

# **EQUAL OPPORTUNITIES COMMITTEE**

Tuesday 15 February 2000  
*(Morning)*

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## EQUAL OPPORTUNITIES COMMITTEE

4<sup>th</sup> Meeting 2000, Session 1

### CONVENER

\*Kate MacLean (Dundee West) (Lab)

### DEPUTY CONVENER

\*Shona Robison (North-East Scotland) (SNP)

### 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)

\*Tricia Marwick (Mid Scotland and Fife) (SNP)

\*Mr John Munro (Ross, Skye and Inverness West) (LD)

\*Nora Radcliffe (Gordon) (LD)

Tommy Sheridan (Glasgow) (SSP)

\*Elaine Smith (Coatbridge and Chryston) (Lab)

\*attended

### WITNESSES

Heather Farquhar (Achievement Bute)

Martin Henry (City of Edinburgh Lesbian, Gay, Bisexual and Transgender Community Safety Forum)

Raemarie Lilley (Achievement Bute)

Dorothy McDonald (Achievement Bute)

Andrew O'Donnell (City of Edinburgh Lesbian, Gay, Bisexual and Transgender Community Safety Forum)

Jan Reid (Achievement Bute)

Robin Taylor (Achievement Bute)

Derek Wheldon (City of Edinburgh Lesbian, Gay, Bisexual and Transgender Community Safety Forum)

### CLERK TEAM LEADER

Martin Verity

### ASSISTANT CLERK

Alison Taylor

### LOCATION

Committee Room 1



## Scottish Parliament

### Equal Opportunities Committee

*Tuesday 15 February 2000*

*(Morning)*

[THE CONVENER *opened the meeting at 10:05*]

**The Convener (Kate MacLean):** I apologise for the delay in starting the meeting, but I had matters to attend to outside.

### Achievement Bute

**The Convener:** Item 1 on the agenda is Achievement Bute. Members will remember that some time ago we agreed that representatives of the group would come and give evidence to the committee about problems with access to ferries. They will also give evidence on a wider range of issues that affect them.

Dorothy McDonald will speak on behalf of Achievement Bute, after which the committee can ask questions. Members of the group should feel free to chip in if they have anything to say to the committee. Dorothy, could you start off?

**Dorothy McDonald (Achievement Bute):** First, I would like to thank you for inviting us to speak to you. You will have received a summary of the main issues that are of concern to us as parents of disabled children on Bute. You will be glad to hear that I do not propose to go over those points in great detail, but I will highlight four areas that are of particular concern to us: inaccessible ferries; inequality in pre-school education; issues relating to access and inclusion at secondary school level; and the lack of respite care for children on Bute.

To give you a clearer idea about why those issues are so important to us, I will tell you about some of the situations that we and our children encounter every day of our lives on Bute. For those of you who do not know it, Bute is a small island—it is only 15 miles long—off the west coast, with a population of approximately 7,000. Achievement Bute is the name of our support group, and within it there are 17 families with disabled children. Before I came here, I found it helpful to have photographs of all of you, so I thought that you would find it helpful to see photographs of our children. I have asked Sarah Aitcheson, the clerking office manager, to pass them round. These are the children we are talking about.

**The Convener:** Thank you, Dorothy.

**Dorothy McDonald:** The first issue that we would like to raise is that of ferries. If you live on the mainland, although some buses and trains may not be accessible for wheelchair users, there is usually the option of using a taxi or a private car. When you live on an island, there is no option other than to go by ferry. On Bute, we have four ferries, none of which are accessible for wheelchair users. My daughter Nina is six years old. When Nina and I go to the mainland, we usually get on the ferry by going up a ramp. That is the only accessible part of it. Depending on the tides, the ramp can be horizontal or it can be at an angle of almost 45 degrees. Pushing a child in a wheelchair down a steep ramp off a ferry in the middle of winter is extremely frightening.

Once you get on the ferry, the facilities are spread over three decks. The toilets and the ticket office are on the lower decks. The lounge area is on the middle deck. At low tide, you may have to go to the top deck to get off the ferry. The stairs are like ladders. I do not know whether you can imagine trying to carry a wheelchair up a steep ladder-like staircase, with a child, outside—because the staircases are open to the elements—in the winter, in the dark, in the rain, and on a ferry that is moving. It is difficult, to say the least; in fact, it is downright dangerous, because I do not think that any of the crew have been trained in how to move and handle people in wheelchairs. Certainly, the Health and Safety Executive would not be happy about people carrying wheelchairs up flights of stairs. It is frightening for the child, as well as for the parent, and having to be carried everywhere onboard a ferry can be humiliating.

Nina is six years old; she is not a baby. She is quite heavy, and she does not want to be carried. Heather Farquhar's son Nino is four years old, and he is getting to the stage at which he is too heavy to be carried. There are children in our group who are older and much heavier; the parents of some of them do not take them off the island, because it is so difficult to get them on to the ferries. Can you think what it would be like if every time you went shopping, or went to the hospital, or visited someone—any time you left your home town—you had to encounter those problems? That is the reality for parents with disabled children and for disabled people on Bute. We believe that the Disability Discrimination Act 1995 should apply to ferries.

The second issue that we wish to raise is that of the lack of equality of opportunity for pre-school children. Thomas, Raemarie Lilley's son, is three years old, and has Down's syndrome. He has been at a local community nursery since he was a baby. He is settled there, and he and his parents are happy for him to be there. This summer, along with every other four-year-old child in Scotland,

Thomas is entitled to a pre-school education place. The community nursery that he attends is a commissioned provider, and is able to provide places. However, Thomas is disabled and needs extra support, but the local authority will provide that support only at its own local authority nursery, which is 2 miles up the road. Thomas's parents would like him to receive that support, but they would rather that he did not leave the nursery that he is in, because he is used to it and to the children who are there. If he were not disabled, he would not have to be moved. Parents of all other four-year-olds on Bute have the choice of three commissioned pre-school providers. We want to know why Thomas's parents cannot have the same choice that every other parent of a four-year-old has. That is not equality of opportunity.

The third issue concerns access and inclusion at secondary school. I am pleased to say that most of—although not all—our children receive a good, inclusive education at the local primary school in Rothesay. We hope that they will be able to go on to the local high school and receive a good, inclusive secondary education. But—and it is a big but—Rothesay Academy is totally inaccessible to people who use wheelchairs. It has several buildings over several storeys, and is built into the side of a steep hill. Some children in our group are due to reach secondary school age in less than two years, and we do not see enough evidence that the local authority is properly planning ahead to make the buildings of Rothesay Academy accessible to them.

We do not want our children, when they are entering adolescence and are vulnerable, and when they have already had a good, inclusive education in the local primary school, to have to be sent off the island to residential special schools—away from their families and friends—simply because the secondary school buildings are inaccessible. We fail to see why the Disability Discrimination Act 1995 does not apply to schools.

There is another issue regarding inclusion, and it has to do with children whose needs are more complex and profound. One of our families—Jan Reid's—has already had to go through the traumatic experience of sending their son to a residential special school on the mainland. Jan's son Dwayne is 11 years old. He was educated at Rothesay Primary School until the end of primary 5. Dwayne has Asperger's syndrome and Cogan's ocular motor apraxia, which is a rare condition. That means that Dwayne has quite severe behavioural problems.

It became evident to Dwayne's family that the local primary school was not coping with him and that he was not coping with the school, because the resources that were needed to enable him to remain there were not available. A residential

placement in a school in Auchterarder was offered to him. The situation now is that every Monday, Jan drives 200 miles to take Dwayne to that residential school, and every Friday she drives 200 miles to bring him back home again. That is because the local authority cannot provide an escort to take Dwayne to school. Jan works part time and has three other children, one of whom has special needs.

10:15

Dwayne is now settled in his special school, but he is gradually losing contact with his local community. Jan and her husband would much prefer that Dwayne could have been educated locally, on the island. The irony of the whole situation is that it is costing the local authority a small fortune to send Dwayne away to that residential school; surely that money would be better spent on providing the necessary resources to enable Dwayne to remain in his local primary school on the island.

The parents of other younger children with profound and complex needs also do not want their children to be sent away. Is the Equal Opportunities Committee willing to help us, and parents like us, in our fight for fully supported, local, inclusive education for all children?

Our fourth and final point concerns respite care. Crawford, Robin Taylor's son, is eight years old. He has severe and profound disabilities and requires 24-hour care. That is highly stressful for the family and they need a break now and again, but there is no provision whatever for respite care for children on the Isle of Bute. Robin and his wife have managed, through their son's physiotherapist, to arrange a placement for Crawford at a special respite centre in Kilbarchan; again, that involves a 60-mile round trip every time he goes there. Crawford can stay at the centre for weekends roughly four times a year, and roughly twice a year he can stay for a week. His family have to take him there and bring him back each time. That is not ideal, and getting there is a major hassle, but they do it because if they did not get respite, they would crack up.

One of the problems that arise when the Taylors leave Crawford at the centre is that they know that if anything were to happen to him, or to them, in the middle of the night, they could not get to him. The ferries stop running at 7 pm and people cannot get off the island—even Robin, who works for Caledonian MacBrayne, could not swing that. On the one occasion when there was a family emergency and Robin approached our island social work department for help, it could not provide any. We need, on the island, good-quality respite care for children. Respite care has to be a good experience for the child as well as for the

family who are receiving the respite. Current legislation recommends, but does not require, local authorities to provide such care; we think that the provision of such care should be a requirement and we hope that the committee agrees.

So far, we have lobbied locally on all the areas that I have discussed—ferries, pre-school facilities, access and inclusion at secondary school, and respite care. For example, we have met CalMac, written to our councillors and met council heads of department. To give the powers that be their due, I should add that in most cases they have tried to make some improvements, but they say that, because of the inevitable lack of resources, they cannot provide the things that our children really need. We have some sympathy with Argyll and Bute Council in that respect, because we believe that it does not receive enough money from central Government to cover the costs of servicing the huge number of islands within the council area. Argyll and Bute does not get the special islands needs allowance that is given to the other three island authorities—Orkney Islands, Shetland Islands and Western Isles. Ironically, if you live in Lewis, you have an accessible ferry and your council gets the special islands needs allowance; if you live in Bute, that does not apply. Is Bute not an island?

We believe that our children suffer double discrimination: first, because of their disabilities; and, secondly, because of our location. As parents, we are doing the best that we can for our children and we hope that you, as members of the Equal Opportunities Committee, will do the best that you can to ensure equality of opportunity for all disabled children in communities such as ours. If members would like to see our difficulties at first hand, they would be more than welcome to come down the water for a visit.

**The Convener:** Thank you. When we first considered this issue, we discussed the possibility of visiting Bute so that we could judge the accessibility of the ferries.

If the other representatives from Achievement Bute agree, we will move on to questions; they can chip in to answer.

**Malcolm Chisholm (Edinburgh North and Leith) (Lab):** Thank you very much for that timely presentation; we are considering the education bill in about an hour's time.

I will ask mainly about education, although I found what you said about ferries very interesting. I am a Westminster MP and I did not know that the Disability Discrimination Act 1995 does not apply to ferries. The fact that I did not know is my fault, and I will certainly take up the matter, as it is an issue for Westminster.

Respite care is a Scottish Parliament issue. A

recent announcement said that there would be more funds for respite care, but we will have to see to what extent that deals with the problem. The committee can follow that up.

We will be considering shortly the whole issue of inclusion in education. Clearly, a serious problem exists with secondary education that is not wheelchair accessible. Apart from that problem, is provision made for other people with special needs who go to the secondary school in Bute? Are the primary schools all wheelchair accessible, and is the necessary support also provided for children with special needs?

