EQUAL OPPORTUNITIES COMMITTEE

Tuesday 28 March 2000
(*Morning*)

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9th 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

Alan Dickson (National Disability Council)
David Grayson (National Disability Council)
Bert Massie (Disability Rights Commission)

CLERK TEAM LEADER

Martin Verity

ASSISTANT CLERK

Alison Taylor

LOCATION

Committee Room 1

Scottish Parliament

Equal Opportunities Committee

Tuesday 28 March 2000

(*Morning*)

[THE CONVENER *opened the meeting at 10:03*]

The Convener (Kate MacLean): There are still a few members missing, but I suspect that they will arrive during the meeting.

I would like to move that item 6 on the agenda be taken in private. Is that agreed?

Members *indicated agreement.*

Disability Issues

The Convener: I welcome from the National Disability Council David Grayson and Alan Dickson. They have a short paper, which the clerk has sent to members. I do not know who will begin, but we will give you the opportunity to make a short presentation, after which the committee will ask questions. Please kick off at your own pace.

David Grayson (National Disability Council): Good morning, ladies and gentlemen. We are delighted to have the opportunity to give evidence and to have a discussion with you. You have the background briefing paper; I will make some brief opening remarks.

From the establishment of the National Disability Council in January 1996, I was probably the only quango chairman in the whole of the United Kingdom who was arguing for his quango to be abolished as quickly as possible. Although my colleagues and I were delighted to have the honour to serve on the council, we were clear that it was not sufficient to meet the needs of disabled people across Great Britain, and we wanted to see the establishment of a full disability rights commission as quickly as possible. We have our wish because, on 25 April, the Disability Rights Commission will come into being. We will be riding off into the sunset at midnight on 24 April with, I hope, the consensus being that we have done a good job in the intervening 50 months.

We have essentially made three contributions in that time. First, at a time when a disability rights commission was sadly not on the political agenda, we were the organisation to raise the issue of disability rights and to advise the Government on what needed to be done to eliminate discrimination against disabled people in Britain. A major part of our work has been the development of a series of codes to explain to providers of goods and services what is involved under the Disability Discrimination Act 1995. We have been heavily involved in producing a code for the first phase of rights, which came into effect at the beginning of December 1996, and the second phase, which came into force in October last year.

When we consulted for the second code, it was clear that providers of goods and services were especially anxious about the final part of the DDA, which is the big-ticket item—physical access to buildings. We were strongly told in our consultations in Scotland and throughout Great Britain last year and in the previous autumn that, as soon as it was practical, we should not only complete the code for the phase of implementation in October last year, but immediately start work on the code for the 2004 physical access provisions.

I am delighted to say that we have been able to do that. We have our final council meeting on Thursday, when I fully expect that we will sign off a full draft of a code for 2004. We will be handing that straight over to the new Disability Rights Commission, which will mean—I am sure that Bert Massie will comment further on this when he joins you later this morning—that the commission will be able to consult on a code for the 2004 provisions almost immediately. I hope that that will mean that the code will be introduced in 2001, so that providers of goods and services have a long lead time to understand what will be required of them come 2004. That has been a major part of our work—as there was no commission, we were the only game in town.

The second thing that the council has been able to do over the past 50 months is to be an organisation that has made it safe, so to speak, for the Disability Rights Commission—the council has paved the way for it. Since the new Government at Westminster was elected and made it clear that it was going to move fast on its manifesto commitment to establish the Disability Rights Commission, we have been working closely with the Government, and more recently with the shadow DRC, to make sure that we hand over the baton as effectively as possible and to do all that we can to pave the way. Earlier this year, we gave a detailed submission to the new commissioners on all the things that we had learned and which we thought would be important for them to know so that they could hit the ground running.

The third thing that we have been able to achieve in the past 50 months is the development of a new agenda for disability issues and rights. As I said when I met a number of you as part of the joint equality group's meeting in Edinburgh last November, we commissioned the think tank Demos to use all its skills to understand forward trends in technology, value shifts, social change and so on, and to say what that will mean for disabled people. What opportunities, challenges and threats will those changes bring? We have conducted a major consultation exercise over the past 12 months. Copies of that Demos report are available. It has been circulated widely among opinion formers and disability rights groups, as well as among employers and providers of goods and services. It provides a solid framework, particularly when it is read in conjunction with the final report of the disability rights task force. That gives a solid forward agenda for rights for disabled people. In retrospect, those are the three key things that we have achieved over the past 50 months.

There is a huge job to be done if we are to ensure full equality for disabled people in terms of rights of access and so on. We all have to play our part. I do not believe that we should be selfish—we should share the work out. Members of this committee, as opinion formers and leaders, have a number of opportunities to advance much of that work. On a practical level, each of you—when you visit factories and employers in your constituencies, and when you address business audiences or hold seminars and workshops—can raise people's awareness of their obligations under the Disability Discrimination Act 1995. In particular, you can draw their attention to the fact that, come 2004, there will be important physical access conditions.

Physical accessibility is an issue even closer to home. I do not wish to intrude—and it is probably completely outside parliamentary convention for me to refer to the debates that you will have on Thursday on where your permanent home will be—but I will say that, if cost savings are to be made in that permanent home, wherever it will be, I hope that they will not be made at the expense of physical accessibility for disabled people. As you know far better than I do, the Parliament building will be an important symbol for Scotland and the Scottish people. We have to send the right signal to everyone who will be refurbishing buildings or building new ones—disability access must be central. We hope that the opportunity to send such signals will be taken.

Alan Dickson from Capability Scotland is a colleague on the NDC and he will talk to you about physical accessibility in Scotland, which falls within his remit. As you are probably aware, his organisation has done a survey of polling stations across Scotland. There is a big job to be done. The same is true in the rest of the United Kingdom, as has been shown by the work that Scope has done.

I will be delighted to take questions, either on what I have said or on the written submission.

The Convener: Alan, do you want to add anything?

Alan Dickson (National Disability Council): I am happy to go along with what David has said. From a Scottish perspective, I would add that the Scottish Parliament has a marvellous opportunity to take a lead role in ensuring that words about equality are translated into action; the Parliament has made a great start on that.

Shona Robison (North-East Scotland) (SNP): In your briefing paper, you say that a key task is to identify stakeholders. You state:

> "The Government was clearly an obvious stakeholder as the DDA placed a statutory duty on the Council to act upon requests from the Secretary of State."

You go on to say that the council can also give advice on its own initiative, which widens the stakeholder base to include disabled people. Could there be a conflict there? Some Executive actions or legislation may not always be to the satisfaction of disabled people. How do you balance that potential conflict of interests?

10:15

David Grayson: The majority of the council have disabilities or are parents of disabled children. Throughout the 50 months that we have been in existence and until we formally finish our work on 24 April, our job as a group has been to use our best skills and judgment to give advice to Government without fear or favour. We also represent a wide range of other organisations that are providers of goods and services. We must decide how best to deal with the remit of eliminating discrimination against disabled people.

When the group was set up, we were an advisory body and so had limited powers compared with those that will be enjoyed by the Disability Rights Commission, for example. Even as an advisory body, we took the view that we needed to be as proactive as possible, despite the constraints on us under law—we could not give advice to individual disabled people or comment on individual cases. We wanted to engage with as many organisations as possible that were of and for disabled people. In that way, we could ensure that our views were as well informed as possible. Balancing conflicting views comes with the territory.

I will give the committee an example of when we have given advice to Government that was not taken. We were—as the law required—consulted by the Government on a question about the employer threshold. Members will be aware that the employment provisions under the Disability Discrimination Act 1995 are very different from the service provider provisions. When that act was introduced, the threshold was 20 employees. If a company had fewer than 20 employees, the employment provisions did not apply. We were consulted about how far, if at all, that threshold should be reduced. After long deliberation and examination of all the consultation that had been done throughout the country, the unanimous view of the council was that the figure should be reduced to the legal minimum, which was two. We did not believe that that threshold of 20 was right in today's society, but the Government did not accept that view and reduced the figure to 15. That is a case in which, having listened to a wide range of stakeholders and having used our judgment, we gave advice that was not taken by Government. We have always taken the view that our job is to tell it as we see it.

