

EQUAL OPPORTUNITIES COMMITTEE

Tuesday 25 June 2002
(Morning)

Session 1

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EQUAL OPPORTUNITIES COMMITTEE

12th Meeting 2002, Session 1

CONVENER

*Kate Maclean (Dundee West) (Lab)

DEPUTY CONVENER

Kay Ullrich (West of Scotland) (SNP)

COMMITTEE MEMBERS

*Mrs Lyndsay McIntosh (Central Scotland) (Con)

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

*Mr Gil Paterson (Central Scotland) (SNP)

*Cathy Peattie (Falkirk East) (Lab)

Tommy Sheridan (Glasgow) (SSP)

*Elaine Smith (Coatbridge and Chryston) (Lab)

*Mr Jamie Stone (Caithness, Sutherland and Easter Ross) (LD)

COMMITTEE SUBSTITUTES

Mr Jamie McGrigor (Highlands and Islands) (Con)

Michael Matheson (Central Scotland) (SNP)

Nora Radcliffe (Gordon) (LD)

*attended

WITNESSES

Lucy Chapman (Commission for Racial Equality)

Mick Conboy (Commission for Racial Equality)

CLERK TO THE COMMITTEE

Jim Johnston

SENIOR ASSISTANT CLERK

Richard Walsh

ASSISTANT CLERK

Roy McMahon

LOCATION

Committee Room 1

Scottish Parliament

Equal Opportunities Committee

Tuesday 25 June 2002

(Morning)

[THE CONVENER *opened the meeting at 10:16*]

Items in Private

The Convener (Kate Maclean): Let us get started. I have received apologies from Tommy Sheridan and Kay Ullrich. Jamie Stone and Gil Paterson have indicated that they expect to be late—Gil has a clash of meetings, as the Procedures Committee is also meeting this morning.

The first item on the agenda is to ask whether members agree to take items 6, 7, 8 and 9 in private. All the items concern draft reports. Is that agreed?

Members indicated agreement.

The Convener: The second item is to ask whether members agree to take in private items at future meetings on the draft report of the inquiry into gender equality and best value. Is that agreed?

Members indicated agreement.

Gender Equality and Best Value Inquiry

The Convener: I welcome Mick Conboy and Lucy Chapman from the Commission for Racial Equality, who have come to give evidence as part of the committee's inquiry into gender equality and best value. In previous evidence-taking sessions, we have asked witnesses not to make a short statement, but to go straight to questions from committee members. At the end of the session, it will be possible to introduce evidence that has not been covered in the questioning.

Elaine Smith (Coatbridge and Chryston) (Lab): From their experience, can the witnesses tell us what lessons can be learned from addressing gender inequality through a mainstreaming approach?

Mick Conboy (Commission for Racial Equality): The essential lesson that can be learned is sustainability. If I may, I will couch my replies in terms of racial equality. That will save me having to say that I am making that leap every time equality is mentioned.

As the committee will appreciate, a number of efforts have been made over recent years to tackle racial inequalities. Those efforts have included work with ethnic minority women. One of the commission's concerns, which is shared by many of the organisations with which we work, is that efforts in that respect are often time limited. We are concerned that a project-based approach is often taken and that, once a project comes to an end, work on the issue comes to an end. Mainstreaming is a way to ensure sustainability not only in the traditional areas of equality concern, but across an organisation's work.

Lucy Chapman (Commission for Racial Equality): Mainstreaming and best value are the two main issues in respect of employment and service delivery. Effective performance indicators will have to be developed to ensure that equal opportunities are given as much weight in the bill as the other Es—economy, efficiency and effectiveness. If the commission has a concern about the Local Government in Scotland Bill, it is about the way in which equal opportunities are framed within the duty to secure best value. If mainstreaming is to be effective, we will have to examine how equal opportunities and the other Es can be given equal weight.

Even though the duty in the Westminster Local Government Act 1999 does not include equal opportunities, it is much clearer. It states:

"A best value authority must make arrangements to secure continuous improvement in the way in which its functions are exercised, having regard to a combination of

economy, efficiency and effectiveness."

If that duty were adopted for Scotland, it would include "and equal opportunities". That would provide a clearer steer for local authorities in balancing the three factors in mainstreaming and in determining how authorities should fulfil their functions. That is our first point on how to make the Local Government in Scotland Bill more effective.

Such a duty would have to be supported by effective performance indicators. There is lots of good practice. In England and Wales, the Diversity in Action in Local Government—DIALOG—team of the Employers Organisation for local government identified good practice for effective mainstreaming. It might be worth the committee's while to get hold of that information to inform its inquiry.