**Dorothy McDonald:** When my daughter started at Rothesay Primary School two years ago, all wheelchair access was external. Every time that children were taken from their classroom to the dining room, or to the gym, the library or the music room, they had to go outside and right round the building. We lobbied for internal access; at first, we were told that that was not technically possible, but we lobbied strenuously and it was found to be possible. In fact platform lifts are being installed, probably as we speak. That work is on-going.

Our biggest problem is that the council seems to respond to lobbying, but does not take a strategic approach. There are children in primary 6 who use wheelchairs and only now is internal access being sorted out. That is what worries us about the academy—unless we take action now to get the council to plan ahead, the children will start secondary school and be able to get into perhaps only one classroom or one part of the building. That would be unfair and we need to plan ahead.

Other children with special needs, not necessarily physical mobility needs, are catered for in the academy. A learning support team covers the island, but our biggest concern is that the authorities seem to be able to cope only if the child has mild learning difficulties; we are not convinced that they can cope if the child has profound difficulties, such as Dwayne Reid's. In such cases, they practically reach breaking point. Dwayne is the only child in our group with whom we have had experience of this so far. Most of the other children in the group are younger. We are looking ahead and hoping that something can be done so that the council will plan to include those children.

**Malcolm Chisholm:** You mentioned nursery education. What kind of support would be available if the child went to the council nursery? Would it be one-to-one support, or would one person cover a few children?

**Dorothy McDonald:** The council has told us, "Never, ever, say one-to-one support." It cannot guarantee such support.

The support that is provided might be an

auxiliary who works with a child in nursery for part of the time, or perhaps learning support teachers who go to the nursery for certain sessions during the week.

The council seems to be saying that it will provide support in the local authority nursery, but not in the community nursery, or the playgroup, which is another commissioned provider. The council says, "You can have inclusive nursery education, provided that you go to our nursery." That means that children with special needs are directed away from the other nurseries.

**Mr Michael McMahon (Hamilton North and Bellshill) (Lab):** I want to ask about your relationship with the local authority. Are you saying that the problem is not that the council is tied by legislation, but a cultural attitude, in that the council does not provide what it could provide unless you force it to do so? If it is the council's attitude—rather than legislation or the fact that finances are not ring-fenced by legislation—that prevents the council from providing services, that is a much more difficult problem to overcome. It would also affect how the committee would deal with the council.

**Dorothy McDonald:** Many of the educational issues are to do with resources or lack of them. For example, the council says that there are 44 pre-school providers in Argyll and Bute and that it cannot provide special needs support in every one of them. We are saying that the council does not need to do that—it needs to provide special needs support with the child who needs it, wherever that child goes. The council does not seem keen to do that.

To be honest, we have not had a definite answer from the council. Raemarie Lilley's son is due to go to nursery in August and she still does not know whether the council will come up with any support if he stays at the community nursery where she would like him to stay. That leaves a problem for the community nursery, too—how can it write an equal opportunities policy or a special needs policy if the council will not support children who need the extra support? It is a voluntary nursery; it gets funding for pre-school places but it does not have enough funds to provide the extra support that is needed for children with special needs.

In our experience, parents have recently become much more aware of their rights as parents in terms of social services and the lack of respite care. Last week, we met the head of children's services for Argyll and Bute Council and said to him that families are entitled to assessments—for the disabled child, the carers, and siblings—under section 23, I think, of the Children (Scotland) Act 1995. The council said that, because we did not ask for such assessment,

it had not provided it. We said, "Okay. We didn't ask for it because we didn't know we were entitled to it. We are asking for it now." The council has said that it cannot provide the assessment straight away because it does not have the resources.

The council is showing some willingness, but its position always seems to fall back to, "We would if we could, but we've no money."

**Johann Lamont (Glasgow Pollok) (Lab):** This is not quite a matter of declaring an interest, but I taught in Rothesay Academy for three years in an earlier existence and trundled back and forward from Glasgow on the ferries. Even as an able-bodied person, I absolutely concur with what has been said on the difficulties of getting to the academy, in terms of accessibility and the ferries.

What you highlighted about the ferries is interesting. I have used CalMac ferries for many years and I admit that the problems faced by someone in a wheelchair had not occurred to me. Perhaps if we all had more mainstreaming, inclusive education in our lives as youngsters, we would be more conscious of such things. I am interested in what would happen if the issues about the ferries were raised and an obligation to provide accessibility was placed on the companies.

I wonder whether some of your points about inclusive education apply regardless of whether one lives on an island. For example, the situation whereby youngsters are directed towards certain schools and certain provision because they have special needs probably arises across Scotland. Have you made contact with other groups that are fighting for the same inclusive education? This is not really a matter of geography; it is a matter of meeting the needs of the child wherever they are, as opposed to supplying specialist provision. There are good examples in some parts of the country of how such provision is mainstreamed.

Do you have evidence of other island authorities that have taken a more progressive or inclusive approach than Argyll and Bute has? Are there good examples of complex provision being made for individual youngsters in small communities, or are your problems typical of anyone who lives in an island or rural community and who has a disabled youngster?

10:30

**Dorothy McDonald:** I can speak only from personal experience. I know someone in Shetland whose daughter has autism. She is very happy with the provision there. I, too, am very happy with the fact that my daughter goes to Rothesay Primary School. Although there are problems with the building and it is a battle to get accessibility sorted out, the attitude of the staff is brilliant. I



have nothing but praise for Rothesay Primary School as far as inclusion goes. However, looking ahead and wondering if that will continue, I worry.

I can see the benefits of inclusive education, not only for my daughter but for children who are not disabled. They have a much better understanding of disability because they are with disabled children all the time. I would push for inclusive education where possible. If—it is a big if—there is support, all children can attend their local school and receive an inclusive education.

**Johann Lamont:** Are you aware of youngsters on the island, or their families, who have chosen not to fight for a local place because they think their needs are better met by some specialist provision?

**Jan Reid (Achievement Bute):** I am the only one in that position. My son is away at a special school. We did not want that, but we knew that we had no choice. The decision was pushed upon us. We were told, "We haven't got the resources here and we cannot supply people with the care and teaching qualifications that your child needs. Your child needs to go elsewhere." For his sake, I went along with that. Rothesay Primary School was becoming very stressful for him and for us as parents. It was horrendous going there. He is autistic, he has Asperger syndrome, and he has Cogan's ocular motor apraxia. His problems with eye and hand co-ordination make writing very difficult for him; he has to use a word processor. The teachers wanted to help, but they could not fully understand what his condition entailed. It was not that his behaviour was deliberately bad—he did things because he could not help it, and because things were getting too much for him.

We therefore decided—with a push—that we had to find a special school for him and that he had to go away. He is only 11. He has been part of our family for 11 years. Sending him so far away was a big step for a mother to take. If something happens at night or during the week, I cannot get to him. Last week he was not well. I could not go on Wednesday night; I had to go first thing on Thursday morning to pick him up. The people there said that they would care for him and keep him there, but we did not want that; we wanted him home. He needs to be home with his family when he is not well.

Rothesay could not provide the care my son needs; but—as Dorothy said—if all that money is being spent to send Dwayne away from school, there must surely be some resources or specialist teachers that can be brought to Rothesay Primary School. There are other children at the school who—although their behaviour may not be as bad as Dwayne's—also have Asperger syndrome and the kind of behavioural problems that go with it. Surely a group of five or six could be taught

together. That would be more inclusive than having to send Dwayne away.

**Shona Robison (North-East Scotland) (SNP):** Thank you for your presentation—it was very enlightening. Some of what you said was also said by the Equity Group.

**Dorothy McDonald:** We are members of the Equity Group.

**Shona Robison:** The fundamental point is that there is a lack of resources. When the representatives of the Equity Group talked about diverting resources, they made much the same point as you are making—that money is not being spent in the right way and that a lot is being tied up by sending children away to residential schools. Adults with disabilities have a personal assistance package. Perhaps we should have something similar for children, so that staff can be with them to provide educational services or to provide respite in the home. Because each child is different, the packages would have to be tailored individually.

Equity has done some research into the resources that it felt could be diverted. I do not know whether you have seen it.

**Dorothy McDonald:** Yes.

**Shona Robison:** It was interesting. The group felt that not as many additional resources would need to be put in as people might at first think, because resources that are being used inappropriately—the only resources currently available—could be diverted.

The committee will probably return to the debate about the mainstreaming element of the Standards in Scotland's Schools etc Bill. At the moment, because of accessibility issues, parents are denied the choice of where to send their child. It may be that every child cannot access the local school, but I suspect that, with the right assistance, most could.

**Dorothy McDonald:** Yes.

**Jan Reid:** Yes.

**Shona Robison:** In my previous life, I was a home care manager. We were lucky in our area in that we managed to secure resources for a specific project for children with special needs. The project provided escorts, respite in the home and people who were trained to work with children with disabilities. It was a Rolls-Royce model, which very few areas had. It was a lifeline for parents and there were savings because families who would not otherwise have been kept together were kept together. When considering projects such as that, you have to invest so that you can save in the long run.

A difficulty I always encountered was that

people's expectations were raised by their assessment, but local authorities were never obliged to provide the services the assessment said were required. There is a problem, because provision is service-led: people are offered only what happens to exist. In a community such as yours, where there is a lack of services, that will be a problem. I know that this is a resource issue, but there should be a legal obligation to provide the services that a child is assessed as requiring.

You have provided the committee with a lot of information that we will certainly look at.

**Dorothy McDonald:** Our group has existed for only two years. When we got together, one of the first things we did was set up a play scheme for some of our children, to give the parents a bit of respite during the school holidays. After raising money locally, we now have a paid play co-ordinator; we provide an element of respite by providing play scheme activities; we have a counselling service and a drop-in centre; and we provide training. The school has been very good at sending staff to training that we have provided. We also provide training for parents and other kinds of events for families and children.

We are not sitting back and complaining about everything; we are doing quite a lot to help the children ourselves. However, we do not want to take over the statutory duty of the local authority and other bodies. If we do that, they will sit back and do nothing.

**Tricia Marwick (Mid Scotland and Fife) (SNP):** Thank you for coming in and presenting your case to us. I would like to ask about the ferries. You said that your ferries are not accessible for wheelchairs but the Lewis ferries are. Why are none of the ferries on your route accessible for wheelchairs?

**Robin Taylor (Achievement Bute):** The ferries that run to Lewis are brand new boats. The ferries on the Rothesay-Wemyss Bay run are 20 years old.

**Tricia Marwick:** Are they due for replacement?

**Robin Taylor:** Well, it is all very political. There are financial issues involving the Gourock-Dunoon service and Dunoon pier, but yes, the ferries should be due for renewal.

**The Convener:** We will invite Caledonian MacBrayne to the committee. Robin Taylor is here today as a parent. If he does not mind answering some questions on the ferries, that is fine; but he should not feel obliged to answer on behalf of Caledonian MacBrayne.

**Robin Taylor:** No, I do not mind—that is quite all right.

**Tricia Marwick:** I was not asking particularly

about Caledonian MacBrayne; I was asking whether there is a reason for the difference between the services.

**Robin Taylor:** It is basically age. All the newer vessels have facilities such as lifts.

**Tricia Marwick:** I think that it would probably be in order for this committee to suggest that when the ferries are replaced, they are replaced with vessels that have full disabled access.

