, it would be appropriate to hear from the Scottish Executive equality unit and the Scottish Human Rights Centre during the same meeting.

It is to be hoped that the equality unit is fully aware of the implications of all the human rights legislation and the related matters that come before the Parliament. I would like to have a full briefing, as early as possible, on the way in which this committee should scrutinise the human rights legislation that comes before the Parliament. It would be inappropriate to leave that briefing until 28 March, and it would be much better to have it when we hear from the equality unit. The question is whether that would be practical. I imagine that it would be, as we propose to hold several meetings at which there will be more than one briefing. I ask that that briefing be brought forward.

**The Convener:** That would cause me no difficulty, but it is up to the committee to decide what it wants.

**Malcolm Chisholm:** I want to make three points. First, it would make sense to do something with all the evidence that we have received on the education bill at our first meeting after the recess. The first meeting would be the best opportunity to do that. Although the bill will be published around that time, that would not be a problem, as we would still have opportunities.

Secondly, given that we are meeting fortnightly—and I realise that that is what the majority of the committee wants—we need to do more in each meeting. For example, I propose that we discuss the education bill and the Adults with Incapacity (Scotland) Bill on 18 January. Now that the issue of same-sex partners has been dealt with, there will be no more major issues for us to address in the Adults with Incapacity (Scotland) Bill. On 1 February, we should do as Tommy Sheridan suggests and invite representatives of the Scottish Executive equality unit and the Scottish Human Rights Centre. If we are to meet only once a fortnight, we must have meetings of three hours—or two and a half, if we start at 10 o'clock; otherwise, we will never get through the business.

Thirdly, as we have discussed already, we will work on the transport bill during the first half of 2000. We will work on the housing bill at the same time, as we will have an opportunity to address that legislation early. I suggest that the Disabled Persons Housing Service be slotted in when we deal with housing, and that Achievement Bute and Caledonian MacBrayne be slotted in when we deal with transport, as those are two specific subjects. We could hear from the Zero Tolerance Trust, SAY Women and Scottish Rape Crisis earlier, as we will not have to wait for some other piece of legislation in relation to those issues. However, the issues of transport and housing could be dealt with in a block. At the previous meeting, I mentioned Positive Action Housing. The general view was that representatives of that organisation should give evidence when we address the issue of housing, which makes sense.

**Shona Robison (North-East Scotland) (SNP):** First, I agree with Malcolm Chisholm. We need more direction, particularly in trying to pull the evidence together. The way in which we have received evidence has been bitty, and it has been hard to keep track of what we have heard and the conclusions that, as individuals, we have come to. We must discuss whether the committee can come to collective decisions, and we should do that early in the new year, before we lose the thread of things. I suggest we have a pulling-together meeting as early as possible in the new year.

Secondly, I understood that we were going to discuss the frequency of meetings today. I do not know whether members have come to conclusions on that, but it would be worth while to discuss whether we should have meetings fortnightly or weekly.

Thirdly, it would be useful to have some indication of which requests for briefings are still outstanding. Several requests have been made, one of which I would like to see on the

committee's agenda before the end of March, from the Scottish Refugee Council. Changes are scheduled for April 2000, and it would be useful for the committee to hear about the impact of those before they are made. I request that that briefing be slotted into the agenda before the end of March.

**The Convener:** I asked the clerks to go through the minutes and record all the outstanding briefings. I was not aware that there were any others.

**Martin Verity (Committee Clerk):** We think that the list in front of us details all the outstanding briefings that have been requested. If we have missed any, they can be added to the list.

**Shona Robison:** The request was made two or three meetings ago.

**Martin Verity:** To invite the Scottish Refugee Council?

**Shona Robison:** Yes.

**Michael Matheson:** Some of the points that I was going to make have been made by Malcolm Chisholm. I am particularly concerned that, if we are to produce a stage 1 or stage 2 report, we should have time scales that we must work to. We must know when that work must be completed, so that we will have an idea of when it must be submitted to either the lead committee or the ministers. I am confused about when that is meant to happen.

In pulling together the evidence that we have received, we must move quite quickly. The issue of monitoring statistics, and having a schedule for that, was raised today. The Commission for Racial Equality has offered to assist us with that, and the question is whether we should accept that assistance. If we produce a report, we may make reference to that, but if we do not submit what we want to have included in the report, we may lose out. We need time to return to organisations, to ask whether they can consider issues and get back to us with ideas of what they want to be included in our report. I would welcome an opportunity, early in the new year, to sit down and consider the evidence that we have received, so that we can prioritise the areas in which we may require further assistance.

**The Convener:** I have requested that the Equal Opportunities Committee be formally slotted into the consultation process. At the moment, it is not, and it is difficult for us to get a timetable. We are dependent on the good will of other committees to let us go and give evidence. We are not slotted in formally. I hope that a report about that will be brought back to the next conveners meeting, which would make things much easier for us, as we would be notified at the same time as lead

committees or other committees that are notified.

We must bash on with education. We are not the lead committee, but we will have to get all the stuff together. The only experience I have of producing such a report is from the Justice and Home Affairs Committee, in which there was a discussion on all the evidence that we had received. A draft report was then produced, which was discussed a couple of times before we eventually came up with the report that was to be published. That is the way in which this committee should proceed.

Our report should be given directly either to Parliament or to the lead committee. As the situation is still not clear, we must proceed on that basis, on education, so that we can feed in at stage 1 rather than wait any longer. I hope that that will be done early in the new year. You are right that the process has been patchy, and that it is difficult to see how we fit into it. We missed stage 1 of the Adults with Incapacity (Scotland) Bill, although Malcolm Chisholm is right—the main point that we wanted to make was fed in anyway. That was through good luck. We must get our position sorted out.