The essential point about best value, which offers a way forward for mainstreaming, is that it must be rooted in continuous improvement. If we are to see continuous improvement, we need performance indicators that track improvements in outcomes. To date, we have had performance indicators that track the situation as it is, for example the percentage of ethnic minorities or women employed at certain levels. The way forward is to track improvement and to take positive action measures to ensure that there is improvement.

Elaine Smith: If I may, I will address a couple of things that have been said. Lucy Chapman mentioned an example of good practice, which we wish to address. Can you give us more details?

Lucy Chapman: Yes. DIALOG identified good practice for local authorities in England and Wales. It produces regular reports and identifies best practice across local authorities. I could give the committee more details on that.

Procurement may be a different matter, but how can the Local Government in Scotland Bill ensure that private companies that bid for contracts mainstream equalities in their practices? Best practice already exists in England and Wales. I point the committee to the West Midlands Minority Business Forum, which is considering how to develop common standards for race equality, in particular to ensure that private companies that bid for tenders mainstream equalities into their employment practices. The forum is carrying out research to evaluate the effectiveness of the common standards that have been used to date, and to develop those standards. I can supply details on that also.

Elaine Smith: Should such standards be included in the criteria for awarding contracts?

Lucy Chapman: I think so. The Local

Government in Scotland Bill states that certain paragraphs of section 17(5) of the Local Government Act 1988 will not operate, to allow non-commercial matters to be taken into account in relation to employment practices. That is permissive rather than prescriptive, but perhaps a more prescriptive approach should be taken.

Elaine Smith: I have a more general question. Do you think that gender inequality exists? We know from what you have said that women are not well represented in the higher echelons of management and that there is an earnings gap—the trade unions are currently running the "Close the Gap" campaign. Are those a result of structural gender discrimination and stereotyping? Should they or could they be addressed through the best-value approach?

Lucy Chapman: One of the key issues, which has been identified by the Convention of Scottish Local Authorities and Unison, is the impact of compulsory competitive tendering, and now best value, on the employment, pay and conditions of women and ethnic minorities, in particular in contracting-out situations. COSLA's guidance on equalities and best value makes explicit points on that, as does Unison's research, which shows that best value and CCT have had a negative impact on the pay and conditions of women and ethnic minorities, which Unison has tracked.

It is important that there is long-term monitoring of the impact of the non-operation of the paragraphs in section 17(5) of the Local Government Act 1988 on non-commercial matters. The Transfer of Undertakings (Protection of Employment) Regulations offer some protection, but Unison has identified that, over the long term, there is a negative impact on pay and conditions when employees are transferred. There are also issues to do with the creation of a two-tier work force. Those issues should be monitored in the long term.

Elaine Smith: I want to move away from local authorities' role as employers. What about service provision?

Lucy Chapman: There are obvious issues. Local authorities must consider service provision to ensure that equalities issues are built into contracts with private sector companies. In relation to mainstreaming, Pls have tracked certain levels of inequality in service take-up. That must be tracked more systematically. A lot of performance indicators consider user satisfaction, but are perhaps not disaggregated for the different equality areas, which they perhaps could be in future.

Mick Conboy: The Race Relations (Amendment Act) 2000 will mean in essence that all public authorities will still be responsible for

meeting their duties under the legislation, even in relation to work that is carried out under contract by external bodies. The reference in the Local Government in Scotland Bill is to ensuring that the contracting-out process meets best value requirements. From our point of view, that seems to put authorities in a difficult position. They are expected to ensure that equality is delivered through the employment and service arrangements for contracted-out services, yet there is no overarching mechanism. As Lucy Chapman said, a permissive system is being introduced but there is no overarching mechanism to ensure that the contracting bodies have decent policies and are meeting equality requirements across the board. There is a gap within the proposed provisions.

Mr Michael McMahon (Hamilton North and Bellshill) (Lab): You have given us general examples of good practice, but sometimes we can learn from projects and programmes that have given us examples of bad practice. Have you experienced any such examples of bad practice that we can learn from, specifically in local government? More generally, have attempts been made to address the problem that have failed or have opportunities arisen that were not grasped?

Mick Conboy: Unfortunately, in a number of cases, an attempt has been made to identify issues for black and ethnic minority women within local government and ways forward have been proposed, but for a variety of reasons those have not been seen through. Expectations can be raised through such direct consultation, which is right and appropriate, but an internal commitment, or perhaps external accountability, is required to ensure that local authorities follow through on commitments rather than raise people's hopes and let them drop fairly sharply. That is an example of where practice falls down and where, in the past, local authorities have done themselves no favours in relation to that section of the community.

