

EQUAL OPPORTUNITIES COMMITTEE

Tuesday 16 January 2001
(Morning)

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EQUAL OPPORTUNITIES COMMITTEE

1st Meeting 2001, Session 1

CONVENER

*Kate MacLean (Dundee West) (Lab)

DEPUTY CONVENER

*Kay Ullrich (West of Scotland) (SNP)

COMMITTEE MEMBERS

*Linda Fabiani (Central Scotland) (SNP)

*Mr Jamie McGrigor (Highlands and Islands) (Con)

*Mr Michael McMahon (Hamilton North and Bellshill) (Lab)

*Cathy Peattie (Falkirk East) (Lab)

Tommy Sheridan (Glasgow) (SSP)

Elaine Smith (Coatbridge and Chryston) (Lab)

Mrs Margaret Smith (Edinburgh West) (LD)

*attended

WITNESSES

Tim Hopkins (Equality Network)

Jamie Rennie (Equality Network)

CLERK TO THE COMMITTEE

Lee Bridges

SENIOR ASSISTANT CLERK

Richard Walsh

ASSISTANT CLERK

Roy McMahon

LOCATION

Committee Room 2

Scottish Parliament

Equal Opportunities Committee

Tuesday 16 January 2001

(Morning)

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

The Convener (Kate MacLean): I welcome everybody back after the recess and I welcome new members to the committee. I look forward to working with you.

At the last meeting prior to the recess, I was not aware that Irene McGugan was leaving the committee. I thanked Nora Radcliffe for her contribution as a reporter, but I did not thank Irene. Therefore, I would like to put on record my thanks to Irene for the work that she did as reporter on disabled issues.

Do members agree that we should take agenda items 2, 5 and 6 in private?

Members *indicated agreement.*

10:04

Meeting continued in private.

10:07

Meeting resumed in public.

Interests

The Convener: At the start of the meeting, I forgot to ask new committee member Cathy Peattie to declare any interests that she might have.

Cathy Peattie (Falkirk East) (Lab): I have several things to declare. I am a member of several organisations that are involved in training for equal opportunities—the Falkirk Women's Technology Centre, the Community Training and Development Unit in Falkirk, and the Linked Work and Training Trust in central Scotland. I am also joint convener of the cross-party group in the Scottish Parliament on men's violence against women and children and I am about to become convener of the cross-party group on women.

The Convener: Thank you, Cathy.

Housing (Scotland) Bill

The Convener: I welcome to the meeting Tim Hopkins and Jamie Rennie, from the Equality Network, who will give evidence on the Housing (Scotland) Bill. We have received a paper from the Equality Network and I ask either Tim or Jamie to give the committee a five or 10-minute summary of the paper, after which committee members will have an opportunity to ask questions.

Tim Hopkins (Equality Network): Thank you very much for inviting us along today. Jamie and I are from the Equality Network, but I should mention that Jamie also works for the Stonewall Youth Project, which is a support project in Edinburgh and the Lothians for lesbian, gay, bisexual and transgender young people. He will say some things that relate specifically to that.

The paper that we sent was in response to the Executive's original consultation on the proposals for the bill and it is in two parts. We deal with the recognition of same-sex partners in matters such as rights to tenancy succession and we deal with the promotion of equal opportunities through the various functions in the bill. Having now looked at the bill that has been produced, I want to talk about how we feel the bill has covered those issues.

The bill is very good in respect of same-sex partners. The definitions of spouse and cohabitant are given in section 96 and it is absolutely clear that cohabitants can be mixed-sex cohabitants or same-sex cohabitants. The definition—which is very good—is the same as that which is given in the Adults with Incapacity (Scotland) Act 2000.

The bill contains a requirement that cohabitants should have lived together for six months, which seems quite reasonable. The bill also contains things that relate to same-sex couples and their families. In particular, the definition of family in section 96 has been extended from the definition in the existing housing legislation so that

"a person brought up . . . as . . . the child of the . . . person is . . . treated as that person's child."