**Robin Taylor:** Any new vessel would automatically have that.

**Mr Jamie McGrigor (Highlands and Islands) (Con):** Thank you, Dorothy, for your very strong presentation. The ferries on your route are quite small, and it may take a while for the Disability Discrimination Act 1995 to be changed. I have used Caledonian MacBrayne ferries all my life in different parts of the Highlands and Islands, and the company is approachable. Can you tell us some of the specific things that would need to be done to the ferries on your route?

**Dorothy McDonald:** We had a meeting with Caledonian MacBrayne at the beginning of January, when we gave it our wish list. Obviously, it was not technical—we simply said things such as, "I want to be able to push my daughter's wheelchair around the ferry." In fact, I would rather she could go on the ferry herself with her powered wheelchair. She uses a powered wheelchair at home, which gives her a lot more independence, but there is absolutely no chance of her getting that wheelchair on the ferry. I would like to have a ferry with door thresholds that are not several inches high. I would like to have a ferry that does not have steep staircases or, if it does, a ferry that has a lift as well.

**Mr McGrigor:** Do you mean the sort of lift that goes up the stairs?

**Dorothy McDonald:** No—a proper lift. Caledonian MacBrayne has looked at the possibility of putting in stair lifts, but they are so steep that, I think, stair lift companies do not consider them suitable. As interim measures, we have asked Caledonian MacBrayne about, for example, moving and handling training for its staff, but even that would be difficult. I do not imagine that any health and safety inspector would allow people to lift a grown adult—or even a child—in a wheelchair up a flight of 15 stairs that is like a ladder. That is what I do all the time with my daughter.

In our submission to this committee, we mentioned the Deloitte Touche report that the Transport and the Environment Committee has received. That report, if implemented, would have an impact. If a decision were made on the Gourock-Dunoon route, it might allow Caledonian

MacBrayne to reallocate one of its existing accessible ferries to our route. There are accessible ferries around; it is just that we do not have them.

**Mr McGrigor:** I travel a lot on some of the bigger ferries to the western isles and they seem to be much better equipped whereas many of the medium or small ferries seem quite old. If you had some points that you wanted to be raised, I would be very happy to take them up.

**Robin Taylor:** There would need to be a new building for the Rothesay-Wemyss Bay service, because the boats that have those facilities are too big to berth at Wemyss Bay because of the draught limit.

**Mr McGrigor:** Yes, I know.

**Mr McMahon:** You have already answered some of the questions I was going to ask about the ferries, but I would like to pick up on one point. You spoke about the problems caused by rising tides. I assume that tides also affect how cars can get on and off, but there is obviously some system that allows that. Does that involve an adaptation to the jetty? Could something similar not be done to allow access for wheelchairs? Rather than an adaptation to the ferry, could there be an adaptation to the jetty?

10:45

**Robin Taylor:** There is a car ramp, which we have not been allowed to use for wheelchairs. Recently, we have spoken to skippers and others and there is to be a new policy—of allowing people in wheelchairs to be loaded through that ramp before or after the cars. That should prevent having to go up a steep gangway.

I am on the CalMac customer care committee. We have recently initiated a small committee on disability issues, so we are looking into and trying to respond to all the suggestions we can.

**Johann Lamont:** I am involved with a transport group in Glasgow that brings together users and providers of transport for young and elderly people going to day centres and schools. What provision do you have for that and is it satisfactory?

**Dorothy McDonald:** There is an adapted minibus with a wheelchair ramp at the back, which takes children to the local primary school. We think that next year, when Nino goes to school, there will be too many children for it, so there will have to be another minibus. I think the council is going to provide that. A problem at present is that my daughter's powered wheelchair has to be left at school because the bus does not have the right tracking or securing mechanisms to take it. Again, I think the council will deal with that, but we seem to have a constant fight on all these things.

Parents feel that the most important issue is that every time their child needs something they have to push and fight all the way. Eventually, we get it—just as we are eventually getting platform lifts in the primary school, although there will be only two whereas four are needed because there are four small flights of stairs. There is money for only two platform lifts, so the next battle will be for the other two. That is why we have brought to the committee the idea of a much more strategic approach and more planning. I think that the only way local authorities will do that is if they are forced to, from the top down.

**Johann Lamont:** More generally, local authorities should put in place structures to consult and work with users of services, so as to be able to plan ahead.

**Dorothy McDonald:** Yes, exactly.

**Johann Lamont:** From my experience, working with the Glasgow group, it is not that the local authority is hostile to providing the service so much as unaware of the issues. We could perhaps usefully encourage local authorities to set up structures to work with and consult those who need to use the services as a matter of course.

**Dorothy McDonald:** To be positive, we met the head of local authority children's services last week. As Shona said, there is a reluctance to make assessments because the services cannot be provided. We said at that meeting that if the needs are unknown, how can there be planning to provide services. We have arranged to meet someone from social services regularly, so it is not all doom and gloom—positive things are happening.

**Johann Lamont:** That should be an automatic arrangement for parents with specific needs, so those needs can be planned for, rather than paying attention to you because you are an unusually active group. Perhaps we should recommend that good practice in this area would be to have a system in place to consult parents at various stages.

**Mr John Munro (Ross, Skye and Inverness West) (LD):** Good morning and thank you again for your presentation, which highlighted the difficulties many people in remote communities have and the need for parents to bring problems to the attention of the local authority. Surely the local authorities should be conscious of the Disability Discrimination Act 1995 and be willing to make provision. Surely it is wrong that parents have to make a case for facilities. This committee should make a strong recommendation on that.

Like my colleagues, I have used ferries and I was in the past very involved with the Caledonian MacBrayne empire, so I know that there has been an extensive fleet replacement programme and

that many vessels now meet the standards required by disabled people. You suggested in your submission that it would be a fairly simple matter for Caledonian MacBrayne to put one of its other vessels on the route to provide better facilities. I wonder whether that would be possible, as I do not think there is a surplus of vessels that would allow it to change one round. That might detract from provision on another route.

**Robin Taylor:** That would not be feasible because the vessels with better facilities are all too big. There is a draught limit at Wemyss Bay that makes it impossible for those boats to berth there.

**Mr Munro:** Someone said that the ferry currently on the route is about 20 years old. Surely it is due for renewal.

**Robin Taylor:** All the boats are over 20 years old now.

**Mr Munro:** Is there a programme for renewal? As a representative on the customer care group, Mr Taylor will be arguing for facilities to be provided.

**Robin Taylor:** I am indeed.

**The Convener:** As I said earlier, Mr Taylor is here as a parent rather than as a representative of Caledonian MacBrayne.

**Mr Munro:** He is sporting a CalMac tie.

**The Convener:** We will have an opportunity, when Caledonian MacBrayne gives evidence, to ask it questions about its plans.

There are no other questions, so I thank you all for coming. I know that you had to get a ferry at 6.30 this morning, so you will be glad to get away. As Malcolm Chisholm said, we will look at the Standards in Scotland's Schools etc Bill later this morning. We will bear in mind what you have said. We will also ensure that the points about respite and the special island needs allowance are raised elsewhere in the Parliament, as appropriate.

**Dorothy McDonald:** If committee members would like to come and visit, we will be happy to show you around the inaccessible areas of Bute.

**The Convener:** We may take you up on that. Thank you.

## City of Edinburgh LGBT Community Safety Forum

**The Convener:** I welcome Andrew O'Donnell, Martin Henry and Derek Wheldon to speak to the committee. Andrew will give a short talk and then committee members can ask questions.

**Andrew O'Donnell (City of Edinburgh Lesbian, Gay, Bisexual and Transgender Community Safety Forum):** I am chair of the forum.

**Martin Henry (City of Edinburgh Lesbian, Gay, Bisexual and Transgender Community Safety Forum):** I represent the City of Edinburgh social work department on the forum.

**Derek Wheldon (City of Edinburgh Lesbian, Gay, Bisexual and Transgender Community Safety Forum):** I am a superintendent with Lothian and Borders police. I represent the police on the forum.

**Andrew O'Donnell:** The forum is in partnership with a number of public and private organisations, including the community safety unit, Lothian Health, the City of Edinburgh Council and Lothian and Borders fire brigade. The LGBT sub-group of the partnership has representatives from the council social work, housing and education departments; from the health service and Lothian and Borders police; from many LGBT voluntary and statutory organisations; and from businesses.

I am grateful to have the opportunity today to present research commissioned by the community safety unit, "Experiences and Perceptions of Violence and Intimidation of the Lesbian, Gay, Bisexual and Transgender Communities in Edinburgh". It is dated October 1999 and was paid for by Lothian and Borders police and the City of Edinburgh Council and was carried out by Moira Plant PhD, Martin Plant PhD, Bill Mason MBA and Christine Thornton CQSW. I would like to read out a few of the main points from the summary of the research.

"This report describes the results of a survey of the perceptions and experiences of violence and intimidation against gay, lesbian, bisexual and transgender/transsexual people in Edinburgh. For the purposes of this report, these individuals are referred to as 'LGBT people'. Information was obtained by a survey of a study group of 301 people. This was conducted between February and July 1999. The subjects of the study were contacted through a *non-random* method called 'snowballing' or networking. This method is particularly suited to eliciting information from minority groups of 'hidden populations'. Each respondent was interviewed in private using a standardised interview schedule.

Interviews were conducted with 133 gay men, 105 lesbians, 27 bisexual men, 18 bisexual women and 18 transgender/transsexual people. The study group was

diverse in both age and occupational status.

National and international evidence makes it clear that LGBT people experience high levels of 'hate crimes' and discrimination.

Most of those interviewed were to some degree fearful about some form of victimisation. Respondents reported being fearful of verbal abuse, victimisation or assault at home, school, work and a wide variety of other locations. Most reported that their lives were to some degree affected by the fear of being victimised. Transgender people were significantly more likely than others to report that their lives were affected by fear of victimisation.

Eighty one per cent of respondents had experienced verbal abuse at some time and 63.1% had done so in the past year. Three quarters of the latter attributed such abuse as being motivated by prejudice against their sexual sub group identities.

The majority, 52.5% of the study group had at some time been victims of physical assault. A total of 35.9% had been subjected to such assaults in the past year. This is a massively high level of such experience: (The 1996 Scottish Crime Survey had found that in the general adult population, 'only' one person in 40 had been the victim of assault, robbery or 'snatch theft' in the previous year).

Nearly a third of those interviewed had been sexually assaulted. Roughly a fifth of these assaults were classified as having been serious, more than a quarter involved rape or attempted rape. The largest group of sexual assault victims (47.9%) had informed nobody about their experiences. Only 12.5% of those who had been subjected to sexual assault had reported the fact to the police.

Many of those who had been assaulted or otherwise victimised had told a friend about the experience but had not informed the police.

Respondents were asked whether they had been the victims of discrimination in a number of contexts. Bullying while at school/college was the commonly cited experience. This had been experienced by 37.5% of the study group. A substantial proportion of respondents had experienced discrimination in other settings. These included work, housing, bars and restaurants and in relation to mortgages and insurance.

Many respondents reported having been subject to ill treatment from a variety of people. Those mentioned most often were professionals in the health service and the police. Others cited in relation to ill treatment were people at school, insurance company staff, swimming pool and sauna staff. Others mentioned in this context included nurses, dentists, librarians and housing association officials.

Over a third of those who had been assaulted reported that their self esteem had been adversely affected.

These results present the City of Edinburgh Council, the health and social services, Lothian and Borders Police, schools, insurance companies, building societies and many other organisations with a serious challenge. It is clear from this study that LGBT people suffer completely unacceptable levels of abuse and assault in Edinburgh. The scale of this degrading treatment clearly infringes the fundamental human rights of some of the people in Edinburgh and seriously impairs their quality of life. These findings gain considerable strength because they are fully consistent with a large body of international evidence.