Lucy Chapman: What are missing are statistics and data. Inequalities can be tackled only if the statistics are there to show how inequalities operate. There is a huge gap in the statistics, particularly for race equality.

Mr McMahon: So that we are not accused of trying to find fault with local government, I ask whether you have experienced anything good that you would like to see replicated?

Mick Conboy: We are aware of a number of different fora that local government has established to consider their planning processes and what local communities can tell them about priorities. Before the Race Relations (Amendment) Act 2000, steps were taken to ensure that local government was better informed about the needs of ethnic minority communities. Lessons are to be

learned across local government about the measures that can be put in place. The essential element is to sustain the consultation and dialogue and to find different ways of conducting those, to ensure that as many people as possible get involved, rather than relying on one or two organisations to spread the word about the consultation.

Mr McMahon: The CRE is an experienced organisation when it comes to improving standards in racial equality. Can you give us examples of the lessons that people can learn from your experience?

10:30

Mick Conboy: We have tried to build flexibility into the standards that we have introduced, so that we are not necessarily saying that only one standard—or one approach—fits all. From my point of view, that is a key issue. We have produced documents such as "Racial Equality Means Quality", the model for which was adapted for the equality standards to which Lucy Chapman referred, and the health service is considering taking a similar approach. The great benefit of "Racial Equality Means Quality" is that any local authority—from those in the Highlands to those in the central belt and in the Borders—can make use of the document, because it contains a scheme that is appropriate to local authorities wherever they operate.

Cathy Peattie (Falkirk East) (Lab): I am interested in the idea of user participation. Lucy Chapman spoke about PIs being relevant, but we know of equal opportunities policies that have been written by one person sitting at a desk and then filed appropriately. People who get council contracts and voluntary sector organisations that receive council funding are also expected to submit a piece of paper that is then stuck in the filing cabinet. How can we make sure that things will be different this time?

Lucy Chapman: The gap between policy and practice in relation to effective PIs is a huge issue. There is a danger that people will take a tick-box approach—that is, they will simply tick the box to indicate that they have produced a policy, but they will not put that policy into practice. In those circumstances, what happens to the outcomes? The CRE in London is considering that issue, particularly because Westminster has just passed the order that will introduce statutory PIs for best value in England and Wales.

In order to ensure that the policy outcomes are delivered, the CRE and other organisations are looking at developing outcome-oriented PIs. The issue needs to be examined across the board, as it is difficult to achieve outcomes. Good practice

exists in authorities that have set targets and thereafter developed positive action initiatives to achieve those targets. Those are the sorts of developments in effective performance that we should be considering.

Mick Conboy: We anticipate that the racial equality scheme that organisations are expected to develop under the Race Relations (Amendment) Act 2000 will be slightly more useful than the equal opportunities policy model. We must ensure that people get their schemes together by the end of the year, but we are not overstating the case because we are more interested in the arrangements. The scheme should become a live document that outlines actions and deadlines. Everyone who is involved in policy development can learn from that approach, irrespective of the angle from which they come at equality. The schemes should be meaningful to the people who receive services from an organisation or who work in that organisation. They should be able to say, "I can see that something is being done, rather than people just talking about it."

Cathy Peattie: Let me pursue that point further. When we consult on PIs, how can we ensure that women, and black and ethnic minority women in particular, are included in the groups or the data that we are talking about? Experience shows that often other people talk for or about those women—they are not at the table and organisations do not design services that meet their needs. How can we overcome that problem?

Mick Conboy: We held a dialogue event 18 months ago—Lucy Chapman might be able to say a bit more about it—at which we brought together 100 to 150 women to discuss issues, concerns and ways forward. One of the messages that I took from that event goes back to something that was mentioned earlier. The event was fine, but it was only one means of communicating and getting feedback.

We must be far more creative in reaching out to groups. Most of the women involved in the event were committed individuals—professionals or women who worked in organisations that have an interest in the issues discussed. However, often working through grass-roots organisations in the voluntary sector—examining their client base and access to communities—is a more effective way of targeting people. All of us receive services, but we need to target the people who miss out on the conversations and discussions that take place.

I am reminded of an example of such work in Edinburgh. To some extent, the exercise was technical, because a large number of arrangements needed to be made for it. The language needs of the women whom the project brought together were diverse, but we needed to

hear their views, and interpreters had to be provided. There are other ways of consulting, but the example that I cite shows that there are ways of reaching hard-to-reach groups. Our approach must be varied and consistent.