We have one query about the part of the bill that relates to the definition of family. Under section 96(2)(d), if A brings up B as their child, B—for the purposes of the bill—is A's child and a member of A's family. However, it is not clear whether A is then a member of B's family. That could be important for succession of tenancy. For example, if two people—whether of opposite sexes or the same sex—lived together with a child and, after years had passed, the child became a tenant and subsequently died, would any person who was still living with the family count as a member of the family of the child, and would that person be able

to inherit the tenancy? Obviously, if the parents had been married, the person would count as a member of the family. The question is whether section 96(2)(d) works the other way round, so that the person is a member of the family of the child, as well as vice versa.

We welcome the majority of section 96 and the fact that the same definition is used in other places in the bill. It applies to things such as the way in which discounts are calculated under the right to buy. There seems to be complete equality there. We welcome also the new entitlement to joint tenancy in section 9, because that also will help same-sex partners. In relation to same-sex partners, the bill is very good.

The second part of our submission is about equal opportunities duties. One such duty is spelled out under section 79 in the bill, which says that, when local authorities produce their housing strategies, they must do so with a view to ensuring the efficient provision of housing

“in a manner which encourages equal opportunities”.

That is very welcome, as is the fact that equal opportunities are defined, in section 79(4), as being as defined in the Scotland Act 1998. The duty that I spoke about is similar to the duty that is placed on education authorities by the Standards in Scotland's Schools etc Act 2000.

Under section 79(5), ministers can specify various things, including consultation, about the ways in which the housing strategy is developed. It is important that the specifications that are set out should include consulting with equalities groups. I do not think that that needs to be spelled out in the bill, but it will be important to spell it out in the requirements that ministers set.

What I have just said is about the equal opportunities duty as it relates to the strategic housing functions of local authorities. Unfortunately, that is the only part of the bill where there is any duty of equal opportunities. There are two other places where an equal opportunities duty should be written into the bill. The first is in section 1, in relation to local authority homelessness strategies. It is not clear how that section relates to the local housing strategies that are referred to in section 79, because a local housing strategy could also cover homelessness. However, because of the importance of some equal opportunities issues in homelessness—such as race and sexual orientation—section 1 should place on local authorities a duty of equal opportunities similar to that in section 79 when those authorities draw up homelessness strategies.

10:15

The second place—which is even more important—in which there should be such a duty, is in sections 70 and 71, which relate to the Executive agency's regulation of landlords. Paragraph 93 of the policy memorandum to the bill states:

“The provisions of the new single regulatory framework will enable Scottish Ministers to give guidance to local authorities and to registered social landlords on equal opportunities issues”.

That is good. However, equal opportunities is not mentioned in section 70(2), which lists the kinds of things that guidance will cover. That is a major omission. At the very least, section 70(2) should say that guidance should be issued on equal opportunities. Section 70(2) says that guidance can be issued with respect to

“consultation and communication with tenants and organisations representing tenants”

Given that, consulting with equality groups should, perhaps, also be included. That would be an improvement, but there should perhaps be a stronger duty to encourage equal opportunities. There should—possibly under section 71—be a duty for ministers to encourage equal opportunities in the guidance that they issue to landlords.

The guidance by ministers about homelessness strategies under section 1, and that which is issued under section 70, can include equal opportunities, even although it is not named in the bill, but it is not—as far as we can see—statutory guidance. The power to make that guidance effective is given in section 70(6) by allowing ministers to take into account whether that guidance has been followed when they intervene on how a local authority or social landlord is carrying out their job. That is not a very strong power. It can be contrasted with the duty under section 46 to consult tenants and tenant organisations about how they run the housing. A landlord must, however,

“have regard to any representations made to it by the tenant or any such organisation”.

A landlord does not have to have regard to the guidance that ministers issue under section 70. There is no statutory duty to have regard to guidance on equal opportunities or the other things.

Those points cover the two main areas that we mentioned in our original submission. There are a number of other issues that we will—with your permission, convener—say something about briefly.

Stonewall Youth Project has conducted research over the past couple of years on homelessness and has published a report, “OUT in the cold”,

copies of which I have given to the clerks. Jamie Rennie will say something about it.

Jamie Rennie (Equality Network): As members might know, Stonewall Youth Project is an advice and support project for lesbian, gay, bisexual and transgender young people in south-east Scotland. Part of Stonewall's work is advice and support on homelessness and housing. We have produced an action research report in which we look not only at young people's experiences, but at those of people who work in housing. The report was given strong support from HomePoint—which is part of Scottish Homes—as part of the development of their national advice and information standards.