Elaine Smith (Coatbridge and Chryston) (Lab): You mentioned the Parliament building. I believe that it is important that we have a new building for Scotland's new Parliament. We talk about open and accessible government, so it is important that the building is accessible to all Scotland's people. I, for example, do not want a building with no crèche facilities. Such facilities would not only be for the benefit of MSPs and staff—Scotland's people would be able to come and lobby Government effectively. I would not like cost to be an issue that affects accessibility for everybody. It might cost more than expected to get accessibility right. I understand that disabled people are represented in the talks about the design of the Parliament building. Is that the case? Are you involved?

Alan Dickson: I agree with what you say—the purpose of joined-up government and policies is to ensure that everybody is taken into account. In the discussion that has taken place on the Parliament building, there has been consultation with users of services, with disabled people and with professional groups on disability access. There is a continuing debate about the building, including the possibility of a change of site, cost cutting and so on. Because of that, we wanted to flag up the fact that we are worried that the disabled access issue might get pushed back, although there is no sign at the moment that that will happen. I know how difficult it is to marry all the conflicting issues, but that is how we would see it.

We do not see the question of accessibility as limited to the new Parliament building. We are also interested in what can be done in the constituencies to ensure that constituency offices are accessible to people who want to raise concerns. The same applies to polling stations, as David Grayson indicated in his opening remarks. The research into polling stations that Capability Scotland carried out some time ago showed that 73 per cent of polling stations were either totally inaccessible to people with a disability or had major problems. The Government took action and £250,000 was allocated to putting that right. However, most polling stations are located in primary or secondary schools, so the figures show how inaccessible our schools are. Under the disability rights task force recommendations to Government, which have been accepted, accessibility to primary, secondary and further education facilities will be taken into account, which was not the case previously. We need to be aware of that.

Elaine Smith: I had noted down the point that was made about accessibility to voting. Changes that are being planned for schools would presumably make a difference in that regard. People have the right to a postal vote, but many people do not get round to that in time and, in any case, I believe that everyone has the right physically to cast their vote at a polling station if they so wish. Do you think that inaccessibility to polling stations has discouraged many people from taking part in the democratic process and casting their votes?

Alan Dickson: As we said in our report, there is clear evidence of that. Lack of suitable transport and the inaccessibility of the polling stations combine to discourage people from voting. We know that in future many people will vote via the internet, but that is a long way off. There is even a slight worry that the internet will marginalise disabled people, because they will be able to do everything from home and so will not necessarily require access to the activities that we enjoy.

David Grayson: Shortly after becoming chair of the NDC, I went to Belfast to meet the then equivalent organisation in Northern Ireland, the Northern Ireland Disability Council. As I flew into Belfast, I read the various Northern Ireland papers, which contained a series of stories on the opening of the new Waterside Hall—part of the massive regeneration of inner Belfast on the Lagan. The Waterside Hall is an exciting, futuristic building, requiring a huge amount of investment; it is the centrepiece of a major regeneration strategy. Rightly, it inspires a great deal of pride. However, the project was not properly thought through, with the result that this entirely new building was inaccessible and measures had to be taken to remedy that.

I hope that whenever the Scottish Parliament's permanent home opens, and wherever you decide that it should be, it will serve as an exemplar for Scotland and elsewhere with regard to physical accessibility. It should send out the right messages to the design community, the architecture community and the construction industry about the critical importance of accessibility, especially in new build. All the research that we have seen—some of which we have been party to over the past four years—indicates that it is much more expensive and much less effective to do retrofit than to get things right first time.

If the new Scottish Parliament building is to be new build, what is done on accessibility can have huge symbolic impact. If the Parliament is accessible, that will affect your work as parliamentarians, both here and in your constituencies. One of our colleagues on the National Disability Council, Susan Scott-Parker, from the employers forum on disability, has produced a good guide for Westminster MPs on how to deal with disabled constituents and on the etiquettes for working with them.

I understand that, in April, Capability Scotland and other organisations will launch a Scottish version of that guidance, in conjunction with the cross-party group on disability. That will be a good opportunity for members of this committee—as people especially interested in and concerned about these issues—to encourage their colleagues to take up the matter so that accessibility is seamless in the Parliament, in terms ranging from accessibility to MSPs to the ability to take part in the democratic process in the polling station.

Mr Michael McMahon (Hamilton North and Bellshill) (Lab): I share your disappointment that a commission was not set up at the outset, but every cloud has a silver lining and your organisation has done a lot of spadework for the Disability Rights Commission. You have a solid baton to hand on to it, whereas when you started there was no baton. That is a positive development. You have said that you expect the commission to consider what is still lacking in the Disability Discrimination Act 1995. What do you consider to be the major problems that still have to be addressed?

David Grayson: The National Disability Council has considered this carefully. We have not been able to comment on individual cases but we can draw conclusions from a group of cases—that is perfectly permissible under the Disability Discrimination Act 1995. Six of us from the council were also members of the disability rights task force, which was chaired by the Westminster minister for disabled people. Its report, which was issued in December, contained 156 proposals for strengthening and developing the DDA.

Many of us felt that the biggest weakness of the DDA was that there was no commission to support individuals who wanted to bring issues to law as important test cases. The biggest weakness is therefore addressed by the arrival of the Disability Rights Commission.

The second key aspect was the definition of a disabled person for the purposes of the DDA. One of the areas that many of us felt was a weakness was the exemption of people who were asymptomatic HIV positive. One of the task force's recommendations was to broaden—not enormously, but in a number of critical areas—the definition of who constitutes a disabled person.

A third critical aspect was the exemption of education from the DDA provisions. I am delighted—we are ready to criticise when we think that it is right to criticise and to praise when it is right to do that—that the Government moved incredibly fast on the disability rights task force recommendations on education. We have brought with us the consultation paper that the Government has just issued on special education needs; the Government intends to legislate in this parliamentary session at Westminster to bring education within the scope of the legislation. That will have corollary impacts.

The council tried to persuade this Government, and the previous one, that the exemption of the youth service from the DDA should be removed. An implication of the Government's acceptance of the recommendations on education is that some related matters, such as the youth service, will also come within the scope of the legislation.

Some of the other aspects that we considered related to transport—I know that the Scottish Executive recently completed a review of the implications of transport and transport accessibility for disabled people in Scotland. The Scottish Executive report pointed out that the DDA would achieve only some things in this respect and that there had to be developments in other areas. The task force also recognised that in its work.

I would not pretend that the final report of the task force is the raciest of reads, but it is a good, solid document and we believe that the package of 156 recommendations is a sensible, realpolitik package. It was not meant to be a wish list with the kitchen sink thrown in. The task force had some tough debates; many of us wished to go further on some matters, but we recognised that it would be difficult to get a broad consensus on those issues across the Government and in Parliament. We therefore erred on the side of caution, saying, "Let's push those things that we believe Government can and should move on quickly." We hope that all the task force's recommendations to strengthen and go beyond the DDA will be implemented quickly. That will not need to be done with one bill; it can be done—as we have seen with education provisions—as and when opportunities for other pieces of legislation can be developed.

10:30

Johann Lamont (Glasgow Pollok) (Lab): I was interested in what you had to say about the number of exclusions from the act. We have taken evidence from folk who live on the Isle of Bute on the inability of parents of disabled children there to get their youngsters to the mainland. The ferries are a problem, as they are excluded from the act. I understand that school buses are also excluded. I am involved in work on the internal transport system in my local authority area and am familiar with the broader issues. Why do you think ferries and school buses were excluded? Are there grounds for optimism? Will there be a change?

We are reasonably comfortable with the idea of having ramps and wide doors to make transport more accessible for people with physical disability, but what work needs to be done to improve access for people with learning disabilities and to enable people to make decisions and contribute to the democratic process?

Finally, you will be aware that the Scottish Parliament is in the process of drafting the Standards in Scotland's Schools etc Bill. The extent to which the rights of a young person to be educated in mainstream education should be written into that bill was raised with this committee. We passed that on to the Education, Culture and Sport Committee. What position would you adopt? There is much discussion about the need to balance one set of rights against another. Do you think that the mainstream is working?

David Grayson: Sorry, I missed the last question.

Johann Lamont: Is the mainstream working? To what extent are your organisations being accessed by the mainstreaming committees of this Parliament? The Local Government Committee has talked about new ways of voting. I am not sure whether, when we discussed that, we had that perspective on it, although perhaps we should have had. It would probably be more useful for you to give evidence to that committee than to us.