Lucy Chapman: There are no easy ways of providing effective consultation. It is important to work flexibly at a local level. It is possible to work systematically—using formal performance indicators, for example. Numerous effective performance indicators relate to issues such as user take-up and user satisfaction. Perhaps those need to be disaggregated more systematically. We need statistical data that show us how service take-up is failing in different communities. Flexible working at local level involves developing local forums and so on. There is no one answer for every area.

Cathy Peattie: We need to deliver services that are relevant to black and ethnic minority women and to women in the Gypsy Traveller community. Young women in the Gypsy Traveller community frequently say that no one listens to what they are saying. How can we engage with people—I am not sure that consultation is the right word to describe the process—to ensure that services are appropriate? How might women be involved as stakeholders in monitoring and evaluating the services that are offered to them and the best-value approach of local authorities to dealing with gender issues?

Mick Conboy: I cannot think of an example off the top of my head. We should consider how specific services are or are not being accessed. A few years ago, black and ethnic minority women were not accessing cancer services in Glasgow. A novel approach was taken to dealing with that problem. It involved working in a two-tiered way. Communities helped to identify potential workers, who were then taken on, given training and sent out into their communities. Women were not simply told to go along to the clinic. Mainstream society had to ask itself how it was delivering the service and whether it was appropriate to demand that women go to clinics to receive that service. It was forced to consider whether there was a need for outreach—establishing clinics in communities.

The initiative was successful—it produced findings and proposals for taking it further. Sadly, it was a research project so, once the research was complete, it had run its course. Such innovation provides a perfect example of how to make the experience real for people who want to access services but are unaware that those services exist or do not have the right information about them.

Mrs Lyndsay McIntosh (Central Scotland) (Con): COSLA's guidance on best value in equalities recommends that any performance indicators that are developed should be focused

on the areas where legislation supports equalities perspectives. It does not favour broader indicators. What is your take on that?

Mick Conboy: At the moment, as you will appreciate, equality legislation is in some ways a moveable feast. In the near future, a raft of other equality issues will be written into legislation. There is a danger of picking one off at a time and taking a piecemeal approach. The Scotland Act 1998 gives a wide definition of equal opportunities. From our point of view, it would make sense to consider equality in the round. Equality is not an issue for three groups in the country; it covers many facets of inequality that impact on individuals. A more holistic approach would be more pragmatic in the long term, because equality legislation is coming in that will cover other issues. Such an approach would also be more just because it would provide for inequalities that exist but which, because they are not legislated for, are in some way not recognised.

Lucy Chapman: It might be that COSLA made that recommendation on legal advice or from a legal perspective because equal opportunities are reserved under the Scotland Act 1998. Under the best-value duty, the Local Government in Scotland Bill refers to “equal opportunity requirements” rather than to equal opportunities. From our perspective—COSLA has also said this in evidence to the committee—perhaps a stronger reference would be feasible. The committee could approach the Executive on that matter in order to take it forward. The phrase “equal opportunity requirements” limits regulatory activities to equalities areas that are already covered in statute, rather than those that are covered by the broad definition under the Scotland Act 1998.

Mrs McIntosh: When Audit Scotland audited local authorities, it reported that about half the authorities had not integrated equalities into how council priorities are identified, that only a fifth regularly consulted hard-to-reach stakeholders and that equal opportunities are more developed at a corporate level than within individual services. What can we do to address that?

Mick Conboy: Again, it might be useful to examine the model provided by the racial equality scheme within the Race Relations (Amendment) Act 2000. Essentially, that asks all public authorities first to identify their functions and policies and then to prioritise them. As someone put it in a straightforward way, in essence public authorities should prioritise services and functions that have a person at the end of it. That is right. All our public authorities ought to consider what impact a service has on the public—on voters, patients, clients and so on. Following on from that, each one of those functions and policies must set out its arrangements for meeting the duties. If

nothing else, that will provide a key to mainstreaming both racial equality and equality across the board. Each department that covers those separate functions and policies will have to provide a forward plan to say how they will attempt to address racial equality in the first year, second year and third year. They will subsequently publish results and the inspection and audit bodies will be under a duty to ensure that public authorities meet their duties. That is a useful model for ensuring that equality does not remain at the chief executive level and that it is pushed down through departments and into front-line services.

Mrs McIntosh: The importance of effective monitoring is a constant theme that comes through the research findings on equalities work. What is the best way to ensure effective monitoring of the implementation of the requirements of the Local Government in Scotland Bill?

Lucy Chapman: Two mechanisms relate to the provisions of the bill: the auditors, with their performance indicators, and best-value studies. Both mechanisms have to address explicitly the equalities factor. That is crucial in terms of the guidance that Scottish ministers are to issue to local authorities and in the development of statutory performance indicators.