The report shows that there is a gap between what young people said to us and what workers said. For young people, housing was a major issue that affected so many aspects of their lives—friendships, work, education and so on. Of the 294 young people who had come to us for support on housing or other issues who we spoke to over a year, 20 per cent said that they had experienced homelessness. Some of the cases were quite horrific and others were not so bad. Young people said that fear of authority was the major barrier to seeking information and support. As one person put it, it was a case of “once bitten, twice shy”. If someone has been ejected from their family home because of their sexual orientation, it is unlikely that they will disclose their sexual orientation if they go to a housing project to seek support, in case that experience is repeated.

The workers said that they encountered very few young LGBT people. Given my last comment I suppose that that makes some sense. Surprisingly, 50 per cent of the 200 workers who we trained throughout the year said that they would be too embarrassed to talk about sexuality with young people. Seventy per cent of those workers felt that LGBT young people were not a priority because of their lack of numbers. That demonstrated to us—as I hope the report will to the committee—that although the scale of the problem is quite large, the issues are invisible to the housing sector.

There is evidence that not only is such work vital, but that—as Tim Hopkins said—a duty of equal opportunities should be put on any work on homelessness, and sexual orientation should be included in that. If any member has questions on the research, I will be happy to answer them. The research will continue for the next three years, supported by Scottish Homes—which in itself demonstrates some progress, I suppose.

Linda Fabiani (Central Scotland) (SNP): I have worked in housing and I understand the difficulties that you talked about. While, as you say, it is important to have a statutory duty to have

regard to equal opportunities, in practice that can be paid no more than lip service. How do you think we can ensure that equal opportunities are taken seriously, particularly with regard to LGBT issues, but also in relation to other issues? What is your view on the idea of insisting on equal opportunities training in a code of practice or a regulatory framework for staff? How would you see that coming from the Executive, through the Executive agency, to ensure that it happens on the ground?

As Jamie Rennie said, it can be difficult for staff who have not had training. They may have the questionnaires and so on, but because of the way society is, it can cause problems for somebody to ask another person whether he or she is gay. Is there an agency that could provide that kind of training or is that something that we should be looking to create?

Jamie Rennie: I mentioned HomePoint, which is part of Scottish Homes. I am not sure how its work will transfer to the Executive agency, but it has been developing national standards for information and advice in housing with the aim of the introduction of some sort of charter mark once those standards have been developed. I hope that that work will continue. HomePoint is funding our work so that it can learn from our experiences of training workers in south-east Scotland and assess the possible consequences for training nationally. If that was continued, some useful lessons would be learned.

I agree that training is essential for all people who provide information and advice in housing and other sectors. It is best practice for organisations to insist that all their staff are trained, rather than training being merely an option.

Linda Fabiani: Should that be in the bill and in codes of practice through the guidance to landlords?

Tim Hopkins: It is probably not appropriate to put a lot of detail on that in the bill, but some underpinning aspects, such as consultation, should be included. For example, Scottish Homes has been talking to Stonewall Youth Project about such issues and it is important that such consultation continues. The bill should include something about the need to consult equality groups and representative organisations—that would be very useful.

Identifying and promoting best practice around the country is also important, but I do not know whether it is appropriate to spell that out in the bill. The City of Edinburgh Council has good practice in a number of such areas.

Mr Michael McMahon (Hamilton North and Bellshill) (Lab): Housing stock transfer is one of the more contentious aspects of the Housing

(Scotland) Bill. Do you have concerns about local authorities changing from being providers to being strategic facilitators? Have you examined the possible impact of that?

Jamie Rennie: I am not aware of any such concerns, but I have not examined that in any detail.

Tim Hopkins: We have no specific concerns on that. We are not aware of differences in treatment between local authorities and other social landlords. We are concerned that the bill covers only local authorities and social landlords, but not private landlords. If the bill is introduced as it stands, it will continue to be the case that, for example, succession to a private tenancy will discriminate against same-sex couples, because the Housing (Scotland) Act 1987 specifically excludes same-sex cohabitants from the provisions that cover succession to a private tenancy. It has been suggested that slightly more LGBT people live in private than social tenancies, partly perhaps because fewer LGBT people have children. We do not have figures on that.