David Grayson: I think that I counted five different questions. Let me try to pick them off.

I am afraid that I am not familiar with the detail of the Standards in Scotland's Schools etc Bill. The bill that will be produced by the Westminster Parliament during this parliamentary session will implement the disability rights task force's recommendations on education. We are positive about that, although, having got those recommendations into law, there is still the practical task of making them happen. That is not a party political point, as it has been an issue for Governments of different political colours over many years. One can put something into law, but unless one also wills the resources that are necessary to make those laws happen, the laws can be nothing but pieces of paper. The critical task, over the next few years, will be to ensure that the additional funding to make our schools and other parts of the education system accessible to all is made available. Some of the new elements of the picture, such as the university for industry and the national grid for learning, should also be accessible to disabled users and others.

I shall duck the question on transport, to an extent, and encourage you to put it to Bert Massie. In addition to being the deputy chairman of the National Disability Council and the chairman designate of the Disability Rights Commission, he is also an active member of the DPTAC—the disabled persons transport advisory committee of the Department of the Environment, Transport and the Regions. He has been personally involved in railway rolling stock. That is a huge issue, as there are long lead times with rolling stock.

I forget the exact date, so I do not want to be quizzed about this, but I think that it will be 2017 before the provisions for physical accessibility of rolling stock will come in. In the meantime, changes can be made. For example, when carriages are refurbished in the middle of their life, that opportunity can be used to effect some changes and make progress. However, Bert is better placed to give you chapter and verse on transport issues.

I am proud of the fact that ours was probably the first public body in the United Kingdom to have a person with a learning disabilitiy as a full member of the council. That has been the case from day one of our operations. There has been a change of membership, but we continue to have a member with a learning disability. We have practical experience of some of the reasonable adjustments that must be made in working methods to ensure that that member can be a full member, like anyone else on our council.

In raising awareness about disability among the wider public, employers and providers of goods and services, it is important to get over the stereotypes that still exist. Many people assume that disability is about somebody in a wheelchair or who is blind or deaf. We have to keep reminding people of the true picture of disability. I have not done a television, radio or print media interview in the past 50 months in which I have not taken the opportunity of reminding people that we also include people with learning disabilities, mental health problems and a range of other disabilities. I even had to remind John Humphrys, on the "Today" programme, when he repeated the stereotype of people in wheelchairs.

We have to broaden definitions of disability. When we first started the council, we got a market research organisation to give us some free help. We asked captains of industry, newspaper editors, senior civil servants and other key opinion formers, whether various types of disability—which were covered by the Disability Discrimination Act

1995—constituted, in their minds, disability. The ignorance of people's perceptions of disability was frightening. We must keep on reminding people that disability includes learning disabilities.

In talking about accessibility, we must keep ahead of the times. The Demos report was important because it reminded opinion formers outside the disability world and those inside it of the huge changes that we are all living through and which we cannot stop. Those changes include the development of e-commerce, the internet and Government services such as the national grid for learning online, as well advances in digital broadcasting. We must ensure that, in developing those services and facilities, we do not accidentally create new forms of social exclusion or new barriers for groups of disabled people. It would be interesting to find out how many of the websites of organisations that offer their services to the public on the internet are compatible with the Disability Discrimination Act 1995; I throw that out as a question.

A lot of the detailed, tough, hard work of the council has been done through five working groups, all with active members. Our education group has been led by one of Britain's most experienced experts on special educational needs, Dr Philippa Russell. She has been closely involved with the development of the green paper on special educational needs and with the Government's announcement in November 1998 of the extension of the special educational needs programmes.

Dr Russell's view, which she has developed on behalf of the council, is that the broad thrust of the UK Government programme, in terms of mainstreaming and the development of special educational needs, rightly recognises that mainstream schooling is not necessarily appropriate for every child and that there has to be continuation of a range of choices.

Johann Lamont: Would you accept as a starting point that the child ought to be in mainstream education unless the parents, in consultation with the child and professionals, felt otherwise? The feeling that the committee has been getting is that the balance is slightly different from that. The presumption appears to be not about whether the local authority mainstream provision could change but whether the child could fit into it. Do you think that the rights of the child should be considered more?

David Grayson: Yes, but as long as education is exempt from the Disability Discrimination Act 1995 it will be hard to ensure that that happens. Once we get the new education bill through the Westminster Parliament, the picture will begin to change.

The view of the National Disability Council is that in every area of life, the presumption should not be that a disabled person needs to be dealt with in a different place, at a different time and in a different way. The presumption should be that we are all part of the United Kingdom and should all be part of mainstream life, but it should be recognised that certain needs have to be addressed.

Mr Jamie McGrigor (Highlands and Islands) (Con): I entirely agree with what you say about mainstreaming. It is obviously important to persuade employers that a diverse work force is a good idea and that it is especially important to employ disabled people.

Am I right in thinking that objective 2 and 3 funding is available to help companies employ people with impairments?

David Grayson: The National Disability Council is concerned with discrimination against disabled people. In the past 50 months, it has been terribly tempting to broaden our remit. For instance, when battles were being fought in Westminster around the issue of welfare payments for disabled people, journalists would ask us to comment. Of course, we could not, as the matter is outside our remit. Also, given that such matters are outside our remit, we are not experts on them. Nor are we experts on training schemes or special funds for disabled people. Our remit in the employment area is to examine how the employment provisions of the Disability Discrimination Act 1995 are working and ways in which they can be strengthened.

The Government has created a good new body—the advisory committee for disabled people in employment and training, under Sue Maynard-Campbell, with whom we work closely. That group is doing a lot of good work in the area that you are talking about.

I believe that you are right about the availability of European funding. Help is available under initiatives such as the new deal, to enable adaptations to be made in the workplace. In the process of making adaptations for a disabled worker, the employer might well be making the adaptations that they would need to make under the service provisions of the Disability Discrimination Act 1995. Employers should therefore think creatively about how to kill several birds with one stone. Technically, however, that is outside of our area of responsibility.

Tricia Marwick (Mid Scotland and Fife) (SNP): I just want to explore further the reserved and devolved powers. For example, the devolved powers include education, transport and housing. How has the National Disability Council fed into the Executive's programme? Has it been consulted about or had input into any of the bills that are currently before Parliament?

Secondly, some of your 150 or so recommendations for improving the DDA involve legislation; others do not. How many of those recommendations could be addressed under the Parliament's devolved powers?

10:45

David Grayson: I will let Alan Dickson deal with the detailed question about reserved and devolved powers and our relations with the Executive on pending legislation.

Your second question raises some very important points. The disability rights task force made 156 recommendations. The task force was chaired by the minister with responsibility for disabled people, Mrs Margaret Hodge, and contained representatives from a broad cross-section of interests such as the Institute of Directors, British chambers of commerce, major companies, small businesses, local government and social services as well as people with a broad range of experience of different forms of disability and with long service in dealing with improvements for disabled people and advancing disabled people's rights.

The task force examined existing legislation and other areas for development and produced a unanimous report. I hope that someone in the Executive has taken an overview of the disability rights task force's recommendations and of which of those recommendations—which were the product of almost two years of very hard work with many detailed submissions from different organisations—could be implemented in Scotland in advance of any GB legislation. I am not aware of whether such an exercise has been undertaken by the Scottish Executive; if not, it would be marvellous if the committee could give it a push.

Tricia Marwick: I will lodge a specific question about that issue today.

David Grayson: Thank you very much.

Alan Dickson: Before the Scottish Parliament was elected, particular Scottish aspects of issues such as education and transport were taken into account on the NDC's various working groups. Since the advent of the Scottish Parliament, many organisations—not just the NDC—have had much direct input on issues of particular importance. Several devolved issues such as transport and education have been highlighted, and Scotland has particular difficulties in rural areas. Such issues can be addressed very effectively in this country and we hope that the Disability Rights Commission with its Scottish office and commissioner for Scotland, Elaine Noad, will be able to drive the equality issue for disabled people through the Parliament with the support and help of the various organisations that represent individuals with a range of disabilities.