**Mr McGrigor:** I am delighted that Achievement Bute has been included in the list. That group will raise many issues aside from the ferry issue, one of which will concern keeping children in mainstream education. Would it be worth inviting any other groups to give evidence at the same time? As representatives of Caledonian MacBrayne will be there, people from other islands might want to send a deputation to question that company on the problems of disabled people on ferries. Should I investigate that?

**The Convener:** No. When the committee has discussed that, if anyone is to be notified the clerks can do that.

**Mr McMahon:** I return to the point that Shona Robison made earlier about the Scottish Refugee Council. I raised that issue at the previous meeting. It was recorded in the minutes of the sub-group report, as Shona Robison had brought the matter up. It was at that point that we made a formal request to include that organisation on the agenda. I agree with Malcolm Chisholm, however, that we should address the legislation that is currently under scrutiny and prioritise that work. The time that Shona Robison suggested for inviting the Scottish Refugee Council—sometime in March—would be appropriate, as that would allow us to concentrate on the improvement in Scottish education bill and the Adults with Incapacity (Scotland) Bill.

**The Convener:** I do not think that that was what Shona Robison was suggesting. Was that what you were suggesting?

**Shona Robison:** No. I suggested that we

should try to take evidence from the Scottish Refugee Council before the end of March, so that the committee would be aware of the impact of the legislation for which this Parliament is responsible. I suggested the opposite of what Michael McMahon understood: I would prefer to have that organisation's input sooner rather than later.

**Mr McMahon:** As the committee can influence directly the legislation that is currently under scrutiny, we should prioritise that work. I am not saying that the asylum bill is not an issue for this committee. I am saying that we should prioritise the scrutiny of current draft legislation and ensure that we have an appropriate input into that.

**The Convener:** I ask Johann Lamont to speak, as she has been waiting for a while. I will then allow other members to rejoin the debate.

**Johann Lamont:** We can easily balance both the matters that we believe are important and the matters that we absolutely must address. If a clear timetable is laid out for us of the matters that we must address, and there are spaces, we might fit in other matters as soon as we can. Malcolm Chisholm is right in saying that we should have more idea of what we are going to address at each meeting. That would free up space to include, as early as possible, issues such as that which Shona Robison has mentioned.

The committee must not only listen to evidence; it must be seen to use that evidence in some way. It would dangerously undermine the committee if it looked as though organisations were always coming to give us information, but there was no consequence of that. I was disappointed—and I say this to our SNP colleagues here—that the equalities debate focused on what this committee could not do and on its weaknesses. We all agree that this committee can do very positive things. We are charged with ensuring that what we can do will be as effective as possible and that any weaknesses, such as not having a timetable or not being clearly slotted into a structure, are addressed. We must ensure that we lock ourselves into the formal system so that the kinds of deadlines that we have missed in the past will not be missed again. If we are going to meet only once a fortnight, we must accept that our meetings will be very full, and we must make a commitment to a full morning's work.

11:15

We will have to consider formally how the work of the sub-groups can be fed back to the committee. In the sub-group on women, we have discussed what we will do with the information that we have gathered on women as offenders and on women as vulnerable witnesses in the justice system. Committee members may want to wait

until I can give a fuller report, but we should recognise that that work has to tie into the work of the committee at some stage. The committee should hear more than just a brief report.

To give a good example, Professor Sheila McLean of Glasgow University has produced a report on the whole issue of women offenders, and I feel that the committee, and not just the sub-group, should have the chance to explore those issues with her. We will need to decide when to do that. The best time may be during the meeting on violence against women, which could then be linked to the question of justice. We must be aware that the meetings of sub-groups have a purpose, which is to pull information together in the medium term and to go to the appropriate places where work can be done. The work of the sub-groups should not be allowed to drift.

**Shona Robison:** I would like to respond to Johann's initial point. Because equal opportunities is a reserved matter, I feel that it would be in the interest of this committee to push the parameters as far as possible. If, sometimes, that means highlighting the inadequacies of the current framework, perhaps we need to do that.

In our work, we have to strike a balance between reacting to the legislative programme and being proactive on our own initiative. For example, the issue of statistical data collection is not going through Parliament, but we may wish to highlight it. Another issue might be that of refugees and the changes that will come in from April. This committee may take a view on that and may want to initiate something on that issue. I hope that we will not concentrate solely on reacting to the legislative programme. If we do so, we will miss a number of proactive opportunities.

**The Convener:** We are reacting, Shona, to the evidence that we took initially from the main equality organisations on their priorities.

**Shona Robison:** A number of them raised the issue of refugees and asylum seekers.

**The Convener:** I would have to look back at the minutes, but I do not think that those issues were raised as being among the major concerns of most of the organisations.

**Marilyn Livingstone (Kirkcaldy) (Lab):** I think that we are saying the same thing. Johann talked about the legislative process and the fact that we have to fit into those time scales; but that is normal—every committee has to do the same. We have to examine the way that we manage our mornings, so that we can be proactive and fit in the things that we want to do. I think that Johann has answered Shona's question, or maybe I am missing something.

In the Enterprise and Lifelong Learning

Committee, we are taking evidence for a special inquiry. Something very helpful has been a résumé that the clerks produced of all the evidence. We took evidence, and then had two or three opportunities to examine it, take it away and make amendments. That then became the basis of our report. If our clerks could prepare something for the committee for when we come back, that would be helpful in focusing our work.

**The Convener:** I said earlier that that would come back to the committee and that we would then produce a draft report.

**Marilyn Livingstone:** Yes, I was supporting what you had said. If we did things that way, it would be more structured and we could push on. I support what Johann said as a way to move forward.

**Malcolm Chisholm:** Although I agree with Johann and Marilyn, there should be a clear statement of when certain things need to be done. The improvement in Scottish education bill and the Adults with Incapacity (Scotland) Bill need to be addressed in January. We do not yet know when we have to discuss the transport bill—perhaps the clerks could find that out—but I imagine that, as it is a first-year bill, we will have to discuss it before housing, which will not come until the second quarter of the year. Until we know when we are discussing transport, we cannot finalise our programme.