Mr McMahon: Are the resources of your organisation the reason why you have not looked at that issue, or was there something in the consultation process that did not direct your attention to it?

Jamie Rennie: Stonewall Youth Project works with people aged under 25, who are usually at the point of crisis, so that issue has not really arisen for the project. The worker who deals specifically with housing was not able, unfortunately, to be here today.

Tim Hopkins: Resources are a problem for us, but as far as we know "OUT in the cold" is the only research on the housing needs of LGBT people in Scotland. Some research has been carried out in London, but there is very little research on the issues. The research that was published in "OUT in the cold" was quite broad and looked at all sorts of housing needs. The research was piggy-backed on other work—the people who carried out the research also gave support to the young people who were involved. There is a lack of resources for research in this area.

10:30

Mr Jamie McGrigor (Highlands and Islands) (Con): Is there anything that is not in the Housing (Scotland) Bill that you would like to be included, and why?

Tim Hopkins: There are a couple of things that are not in the bill that we think need to be dealt with. One of them is succession to private tenancies. That matter must still be fixed. Although I do not think that the bill is the right place to put it,

the other housing-related issue that we feel should be covered is safety from harassment for people who are harassed on the grounds of race or sexual orientation by those who live around their home. There is scope in the bill for improvements to be made in that area, through the guidance that can be issued. That is good, and we welcome the fact that schedule 2 strengthens powers to evict or move tenants who are involved in antisocial behaviour. There will need to be guidance to encourage local authorities to use antisocial behaviour orders rather more when tenants have, for whatever reason, been harassing other tenants.

On safety in the home, LGBT young people might suffer harassment from other members of their families—from a brother, perhaps. People might be thrown out of their home when members of their family—even their parents—discover that they are gay. There have been some improvements in the way in which homeless people are dealt with, particularly the duty to house any homeless person regardless of whether that person is deemed to be intentionally homeless. Those measures will help and we welcome them.

There are also other areas of law that can be improved in this regard, such as the Matrimonial Homes (Family Protection) (Scotland) Act 1981, which protects a spouse and children from domestic violence from the other spouse. At the moment, however, that law does not protect mixed-sex cohabitants very well and it does not protect same-sex cohabitants and their children at all. The proposed Family Law Bill contains proposals to extend that protection to mixed-sex cohabitants, but it is important that it covers same-sex cohabitants as well. That is not an issue that really fits in with the bill that we are discussing today, but it is a housing-related issue that must be dealt with.

Mr McGrigor: Are you aware of any other groups that might lose out as a result of the proposed legislation?

Tim Hopkins: I am not, apart from those that I have mentioned.

Mr McMahon: Even if, in an ideal world, we got the perfect bill, it might fall down if the resources to monitor its implementation were not available. Are you concerned about the level of monitoring that is required and about who will carry it out?

Tim Hopkins: Yes—very much so. Quite a lot of what would happen under the bill, if passed, would happen at local level through local housing strategies and local authority homelessness strategies. At the moment, the infrastructure does not exist for the LGBT community to monitor those things at local level throughout Scotland. Even at

national level, we do not have an LGBT equivalent of the Commission for Racial Equality or the Equal Opportunities Commission. We do not even have something that is equivalent to local racial equality councils.

With the exception of Stonewall Youth Project, no funded organisations would be able to monitor the implementation of the bill, if it were passed. Stonewall Youth Project is the only organisation in Scotland that is funded to a level at which it can afford to employ people, rather than doing everything on a voluntary basis. Its remit covers Edinburgh and the Lothians. Although it could conduct some monitoring of the situation in those areas, it is funded not for that, but to provide direct support.

The same problem arises in areas other than housing. For example, education authorities will have a responsibility to say how they will encourage equal opportunities in their education plans. That must also be monitored to ensure that it is being done properly, but the LGBT sector currently has no resources to do that. That is something on which we have been making representations to the Executive.

Linda Fabiani: I have a problem trying to work out how we can get beyond the fine words and rhetoric and make things happen on the ground—a big bit of how we will do that is missing. In housing associations that have for many years been regulated for good practice by Scottish Homes, the intention is great and many of the initiatives are super, but equal opportunities are not promoted in practice. In some cases, housing associations refuse to put same-sex couples on their waiting lists for a one-bedroom flat, because their policy says that two adults of the same sex must have a flat with two bedrooms—crazy things like that go on.