A group of Edinburgh citizens are in the position of living in fear and of being victimised in almost every possible type

of setting. A substantial proportion of those in this study who had been seriously victimised had not reported this to the police. In many cases this failure to report was motivated by fear and suspicion of the police, by whom some people had previously been mistreated."

11:00

If the committee will bear with me for a few minutes, I will read some of the recommendations. I stress that these are the recommendations of the researchers, not of any of the partners on the forum.

"It is recommended that the City of Edinburgh, in partnership with the LGBT Community Safety Forum (CSF), should speedily adopt a wide-ranging programme to protect LGBT people from victimisation.

The City of Edinburgh in association with the CSF should press both the Scottish Parliament and the UK Parliament to strengthen legislation to prohibit homophobic discrimination in important sectors such as law enforcement, housing, employment, social and medical care, education, insurance and the full range of public and privately owned services.

It is recommended that the Lothian and Borders Police should routinely collect and publish information on the number and types of crimes which are 'hate/bias' crimes related to sexual orientation, as well as to race or religion. It is, however, acknowledged that this is a contentious issue. Some people would argue that civil liberties might be at risk if the sexual orientations of assault victims were recorded on any 'official' database.

It is recommended that the City of Edinburgh Housing Department should either evict or move tenants who commit hate crimes against their neighbours or should give a high priority to re-housing the victims of hate crimes committed by neighbours or local residents. The effectiveness of current policies should be reviewed. Such a review could be conducted by the City of Edinburgh Council and the CSF.

It is recommended that the City of Edinburgh Council, in association with the CSF, should ensure that all departments operate a policy of non-discrimination on the basis of sexual orientation. This is particularly important with respect to employment, education and housing.

It is recommended that the City of Edinburgh Council, in association with the CSF, should actively encourage all local institutions to adopt policies of non-discrimination on grounds of sexual orientation. It should be considered whether agencies that do not comply should be penalised, for example, by the non-renewal of contracts, licences or other civic benefits.

It is recommended that the serious problem of ill treatment of LGBT people by health professionals should be given urgent attention. In particular, there is a clear need for much better education and training on matters of sexuality and gender for all those in the health services. Moreover, such professionals have very clear obligations to respect patients' right to fair treatment. Action should be taken to improve the education of students in the health care professions on issues related to LGBT people.

It is recommended that future research should be conducted to monitor the continuing seriousness of victimisation of LGBT people. In addition, research could usefully explore the extent of homophobic prejudice and discrimination in key sectors of employment, such as the

health and social services, education, insurance and building societies. Such research could usefully be carried out on a national, as well as on a local, basis.

It is recommended that the City of Edinburgh Council and the CSF should actively liaise with key professional groups such as the nursing, medical and teaching professions and the police to foster better education and awareness in relation to the needs and rights of LGBT people."

**The Convener:** Thank you very much. Would Derek Wheldon or Martin Henry like to add any comments?

**Martin Henry:** That encapsulates the recommendations from the report.

I make it clear that my interest in the issue is twofold—first, in relation to the social work service and what it can do to improve the quality of life for LGBT communities in the city and, secondly, in relation to the sexual assault and sexual abuse of men who have either survived childhood sexual abuse or been sexually assaulted as adults.

**The Convener:** Andrew said that the recommendations that he read out were the researchers' recommendations. When will the partnership propose its recommendations?

**Andrew O'Donnell:** The CSF is in the process of examining the recommendations and sifting out any unrealistic ones. The result of that process will be presented to the community safety partnership at the earliest possible date. There have been time-scale problems in the CSF—we have dropped behind schedule.

**The Convener:** The committee would want to see the recommendations once they are produced.

**Irene McGugan (North-East Scotland) (SNP):** One of the most significant findings is the mention of serious problems of ill treatment in the health service. Will you say more about that? Do health professionals accept that there is a problem, and are they willing to address it? Has anything been done to examine the problem?

**Andrew O'Donnell:** The study examined violence and intimidation; there was a question about service provision by the police and council services because they were funding it. The health service is part of the partnership, so it was natural to ask about health service provision. One of the most surprising results of the study was that people experienced more ill treatment from health service professionals than from the police. That is not directly a community safety issue, and it has been fairly difficult to get the health service to address it.

Lothian and Borders police recognised that there have been problems with policing LGBT communities. They have been listening to people for five or six years and have developed a strategy

for policing the LGBT communities.

To be fair to the health service, this question has never been asked in research before; there has never been a statistic that has shown what the level of ill treatment is. Another problem is that we do not know exactly what the ill treatment involved, because the research did not go into that in detail. We have anecdotal evidence about what sort of ill treatment took place.

Lothian Health listened to us and put LGBT issues into the health improvement plan. However, at the moment Lothian Health's involvement in examining those issues of discrimination in the health service is to attend the community safety partnership. That will not change service delivery.

LGBT issues are also in trust implementation plans, which complement health improvement plans. However, no action has been taken. The document is out for consultation; we hope that people in the trusts will act on issues such as training.

One of the most important points that I want to make to the committee is that, from our point of view, we can do little to change things. What must be changed is the training of student nurses and student doctors. I come from a nursing background and know that 15 or 20 years ago there was no training on sexual orientation, gender or race issues. I mentored a student nurse recently and asked about what was taught in college or university about sexual orientation; their response was that nothing was taught. I want the Equal Opportunities Committee to take that issue on board and find out whether there is a way of getting those issues on to the curriculum.

**Johann Lamont:** The report is on Edinburgh, but would it be reasonable—from anecdotal evidence—to assume that it might reflect the experience of the LGBT communities throughout Scotland, or can you identify specific issues that make this a particular problem in Edinburgh? If it encapsulates a general problem for the community, we could address that issue.

Another issue is sensitivity about the police recording those crimes. What is the police's strategy in relation to reporting or recording violence that is clearly against a particular community? What training is available in the police force on that issue?

**Derek Wheldon:** The LGBT forum has been considering recording those crimes as hate crimes but, as Andrew O'Donnell said, it is a contentious issue. Most of the work in relation to the LGBT community has been in the B division Gayfield Square subdivision. That is where most of the gay community meet, socialise and live. It is under consideration that when a crime is reported, a code word could be used to identify a sex-related

crime.

Training is carried out at the police college for one day. There is also a local course for the officers at Gayfield Square, with input from the LGBT Community Safety Forum, which lasts about an hour and covers sexual orientation and gender. That is the only training at the moment. It is not done anywhere else in the force—it is done only in that subdivision.

**Andrew O'Donnell:** I will answer the first part of the question. Lothian has particular problems. Research shows that the violence takes place where there is visibility. It takes place near gay venues in the city centre and it happens to people making their way home from gay venues. There is a connection between a visible LGBT community and an increase in violence.

The statistics for the levels of reporting to the police and ill treatment in the health service show that Lothian and Borders police and Lothian Health, in general, have a very good record. I fear that in other parts of Scotland, such as Strathclyde, the Highlands and Fife, service delivery is poorer and the statistics might be worse.

I shall put in context the issue about levels of discrimination in the police and in the health service. Time and again, research has shown that people choose not to report crime. They choose not to report the assault for their own reasons, which are documented in the research. However, people cannot choose not to use the health service; if they do not use it, they might be putting their life at risk. That might be a factor in why the level of ill treatment is higher in the health service, because it must be used, while it is not mandatory to go to the police.

**Johann Lamont:** Where does the contention lie in relation to recording those crimes? Is it in the police force or in the forum?

**Andrew O'Donnell:** It is within the partnership in general. As I said, there are civil liberties issues in regard to recording someone's sexuality on a database. People are not happy about that.

The other problem is who will say that it is a homophobic or hate-motivated crime. Is it the victim or is it the officer to whom the victim reports? Some victims will be in denial about the crime being motivated by hate, yet the officer could believe that it was motivated by hate.

**Johann Lamont:** The perpetrator of the crime might make their view clear.

**Andrew O'Donnell:** It is likely that we will never get a true record of hate crime. The research is probably the nearest that we have to showing the level of hate crime on the streets. There will always be under-reporting—some people will say

that the crime was hate-motivated, but others will choose to say that it was committed for another reason, such as robbery. We will never get true statistics through the recording of hate crime.

There is a plan informally to record levels of hate crime reported, to monitor whether there is an increase in reporting.

**Martin Henry:** Contention might not be the right word. The recording of hate crimes is perhaps a complex issue. If we asked an adult man who had been robbed in a street in the city centre, "Do you think that this has anything to do with the area that you were in?" many heterosexual men would be terribly offended by the assumption that the crime might have been motivated by the fact that somebody assumed that they were gay.

Some gay men do not self-identify as gay—they have issues about not admitting that that might have been a component in the crime being committed. There are all sorts of complexities that are difficult to get at, such as the assumption of the officer who takes the report of the incident that it must have had something to do with sexual orientation, when it was really only a random crime committed against a random passer-by.

As well as being difficult, the issue is complex. Perhaps the community safety forum's difficulty has been teasing out those difficulties in a way that makes sense, in terms of data collection, and which allows the police to do their job properly.

11:15

**Malcolm Chisholm:** Johann Lamont has covered some of my points, but I still have three questions.

I find the report deeply shocking, particularly as I am an Edinburgh MSP and represent Gayfield Square and the surrounding area. My first question relates to other reports. Your report was published first, but a week later it was followed by another high-profile report on attacks on gay men in Edinburgh. How do your findings relate to the findings of that report? Have there been other similar reports undertaken anywhere else in Scotland, or are these the only two reports that we have to go on?

**Andrew O'Donnell:** It is important to state clearly that our report is not the same as that commissioned by the Executive from the Training, Advice, Support and Consultancy Agency. The TASC Agency's study was undertaken earlier than our report, but we managed to release ours before the Executive released that study. The reports complement each other, but the TASC report particularly dealt with violence against gay men, whereas our report is about violence against lesbians, gay men, bisexual and transgender

people and showed that there is no significant difference between the levels of violence aimed at gay men and women and those aimed at transgender people. There were slight differences—nuances—between the levels of fear, for example, but on the whole, men and women suffer the same levels of violence in that particular sub-group.

The TASC Agency's report found that gay men are four times more likely to be assaulted in the streets of Edinburgh, whereas our report found that statistic to be more along the lines of 14 times more likely. I am aware that most of the TASC Agency's interviews were with respondents around the gay scene and gay organisations. With our report, we tried to reach those who are more difficult to reach, such as those who are not obviously out in the scene. We tried to reach people in workplaces and to contact the friends of people who were not necessarily out. Our respondents were of a broader age range than those in the TASC Agency's report.

On the whole, the two reports show quite striking similarities, in terms of the levels of violence. In comparison with our report, the TASC Agency's report went into much more detail on the workings of the police service, the community safety forum and many other organisations in Edinburgh. I have not yet read the TASC Agency's report, but I am looking forward to getting hold of it when I can.

**Malcolm Chisholm:** My second question is about policing. Superintendent Wheldon referred to Gayfield Square, but can he say more about the good practice that is being developed? Is the initiative confined only to Gayfield Square, or is it Lothian-wide?

**Derek Wheldon:** While the initiative is confined to Gayfield Square, we are considering several other steps, such as sending letters to licensees in the Greenside and Broughton Street area, highlighting the reasons for increased police attention and producing literature on domestic violence and crime reporting for distribution with those letters. We are making inquiries with the council about Calton Hill and about public toilets, with regard to making improvements to lighting and other environmental matters. We are considering sending crime prevention officers to visit licensed premises, to give advice. We are also considering encompassing LGBT work within the duties of the community officers and sending them to accompany the crime prevention officers on their visits, as well as establishing a police surgery in the Broughton Street area, with anonymous reporting facilities and external training inputs for relevant officers. Finally, we are considering advertising extensively in LGBT publications.