There are key issues to address. We welcome the Scottish Executive's recent research on transport difficulties. Difficulties with ferries—with Caledonian MacBrayne being a particular example—create major problems for outlying areas. Such problems have a knock-on effect on education, where people are segregated not just because of disability, but because of geographic placement.

Someone in the Highlands who has specialist educational requirements has to travel far from their home. There is much work for us to do to ensure that mainstream education can cope with a wide range of people with disabilities. However, we must recognise that some people have specialist requirements that should be addressed in a specialist resource. The trick is how we make that specialist resource much more inclusive and community based.

Professor Sheila Riddell recently reported to the Scottish Executive, which has accepted a large tranche of her recommendations. The debate about education for disabled people is beginning to move on markedly.

Mr John Munro (Ross, Skye and Inverness West) (LD): I have listened with interest to what you have said, which has been very revealing. There are different types of incapacity. I have a keen interest in lack of mobility—the situation of someone in a wheelchair—which is the most regularly recognised incapacity, although there are many others.

I think that there is a distinction between access and accessibility. Some years ago, an organisation in which I was involved put some of the heaviest of our colleagues in wheelchairs and had some of the lesser mortals push them around the town of Inverness. We found it almost impossible. That was the first time we realised the difficulties that people encounter, even in crossing the street.

Although some public and private buildings, such as superstores, doctors' surgeries and solicitors' offices, could be accessed, once access was gained, there was little opportunity to move around or through the building. There was provision to allow wheelchairs to enter through the main door, but it was almost impossible for them to move around the building. We face a steep learning curve on accessibility.

Public transport is not user friendly for someone in a wheelchair. Somebody who left home this morning in a wheelchair to go somewhere on their own by public transport will have encountered almost impossible difficulties—I do not need to tell you that, as you will know all about it. How do we encourage public bodies and agencies to get away from the idea that they have done their little bit by providing public access and to ensure that their buildings are user friendly?

David Grayson: The question is whether organisations are public; commercial, as superstores are; quasi-public, as doctors' surgeries are; or in the voluntary sector, as Citizens Advice Scotland or Capability Scotland are. All those organisations, as well as faith groups and so on, are covered by the Disability Discrimination Act 1995. In 2004, physical access will be an important provision for them, as long as that is reasonable in the circumstances.

There are a number of things that we have to do. It is a bit like Chinese water torture—drip, drip, drip. There is no magic wand that will make everybody wake up to this. That is why I was serious when I suggested that you, who are opinion formers and are out and about constantly, have an important role to play in pushing this up the agenda.

There are several key steps to be taken. First, we need to give as much guidance as possible, as early as possible, on the 2004 provisions. Many businesses and other providers of goods and services get worked up and hostile to regulation of any description not because it is regulation and red tape per se, but because it seems to be brought in without any explanation of the principle behind it or the policy goal. All too often there is little practical guidance on how to obey the spirit of the new regulation while having a decent amount of lead time to prepare for it.

If the disability rights commission can receive a fully worked-out code for the 2004 provisions, on which it can go out to consultation immediately if it so chooses, and if the Government plays its part in developing the regulations that will give effect to the final part of the Disability Discrimination Act 1995 concerning physical access, I hope that the final form of that code and those regulations can be in the public domain early in 2001. That would allow a good three years for any provider of goods and services—whether it is a public institution or any other kind—to understand what is required. The legislation has been on the statute book since 1995. For almost a decade, any organisation has known that, come 2004, those provisions for physical access will be required of them.

The second key thing that we have to do—I am sure that the Scottish Executive could play a leading part in this—is to influence architects, interior designers and the people involved in refurbishment and new building work to treat physical access much more seriously as a mainstream issue. We have to challenge the architectural profession and the interior design industry to regard it as a source of pride that they have produced something that is not only aesthetically marvellous, on time, within budget and so on, but that is exemplary when it comes to physical access. That is why I was hammering home the point that the Scottish Parliament building should be an exemplar and a symbol. Come 2004, the legislation will, of course, cover any building that serves the public.

Alan Dickson: You referred to Inverness. It is a sobering thought that a great many pedestrian developments in towns and cities are making it more difficult for disabled people to get around. If we find a bus or a taxi that is user friendly for disabled people and allows them to get to town, they then cannot access the shops—although all of us agree that pedestrianisation is a good thing.

We can influence future developments with good practice. One of the responsibilities that David took on as chairman of the NDC right at the beginning was to identify examples of good practice and to make people aware that that good practice is not necessarily expensive. In the act there are words about "reasonable adjustment"—although one man's reasonableness is, for another man, all hell breaking loose. We have to make those reasonable adjustments in such a way as to ensure that there is good access within a building, as well as a ramp to get in from outside.

Historic Scotland has a major problem with historic buildings, but I have been impressed by the way in which its architects are approaching the problem from a positive angle—they are not looking for excuses to avoid making adjustments, but looking for reasons to implement adjustments. That is very encouraging.

David Grayson: I would like to go back to the first point about listening to stakeholders. During consultation with representatives from small business organisations, a genuine fear has been expressed about the costs involved in making adjustments and whether they could lead to bankruptcy. We have always felt that the DDA should not lead to any unreasonable burdens being placed on organisations, especially small ones. That is where the reasonable adjustment provisions of the DDA are very important. The disability rights task force recommended that those provisions should continue. We also recognise, as Alan Dickson rightly pointed out, that many of the adjustments and changes do not need to be very expensive. A lot of organisations have quite ambitious programmes in this area, and most changes cost little or nothing; it is about using your head and thinking things through.

We recognise that people want to know as much as possible about physical access. In addition to the formal code, which has a certain status in law, and which has to be taken into account by the courts in any cases that come under the physical access provisions of the DDA, we have developed a guide in parallel with the Centre for Accessible Environments, which is one of the leading authorities on such matters in the UK.

There are very practical issues. What should the gradient of the ramp be? How wide should the doorway into the disabled persons loo be? How big is the space required for turning around in a shop's changing room? For physical accessibility, that is where the rubber hits the road. We have commissioned a guide, which I have with me. It will not be a formal part of the code, but it will be there in parallel. It tries to provide for smaller and medium organisations. In typical circumstances, in the cafe on the High Street in Inverness, for example, what do people need to be aware of? How might they go about making the appropriate changes?

11:00

The guidance will be available, and it will be up to the Disability Rights Commission, to the British Government and to the Scottish Executive to invest substantially in an education and information campaign. We at the National Disability Council have always felt—we said this very clearly to ministers at the time of the previous phase of implementation of the DDA last October—that the communications strategy that the Government has put in place to make the new provisions and new obligations has not been anywhere near sufficient.

This remains our view: if you really want to bring about effective, sustained social change in Britain for disabled people with regard to accessibility, you will have to do a lot more over a longer period to make service providers genuinely aware of what is required of them and of how they can go about doing it. That is a gap that I do not believe is yet fully understood by the Government.

Mr Munro: That is an interesting point. The architects, the designers of the building, allow a wider corridor or access door for the wheelchair, but never realise that the turning area required for the wheelchair is much greater. I understand that about 5 ft of space is required.

You made a point about pedestrian precincts, which seem to be the fashionable thing nowadays in many city centres and small towns. They are all very nice and aesthetic, but one of the main products that is used in constructing a precinct is the very fashionable lockblock or paving brick. I have received several complaints that the paving brick is all very well to walk on, and offers a nice pedestrian facility, but it is not the most comfortable material to use a wheelchair on. I would be interested to hear if you have had many complaints about that.

David Grayson: I will refer that question to Bert Massie, who is much more closely aware of the transport issues. Because we are expressly barred from dealing with individual members of the public or with individual inquiries, except in pretty unusual circumstances, we do not encounter the flow of queries that might come to the DDA helpline, to citizens advice bureaux and so on. I am not personally aware of the issues concerned with that and, rather than waste your time, I will pass the question to Bert Massie, who is in a better position to answer it. I am conscious that, in his absence, I have been tossing the tough questions over to him. I hope that you will treat him gently.

Alan Dickson: It may be argued that those blocks are the modern equivalent of cobblestones, which make it difficult for people to get by in wheelchairs. That must always be borne in mind when undertaking pedestrianisation.

The Convener: The first page of your written submission says:

> "The Council was created in a climate of disappointment and mistrust by disabled people".