The committee should consider how to turn the fine words into good practice and it should try to find the missing link that will enable us to do that. I would be grateful for any suggestions that the witnesses can make about how we could investigate that further.

The Convener: I would have thought that, if the Executive accepted amendments to the bill that put a duty on housing agencies and local authorities to promote equal opportunities, there could be legal challenges if equal opportunities policies were not adhered to. If the Housing (Scotland) Bill was amended to include such duties, and if those duties were included in the forthcoming Family Homes and Homelessness (Scotland) Bill, would safety from harassment be achievable through tenancy agreements, antisocial behaviour orders, evictions and other procedures?

Tim Hopkins: Are you asking whether we think that we could wind up with a Scotland where, because of those measures, people were safe from harassment?

The Convener: Yes.

Tim Hopkins: Those measures would be a big step forward, but it will not be possible for people to be completely safe. With respect to the extent to which duties are statutory, there is an issue about who can bring a legal challenge if a local authority is not carrying out its duty to promote equal opportunities.

Our concern about section 70 is that it appears that, if a housing landlord was not carrying out the guidance that was issued by the Executive agency to promote equal opportunities, nobody could do anything about it except the Executive agency. The agency might choose to challenge or not to challenge under section 70(6). All that it would do then would be to take that factor into account as one piece of evidence that mismanagement was going on. That seems to be quite a weak power.

By contrast, a landlord who failed to consult tenants or a tenants association about something could probably be challenged directly, because there would be a statutory duty to do that. It is important that there can be as direct a challenge as possible to a public body about its failure to carry out its duties with respect to equal opportunities promotion.

Linda Fabiani: The matter is not about only harassment, of course, but about equality of opportunity in the first place. That is a huge problem that is often shoved aside.

Jamie Rennie: You asked for practical ideas and the report that we submitted to the committee contains a number of good-practice recommendations. Unfortunately, we are unable to print and distribute that report, because we do not have sufficient funds. That is a shame, but new web technology might enable us to distribute such material more easily. We have worked closely in partnership with the Wester Hailes office of the City of Edinburgh Council's housing department to pilot training work, and we have worked with a number of service users who have found the housing service excellent as a result of that work.

We are being encouraged by the City of Edinburgh Council to develop short-term hostel accommodation and other services. The local authority with which we have worked most closely has been extremely supportive. If that work is rolled out, it could provide an example of good practice for other local authorities.

The Convener: I thank Tim Hopkins and Jamie Rennie for giving evidence to the committee.

Reporters

The Convener: Elaine Smith, the gender reporter, is unable to be here because of family circumstances, but she has submitted a report for us to consider on the cross-examination of witnesses in rape cases. Before we do so, would any other reporter like to say anything?

Mr McMahon: I can give the committee an update on race. We have had no formal meetings on race—I will be careful what I say—but I intend to have a meeting in the near future with Save the Children in response to its report on harassment and bullying of refugee children. I have—tentatively—set 1 February as a date for that. I shall e-mail members to let them know when and where the meeting will take place. That will allow us to get some background information on the report.

We would also like to consider the Minister for Justice's recent document on how the police deal with prejudice. I shall put together a paper on that for a future meeting. In my capacity as race reporter, I shall consider that before the minister comes to the committee.

The Convener: Everyone has a copy of Elaine Smith's paper. Are there any questions or comments on it?

Linda Fabiani: Which justice committee will deal with the matter?

The Convener: It will probably be the Justice 1 Committee.

Kay Ullrich (West of Scotland) (SNP): If not, it will be the Justice 2 Committee.

Linda Fabiani: Which one is the Justice 1 Committee?

The Convener: That is the committee of which Alasdair Morgan is convener.

The recommendations are in section 9 of Elaine Smith's report. Do members agree to those recommendations?

Members indicated agreement.

Mr McMahon: Because Irene McGugan has left the committee, we will need another member to cover disability issues.

The Convener: That is right. In fact, there are now two vacancies for reporters. Any members who are interested in the positions should contact me. At the next meeting, we can agree the new appointments. Is that agreed?

Members indicated agreement.

10:43

Meeting continued in private until 11:31.

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