**Malcolm Chisholm:** My third question is on the

recommendations, a large number of which relate to the council. Apart from the recommendation on the health service, the recommendation that is specifically directed at the Parliament is on strengthening legislation to prohibit homophobic discrimination in a number of sectors. Do you have any particular suggestions for legislation?

**Andrew O'Donnell:** The community safety partnership has not considered the minute detail of the recommendations and it would be unfair of me to comment. However, in the current climate, one could make up one's own mind about which particular piece of legislation to examine, to assist the process of improving tolerance in Scotland.

**Nora Radcliffe (Gordon) (LD):** Before I come to my main question, I want to tease out what you said about the pool of people who were interviewed in your research, a number of whom were not out. You also observed that violence increased where the community was visible. How do you reconcile those two factors with the fact that your research seems to have shown a higher proportion of violence towards LGBT people, if some of those people were not widely known to be LGBT? I am trying to get my head round what the statistics show.

**Andrew O'Donnell:** The detail of the report shows the amount of violence against people who have shown affection in public places—holding hands, for example. As that group is much more vulnerable, people tend to self-censor their behaviour in public and choose not to show affection. As Martin Henry said, violence can be directed towards people who are not necessarily LGBT people, because of the area that they are in, the places that they are near, the clothes that they wear or the friends they are with. While sexuality is important if one is gay and has been gay-bashed, it is quite irrelevant from a service delivery point of view. The fact is that people are beaten up because of how their sexuality is perceived, in the same way as pupils who are not LGBT young people are bullied in schools—abusive language and bullying are used generally in the school setting.

**Martin Henry:** The report also touched on people's perceptions and their fear of crime and intimidation. Often, people do not self-identify because they think that, if they become more obviously or discernibly gay, lesbian, bisexual or transgender in our communities, they run a far greater risk of being the subject of violence and harassment.

I am particularly interested in another hidden figure—on domestic violence—in our report. Andrew O'Donnell touched on physical assaults, particularly in the city centre, but I have an on-going concern about people who are lesbian or gay and who live with their partners in



communities outside the city centre, as they may well be subjected to domestic violence. How do we record that as an issue, given that, more often than not, domestic violence is perceived as an issue that affects only heterosexual couples?

**Nora Radcliffe:** On strengthening legislation, do you accept that, while legislation is in place, the application or interpretation of that legislation and meeting related training needs is lacking?

**Andrew O'Donnell:** I am not quite sure what you mean. What legislation?

**Nora Radcliffe:** Our equal opportunities legislation says that people should not be discriminated against on a variety of grounds, including sexual orientation. Therefore, it is illegal to discriminate against anyone on those grounds. Therefore, it is not that legislation is required; rather, the application of existing legislation is lacking. Do you think that the legislation needs to be more specific?

**Andrew O'Donnell:** I am not sure that it is illegal to discriminate on the ground of sexual orientation—while that might be the case in terms of employment policy, it is not the case across the board. The difficulty is that the philosophy of non-discrimination—or anti-discrimination—is taken on board by a large number of public sector organisations, but it is not backed up with a serious infrastructure of training, policy commitment and, indeed, disciplinary action, when there is bullying or discrimination in the workplace. Although there is an appearance of non-discrimination, we have much work to do to try to reinforce that.

**Nora Radcliffe:** That is my point—it is not that the legislation is not in place; the application, monitoring and evaluation of the legislation are not in place.

**Martin Henry:** There is always room for improvement.

**Andrew O'Donnell:** I am sorry—I misunderstood you. To my knowledge, there is no legislation that protects people from discrimination on the ground of sexual orientation.

**Nora Radcliffe:** The Scotland Act 1998 incorporates the European convention on human rights and means that we must comply with the Amsterdam treaty. Therefore, such provisions are written into Scottish law. The point has been rightly made that people have not caught up with that yet.

Does only one police subdivision receive the one-day training at the Scottish Police College at Tulliallan, or do all police officers receive it?

**Derek Wheldon:** No—all members of the force receive that training at the police college. Extra

training is given at Gayfield Square.

**Andrew O'Donnell:** I will put on another hat and say something about training from the Equality Network's point of view. Following the publication of the Macpherson report, the Association of Chief Police Officers in Scotland, through the Scottish Police College in Tulliallan, asked for input and a report has been sent through the Equality Network to input into the training at Tulliallan, which should be implemented by the end of the year. It will be interesting to see how that pans out.

**Martin Henry:** We are greatly encouraged by the response of Lothian and Borders police. I might be basing this view on little information, but my perception is that we are lucky in Lothian and Borders to have one of the most progressive police forces in Scotland, in regard to this issue. Certainly, in the Gayfield Square subdivision, the police have taken the idea of policing these communities seriously, by promoting a much better informed community policing response, better training and surgeries within the community; there are all kinds of progressive developments to try to improve the situation.

While that is the case in that part of the city, we have a long way to go to spread that out across the whole force area—that work remains to be done. Someone made the point earlier that there is a hell of a lot more work to be done in police forces throughout Scotland, outside Lothian and Borders, where there is best practice. We hope that people will learn from that best practice.

**Nora Radcliffe:** I do not think that that point was addressed. Malcolm Chisholm asked about whether you knew of other research outwith Edinburgh along the lines of your report.

**Andrew O'Donnell:** No research on violence and intimidation has been done, to my knowledge. Glasgow Women's Library undertook some research, but did not focus on violence.

I should add that I am aware of other initiatives that are happening at a different pace throughout Scotland. In Glasgow, there is communication, but, as I understand it, that communication is not particularly fruitful. Liaison work has begun in Fife, but while the policy is being formed—which is a welcome development—it is still in the early stages.

Sometimes, it feels the same way as it did 20 years ago. In the Highlands, after a disabled gay man was murdered recently, a police car was parked outside a voluntary organisation to watch the organisation's clients coming and going—virtually every gay man in the area around Inverness was asked to come forward to give evidence to the police and people were asked to report gay neighbours. We have a long way to go in some parts of the country, but I think that we are

getting there in Lothian and Borders.

The national advisory group in England and Wales combines officers and activists. Last month, the community safety unit hosted a meeting for the group in Edinburgh, which was even attended by Home Office representatives. We have no similar organisation in Scotland, because we just do not have the volunteers at grass-roots level to organise such a group. While people are involved with the police in Lothian and Borders, Strathclyde, Fife and the Highlands, the geography means that it is almost impossible to get around without funding. I hope that the Equal Opportunities Committee will take on board the establishment of a formal communication device between the communities and ACPOS, as that would help a great deal.

11:30

**Nora Radcliffe:** That is useful.

**Mr McMahon:** I would like some qualitative information, based on the evidence for sexual assaults. The report states:

"Lesbians reported a higher incidence of attempted rape, but a lower incidence of rape."

That suggests that gay men are subjected to rape more often than lesbians. Is that evidence of inter-community assaults, or are victims being raped by people from outwith the gay community? How do we qualify or quantify that?

**Andrew O'Donnell:** Sexual assault is sexual assault, no matter who commits it.

**Mr McMahon:** I was wondering how you establish the sexuality of those who commit the rape.

**Andrew O'Donnell:** This report was not about the sexuality of those committing the rape. A rapist is a rapist—their sexuality is not important.

**Mr McMahon:** I agree.

**Andrew O'Donnell:** The report concentrated on the sexuality of the victims and on whether they felt that their sexual orientation had contributed to the incident.

**Mr McMahon:** However, the statement to which I have referred indicates that more information is required.

**Martin Henry:** Mr McMahon is absolutely right and raises an important issue for me professionally. There is a tacit assumption that sexual assaults on men that are committed by other men must, of necessity, be a homosexual crime. There is no evidence in any of the research to support that notion—quite the contrary, in fact. There is every indication that the majority of men who perpetrate sexual crime against other men

are self-identified heterosexual men. That is what the research shows, although it is possible that such men might be lying about their sexual orientation.

Rape and sexual assault that is committed by men against other men is very similar to sexual assault and rape that is committed by men against women. As a crime, it is essentially about the abuse of power. The sexual aspect of it is important and devastating, but it takes a back seat. Rape is about how people express rage and abuse the power that they have over other people. Interestingly, the literature suggests that in cases where men who are gay or thought to be gay are the subject of sexual assault or rape by men who are heterosexual, the perpetrators might be expressing homophobic anger or rage against their victims.

Most members of the committee will appreciate that one of the most humiliating and demeaning ways in which one person can assault another is to assault them sexually. Mr McMahon might be right—the statistic to which he referred might be indicative of how angry some perpetrators are.

I would like to make a further plea in terms of equal opportunities. I have a strong feeling—which, I think, would be backed up by my colleagues in the rest of Scotland—that there is very little service provision available from the social work service, the health service or the voluntary sector to men who have been the subject of sexual assaults. In the case of services that are tailored specifically for men who have survived sexual assault, the best practice and the most resourcing come from gay service delivery organisations. That is a terrible pity, given that many men who are assaulted sexually are heterosexual and will not, therefore, access the services. Perhaps the committee should investigate what services are available to men across Scotland who are the subject of sexual offences, whether as children or as adults.

**Elaine Smith (Coatbridge and Chryston) (Lab):** I thank Andrew O'Donnell for outlining the report's recommendations. A number of those recommendations relate to City of Edinburgh Council. In your opinion, Andrew, does the existence of section 28 or 2A in any way prohibit City of Edinburgh Council from taking forward those recommendations?

**Andrew O'Donnell:** As a forum, we have not discussed section 28 or 2A or made recommendations to the partnership. I would not like to comment politically, as the partnership is not a politically motivated organisation. However, in my experience, section 28 has never stopped a bold local authority doing what it wanted to do. Both City of Edinburgh Council and Glasgow City Council support Pride Scotland—not necessarily

financially, but in many other ways. A council will go against its lawyers if they say that it cannot do something because of section 28. It is up to the elected representatives to say that they are going to do it anyway. Section 28 is an inhibiting force, but it has never been used locally. I am unsure whether, because of its presence on the statute book, City of Edinburgh Council would not go in a direction in which we wanted it to go. We have no way of knowing.

**Martin Henry:** I am dying for a ding-dong on section 28, but I will resist the opportunity to use this debate for that. As somebody who is engaged professionally in the protection of children, I would argue that information makes children and young people less vulnerable. Wherever young people—who are already in a very vulnerable group if they are gay or lesbian—are cut off from information, the chances are that the risk of abuse and exploitation will increase. These young people need information and support, to improve their self-esteem. Without wanting to have a ding-dong, I would say that the section 28 debate definitely has implications for that.

**The Convener:** Under item 5 on our agenda, we will discuss taking evidence on the ethical standards in public life bill. We can discuss then how best to take evidence on section 28.

There are no further questions for our witnesses. Thank you for attending. All members of the committee will be interested in seeing your final recommendations and whether there is any way in which we can assist in taking them forward.

The Commission for Racial Equality has submitted a paper to be considered under our next item. Before we move on, I suggest that we take a 10-minute comfort break.