Now that you are handing over to the Disability Rights Commission, have you managed to change that over the short period of time that you have been operating?

Page 2 of the submission says that the Council has

> "been unable to provide information to . . . organisations on how to interpret and implement the DDA."

Who has been giving information to individuals and organisations?

The Parliament is in the process of recruiting an equal opportunities officer, who will work with organisations such as those involved in the NDC to develop an equal opportunities policy that will cover the employment of parliamentary and MSPs' staff. We look forward to working with those organisations.

David Grayson: My colleague Colin Low from the Royal National Institute for the Blind has argued strongly on the National Disability Council that America is way ahead of us. The Americans with Disabilities Act was passed in 1990. Anyone who has travelled to the States in the past few years will know that America is some way ahead of the UK in terms of accessibility for disabled people.

The American experience shows that, although one can produce generic advice and guidance to employers and to providers of goods and services, the most effective way to make people understand what the legislation means for them, as bankers or as supermarket operators, is to produce sectorally specific guidance. That guidance should employ examples relevant to each industry, with names that those industries respect, are familiar with and admire, and should focus on those parts of the legislation that are most relevant to each industry. It should not focus on a whole series of provisions that are less likely to impact directly on those industries.

We have tried to encourage that as much as possible. For example, we persuaded the British Bankers Association to produce a detailed guide for its members, setting out the issues that were most relevant to the financial services sector. At last year's Local Government Association conference in Harrogate, we launched detailed good practice guidelines for local authorities, covering all aspects of the service side of the Disability Discrimination Act 1995.

I do not want to be misunderstood by making direct analogies, but there is scope for guidance in some of the areas that we have touched on this morning, such as access to MSPs' constituency offices. Hammersmith and Fulham Council in London has issued such guidance to ensure that all its councillors understand how to make their surgeries accessible. The equal opportunities officer might be able to work on that; it is a marvellous innovation that the Parliament should be appointing such a person. The good practice guidance for improvement in management for local government could be made available.

I hope that we are finishing our job with a different attitude on the part of disabled people's organisations. The people concerned tell me that that is the case, but I suppose that they should speak rather than us making those claims for ourselves. I can only tell you about the messages that we have been receiving in the past few weeks. On Thursday we are holding a final stakeholder reception, hosted by Jack Ashley, chairman of the all-party disablement group, in the House of Lords. More than 100 stakeholder organisations, including many of those that regard themselves as being at the more radical end of the disability lobby, are coming to celebrate 50 months of the council and to assist with the handover to the DRC. The messages that we have been receiving over the past few weeks suggest that they believe that, given our virtual lack of a budget and very constrained legal powers, we have achieved far more than anyone expected.

Until now, disabled people have been provided with advice and information by a variety of means. There has been a huge burden on front-line organisations such as the citizens advice bureaux, members of Disablement Information and Advice Lines UK and members of the Alliance of Disability Advice and Information Providers. I have had the privilege of speaking to both the annual conferences of ADAIP, as a way of ensuring that we collaborate with it as closely as possible. Although legally we have not had the power to provide advice and information to disabled people, indirectly we have been able to help stimulate the thinking and awareness of people on the front line who are doing so and to suggest how they might strengthen their networking.

It will be for Bert Massie to comment on this when he joins you later, but I hope that the Disability Rights Commission will want to work through front-line information providers up and down the country and will strengthen their capacity to provide information. Recently, the Government invested £500,000 in the National Association of Citizens Advice Bureaux, to enable them to take advantage of information and communications technologies. I hope that, in the next two or three years, investment of that kind will be forthcoming for front-line providers of information to disabled people, from a combination of sources—the DRC, central Government, lottery funding and so on. If we help front-line information providers to harness information and communications technologies, they will be able to have a greater impact.

Right at the outset, the Government created a second-tier advice and information service, known as the disability access rights advisory service, which is available to any front-line information provider. DARAS services both those advising individuals such as the CABs and DIAL UK branches, and organisations such as chambers of commerce and business shops—business links in England and business connect offices in Wales—which advise small and medium companies.

Although Government has not given us formal responsibility for DARAS, as members of internal Government advisory groups we have been involved in practice. We were heavily involved in the initial specification for DARAS and in choosing its provider. Over the 50 months of the council's life, we have received regular reports on the performance of DARAS, particularly on its ability to reach out to organisations advising small firms that have made a number of detailed recommendations and suggestions to Government and to DARAS on how they can improve their performance. We have been watching that closely.

Initially, DARAS will fall under the DRC, which is planning to extend the service considerably. Bert Massie's written submission refers to that. He will be able to talk further about the forward plans, one area in which the legal powers and budget of the DRC will make a huge difference as compared with the NDC. The DRC will be able to make a major contribution to strengthening information provision at the front line.

The Convener: Thank you for appearing before the committee this morning to give evidence. I found that very useful, and I am sure that the committee did too.

David Grayson: Thank you for the opportunity. My appearance before the committee was not as painful as going to the dentist, as I had been warned it would be.

The Convener: I will adjourn the meeting for five minutes to give the next witness time to settle down, as he has only just arrived.

11:14

Meeting adjourned.

11:24

On resuming—

The Convener: I welcome Bert Massie, who has come to give evidence to the committee. David Grayson has not answered some questions and I am afraid he said that you would answer them, Bert—he has left you to it. The committee has received the note that you sent. I invite you to give a brief presentation, after which the committee will ask questions.

Bert Massie (Disability Rights Commission): Thank you for inviting me. I am pleased to have the opportunity to speak to you at an early stage in the life of the Disability Rights Commission. In fact, it is so early that we have not yet opened our doors—we intend to do so on 25 April. However, as you can imagine, we are already engaged in putting together a broad strategy.

I am also pleased that you invited David Grayson. I have worked with David from the beginnings of the National Disability Council and I would like to pay tribute to him for the work that he has done and for the work of the council. It has done an enormous amount, despite having only an advisory role and it has prepared the way for the Disability Rights Commission.

As members will know, the establishment of the DRC is the culmination of a long campaign that has been waged by disabled people and their organisations. The campaign was aimed largely at the Westminster Parliament, and was conducted throughout the country. When the Disability Discrimination Act 1995 reached the statute book, it was clear that without a commission to drive its agenda forward, the act was a car without an engine, and that it was unlikely that rights for disabled people would be achieved.

The Disability Rights Commission Act 1999 sets out the broad framework for the commission, which is to tackle discrimination against disabled people, to promote equal opportunities, to spread good practice and to advise the Government on the effectiveness of current legislation. We interpret that legislation as being wider than the Disability Discrimination Act 1995 and other legislation that is relevant to disabled people.

Expectations of the DRC are high. Our task in all three countries of Great Britain is to use our powers, status and resources to the best possible effect in securing rights for disabled people and to create a society in which disabled people fulfil their potential as equal citizens. It is easy to say that, but it is an enormous aspiration.

How will we set about our task? A wide range of instruments is available to us. We will start by providing the highest quality of information using the post, telephones and websites. We will also produce a lot of literature and we will signpost people to expert disability organisations and others. We want to change the way in which people think and we will devote our resources to working with other people. We want to set standards and disseminate best practice. Later in the year, we will establish a conciliation service. We will not conduct that service ourselves, but will fund it—it will be completely independent. According to the act, that is the way in which it must function.

We will use our legal powers to support individuals in bringing cases to tribunals and to the courts and we can use our own lawyers or we can pay for theirs. We can also launch formal inquiries, through which, with other organisations, we can arrive at agreed statements on future behaviour that would be legally binding. Of course, we need to have firm objectives when we use those powers, but we would lose credibility among disabled people if we declined to use the powers when use of them was appropriate.

Our role is, therefore, one of education, conciliation, promotion and, ultimately, of enforcement. It will take us some time to set up our full strategy, which we intend to publish by October.

However, we are already doing some things. When we open our doors on 25 April, we will inherit the current DDA helpline and the mediation services of DARAS, which we will rebrand. Later on in the year, we will establish our own call centre and a caseworker service, so that we can assist people in presenting their cases and, I hope, resolve disputes before they go too far and become too upsetting. The new conciliation service will handle cases under part 3 of the DDA, which covers access to goods and services. The Advisory, Conciliation and Arbitration Service will still handle cases under part 2 of the act, which covers employment. We do not want to duplicate that work.