If the clerks can find out when those things are happening—the Executive itself might not know yet, or might not be telling us—we can build the rest of our programme around that information. However, Shona has a point. It could be argued that, as the situation involving the Scottish Refugee Council has just arisen, that issue is time-limited, whereas other matters, though important, are not time-limited in the same way.

**The Convener:** If committee members are happy to have longer meetings, we can fit two or three evidence sessions into one meeting to cover specific committee issues as well as everything that relates to the legislative programme. That is not a problem.

**Michael Matheson:** The committee cannot operate in a political vacuum of Scottish Parliament business. Most issues are reserved matters and we will have to react to events at Westminster. For example, Disability Scotland and the Scottish Trades Union Congress gave a presentation on the disability rights commission. Those organisations are concerned about the Scottish representation on that issue, and, although we have no control over that area, they wanted the committee to examine that specific issue. The majority of disability matters touch on issues that are very often reserved. Although we

can try to prioritise issues that relate to the legislative programme, we cannot operate in a vacuum and kid ourselves that we can ignore decisions that will be taken at Westminster.

**The Convener:** Although equality legislation is a reserved matter, we still have a lot of power to change things. I would have thought it far more important for the committee to suggest amendments in Scottish legislation that address the problems of discrimination in all groups.

**Michael Matheson:** There is no doubt about that.

**The Convener:** At a conference that Nora Radcliffe and I attended in Edinburgh, the lesbian and gay community made it clear that it is very happy about such issues as Jim Wallace's statement on the Adults with Incapacity (Scotland) Bill and with some of the steps that the Parliament has taken on section 28 of the Local Government Act 1988.

**Michael Matheson:** No one is disputing that. However, we have to recognise that decisions taken at Westminster will have a clear impact on the issue of equality in Scotland and that the committee has a responsibility to examine such matters. For example, the CRE in Scotland is concerned that the Race Relations Act 1976 has not been changed and has key recommendations on that issue. There is no time to deal with that at Westminster, but there is time here to do so. We have to investigate such issues when necessary.

**The Convener:** I am not saying that we should not do that, only that it should not dominate our programme.

**Michael Matheson:** I do not think that that should happen either, but the fact should be recognised.

**Johann Lamont:** It is not particularly helpful to get into a debate about the limits of what the committee can do. That will only undermine our work. One of the big lessons of mainstreaming is that equality issues should not get discussed simply as a separate category headed "Equality".

One problem in the past was that we talked about equality only when discussing equality legislation. If it is talked about within the context of a health bill or a housing bill, or in relation to transport or education, that will make a bigger difference. People who have argued for mainstreaming recognise that. That is not to say that equality legislation is not important. However, we should not be put in the position of focusing on what this committee cannot do when there is a massive amount that it can do. If people have given evidence to the committee, our task is to ensure that that evidence is fed into the system.

The weakness so far is that we have not been

located at the centre of the timetabled programme. Something should be done to rectify that, and the convener has taken it up. People come to this committee with important things to say. After we have listened to them, we must ensure that we do not simply react to legislation but feed the evidence that we have heard into legislation in a positive way.

There is nothing wrong in having the spine of our timetable determined by the legislative programme. However, alongside that we should be working in areas in which we may be arguing the case for legislation to be brought forward at a later stage. That is part of our role. Although we do not initiate legislation, we can suggest it to bodies, such as the Justice and Home Affairs Committee, which can. We can also influence the Executive to add legislation to its programme.

This timetable is designed to ensure that we do what we can as efficiently as possible, that we do things when we have to and that the broader issues that Shona Robison was talking about slot in alongside that work. It is wrong to say that we must choose one or the other. We accept that issues can be bumped up the agenda. We are certainly not in the business of operating as gatekeepers in the equalities debate. We would not exclude people from coming here to give evidence if they thought that that was important.

**The Convener:** We will come to some agreement on at least the first few meetings. Shona, you wanted to raise the issue of the frequency of meetings?

**Shona Robison:** That is right. At issue is whether we switch to weekly meetings or, as Johann has suggested, beef up our fortnightly meetings and hear more evidence at them. At the speed that we are going, we will not get through everything with fortnightly meetings. That would be a pity.

**Johann Lamont:** My argument for retaining fortnightly meetings is that the sub-groups have an important role to play. We could use the space and time that fortnightly meetings provide us with to progress the work of the sub-groups. If there were evidence that we were falling behind, we would have to revisit that decision. However, I would be happy if we had a beefed-up fortnightly meeting and work was also being driven forward by the sub-groups. I am as conscious as Shona is that we do not want the timetable to slip so much that we are not able to get through our business.

**Marilyn Livingstone:** I support what Johann has said. If we fall behind, we can revisit this issue.

**Malcolm Chisholm:** I suggest that we agree to deal with the improvement in Scottish education bill and the Adults with Incapacity (Scotland) Bill

on 18 January and that we defer the timetable until the clerks have found out about bills. It is a bit academic if we do not know when the transport bill is to be introduced.

**The Convener:** Some groups that have requested to be heard by the committee are still outstanding. It would be fairer to them if we could at least—

**Malcolm Chisholm:** Which groups have to be heard in January, February and March?

**The Convener:** Some have been waiting for quite a while.

**Tommy Sheridan:** Perhaps we should go ahead with the meeting on 1 February.

**Malcolm Chisholm:** Fair enough.

**Tommy Sheridan:** We must hear from the equality unit, which was established after this committee, on what its role is, and work out our remit in relation to that role. Everybody is agreed that we must also hear about the implications of the European convention on human rights coming into force next year. By 1 February, I hope that we will be in a better position to understand the timetabling for legislation on education, housing, transport and so on. We can then set our meetings to fit in with that timetable.