11:37

*Meeting adjourned.*

11:51

*On resuming—*

## **Standards in Scotland's Schools etc Bill**

**The Convener:** We will resume with item 3 on the agenda, which is a consideration of the evidence that the committee has taken for the Standards in Scotland's Schools etc Bill. All members have a synopsis of that evidence, along with a note from the clerk. We must decide today how to present our evidence to the Education, Culture and Sport Committee. We can delegate a member, or members, of this committee to give evidence to the Education, Culture and Sport Committee on 1 March; submit a written report to that committee; or do both. Perhaps if we decide between those options first, we can go on to discuss the actual evidence.

**Malcolm Chisholm:** Our synopsis is an important piece of work, because all the evidence indicated considerable dissatisfaction that an equality perspective had not been built into the bill. As far as I can see, the Executive has indicated only that it will include the assumption about mainstream education for children with disabilities in the bill at a future date. That is important, but people might have questions about what it actually means. There has been no movement on issues that were raised by groups such as the Commission for Racial Equality and the Equal Opportunities Commission, so this committee and the Education, Culture and Sport Committee should produce a written report that encapsulates those organisations' main points, if the committees agree with them. Furthermore, perhaps more than one member should attend the Education, Culture and Sport Committee to speak to the report. This is an important test case; the bill is very important and we will be failing in our duty if we do not feed into it.

It is rather disappointing that the issue has not been picked up in the bill. The Executive might have the excuse that the equality unit was not up and running in time, but I am concerned that no attempt has been made to deal with the matters that were raised in our evidence.

**The Convener:** Are members happy with Malcolm Chisholm's suggestion?

*Members indicated agreement.*

**The Convener:** The members who will attend the Education, Culture and Sport Committee can work with the clerk to produce the report. Are there any volunteers?

**Malcolm Chisholm:** I could produce a draft report that might be circulated to committee members for comments beforehand.

**Members indicated agreement.**

**The Convener:** Could we have another volunteer? It might be better for two people to go along. Johann?

**Johann Lamont:** My perspective is probably too hidebound by teaching.

**Malcolm Chisholm:** Two teachers would not be that terrible.

**The Convener:** Do any other parties want to be represented at the meeting?

**Shona Robison:** Will the process involve producing a draft report that will then come back to the committee?

**Malcolm Chisholm:** The time scale is the problem.

**The Convener:** There is no time. The synopsis of the evidence contains all the points that we might include in the report. We must delegate the matter to the clerk and the members who will report to the Education, Culture and Sport Committee without bringing the matter back to the committee. Are members happy with Malcolm Chisholm and Johann Lamont reporting to the Education, Culture and Sport Committee, or do other parties wish to be represented?

**Shona Robison:** I will take the opportunity to provide a non-teacher perspective.

**The Convener:** Is that agreed?

**Members indicated agreement.**

**The Convener:** The CRE's paper is in the form of line-by-line amendments to the bill and is probably more appropriate for stage 2 of the bill. Do members agree to keep that on the back burner until a more appropriate time?

**Members indicated agreement.**

**The Convener:** Do members want to go through the Scottish Parliament information centre's synopsis page by page or do they want to highlight particular aspects? It might be useful to hear from the members who will report to the Education, Culture and Sport Committee.

Pages 6 and 7 of the synopsis highlight the main points raised by the organisations that gave evidence. Do members want to go through those?

Malcolm Chisholm referred to points that were raised by the Equity Group. The Executive has given some kind of commitment that the bill will contain a presumption of mainstream education for kids with disabilities, which is what the Equity Group was asking for. In that case, our evidence

to the Education, Culture and Sport Committee will strongly support that position. Do members have any comments on that?

This is like pulling teeth.

**Nora Radcliffe:** Although the committee agreed with the general thrust of the Equity Group's evidence, we were aware of the resource implications and of the fact that it was more appropriate that some groups of children should not be in mainstream education. For example, I recently visited a school for the deaf. The percentage of deaf children in the community is so small that the children would suffer total isolation in a hearing environment, and it is better for that particular group of children to be in a non-hearing environment where they can communicate fully with everyone. Although it is better for most children to be in mainstream education, that is not true across the board.

**Johann Lamont:** There are very good examples of units for the hearing-impaired in secondary schools. The choice should not be between being totally isolated in a mainstream school and going to a specific institution; there should be flexibility. The Equity Group's point that the bill should include an assumption that those children would stay in mainstream education made sense. To be honest, that probably applies to any disability. It is quite remarkable how provision can be made imaginatively where there is no special provision.

Although my instinct is for the committee to support the assumption that children, regardless of their disability, should stay in mainstream education, I was concerned by the argument that resources would be found as a result of special provision withering on the vine. That is not necessarily the case, because it may be that, in certain circumstances, families would still prefer specialist provision. I do not think that we should include in our support for mainstream provision the resource assumption that specialist provision will not be needed. However, it is also true that while a highly specialist provision exists, there will be a drive to make use of that provision; that will tend to drive folk out of mainstream education.

12:00

**Mr McMahon:** Achievement Bute gave an example of the difficulty that it has with assessments for mainstreaming. We should try to skew the balance towards the children and their families. At the moment, the assessment seems to be directed towards stopping children getting into mainstream education. Parents should have the right to put their child through mainstream education; it should be for local authorities to prove that that is not possible, rather than for the

parents to have to fight for that right. We must shift the balance.

The Equity Group recognised that, in some situations, it is not appropriate for children to be in mainstream education. However, the parent should have the right to that provision.

**The Convener:** In some cases, a child's educational needs could be met by a mainstream or local school, but a residential school is necessary because the respite and support package is not available at home. I raised that point when the Equity Group gave evidence. Children often go to residential schools because of behavioural problems, rather than because their educational needs cannot be met. If there is to be a presumption in favour of mainstream education, it must be clear that the support that will be needed by the family must also be in place. Although that point is not a direct concern of the Education, Culture and Sport Committee, it is worth making.

Are the members who will report to the Education, Culture and Sport Committee happy about that?

**Members indicated agreement.**

**The Convener:** The evidence from the Scottish Executive education department took matters further in terms of involving pupils in decisions about their education. The education department gave more general evidence on a range of discrimination issues, not just those that relate to children with disabilities.

Are there any comments?

**Johann Lamont:** Is the point about ensuring that employers' views on education are taken into account something that we thought the department was not pursuing sufficiently, or were we concerned that it was pursuing it too rigorously?

**The Convener:** The summary says that

"identifying the intended outcomes of education and linking the national priorities to those is a major issue arising from consultation".

That means consulting about the curriculum.

**Johann Lamont:** If employers are saying that there is a skills gap, that should be recognised and acknowledged. However, it would be difficult to discover the balanced position of employers in determining the curriculum.

**The Convener:** That is not an equal opportunities point. The education department has given evidence to the Education, Culture and Sport Committee and we need to pick up on points that relate specifically to equal opportunities. The education department asked for the inclusion of

anti-racist education and gender equality issues in the curriculum; other organisations have also asked for that. The committee would support that. The inclusion of quality objectives and performance indicators was probably a more important point about which the committee might want to make representations to the Education, Culture and Sport Committee.

We have already made representations to the Executive about making consultation documents available in Braille and minority languages. We covered that point in relation to all consultation processes.

Are members happy for representations to be made on those two areas of the SEED evidence?

**Malcolm Chisholm:** I want to make a general point. I did not have this material until very late—

**The Convener:** It was sent out last week.

**Malcolm Chisholm:** I am not blaming anybody; I just did not bring the material with me.

The Equal Opportunities Commission's main points need to be considered. We did not ask questions about many of those points, presumably because we agreed with them, so they do not appear in the synopsis as committee concerns.

Did members disagree with anything in the EOC's evidence? I was very persuaded by the EOC's strong written evidence. The EOC did not make a long statement, but responded to our questions. The EOC's first three points are essential: the duty to improve equality of opportunity, performance measures and gender disaggregated data and information. Those points are central to what we are saying. Do members agree?

**The Convener:** Does everyone agree?

**Members indicated agreement.**

**The Convener:** Do you have enough information to write a report?

**Malcolm Chisholm:** The question is whether members disagree with anything, or whether we can presume that we agree with most of the evidence.

**The Convener:** Let us move on to the Equality Network's evidence. We should not cover in our report the point about the clarification of the impact on local authorities of section 28 of the Local Government Act 1988. We will take evidence on that when we consider the ethical standards in public life bill. The Education, Culture and Sport Committee may expect us to make some comment on that.

**Nora Radcliffe:** Perhaps it would be more appropriate for us to comment on the review of the

guidelines that will take place as a result of the possible repeal of section 28.

**The Convener:** It is difficult to comment on something that is just being set up. I hope that in time we will have an opportunity to comment on the guidelines; the Education, Culture and Sport Committee should also have that opportunity. We are at the start of the process. We can comment only on the make-up of the panel that will consider the guidelines.

**Nora Radcliffe:** We could make the general point that the guidelines will have to satisfy equality standards.

**The Convener:** Yes, we could say that.

Are there any more comments on the evidence from the Equality Network? Do members have comments on the evidence from the Educational Institute for Scotland? Is there anything that we should expand upon?

**Johann Lamont:** The issue of attracting men into the teaching profession is much more complex than this paper presents it as—I am not sure that the EIS presented it as it is here. Men who come into teaching are more likely to be promoted than women are. We have to be careful about how the issue of the relative attainment of girls and boys is presented. The temptation is to blame women for their own lack of ability and attainment and then to blame them for boys' lack of ability and attainment because we do not teach them properly. We must not reinforce attitudes and assumptions about male and female jobs. I do not concur with the view that boys do badly because they are taught by women. The EIS and the Equal Opportunities Commission made many interesting points about how girls come through the education system and how they progress beyond the education system regardless of their attainment levels at schools.

**The Convener:** You are stressing that we should ask the Education, Culture and Sport Committee to consider that whole area rather than saying to it that we need to attract more men into teaching.

**Johann Lamont:** We will probably need to re-examine the evidence of the EIS and the EOC. The issue is not as simple as saying that we need more men in teaching and that boys do badly in school because they do not have positive male role models. It is partly about our attitudes to women and women teachers, and therefore to teaching generally; those attitudes are perhaps getting fed through to boys' attitudes at school.

**Shona Robison:** Some parts of the EIS's evidence, such as the material on devolved school management, are perhaps outwith the remit of this committee and we should not focus on them. As

Malcolm Chisholm said, anybody who disagrees with any of the evidence that the committee has heard should let us know. Moreover, members should give us a steer on the priorities in the evidence that is within this committee's remit. We will have a limited opportunity and should use it to highlight the collective priorities rather than trying to cover everything.

**The Convener:** Are there any views on the evidence that was jointly given by the Commission for Racial Equality and the Centre for Education and Racial Equality in Scotland? Are there any problems or issues on which members wish to expand? Members can refresh their memories by reading the more detailed evidence and can then ask Johann Lamont, Malcolm Chisholm or Shona Robison to take specific points on board. Of course, those points will be the views of individual members rather than the agreed position of the committee—that is not a problem, as it can be made clear in the report.

**Malcolm Chisholm:** The degree of overlap between the views of the CRE and the EOC is noticeable, even though they are discussing different things.

**The Convener:** If anybody wishes to feed any comments into the Education, Culture and Sport Committee meeting on 1 March, they should pass them to Malcolm Chisholm, Shona Robison or Johann Lamont at least three days before the meeting.

**Malcolm Chisholm:** I thought that the Education, Culture and Sport Committee wanted something by 23 February.

**The Convener:** I am sorry; you are right.

**Malcolm Chisholm:** Is the Education, Culture and Sport Committee meeting on 23 February or does it want submissions by that date?

12:15

**Martin Verity (Clerk Team Leader):** The Education, Culture and Sport Committee wants to receive our submission by 23 February.