11:30

I imagine that David Grayson mentioned the new code of practice, which was drawn up entirely by the National Disability Council. We will inherit that code, and will discuss it at the commission's meeting tomorrow. I hope that we will be able to launch the code as a consultation document either in late April or early May. We would like the code to be in its final form by early 2001, when we intend to publish it.

People will have to retrofit their buildings. That is a measure that will affect the entire country, but it has particular implications for Scotland, where there are many hills and where access is more of a problem than in a flat county in which buildings are built accordingly. People will have time to learn about what is coming and to do that work before the law bites in 2004, although we do not yet know the specific date.

We will advise the Government on the legislation it has announced to extend the DDA's provisions. We welcome the Westminster Parliament's commitment to extending the provisions of the DDA to education, which was a major gap in the 1995 act. The DRC will then draw up statutory codes of practice for education. We expect to start work on those during the summer, once we know what provisions the legislation will contain.

More generally, the DRC will progress all the outstanding recommendations that were made by the disability rights task force including, as a priority, an action plan to improve the provision of health and social services for disabled people. We also want to consider the employment threshold, which is currently 15 and which the task force recommended should be reduced to two. We will not say yet at what level we believe the threshold should be set. We want to consult on that and we do not want to prejudge the outcome of the consultation process. None the less, we are conscious that disabled people cannot find any rationale for the threshold remaining at 15, because employers can say, "We know that you are the best person for the job, but we're just going to discriminate—we don't like you and we're not going to employ you."

More crucially, if someone who works for a small company becomes disabled, their employer has no obligation to try to keep them in the work force, even if such a step is both possible and reasonable. While we want to listen to employers and take account of their arguments, the commission will approach that subject with the view that despite being open-minded, we cannot see why that threshold should remain. Those are some of the major tasks that face the DRC.

We also cover Scotland, and it is important that our work reflects accurately the interests of the people of Scotland and Wales as well as those of England. Disability legislation is reserved by the Westminster Parliament, but many other pieces of legislation and functions that are crucial to disabled people are devolved, including education, transport, health and social services. While committee members will have their own views, devolved responsibility might spread to other areas—we must be conscious of that. We also know that the Scottish Parliament and the Scottish Executive will press ahead with promoting both equal opportunities more generally and the human rights agenda.

What can we do to ensure that we take on board and respond to the views of the people of Scotland? We have appointed a Scottish commissioner and that appointment was checked with the Scottish Parliament before it was made. The commissioner is Elaine Noad, who is blind and is the director of community services for South Ayrshire Council.

We have also appointed a director for Scotland. He is Bob Benson, who is known to many of you. He is currently the director of Disability Scotland, which is the leading disability organisation in Scotland. Bob was also a member of the Disability Rights Task Force.

We have located an office on Gorgie Road in Edinburgh. We chose Edinburgh rather than Glasgow because we wanted to be near politicians and the legislature. We will also have some outworkers in Scotland—Edinburgh is a long way from Aberdeen and many other places.

We have also set up a legal committee and we are looking for a solicitor or barrister who is an expert in Scots law to join that group. So far, the group has had only one meeting to decide its terms of reference. We will be running a roadshow, which will come to Scotland and the DRC website will be available internationally.

The Disability Rights Commission is at the beginning of its task. We do not know it all and we have a lot to learn, but we are determined to tackle our remit successfully and in doing that we will need the help of the Scottish Parliament. We must ensure that we are not London-centric and that our actions reflect the needs of the entire country. Our doors will always be open to the committee and we hope that you will use us, just as we hope that the committee will be open to us using it.

The Convener: Thank you—I echo those final comments. We work closely with the Commission for Racial Equality and the Equal Opportunities Commission and we are looking forward to working closely with the Disability Rights Commission.

Mr McMahon: I have a question about the section in your paper on what the DRC will do. I am particularly interested in the information and advisory service and the legal support for individuals who are involved in key disability issues. Do you see the DRC as an advocacy body that will look after the interests of those who are denied access to the legal system?

Bert Massie: We need to focus on the reason for establishing the DRC, which was discrimination against disabled people. We are not an advocacy service for disabled people on matters that do not relate to disability. We do not provide a legal service to people because they are disabled. If a disabled person is in dispute with a neighbour about a hedge that is not a disability issue and it is not a matter for us.

We must be different from the disability charities. We have a duty to industry as well as to disabled people, although if disabled people did not face discrimination, we would not exist. If a disabled person believes that they have been discriminated against because of their disability, they should contact us and we will analyse the case. Our caseworkers could intervene to try to resolve a matter or there could be a case for legal action.

In some cases, we might want to take legal action immediately to make a point. There have been cases of deaf people being refused access to pubs because the landlord thought that their use of sign language was threatening to other customers—that is blatant discrimination. A few court cases on such matters would enlighten landlords and make it clear that that is not the way that they should behave.

There have been cases in which people with learning disabilities have been turned away from hotels because the hotelier thought that they would put off other guests. That is blatant discrimination, which is already unlawful, but there might be cases that are more difficult to resolve. Under the Disability Discrimination Act 1995, no physical structural requirements need be made to buildings until 2004. Therefore, we could not help someone who wanted to sue because of a building—the law would not support that.

We would also want to go beyond the law—if we use only the law to set standards, standards will become the minimum that the law requires. We want to use best practice as well—in some cases that will go beyond the law.

I hope that the advice and information service will be readily accessible and that people will be able to use it on their own terms. It is common for a website to have pages on frequently asked questions—we plan to have frequently posed problems and a number of possible answers to those on the website. We hope that employers and service providers will go to the website and realise how they might solve problems.

On employment, we can advise people but the Advisory, Conciliation and Arbitration Service will be the main means of conciliation. When many employers examine the needs of disabled people, they do not know what questions to ask. Sometimes discrimination is blatant and obnoxious, but in many cases it is the result of misunderstanding. An employee might have become disabled and their employer might not believe that they could carry on doing the job because the employer does not know about the technology and training that is available. Even if the employer knows about those things, it might be that the disabled person cannot do the job. There might, however, be another job in the company that the disabled person could do using other provision.

We want to be conciliatory and open to employers and service providers as well as to disabled people. I hope that employers and service providers will not hesitate to ring us. If they do, we will not say that they are doing so because they discriminate, but because they have made the first big step in acknowledging that there is a problem. We must be open and we must ask how we can solve the problems. That is what most disabled people want—they do not want to go to the courts if they can avoid it. However, there are occasions on which that is the only way that we are going to get an answer.

Tricia Marwick: First, on legal matters, you say that you would like people to work together as much as possible, but there will be occasions when people will take employers and others to court. Will you confirm that the Disability Rights Commission would not take on all court cases and that you would do so only when there was a specific element that you wanted to explore? If that were the case, most people who take their employers or others to court would need recourse to legal aid. Are you concerned that a number of people with disabilities might find it difficult to access legal aid to take their cases forward?

Bert Massie: We are drawing up criteria for the types of cases that we want to take. In the first year, we will need some quick hits. We also want to take on test cases when there is ambivalence in the law and when both parties might find clarification of the law helpful.

The codes of practice contain many examples of cases that we cannot deem as lawful or unlawful until they have been through the courts. Therefore, I would like to turn those examples into statements that say, “X versus Y shows that that was not lawful.” That would provide clarification.

Clearly, we cannot take on every case. Even if we spent our entire budget of £11 million we could not pick them all up. I have met some trade unions and I hope to do some work with the trade union movement to enable union members and shop stewards to advise people. That already happens to some extent and many cases that have been through tribunals have been supported by trade unions.

11:45

There is a less obvious case for the role of trade unions in relation to part 3 of the Disability Discrimination Act 1995, because that part is not about employment. In England, cases that relate to part 3—the committee will know about the situation in Scotland better than I—can be taken to the small claims court, which is inexpensive. However, the compensation that one can receive in such a court is correspondingly low.

If we can win some test cases and show what is required under part 3 of the act, many solicitors will be happy to take cases on a contingency basis, because they will know that they are going to win. Once the law is established, many service providers who discriminate will think two or three times before doing that.