**The Convener:** I am happy with that. Is there anything else that members want to slot in on 1 February? The meeting on 18 January will be entirely taken up by our consideration of bills, which will probably take up some time on 1 February as well.

11:30

**Malcolm Chisholm:** Will we leave room for a future business item on 18 January? Presumably we will have the information by then.

**The Convener:** We might have the information by then.

**Martin Verity:** I suggest that an item for future timetabling be placed towards the end of each meeting's agenda. The clerks do not know the timetables for the bills, but we will let the committee know as soon as we do. The education bill is likely to be introduced in January, but we do not know the particular date. We do not have dates for the transport bill or the housing bill either.

**The Convener:** At least we know what we are doing in the first two meetings of the year.

I will ask the clerk to write to organisations that are waiting to give briefings to the committee. I know that the City of Edinburgh Lesbian Gay Bisexual and Transgender Community Safety Forum wants to come. I spoke to someone from that group on Saturday. We should write to them

to say that they will be called to give evidence at an appropriate time.

Are we agreed that our agenda for 1 February should include the equality unit, the Scottish Human Rights Centre and the education bill?

**Members indicated agreement.**

**Michael Matheson:** There is a slight problem for the reporters groups. The disability reporters group asked for organisations to be brought to the committee to give evidence. The problem is finding time for that. Should we pick up other issues and bring more information to the committee? Or should the reporters groups go to meet organisations? That has to be clarified if we are to meet fortnightly. Because we want to hear evidence on a large number of issues, it could take some time to get to the evidence.

**The Convener:** We will have a timetable by the first week in January. The reporters groups are unlikely to meet more than once before then. I have no problem with the reporters groups meeting anyone they want to and reporting to the committee when there is time.

**Michael Matheson:** We should keep the issue in mind when we deal with timetabling.

## Social Partnerships and Research Needs

**The Convener:** Turning to the report on social partnerships and research needs, money is available for committees for social partnerships. The Enterprise and Lifelong Learning Committee is calling business people to give evidence. If this committee presented an application to the conveners group before the end of the year with a suggestion for some kind of event, it is possible that we could get funding for it. Members may want to think about that matter and return to it, or they may wish to make suggestions now. Are there any questions or comments on social partnerships?

**Tommy Sheridan:** I suggest that we keep that item on the agenda of each meeting, because it may be that, in the course of our consideration of topics, we realise that we need more specialist research. I would hate to drop the issue completely and never come back to it.

**The Convener:** Research could be on a specific subject, but the social partnership funding could pay for an event organised by the Equal Opportunities Committee to widen awareness of equality issues among MSPs. The money is finite, so if the committee wants to do that or to commission a piece of research, it must decide—not today, but before the money is spent.

**Shona Robison:** Is it the same money that is available for social partnerships and research?

**The Convener:** Not as far as I know.

**Shona Robison:** So doing one does not exclude us from doing the other?

**Martin Verity:** One does not exclude the other. There is a research budget as well.

**The Convener:** And that is an annual research budget. As far as I know, funding for social partnerships will not be available every year.

**Nora Radcliffe (Gordon) (LD):** On social partnerships and using the money to improve consultation, as we are talking about the education bill and how we can make things better in schools, can we use the money to do something a bit more imaginative, for example, visiting a school to talk to the front-line people? That could mean talking to teachers, head teachers and kids in rural and urban areas to get a feel for what it is like on the front line, rather than always taking evidence from organisations. We could get behind the organisations, to real people. Is that a sensible way of trying to be more consultative?

**The Convener:** Members can think about that, speak to Martin and me to get more details on what is available, and bring forward suggestions at a future meeting. It is important that we access some of the funds to help the work of the committee, because that would make us more inclusive.

In terms of research needs, I am meeting staff of the Scottish Parliament information centre tomorrow to discuss what is available. Members can talk to me before then if they have suggestions. Any suggestions can be brought back to a future committee meeting. Are members happy with that?

**Members indicated agreement.**

## Progress Reports

**The Convener:** The next item on the agenda is progress reports from reporters.

**Michael Matheson:** There has not been a reporters group meeting since the last committee meeting. However, in light of what you said earlier—that reporters groups may take evidence from organisations—I will organise a meeting of the group to take place after recess in early January, so that we can examine the progress that has been made on the issues that were raised at the previous reporters group and determine how to proceed.

**Johann Lamont:** We can be tentatively pleased with the statement made yesterday by Jack

McConnell—I have read only reports of it—about public bodies. He mentioned targets for participation by women and by black and ethnic minority communities. He also referred to figures relating to children's panels which distorted the number of women who are members of public bodies. His statement is encouraging, and we want to ensure that we are locked into that consultation.

On behalf of the group, I have lodged questions on appointments to public bodies, not just on the steps that have been taken to improve the spread of representation, but on where jobs are advertised and on the criteria according to which appointments are made. To some extent, those points have been overtaken by the announcement of the consultation exercise.

We are still waiting for a response to the report about the experience of women as witnesses, "Towards a Just Conclusion: Vulnerable and intimidated witnesses in Scottish civil and criminal cases". I lodged an oral question on that report, but it was not taken. I will try again this week and lodge it as a written question if that is unsuccessful.

We also discussed legislation on the rights of victims of sexual crimes. In particular, we discussed the perpetrator being able to conduct his own defence. Recently, there was a highly publicised case in which the woman who was involved—Jacqueline Radin—experienced huge distress, but bravely gave up her anonymity to highlight how dreadful the experience had been.

Our group agreed to write to Henry McLeish—who made the initial commitment to do something about this—to ask him to endeavour to progress the matter. We also wrote to Jim Wallace to ask what the Executive's plans were. I intend to lodge a motion calling for legislation to deal with the matter, having consulted the sub-group and other organisations. Similar legislation will come into effect in England and Wales in April. We are asking for legislation that will at least come into line with that south of the border. I hope that members will support the motion once it is lodged. I will report back on any replies to the letters that we have written.