**Malcolm Chisholm:** It wants the submission by 23 February; the meeting is on 1 March.

**The Convener:** Members should pass their comments to Martin Verity at least three days before 23 February.

**Malcolm Chisholm:** Convener, should we work up a draft quickly on which members can comment, or should we wait for comments before we produce a draft?

**The Convener:** You should work up a draft first. Members should make their comments to you as soon as possible, but the time scale means that it

is not feasible to pass the draft around for members' comments. The committee has delegated Malcolm Chisholm, Shona Robison and Johann Lamont to produce a report.

**Malcolm Chisholm:** You do not want us to show the draft to members?

**The Convener:** If you have time to do that, you can, but, given the time scale, the committee cannot insist on it.

**Nora Radcliffe:** Perhaps the draft could be circulated to committee members as an e-mail attachment.

**The Convener:** That is fine if there is time. However, we should be aware of the pressure on members to produce the report in the time scale that has been set. We went through the evidence and did not find anything to which any member took exception. It would be useful if members could see the draft report, but we should not insist on that.

**Malcolm Chisholm:** We will aim to produce a draft report this week.

**The Convener:** That is agreed. That was a very ambitious statement from Malcolm Chisholm—good luck.

## Census (Scotland) Order 2000

**The Convener:** I put the Census (Scotland) Order 2000 on the agenda so that we could discuss developments. Members will have seen over the weekend that the Executive seems prepared to make changes. I have just learned that the chamber clerks expect that a revised Executive motion will be lodged today. I had a discussion just before this meeting and can say—although not officially—that the Executive has listened to the evidence that the committee has given and the representations that it has made over the past weeks. In the Executive's revised motion, there will be a question on religious denomination, including a breakdown of Christian affiliation, and a question on the faith in which people were brought up. The Executive proposes to consult on a more detailed ethnic group question. That consultation will inform the decision on the extent of any amendment to the order. Although that is not official, it is the most up-to-date information on the census.

**Tricia Marwick:** You were reading out an extract—

**The Convener:** I was reading from a note that was passed to me today.

**Tricia Marwick:** By whom?

**The Convener:** The note was passed to me by somebody who had information about the minister's discussions.

**Tricia Marwick:** So we do not have a note from the minister?

**The Convener:** As I said, I have had no official information.

**Tricia Marwick:** I was trying to clarify the status of the note that you read out.

**The Convener:** The note is telling me approximately what will be in the new Executive motion. It is a handwritten, unofficial note. I have no more information. I have been trying since Friday, when I first heard that a change of heart was likely, to find out what is going on. This is the most official information that I have received so far.

I welcome the fact that the committee has been able to change the Executive's mind about something. I think that it has been able to do that because it has stuck together on this issue, and because it has made sound representations, which were based on evidence that it had taken. The fact that there has been any movement on this issue is a victory for the committee. The committee must decide how the change affects the motion that it lodged. We should discuss that

now.

**Irene McGugan:** In the absence of any confirmation that the situation has changed, the committee's only option is to hold by the motion that it lodged.

**Mr McMahon:** I would have to agree—the change may be technical but it is not official. We may have read about it in the press, but we have not been told that that is the Executive's official position. We took our decision based on the information that we had at the time, and although there may be indications that the Executive's position has changed, it has not changed officially.

**The Convener:** I have checked with the chamber desk, and at this stage no other amendment or motion has been lodged.

**Mr McMahon:** We are technically bound by the situation.

**The Convener:** That is the position; you are correct that the committee has not received official notification of any change.

**Tricia Marwick:** Like you, convener, we all read over the weekend that there would be changes. That situation has arisen not because the minister agrees with us, but because he is taking on board the fact that he cannot win on a vote. I have found the minister's behaviour towards the committee arrogant and inconsiderate. At our meeting last Tuesday, he was unwilling to take anything on board and he has not communicated in any way with the committee.

However, the minister or his spokespeople appear to have been communicating with the press. That is not the way in which to treat a committee of the Parliament. He needs to consider his attitude towards the committee and his behaviour over the weekend. In the absence of any official notification that he is willing to consider the points that we have made, we have no alternative but to hold to our motion.

**The Convener:** I have raised the matter of issues being reported in the press and I have been assured that the leak did not come from the minister's office. However, it obviously came from somewhere. The fact that there were a lot of different versions in the press would indicate that it came from various sources.

If the committee—rather than the prospect of defeat in the chamber on Wednesday—has persuaded the minister to change his mind, based on common sense, the evidence that we have taken and the case that was made last week, that shows that the strength of the committees is that they enable issues to be officially discussed and alternatives to be suggested. I would prefer to think that the minister had listened to the committee rather than that he had been beaten

into submission.

**Johann Lamont:** We should welcome any change in the minister's—and indeed in the Executive's—position. We have set up a structure that allows people who are unhappy with what the Executive is doing—I am talking about those who are particularly interested in this question as well as the broader public—to make representations to the committee, which influences the Executive's decisions. We can comment on the difficulties of communicating with the minister and so on, but I would hope that the strongest message that comes out of this is that it is possible for people outwith the Parliament to influence its decisions.

Any Executive proposal will be a matter for judgment on Wednesday, when we see how the broader group, beyond the Equal Opportunities Committee, votes. However, what is significant is that the committee enabled that vote to take place.

I would be happier if, in general terms, we stopped perceiving every change in policy as a defeat. We should recognise that we have the opportunity for a meeting of minds and that people can change their views after they have talked to others. We do not have to have the old combative model where, if someone is beaten, they lose their credibility. In fact, the most positive message might be that the minister has been able to shift on this issue because of the representations that can be made through a committee such as this.

**Shona Robison:** Whatever the cause, the minister has changed his mind miraculously within a week. But there we have it.

The motion should remain, for the reasons that have already been outlined—for example, that we do not have any details of what is proposed. The strength of the motion was that it was all-encompassing and that it was a motion of the Equal Opportunities Committee. I would hope that our position remains as it was last week—I am heartened that that appears to be the view round the table. The strength of the committee is that we have reached a consensus and that we are prepared to see it through—I want to put that on record.

**Mr McGrigor:** I would endorse that. Members of my party do not worry about defeat.

**The Convener:** Obviously. [*Laughter.*]

**Elaine Smith:** I, too, agree with Shona. Although I was not here last week, for which I apologise, I recall that at the meeting before that we discussed whether the motion should be split and that it was agreed that it should be all-encompassing. If any shift addresses only part of the motion, will we stick with our decision for our motion to be all-encompassing?

**The Convener:** To some extent, that is



irrelevant—I think that it is too late for me to lodge another motion. I will support the motion of the Equal Opportunities Committee on Wednesday. However, I welcome the fact that the Executive has given considerable ground. The reason for that is less important than the fact that it bodes well for the future in terms of the Executive listening to committees. However the Executive reached this decision, it is a good thing. If Jim Wallace lodges a revised motion, it will inevitably change the dynamic in the chamber on Wednesday. At this stage, it is probably too late for me to lodge another motion. The only option would be for me to withdraw my motion; I do not want to do that and I think that the committee would not want me to do that either. On Wednesday, people will have to decide how they want to vote. It is up to committee members—the committee is not mandated to vote in any particular way.

**Mr McMahon:** Can I clarify whether it is too late to do anything? We might be assuming that.

**The Convener:** I understand that, if I had wanted to withdraw the motion that had been lodged on behalf of the Equal Opportunities Committee and submit another one, I would have had to have done so by 4.30 pm yesterday. Amendments can be lodged until 4.30 pm today.

It may be too late to do anything, because the issues with which we are concerned, on the language spoken at home and the Scots language, cannot be registered in the form of an amendment. I am unsure—the whole thing is very confusing. The business bulletin tried to explain it last week.

**Johann Lamont:** To some extent, this is academic. The committee has agreed that it cannot withdraw the motion, because we have not had official notice of what the Executive is planning and we will not be meeting before we do. However, people will be able to judge to what extent the amendments that have been lodged meet their concerns when they see them on the day. That represents a broader judgment than that of the Equal Opportunities Committee. If we agree that our motion should remain, the issue is just a matter of considering the amendments when they appear.

**The Convener:** Is it agreed that we welcome the Executive's intention—

**Johann Lamont:** Alleged.

**The Convener:** Alleged intention. I welcome the intention to include questions on religion and a further break down of ethnicity, but the committee's motion stands. Is that agreed?

**Members indicated agreement.**

**Irene McGugan:** I ask for clarification on a

procedural matter for tomorrow's motion. Usual practice has been for speakers to be distributed across party groupings and not on a committee basis. Have you had any guidance on that?

**The Convener:** Not so far. I will find out after the meeting. At this stage, I do not even know how long I will have in which to speak to and move the motion.

**Irene McGugan:** That is what I mean.

12:30

**The Convener:** This is the first time that this has happened, so it will be up to the Presiding Officer to decide. I will have a certain length of time to move the motion. After that, the allocation of time to speakers will be based on party, as usual.

**Shona Robison:** We have had some discussion with the clerks about the possibility of someone closing the debate on behalf of the committee, which would give us parity with the Executive. The clerks were not sure whether that would be possible, because it is new territory, but they gave an indication that it might be. Have we had any clarification?

**The Convener:** No. I am going to the chamber desk after this meeting to find out.

**Shona Robison:** Obviously the committee will not meet again before tomorrow, so we need some guidance.

**The Convener:** The last time that I spoke to anyone about the matter was after the meeting of the Parliament on Thursday. I have not been in Edinburgh since then. However, we could agree who would sum up for the Equal Opportunities Committee if the facility is made available to us.

**Nora Radcliffe:** If you are putting forward a motion, it is only fair that you should have the opportunity to sum up. We should expect to be able to submit the names of someone to move the motion and someone to sum up on behalf of the committee.

**The Convener:** I am happy to do that. The committee will have to decide who it wants to sum up the debate.

**Malcolm Chisholm:** I think that it should be Shona Robison.

**The Convener:** Are we agreed that Shona Robison, as deputy convener of the committee, should sum up on the committee's behalf?

**Members indicated agreement.**

**The Convener:** If anyone wants to know more about the procedure, they will have to go to the chamber desk, because it is very complicated. After the meeting, Shona and I will find out

whether we will be given time in the chamber to sum up. Is there anything else on the census? If not, we will move to discuss the forward work programme.

## Work Programme

**The Convener:** The paper on our work programme outlines some of the issues and outstanding business that need to be dealt with in the next couple of months.

Martin Verity and I met the conveners and clerks of the Local Government Committee and the Education, Culture and Sport Committee to discuss how to take evidence on the ethical standards in public life bill. The Local Government Committee is the lead committee. We felt that it would be better not to duplicate the taking of evidence. Annexe A suggests how the evidence might be split up. Does anyone have any comments?

**Malcolm Chisholm:** Under the current timetable, are the meetings listed just proposed dates or have they been arranged?

**The Convener:** All the meetings have been arranged in line with our usual timetable.

**Malcolm Chisholm:** The business for the meetings on 29 February and 14 March is substantial. We need to track legislation. Should not we be getting into the transport bill by the meeting on 28 March? The bill has now been published.

**Martin Verity:** My understanding is that the transport bill is likely to be introduced after the Easter recess, but before the summer recess.