There was a case in London recently in which a supermarket refused access to a guide dog and, by implication, to its owner. Although the guide dog was not covered by the act, its blind owner was and, therefore, received compensation. Supermarkets certainly would not ban a guide dog now—the law that says that the owner of a guide dog has a right of entry is clearly established.

We have not quite worked out our budget, but we will allocate in the region of £300,000 to £500,000 for legal services in the first year. We are prepared to take on some tough cases because we want to clarify the law. When we have done that, it will be easier for people to get legal aid and other help. However, cases that are brought under the act will be civil cases, for which it is difficult to get legal aid. It will be difficult for some people to access the law, as it always has been. We can make access easier but we cannot make it available in every case.

Tricia Marwick: What relationship do you have now and what relationship do you hope to have with the Scottish Executive on devolved matters, such as health services, social services, housing—which is a biggy—and education? Have you advised the Scottish Executive? If not, do you intend to hold meetings with ministers or with the Scottish Executive equality unit?

Bert Massie: We have not had meetings with the Scottish Executive. We will have an office in Edinburgh because we want that office to lead on the negotiations and links with the Executive. People who know what is happening in Scotland on a day-to-day basis must do that. London staff will spend quite a bit of time in Scotland, but those links need to be led by a Scottish office.

Discussion must take place at the level at which policy is devised. If we wait for a document to be published and then say which paragraphs are good and which are bad, there is immediate potential for conflict. If we get round the table before a document is written, it will reflect people's needs better. A vast range of expertise on transport is available to us.

We made all the mistakes in the past and we know roughly what they are. We know what the solutions are and we can feed them in. Even in transport, there will be occasions where an English solution will not work in Scotland. For example, in urban centres it becomes possible, as well as desirable, for every taxi to be 100 per cent accessible. It is questionable whether 100 per cent access can be achieved in remote areas where vehicles are used for different purposes at different times of day.

If there is a problem, what are the solutions? Scotland led the way on accessible post buses. That was an idea from Scotland that has moved to other rural parts of the country. We want to work at all levels. That will be done largely through staff and with the commissioner for Scotland. However, I do not see the Scottish part of the commission being separate from the rest of the commission. It is important that what happens in Scotland influences what the commission does throughout the rest of Great Britain.

Marilyn Livingstone (Kirkcaldy) (Lab): I would like to explore education—an issue that we discussed with David Grayson. The bill will provide protection against discrimination in schools and further and higher education colleges. We also talked about the new deal and the advisory committee that will look after work-place training. I would like to explore the issue of people on Government funded training schemes such as skillseekers, or local authority funded training programmes such as community education. Will they have the same level of protection against learning and physical discrimination?

Bert Massie: My understanding is that they should. I have not seen the text of the bill that the Government is proposing, although I have seen some papers that indicate what is likely to be in it. Anything to do with education should be covered. In training, a disabled person is seldom discriminated against in the sense that we normally think about discrimination. We should ask, "Is the person on the right course for them?" Sometimes, it is seen as easier to put people on a course because it is local or cheaper, but the outcomes are not what you would like them to be. That is not necessarily a matter of discrimination: it is a matter of asking whether the training courses are good enough for the job that the person is supposed to be doing.

My understanding is that no part of life should be exempt from the basic rules regarding discrimination, but the definition of discrimination must be a comparison between how a disabled person is treated and how a non-disabled person is treated. The example that I usually give concerns a restaurant, although it could be applied to a training course. If I go into a restaurant and the waiter spills soup on my knee but nobody else's, I probably have a case of discrimination. However, if he spills soup on everybody's knees, I just have the wrong waiter and I am in the wrong restaurant. That is not discrimination; he just spills the soup on everybody's knees and he is not a good guy. You might think that you are on the wrong training course, but that course could be bad for everybody—there is a case for considering what training is on offer.

In some cases, and certainly in relation to people with learning disabilities or complex disabilities, far greater resources must be put in, because the assessment at the beginning sometimes needs to be lengthy. You cannot put people through a five-hour assessment or a two-day assessment—at least, you can, but you get the wrong result, you put them on the wrong course, you get a negative outcome and everyone says, "Oh, that didn't work." However, it did not work because we tried to save money at the beginning. With many training courses for disabled people, we need to spend a lot of time assessing a person's needs fully, and then supporting them fully on their training course and giving them the extra help that they need.

It is no good putting a blind person on a training course and not supplying the training material in Braille, on tape, or in a suitable alternative format, and then saying, "Oh gosh, you've failed." Unless there is a recognition from the beginning that supplying such material costs more, we are wasting our time and, in this case, the blind person's time. In particular, people with learning disabilities will need more help and more time to absorb information.

Johann Lamont: Thank you—I found that very interesting. I am as interested as Tricia is in the way in which the commission could have an impact in Scotland and in the way in which its important work could impact on our ability to mainstream equalities issues in the delivery of services and in any legislation. What do you expect from your relationship with the Scottish Executive and its equality unit? What would you expect this committee to say to the Executive about the way in which it ought to work alongside you? Your point about being involved before documents are written is important—any group that argues for equality is perceived to be knocking what already exists.

What should we be saying to the subject committees of the Parliament about their obligation to work with the commission or to see the commission as an important resource? Although the Equal Opportunities Committee will hear the important evidence that you will provide, there is always the worry that the Transport and the Environment Committee, for example, may not come to you on transport issues as a first stop. Should we say to committees that they should have a slot in which they specifically ask for your comments on any matter under consideration?

Bert Massie: Those were two very good but different questions. The first was on the relationship with the Executive, which I hope will be open, transparent, close and honest. The first thing that the commission will have to do once it has been set up properly in Scotland—about 10 per cent of our resources will be allocated to Scotland—will be to get to know people and to build up respect. The commission cannot demand respect from anybody—that respect will have to be earned by the quality of our contribution. I think that we will deliver on that.

We will also need to be mature about information that we are given. Sometimes information is ready for the public arena; other times ideas are being floated that—if they got into the press—would make people throw up their hands in horror. Many such ideas are never going to fly, but it is better that they are discussed, even if only to be dismissed. They need to be discussed in confidence, and people need to be able to speak knowing that no one in the room will go outside and break the terms on which the conversation was being held. The DRC would always respect that.

The DRC would like to be able to draw on the expertise of all the other committees and the wide networks that are already developing. The DRC would be at your disposal. I hope that, when you are scratching your heads, either individually or collectively, wondering how to approach something, you will feel free to pick up the phone knowing that you can get advice. You will not always accept that advice—that is life. Sometimes, your agenda will not be our agenda. However, advice will be given to you openly and honestly; if you do not accept it, we will not hold that against you—at least, not for the first few times.

When we talk about mainstreaming, it is important to consider a few points about disability. If anybody in this room should survive to the age of 85—and I hope that you all will—nine out of 10 of you will have a significant disability. You have a choice: die young or get ready to join us. You may have joined us already—I do not know whether any of you are disabled.

We are talking about everyone. We should break away from the notion that there is a distinction between a disabled population and a non-disabled population. We are all somewhere on the spectrum. Who is totally fit? Who is totally disabled? The definitions become problematic. I regard mainstreaming as the natural way forward, as disabled people are part of our society. Given survival rates, everyone will become disabled at some point. Take, for example, the incidence of heart disease in Glasgow, which is higher than the national average. People are seemingly non-disabled one day and disabled the next.

12:00

How can a disability audit be conducted on each policy? On a spectrum of disability, there is no typical disabled person; the figures on disability vary depending on who is asked. The Government says that there are 8.6 million disabled people in the UK. If the Government gives a figure, it must be accurate. However, if you are not quite persuaded by that, Arthritis Care says that 7 million people have arthritis. The Royal National Institute for Deaf People says that 7 million people have some degree of hearing impairment. The Royal National Institute for the Blind says that nearly 2 million people—excluding those who wear spectacles for everyday use—have some degree of visual impairment. We also know that there are around 800,000 wheelchair users.

Those figures make it hard to know how many disabled people there are. However, we can work out that needs vary enormously. It is probably unrealistic to expect one disabled person to represent the full spectrum of the needs of disabled people—in the figures that I have just cited, I have not included people with a history of mental illness or people with a learning disability.