Finally, Professor McLean said that she would be happy to meet us. We will seek an informal meeting in the short term, but I expect that she will give useful evidence to the whole committee.

**Shona Robison:** I lodged a question three months ago about the number of women on public bodies. A month ago, Jack McConnell told me that an answer to my question was imminent. I still have not had an answer, which seems strange. When I get an answer to my question and when Johann Lamont gets answers to hers, it might be

useful for us to consider the information. Although there has been an announcement, we must consider some of the detail. We need to consider the mechanisms that will be put in place.

**Tommy Sheridan:** I have a small question in relation to Professor McLean. We confirmed that she would make a presentation to the whole committee. Are you talking about an additional, informal meeting?

**Johann Lamont:** Professor McLean was relaxed about meeting the sub-group to give us an idea of what was in the report. The sub-group thought that it was important that her information went on public record. I hope that she will attend a full committee meeting.

**The Convener:** I have written that down as a suggestion for 14 March, along with the Zero Tolerance Trust, Rape Crisis and SAY Women.

**Johann Lamont:** Our group suggested that either I or the group should meet Professor McLean, not as an alternative to meeting the whole committee, but to allow us to follow up other matters.

The issue is so substantial that the whole committee should address it. We discussed the conclusion of that process, which would be a report on the evidence that we had heard. That would be passed on to the Justice and Home Affairs Committee, which would then examine potential legislation on that area. Perhaps we could come back to the issue and examine mechanisms for harnessing information.

11:45

**The Convener:** The Justice and Home Affairs Committee has said that it will be April before it can consider anything that has not already been timetabled.

**Johann Lamont:** We thought about suggesting to the Justice and Home Affairs Committee that it might want to timetable something in the second half of the year that draws on our report.

**The Convener:** Does any member have any other questions?

**Mr McMahon:** At the previous committee meeting, I said that I would bring along a draft statement on the Act of Settlement. However, the document before the committee is only the bare bones of a statement. Having taken evidence from a number of individuals and organisations on that issue, I felt that there was no way that I could give a definitive position on it and that the committee should receive a draft that could be discussed.

I explained to the reporters group that the draft statement would be in three parts. The first would be a clear statement by the committee of its

position on the act; the second would detail the positions of organisations affected by the act; and the third would be a bland statement of what the committee could do about the act.

At the time, the reporters group agreed with Tommy Sheridan's suggestion that there should be a paragraph about having a discussion on whether the issue should be debated in Parliament. However, that suggestion is now obsolete.

**Tommy Sheridan:** It has been overtaken by events.

**Mr McMahon:** Exactly, which is why I did not include that paragraph. It is difficult for an individual to produce a report and to know exactly what the committee thinks. However, I have indicated which sections of the statement met with general agreement. Some members of the reporters group held their own views and I have no problem with them as individuals raising those points during further debates. My own opinions on the matter are not reflected in the statement either, which is basically a skeleton for the committee to discuss.

**The Convener:** Do members have any comments or questions?

**Michael Matheson:** I objected to the report's selective quotation of the Catholic Church's views on political manipulation. As Michael McMahon has accepted, it was shown at the meeting that the Catholic Church had a variety of views on the matter. Does he accept that it would be appropriate to put that on the record?

**Mr McMahon:** The quotation was not selective if that means that I ignored other comments. Individuals from other sections of the Church made various comments about the Act of Settlement. I quoted the official Church spokesperson, whom I had asked to give the Catholic Church's position.

**Michael Matheson:** Following that meeting, I had a discussion with the Catholic Church and was informed that the cardinal is the overall spokesperson.

**Mr McMahon:** As Michael Matheson knows, the Catholic Church is not a democracy.

**Michael Matheson:** Nobody disputes that. However, it should be recorded that it is not necessarily true to say that that position is the official line of the Catholic Church.

**Mr McMahon:** I spoke to the two official spokespersons. I spoke to the clergyman who is quoted, who asked that that statement be recognised as the official position of the Church. That was why he made that statement to the press. I asked him whether I could quote it as the

official position of the Church, and he agreed.

After the meeting at which Michael Matheson raised his objections, I spoke to the lay representative of the Church, the parliamentary officer, who again said that anything that had been said by the cardinal did not detract in any way from the official position as outlined by Monsignor Connelly.

**Michael Matheson:** The quotation is selective about the official position of the Catholic Church. Monsignor Connelly has gone on record on several occasions to ask that the matter be addressed. The quotation does not necessarily reflect the full views of the Catholic Church.

**The Convener:** Michael McMahon has told us to whom he has spoken and has explained that they said that this was the official position. Either we take it out or we leave it in. Unless you are saying that Michael McMahon is telling lies, I do not think that the committee can add bits and pieces, particularly things that you have read in the press—the press does not necessarily always accurately reflect the opinions of bodies or individuals.

**Tommy Sheridan:** As a dialectical materialist, I am not that fussed about what the Catholic Church thinks about the Act of Settlement. I am concerned about the view of the Equal Opportunities Committee, what I hope this Parliament's view will be, and the view that will develop at Westminster. Therefore, whether that quotation is dropped is not a major concern to me, because it is what this committee says that matters.

**Mr McMahon:** I do not disagree with that. However, we made it clear at the outset that if we talk about discrimination in any area—disability, race and so on—there are recognised organisations from which we can take evidence and which can make definitive statements. As we are talking about the Act of Settlement, which discriminates against the Roman Catholic Church, I would think that the people from whom one would get official comment would be the spokespeople of that organisation. That is why I included that statement.