**The Convener:** We will clarify that point and deal with any problems that arise. You look puzzled, Malcolm.

**Malcolm Chisholm:** I thought that there was a draft bill.

**The Convener:** That is just wishful thinking.

**Malcolm Chisholm:** Was that just a general statement that was made last week? We know what is in the bill, do we not?

**Martin Verity:** I am sorry. I was talking about the bill itself.

**Malcolm Chisholm:** Is there consultation at the moment on the draft bill?

**Martin Verity:** I presume that there will be.

**The Convener:** We will find out.

Is everybody happy with what has been agreed on taking evidence on the ethical standards bill? To fit in with the time scale, it may be necessary for us to have an extra meeting and to try to take all the evidence in one day, although obviously we will not meet for a full day. That will probably mean having a meeting on a Monday. I know that people

are not particularly keen on doing that, but it will be a one-off, as we have important representations to make on the bill.

It has also been pointed out that we should not make representations only on section 28. The rest of the bill may have implications for equal opportunities, which we will want to consider. Are we agreed that the clerk should set a date to take all the evidence in one day?

**Members indicated agreement.**

**The Convener:** Other outstanding business includes Caledonian MacBrayne. After Achievement Bute's evidence today, I think that everybody will agree that we want to hear from Caledonian MacBrayne.

**Mr McGrigor:** Will the committee raise issues other than disability with Caledonian MacBrayne?

**The Convener:** Any equality issue may be raised with Caledonian MacBrayne, but I am not aware of any others. If you are aware of any, we can question the company on them.

**Mr McGrigor:** There is an issue about equality of service from island to island. Would that be our business?

**The Convener:** That is not an equal opportunities issue. We can ask questions on issues that are within our remit, but it would be more appropriate to raise issues relating to the service with the Transport and the Environment Committee.

**Johann Lamont:** Will we have any input into the consultation that Jack McConnell announced on appointments to public bodies? Would not we want to welcome the fact that the Executive has made it clear that it wants more diversity in public bodies, which fits in with the representations that we have taken? Will we have an opportunity to consider the document and respond to the questions that it raises?

**The Convener:** To an extent, we have already taken evidence on the issue, as it has been raised with us. The committee may want to consider the document. I can send a letter to Jack McConnell on behalf of the committee making any suggestions. If people have a look at the document and get in touch with me, I am happy to draft a letter for consideration at the next committee meeting. Is that all right, Johann?

**Johann Lamont:** Yes.

**The Convener:** The Finance Committee has suggested that we may want to have a role in overseeing stage 1 of the Executive's spending proposals, with a view to reporting on the implications for equal opportunities. Are there any questions or comments? Is it something that the committee wants to do?

**Malcolm Chisholm:** We probably should. Many of the things that we discuss have financial implications.

**The Convener:** Are we agreed then?

**Members indicated agreement.**

**The Convener:** Point 3.4 of the paper outlines the timetable for other legislation that is likely to be introduced.

I presume that the committee wants to examine that.

**Malcolm Chisholm:** Is it official that we will not address the issue of housing until after the summer recess?

**The Convener:** I do not know. We will have to ask Martin Verity.

**Martin Verity:** I understand that the Executive will seek to produce a draft consultative bill in the middle of the year. That implies that we should not expect the bill to appear until after the summer recess.

**Malcolm Chisholm:** That raises a general question that has arisen in relation to the Standards in Scotland's Schools etc Bill. The committee should get involved with bills at the draft stage—that way we are more likely to influence the bill. We could not do that for the Standards in Scotland's Schools etc Bill because we were busy with other issues, such as the Macpherson report.

**The Convener:** The committee must decide whether to be involved at that stage. However, as we are busy with other matters, it is difficult to catch up. It would be easier if we had more time to consider the issues before feeding in to the lead committee. Our time scale is rather short.

Committee members might want to consider whether we should feed in at the consultation stage. It is difficult to imagine how we could do that, given the business that lies ahead of us over the next couple of months and the fact that we are stuck with timetables that have already been set. We should, however, try to find out if we could do it. We have discussed many times the way in which we are going to feed into the process and there seems to be no ideal method. This committee could consider all legislation—although we are not asked to consider it all—which makes the problem more complicated. Perhaps we can discuss the matter at a future meeting.

Is everybody happy with the report on the committee's forward work programme?

**Members indicated agreement.**

## Progress Reports

**The Convener:** The next item on the agenda is the reporters' reports. The first report is from Johann Lamont, on gender issues.

**Johann Lamont:** Our group met last week. We have agreed to meet on the Tuesdays that alternate with the weeks in which the Equal Opportunities Committee meets. There are several issues that we want to explore further.

We have been approached by Women's Aid and Engender, both of which want to meet us. Women's Aid wants to brief us on the implications for women's aid of some of the proposals on housing. Our group felt that it would be useful to meet that organisation, but that there was a case for making the Social Inclusion, Housing and the Voluntary Sector Committee aware of that particular aspect of housing and for urging it to take evidence from Women's Aid, if it has not done so already. With that in mind, I hope that it will be possible for us to write to the Social Inclusion, Housing and the Voluntary Sector Committee. We are also keen to get an initial response from Women's Aid on the way in which the domestic abuse development fund is working, and whether there are related issues of which we should be aware.

The other group that we have invited to meet us is Engender, which is seeking financial support for a gender audit that it is carrying out. I am conscious of the need to strike a balance between meeting as a smaller group and meeting as a full committee.

We want to establish a link with the equality unit and we are exploring the possibility of inviting someone from that unit to meet the group. We are also exploring how we can participate in the broader structures, such as the women's forum. There are technicalities concerning who is entitled to be invited, but I hope that we can engage in constructive dialogue at that level.

My last point relates to another item of future business. The committee will be aware that, at a members' business debate that was initiated by Gil Paterson, the Deputy Minister for Justice said that the Scottish Executive would produce an action plan within 90 days, based on "Towards a Just Conclusion". We were keen to have some kind of discussion or dialogue with Angus MacKay about the progress of the action plan and whether we can influence it. I hope that it will be possible for us to ask the organisations that are coming to the committee on 14 March to direct some of their comments towards that action plan. Related to that is the matter of how soon we will hear from Professor Sheila McLean on women in the judicial

system and women as offenders. I hope that we can address that matter at some stage.

**The Convener:** Thank you. If members have no comments, is Johann's report accepted?

**Members** *indicated agreement.*

**The Convener:** The next report is from Michael McMahon.

12:45

**Mr McMahon:** Our next meeting is scheduled for Tuesday. There might be a clash if the gender group is going to meet on alternate Tuesdays, as the race group—which meets only once a month—also meets on Tuesdays when the Equal Opportunities Committee is not meeting. If a member is on both groups, there might be a problem. Perhaps we should address that.

**Johann Lamont:** We do not meet until 11:30 am, to accommodate some of our members.

**Mr McMahon:** The race group meets at 11 o'clock, so there might be a clash.

**The Convener:** That was inevitable.

**Mr McMahon:** If it is not too difficult, I will bring one meeting forward. I shall speak to Johann, and we will sort that out.

The main item on next week's agenda—the increase in racial crimes—was raised in yesterday's report by Strathclyde police. There was a 74 per cent increase in such crimes, from 354 to 616, in the last nine months of 1999. That is an issue that should be discussed, and which was raised yesterday by Positive Action Housing. There are many underlying issues: 75 per cent of victims said that they had reported the crimes because of an increased confidence in the police; 70 per cent said that there was now greater awareness of the ability to report such crimes. Although the statistics might be shocking, they might reflect a positive situation, in that people now feel confident enough to report crimes. Fifty two per cent of people said that their awareness had been raised by more sympathetic coverage of race crimes in the media. I want to put the issue on to next week's agenda, and I hope to get someone from Positive Action Housing to go over it with us. That is a major item on next week's agenda.

Members who want to attend the race group's meeting next week should let me know before Tuesday and I will make arrangements to accommodate them. We could spend most, if not all, of that meeting discussing the report, so it might be useful to bring it before the committee, eventually.

**The Convener:** Yes—that would be useful.

The final report is from Nora Radcliffe, on sexual orientation issues.

**Nora Radcliffe:** I sent out an e-mail to committee members, with notes attached from the meetings that we have had. I do not know whether members found that useful.

**The Convener:** Yes, it was.

**Nora Radcliffe:** It seemed as good a way as any of keeping people in touch with what we are up to. At our previous meeting, we debated the wording of the Minister for Justice's amendment to the Adults with Incapacity (Scotland) Bill. We did not feel that the amendment met the equality standard, and we submitted our own committee amendment to Jim Wallace's amendment. At the Justice and Home Affairs Committee, the issue was debated quite fully and all sides decided that neither the minister nor we had the definition quite right. The Minister for Justice's amendment was withdrawn, which meant that our amendment fell. The arrangement made was that, in discussion, we would find a form of words that meets the equality test for defining an unmarried couple of mixed or same-gender.

We accepted that both amendments were trying to deal with the same issue: we wanted a definition of a couple who are not married but who are regarded as a couple. Such a definition would apply equally whether the people were of the same gender or of opposite genders. We wanted to arrive at a form of words that was non-discriminatory. The sexual orientation group has had the assistance of Professor Norrie, a professor of family law at the University of Strathclyde, who has volunteered to work with the Executive and the civil service to try to find an acceptable form of words to be proposed at stage 3 of the bill. That is the stage that we have reached in that piece of work.

The date of the next meeting has been circulated to committee members, who are welcome to attend. We are meeting in the evening because it suits some people who are coming and who have work commitments during the day.

**The Convener:** There was a lot of speculation in the press over the weekend about the aims of the Equal Opportunities Committee and there was misinformation on what the committee is trying to achieve. Some of the Sunday papers suggested that we are trying to give same-sex relationships the same standing as legal marriages and some seem to think that we are going to advocate gay marriages. My understanding is that what the committee agreed, and what we are trying to achieve in the Justice and Home Affairs Committee with the Adults with Incapacity (Scotland) Bill, is a definition that would give the same rights to cohabiting same-sex and different-

sex couples. Nora's amendment referred to

"a man and a woman living together as husband and wife."

That is not the same as a married couple. It would be unfortunate if the committee's work and what we are trying to achieve in terms of practical equal rights for people in same-sex relationships—rights such as succession to housing tenancies and to make health and welfare decisions—was misunderstood. We are trying to ensure that inequality is not enshrined in new legislation. We have seen how difficult it is to change legislation where it relates to gay and lesbian people, so we need to get a definition that is right—not a definition that is merely politically correct or that gives more rights to same-sex couples than it does to different-sex couples.

I hope that the committee will agree to either Nora or me putting out a press release after the meeting to make that clear. Otherwise, the whole issue is going to run out of control and become involved in the totally separate section 28 debate. If we want to be taken seriously as a committee we should clarify our position—I was very concerned by the press reporting on Sunday.

**Shona Robison:** I agree that it was unfortunate that there was press confusion about what the committee is calling for, which is parity for cohabitants rather than for married couples only—something that is not possible in Scots law. The danger is that the point is lost in the distortion. A press statement by the convener clarifying what was meant would be appropriate. A copy should be sent to the Sunday paper in question so that it can clarify the committee's position next Sunday.

## Disability Issues

**The Convener:** The final item on the agenda is the appointment of a reporter on disability issues, which is necessary because Michael Matheson has changed committees. Has interest been shown?

**Martin Verity:** I have had two responses. Marilyn Livingstone—who sends her apologies today—has said that she would be interested and Jamie McGrigor is willing if no other member is able to take the responsibility on.

**Shona Robison:** I must apologise—I was supposed to indicate Irene McGugan's interest to Martin and did not do so.

**The Convener:** As Michael Matheson is a member of the SNP it would be appropriate for Irene to be the reporter. I prefer that the reporters are not all from one party. Is that agreed?

**Members indicated agreement.**

*Meeting closed at 12:55.*



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