When policy is devised, it is worth saying to every department that it should consider what effects that policy will have on disabled people—whether positive or negative. You might then want to go further and ask for a statement on the way in which that policy could be amended to assist disabled people. There is a need for a group to examine policies and to advise on them. The DRC can do that, but there are also many voluntary organisations in Scotland—Disability Scotland is among them—and there should be a network of around 25 to 50 of them to which all the documents should be sent at the appropriate stage for comment.

Inevitably, there will be requests for things that you do not think that you can deliver immediately or in the medium term, but you will at least know what the disabled people’s agenda is, which will help to inform policy making in the future. You cannot lose by doing that—you can only gain. Along the way, disabled people will undoubtedly gain.

Johann Lamont: You talked about the added costs of training. However, if people are unable to maximise their abilities and talents in the workplace, the cost is borne by the broader community and we prioritise one set of costs above another. I assume that you will have a role in producing materials that address that issue, just as the Equal Opportunities Commission produces user-friendly materials on women’s pay. Will that be part of your work?

Bert Massie: We are setting up a research department. Emotions impress to an extent, but facts are much more impressive. We want to have the data to substantiate what we are saying, and some of the facts make the case more eloquently than many emotional arguments. We also need to present the information in ways that are accessible to people. That is not just a case of alternative formats; it means using language that people who may not have a higher education can follow—words which people understand—and it means expressing concepts clearly and succinctly.

Promoting change is a large part of our brief, and we need to present two arguments. One is the business case. About one household in four in this country contains a disabled person. I do not know how wealthy they all are, but there are certainly some very wealthy disabled people. There is also a far larger number of disabled people who live on very limited incomes. The majority of disabled people in this country have state benefits as their only source of income. None the less, when we put all that together, it is a sizeable amount of money. We have to ask businesses if they can afford to throw that money away. If I go shopping with a friend, and if I cannot go to the shop, she does not go in either. That is a potential loss of two sales. It does not make business sense to turn disabled people away. There’s cash in them thar hills. That is one case, and we can prove it.

There is a second argument. Back in the early 1980s, I was involved in designing the accessible toilets to go in trains now used on the routes from London to Scotland, for the mark 3 trains on the west coast and for the mark 4 trains on the east coast. The toilets in the new trains are a vast improvement on those from the early 1980s, but the train was already built and we had to retrofit. It cost about £25,000 then to put in a toilet that a wheelchair user could access.

The then Minister of State at the Department of Transport was Linda Chalker. The instructions under which British Rail was operating were to earn 8 per cent return on any capital invested. It is rather difficult to argue that putting in a toilet for disabled people is going to increase the revenue of a railway company to give such a margin. There comes a point when something is done because it is right.

There is a business argument in many cases, and we will argue that—it is a valid case. In other cases, however, the business case is not so strong. In those cases, we have to say, “Hey, you operate your business in a way in which it has the protection of a civilised society, and, in a civilised society, this is the way that we wish to behave. We do this because it is right.” There will be cases in which the Disability Rights Commission puts forward policies, not because we believe that somebody can improve their balance sheet as a consequence, but because, in a civilised society, this is the way that we believe we ought to be living. It is simply right that we do it this way.

The Convener: Thank you. Does anyone else have any questions?

Nora Radcliffe (Gordon) (LD): This is not a question, but can I just commend you, particularly on your outreach—on the fact that you are not going to confine yourselves to the central belt. I represent a constituency outwith the central belt, and your attitude is very welcome.

Bert Massie: Thank you.

The Convener: Bert did not mention Banff—just joking.

Bert Massie: Well, it was once said that I did not even go to Glasgow. I was very tempted, but all the commission officers really need to be as near to the executives as possible. I am very conscious that Glasgow has the largest population of a Scottish city, and it is obviously a very important city, but I have spent much of my time in Scotland on Mainland in the Shetlands, for example. In Scotland, being remote really can mean remote.

I am reminded of a story from the 1970s, when Motability was being set up. In Shetland, the council, which was wealthy because of the oil, was giving away Volvos to disabled people, and was ahead of other parts of the country. We suggested meeting the people from Shetland halfway and thought that that meant Newcastle, but we discovered that it meant Aberdeen.

I take on board the fact that there are very remote parts of Scotland that we must get to. The website will help to some extent, and I know that the Government has a plan for everybody to be on the web, but a computer still costs £1,000, and that is a lot of money. We need to be available in all sorts of ways. Ultimately, we need people to get on a train or into a car and go to see somebody, and that is what we will do.

The Convener: Thank you for your contribution. I speak on behalf of the whole committee when I say that I look forward to working with you in future. As Johann Lamont said, we must encourage other committees to do the same.

Bert Massie: Thank you. I look forward to working with you. I hope that we shall see you on many occasions in the future.

Progress Reports

The Convener: The first report, on disability issues, is from Irene McGugan.

Irene McGugan (North-East Scotland) (SNP): The disability group has not met since the last full committee meeting. We are still working on the various tasks that we identified, one of which came to fruition today by having the Disability Rights Commission here to give evidence.

The Convener: Johann Lamont's paper on gender issues has just been handed round by the clerk.

Johann Lamont: Most of the paper is self-explanatory. At our last meeting, we tried to reflect on the evidence that we had been given by SAY Women, the Scottish Rape Crisis Network and the Zero Tolerance Trust. Everybody felt that that evidence was very powerful. I have written to those witnesses enclosing a copy of the *Official Report* of that meeting, saying that we hope to continue a dialogue with them. I particularly wanted to thank Ms Y for her contribution, and said that we would welcome the opportunity to speak to her again, perhaps as a less formal group rather than as a full committee.

We are still in the process of fixing up a meeting with Jackie Baillie, but we are keen to raise with her the points that were made about the potential for cross-cutting work on sexual abuse and violence, whether in education or elsewhere. We want to stress the importance of setting domestic violence in the broader context of violence against women and children. We had already agreed that we wanted to talk about how the Equal Opportunities Committee and the equalities unit could work together.

I have contacted Angus MacKay and we are pursuing a meeting with him on "Towards a Just Conclusion". I understand that we will be taking evidence from Professor Sheila McLean on the other half of that equation, which concerns how women are treated in the justice system.

There is one thing that we must agree today. I did not do this myself, as I thought that it was for the committee to agree to it. We thought that we should write to Sam Galbraith, asking him to be aware, when he is drawing up sex education guidelines, of the work of the Zero Tolerance Trust and other groups that are concerned with violence against women and children. The sex education guidelines ought to be talking about mutual respect, young girls having respect for themselves and issues around violence, particularly given the evidence on attitudes among young men and women—the fact that they thought that there were circumstances in which violence against women or sexual abuse would be reasonable. I hope that we can agree to write to Sam Galbraith on that.

We welcome the offer of clerking support and we understand that Alison Taylor will come to our next meeting to discuss how that support can be used.

The Convener: Are there any questions for Irene McGugan or Johann Lamont?

Mr McGrigor: I should mention that I went to Kirkintilloch with Dorothy-Grace Elder and Des McNulty to meet a group that aims to make employers more aware of the benefits of employing disabled people. It was a very good evening. I told the group about the work of the committee and suggested that someone write to the clerk if the group wanted to give evidence.

12:15

The Convener: Does the committee agree that I write to Sam Galbraith as set out in paragraph 1(d) of Johann Lamont's report?

Members *indicated agreement.*

Mr McMahon: My report is similar to Irene McGugan's. There has not been a meeting of the race reporters group since the previous meeting on which I reported. Looking ahead to the agenda for the next meeting, I see that we have received correspondence from gypsies and travellers groups and it might be appropriate for us to consider the issues that they raise. If I cannot put that on the agenda for the next meeting, I shall try to ensure that we discuss it as soon as possible.

The Convener: That would be useful. It is still to be confirmed, but we expect the Gypsy Traveller Consortium to give evidence on 23 May.

Mr McMahon: It would be useful to make some initial contact with that group.

The Convener: We might also want to explore the issues raised in the two pieces of correspondence.

Mr McMahon: I will try to get that on the agenda for the next meeting.

Nora Radcliffe: The sexual orientation issues group has not met since I last reported on it, so I have nothing to report.

Correspondence

The Convener: Michael McMahon has mentioned items 1 and 3 on the correspondence list, which he is going to follow up. Are there any comments on the rest of the correspondence? Members have none.

The final item on the agenda will be considered in private.

12:18

Meeting continued in private until 12:43.

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