Michael Matheson objected and said that other people said different things. I do not dispute that, but I have spoken to two official Church spokespeople and gone back to them to confirm their position. They did so, and said that anything that had been said by the cardinal or anyone else did not detract from or add to that. That is the position of the Church. We either take on board what it says or we do not. I find the suggestion that I am selectively quoting offensive.

**Michael Matheson:** If one reads the series of quotations by Monsignor Tom Connelly, one realises that the draft statement is selective. The

quotations, which I took to the reporters group meeting, reflect different ways in which the Church might consider the matter. It is selective to put one point across.

**The Convener:** Since those quotations appeared in the press, Michael McMahon has spoken to the official Church spokesperson, so they are superseded by what was said to him then. If we want to decide the matter formally, we can do so, but I do not think that we should spend much time discussing it.

**Tommy Sheridan:** Why do we not drop the quotation and keep the text that follows it, which says that we note the official position of the Church? This is not about discrimination against the Catholic Church. It is discrimination against individual Catholics that I am more concerned about. That is why I do not think that having the quotation adds much to the statement. I understand why Michael McMahon put it in. I think he agrees that it does not matter if it is taken out.

**The Convener:** Why can we not change the wording to state that the committee acknowledges that this is not a priority for the Catholic Church in Scotland and leave out the quotation? That effectively says the same thing.

**Johann Lamont:** Across the parties, members' concerns about the act are not about how any institution feels or any individual's aspirations to marry into the monarchy, but about what the writing into the act of active hostility to a particular religious group says about our society—that must be our perspective. There is cross-party consensus that that is unacceptable. What we do about it is a different matter, but the issue is the message that it gives, as we head into the 21<sup>st</sup> century, to have it written into the law that certain groups are actively excluded from particular things.

**Elaine Smith:** Any fair-minded person would agree that the act is discriminatory. The number of MSPs who have signed Mike Russell's motion shows the feeling in this Parliament. Michael McMahon's statement is a good position for this committee. If the committee agrees it, it will show that we feel that the act is discriminatory and should be considered at some point by members of the United Kingdom Parliament who can take action on it.

**Shona Robison:** May I ask for an obvious amendment to be made? When Michael McMahon drew up the statement, it might not have been obvious that there would be an opportunity to debate the issue in the Scottish Parliament. I suggest that in the last paragraph, where it is stated:

"The Equal Opportunities Committee considers the above an important matter, affecting Scotland's people",

we should add, "which will be considered by the Scottish Parliament on Thursday 16 December and", before the concluding phrase:

"which should be considered by Members of the United Kingdom Parliament."

It is a fact that the debate will happen.

**Mr McMahon:** I do not have a problem with that. My personal opinion, which I expressed at the sub-group meeting, was that I do not think that we should be debating the matter as it is a waste of three hours of the Parliament's time. That is a personal view; there will be a debate, so we can include that reference.

**The Convener:** Shona is recommending a factual amendment. Is that agreed?

**Members:** Yes.

**Johann Lamont:** I was going to ask about another point on the race sub-group, if we have dealt with that business.

**The Convener:** Have we finished with that business?

**Shona Robison:** Can we clarify what will happen with the statement now?

**Mr McMahon:** Once the changes are agreed, it is up to the committee to decide what to do with the statement.

**The Convener:** We would normally pass it on to the Executive. That could still happen. It would have to go today. It could be amended and passed on to the Executive as the position of the Equal Opportunities Committee.

**Michael Matheson:** To whom in the Executive would we pass it on?

**The Convener:** I am not sure.

**Johann Lamont:** Could we circulate it to MSPs for their information ahead of the debate?

**Mr McMahon:** If it becomes an official committee report, it becomes public knowledge.

**The Convener:** It does.

**Johann Lamont:** I do not think that every member of the Scottish Parliament gets the *Official Report* of every committee. It might be useful to alert members to the fact that we have discussed the statement, and they can access the report through the web.

**Martin Verity:** If the committee agrees its position, members who read the *Official Report* will know that that is the position of the committee. If you want to make it a report as such, it must be a formal report to the Parliament, and it would take at least one day to make it an official committee report. It would have to be lodged with the Parliament first.

**Michael Matheson:** What would be the quickest way of highlighting it?

**Martin Verity:** If the committee agrees that that is its position, anybody can tell anybody about it.

**The Convener:** So it can be circulated to every MSP?

**Martin Verity:** I do not see why not. It would just be telling people what the committee had decided.

**The Convener:** Can we get this statement amended so that it can be circulated?

**Martin Verity:** I would be grateful if you could clarify exactly how the paragraph on the first page should now read, because that was not clear.

**The Convener:** I thought that we could say, "The committee acknowledges that this issue is not a priority for the Catholic Church in Scotland".

**Michael Matheson:** Could we not simply say, "The committee acknowledges the position of the Catholic Church in Scotland"?

**The Convener:** We know what the Church's position is, but if we did what you are suggesting the statement would not say what that position is.

**Irene McGugan:** Does the sentence on the next page deal with that?

**The Convener:** No. It recognises the Church's opposition to the act, but we would have to add that it does not view change as a priority. We could say, "The committee recognises that, although the Church is opposed to the act, it does not view it as a priority", or something along those lines.

12:00

**Nora Radcliffe:** I do not think that that accurately reflects what the Church is saying. Are we agreed that the whole quotation should come out, or do we want to remove just the second sentence? I think that the second sentence would be acceptable if the word "one" were excised. People may be taking this too personally. No political party is specified. The quotation could be read to mean that the Church does not want to be manipulated by the Labour party, which has other legislative priorities.

**Mr McMahon:** That was the point that the Church wanted to emphasise. Once this became a political issue and started to be discussed in the Parliament, the Church started to back out. It did not want to have any influence on the political process in relation to the act, as it was concerned that one political party or other would try to exploit the situation for its own ends. The Church wanted the issue to be addressed in the political arena, but it did not want to be seen to be supporting one side or the other.

**Nora Radcliffe:** I think that people are grabbing for caps that they need not wear, if I can put it like that.

**Michael Matheson:** When I discussed this quotation with Catholic Church spokespersons—at least one of whom Michael McMahon also spoke to—their line was that now this is in the political domain, it is up to politicians to set the priorities. The Church believes that the act should go, but that it is up to the Government to decide whether it is a priority—that is a political decision.

**Marilyn Livingstone:** If the quotation is from the Catholic Church, we should leave it in.

**The Convener:** We could sit here for hours and not agree.

**Marilyn Livingstone:** If that is the view of the official spokesperson of the Catholic Church, we should leave it in rather than get into a debate about changing the wording of the paragraph.

**Mr McGrigor:** I agreed with Tommy when he said that we are not talking about somebody marrying the Catholic Church, but about somebody marrying an individual. This is discrimination against individuals.

**Marilyn Livingstone:** That is the issue that we are discussing. We have asked for the Catholic Church's position, and it has given it.

**Mr McMahon:** If this was a matter of racial discrimination and we asked the Commission for Racial Equality for a view on it, we would accept whatever view it gave. We would not have to go to individual black persons and ask them how they were affected. If members of a particular organisation are affected, the spokespeople for that organisation must be the source of any official comment.

**Shona Robison:** I suggest that we end the quotation at "moment". In that way, the issue that we have been discussing—which may not be an issue at all—will not be highlighted. I do not think that any one political party intends to manipulate the situation. Ending at "moment" leaves the essence of what the convener said about the Church recognising other legislative priorities.

**Mr McGrigor:** I second that. That is a good idea.

**Mr McMahon:** If that is the committee's view, it should be agreed.

**The Convener:** I do not mind. I am in the hands of the committee.

**Johann Lamont:** I move that.

**The Convener:** Let us not be formal about this.

**Johann Lamont:** Monsignor Connelly may have something to say about that.

**The Convener:** Are you happy with that, Michael?

**Mr McMahon:** I have no problem with that at all.

**The Convener:** Then that is agreed.

Are there any other questions?

**Johann Lamont:** I am not sure where else on the agenda I can raise this point. I want to mention the issue of a religion question on the census form, which I have discussed informally with the convener and have mentioned before.

I have yet to find out what the timetable is. I contributed to the consultation on census questions and argued that religion should be covered. Black and ethnic minority groups as well as religious groups are pursuing the question. It is felt that services cannot be properly targeted unless that kind of information is available. The consultation period has closed and I do not know where things stand. Michael McMahon's group could pursue that further.

I wrote to Jim Wallace again last week to ask exactly what the position is and when a decision will be made. In earlier correspondence, I had been assured that the matter would come to the Parliament at some stage. I would welcome any information about when it will be discussed and whether we will be able to influence the debate at that stage.

**Irene McGugan:** I, too, have been pursuing that issue on a related matter concerning the content of the census. Last week, Jim Wallace's correspondence indicated that a debate will take place shortly. That is not very precise, but the information about the content of the census will be made known shortly. That was the word that he used.

**Mr McMahon:** It may be because you have been writing as individuals that you have not been getting the information as promptly as you would like. Perhaps a letter from the committee would receive a definitive response from the minister.

**Irene McGugan:** My question was a written parliamentary question.

**The Convener:** I shall take a copy of that and a copy of Johann's letter and write to the minister on behalf of the committee.

**Johann Lamont:** We questioned Jackie Baillie about that, if I remember correctly.

**The Convener:** I shall write to Jim Wallace and copy the letter to Jackie Baillie.

**Johann Lamont:** The correspondence that I have received from the CRE asked that the matter be pursued further, and that is what we should aim to do.

**The Convener:** Let me have a copy of your letter, Johann, and I shall write on behalf of the committee.

**Nora Radcliffe:** Last week, our reporter's group met representatives from the Equality Network and Outright Scotland. We skimmed through the legislation that was of interest—the Adults with Incapacity (Scotland) Bill, the improvement in Scottish education bill, the ethical standards bill, mental health legislation and the Millan report.

The Equality Network and Outright Scotland are taking measures to ensure that people respond to the consultation on the ethical standards bill. They recognise that there will be vociferous opposition to the repeal of section 28, and they are encouraging people in their networks to make representations to balance that. They mentioned the fact that the Home Office is considering whether transsexuals, post-operative or not, should be able to change their birth certificates if they feel that they have been wrongly sexed at birth. There will be a report on that in the early summer, which will have implications in Scotland as well as in the rest of the United Kingdom.

We talked about recognition of same-sex couples and the implications of that. In the Adults with Incapacity (Scotland) Bill, same-sex couples are being recognised in a particular way, but there are wider implications for all sorts of other legislation. It will be a complicated issue that requires careful debate.

Last Saturday, Kate MacLean and I attended a conference organised by the Equality Network and Outright Scotland on tackling institutionalised discrimination. There were a number of workshops. There will be a report on the conference, which will make interesting reading. One of the things that came out of the workshop that I was in was that people felt that anything they were trying to do to challenge discrimination on the grounds of sexual orientation needed legislation to underpin it, in the same way that laws forbid discrimination on the grounds of disability, race and gender. Workshop participants felt that there should be explicit legislation for sexual orientation. The Scotland Act 1998 incorporates the European convention on human rights into Scots law, and the treaty of Amsterdam was the first European treaty to state that sexual orientation is not grounds for discrimination, so there is a legislative framework that applies in Scotland, although it is not well known.

The Equality Network and Outright Scotland are organising a conference in the spring and sending round a mailing about it. They allowed me to include a letter with that mailing, which is going to approximately 450 individuals and organisations, in which I introduced myself as the reporter for the sub-group of the Equal Opportunities Committee

and encouraged people to feed in issues and comments, either directly to the committee or via me. I did that to publicise as widely as possible the fact that we have an Equal Opportunities Committee, that we are interested in sexual orientation issues and that we want to be as open and inclusive as possible, but that it is up to people to send information to us if they want their views to be heard.

The next meeting of the reporters group will be at the end of January on a Wednesday evening. I will write up a report of the last group meeting and circulate it to the committee; I have not had time to do that yet.

**The Convener:** Thanks for that. Sending out a letter to those organisations is a good idea.

**Nora Radcliffe:** The opportunity arose because they were doing a mailing about the conference.

**The Convener:** One of the issues that came up at the meeting was that in the past, people felt that sexual orientation issues were not addressed at all in terms of equal opportunities, or that they came far down the list. Are there any questions for Nora?

On the point that Nora made about organisations getting together to oppose the repeal of section 28, according to the newspapers on Sunday, the Churches have formed an alliance to that end. Members of the committee should be prepared to come in and defend the repeal of that measure and the proposed changes to legislation, because I suspect that in the next few months we will receive mailbags of the same size as we received on the fox hunting ban.

## Correspondence

**The Convener:** The last item on the agenda is correspondence. Are there any points that members wish to raise?

**Johann Lamont:** Have we responded to Children in Scotland?

**The Convener:** No. That correspondence came in since our last meeting.

**Johann Lamont:** Input from that organisation would be welcome.

**The Convener:** Yes. Does the committee want to hear evidence from Children in Scotland? If so, that would put back when we are able to consider a synopsis of the evidence.

**Johann Lamont:** It may be willing to provide a written submission.

**Martin Verity:** We can write to ask if it wants to submit written evidence.

**The Convener:** Are there any other points?

**Johann Lamont:** I notice that we have been invited to meet the Educational Institute of Scotland's equal opportunities committee when Parliament is meeting. Is it proposing to come here?

**The Convener:** Not as far as I know. Everyone has received a letter from it. We could write to ask whether it is possible to meet it on a different date, or whether it would be able to come to Edinburgh.

**Johann Lamont:** That committee meets in Edinburgh, but I do not know whether it would come to Parliament. If so, some members could be given permission to meet it.

**The Convener:** Shall I write to it on behalf of the committee?

**Johann Lamont:** Yes.

**The Convener:** Are there any other points on correspondence? If anyone wants a copy of correspondence that has not been sent to everyone they should contact Martin Verity or Rodger Evans.

That concludes today's business. As this is the last committee meeting of the year I thank everyone for their work—committee members, Martin and Rodger, the official report and the person who operates the microphones and allows everyone to listen to us. I hope that you all have a good Christmas and new year. I will see you at the committee next year.

*Meeting closed at 12:15.*



Members who would like a printed copy of the Official Report to be forwarded to them should give notice at the Document Supply Centre.

Members who would like a copy of the bound volume should also give notice at the Document Supply Centre.

No proofs of the *Official Report* can be supplied. Members who want to suggest corrections for the bound volume should mark them clearly in the daily edition, and send it to the Official Report, Parliamentary Headquarters, George IV Bridge, Edinburgh EH99 1SP. Suggested corrections in any other form cannot be accepted.

The deadline for corrections to this edition is:

**Tuesday 21 December 1999**

Members who want reprints of their speeches (within one month of the date of publication) may obtain request forms and further details from the Central Distribution Office, the Document Supply Centre or the Official Report.

#### PRICES AND SUBSCRIPTION RATES

##### DAILY EDITIONS

*Single copies: £5*

*Annual subscriptions: £640*

BOUND VOLUMES OF DEBATES are issued periodically during the session.

*Single copies: £70*

Standing orders will be accepted at the Document Supply Centre.

WHAT'S HAPPENING IN THE SCOTTISH PARLIAMENT, compiled by the Scottish Parliament Information Centre, contains details of past and forthcoming business and of the work of committees and gives general information on legislation and other parliamentary activity.

*Single copies: £2.50*

*Special issue price: £5*

*Annual subscriptions: £82.50*

WRITTEN ANSWERS TO PARLIAMENTARY QUESTIONS weekly compilation

*Single copies: £2.50*

*Annual subscriptions: £80*

Published in Edinburgh by The Stationery Office Limited and available from:

**The Stationery Office Bookshop**  
71 Lothian Road  
Edinburgh EH3 9AZ  
0131 228 4181 Fax 0131 622 7017

**The Stationery Office Bookshops at:**  
123 Kingsway, London WC2B 6PQ  
Tel 0171 242 6393 Fax 0171 242 6394  
68-69 Bull Street, Birmingham B4 6AD  
Tel 0121 236 9696 Fax 0121 236 9699  
33 Wine Street, Bristol BS1 2BQ  
Tel 01179 264306 Fax 01179 294515  
9-21 Princess Street, Manchester M60 8AS  
Tel 0161 834 7201 Fax 0161 833 0634  
16 Arthur Street, Belfast BT1 4GD  
Tel 01232 238451 Fax 01232 235401  
The Stationery Office Oriol Bookshop,  
18-19 High Street, Cardiff CF1 2BZ  
Tel 01222 395548 Fax 01222 384347

**The Stationery Office Scottish Parliament Documentation**  
Helpline may be able to assist with additional information  
on publications of or about the Scottish Parliament,  
their availability and cost:

**Telephone orders and inquiries**  
**0870 606 5566**

**Fax orders**  
**0870 606 5588**

**The Scottish Parliament Shop**  
George IV Bridge  
EH99 1SP  
Telephone orders 0131 348 5412

[sp.info@scottish.parliament.uk](mailto:sp.info@scottish.parliament.uk)

[www.scottish.parliament.uk](http://www.scottish.parliament.uk)

**Accredited Agents**  
(see Yellow Pages)

and through good booksellers