Equal opportunities must be given as much weight as the other Es. As we have said, how the duty to secure best value is set out will affect the weighting that will be given to equal opportunities. Performance indicators and other studies have to take account of an essential component of best value, which is continuous improvement. Two issues need to be addressed in that respect: first, systematic data need to be collected through the mechanism of performance indicators on how inequalities operate. Secondly, the notion of continuous improvement on equalities issues has to be built into performance indicators. We have discussed that issue before in respect of the need to focus on progress and outcome.

10:45

Mr McMahon: The Local Government in Scotland Bill will create a duty to encourage equal opportunities. Set against the baseline costs to promote race equality, what additional costs will be involved in assessing best value and the impact that it might have?

Mick Conboy: I would need time—

Mr McMahon: Do you want to write to us with the answer?

Mick Conboy: It will take some time to consider the question.

We have said that an outlay of funding will be required to identify functions. Ideally, we are

encouraging public authorities to establish working groups to progress the implications of the Race Relations (Amendment) Act 2000 and, in the medium to longer term, equal opportunities ought to be mainstreamed. That said, equal opportunities should not become burdensome in respect of additional finance.

Another key element in the sustainability of the best-value project is for equal opportunities to become part and parcel of what authorities do. I suspect that that is the approach that needs to be taken if equal opportunities are not to be seen as an additional burden. Best value also needs to be seen as part and parcel of what an authority does.

The Convener: I thank Mick Conboy and Lucy Chapman for giving evidence to the committee. We appreciate the input that the CRE makes to the work of the Equal Opportunities Committee.

The Convener: We move on to item 4, which is consideration of a draft paper on the key themes in our inquiry into gender equality and best value. Members should leave to one side the evidence that we heard today from the Commission for Racial Equality. The clerks will summarise and e-mail that evidence to members and, in the recess, it will be added into the draft paper. I ask members to keep their comments to the paper that is front of them.

Elaine Smith: Can we recap on whom we decided to take evidence from and why?

Cathy Peattie: I support what Elaine Smith said. I am concerned that we are not taking evidence from Unison, the Scottish Trades Union Congress or the Scottish Council for Voluntary Organisations on the work that they do on the issue. Do we not need to have a broader evidence-taking session to hear evidence from organisations that have been involved in research on the issue?

The Convener: Our timetable has not allowed us to take evidence from a wider range of organisations. However, we have written to a wide range of organisations and we are receiving written evidence as a result. I am not sure whether our timetable allows us scope to take more evidence after the recess.

Jim Johnston (Clerk): The difficulty with our timetable is that we are a secondary committee, responding to a lead committee. The committee has to prioritise the oral evidence that it can take. That was agreed at an earlier meeting.

Elaine Smith: Could I clarify that? You say that we are a secondary committee responding to a lead committee. This committee decided to do a gender issues inquiry. Although we did that around best value, we are doing it—

Jim Johnston: Sorry—that is correct. The two things are running in parallel. The committee is

doing the inquiry into gender equality and best value on its own, but it is also feeding into the Local Government Committee's work on the Local Government in Scotland Bill in relation to best value. That is why the timetabling for the committee's inquiry into gender equality and best value has been truncated.

Cathy Peattie: It is important that we take evidence from trade unions, which clearly have an interest in and commitment to equality.

The Convener: We can return to that issue. There is no reason why we should not extend the number of witnesses from whom we take evidence. I suggest that we agree the paper on our inquiry into gender equality and best value, taking into account the evidence that we have taken so far, and that, during consideration of our work programme, which is a later agenda item, we discuss the timetabling further. We will look not just at the evidence that we have taken from the CRE today, but at the evidence that we took previously. If members have any comments or proposed amendments to the draft paper—if they feel that there are issues that are not covered—those would be useful. Is everybody happy enough with that?

Members indicated agreement.

The Convener: The paper will form the basis of a draft report, which can be worked on over the recess. We will discuss future evidence under our work programme item later.

Reporters

The Convener: We move on to agenda item 5. Do the reporters have anything to report?

Mr McMahon: As was agreed a few meetings ago, I attended the “Zero in on Discrimination” event, which was held at Glasgow Caledonian University with the Scottish Civic Forum. I thank Richard Walsh for pulling together the report. I was not able to attend the event for the whole day, but Richard was there all the way through and did a sterling job, keeping an eye on how things were developing.

One element of the event focused on mainstreaming, and we agreed that we should pay more attention to that. We kept an eye on the other issues being discussed too, including poverty and the legal aspects of discrimination, although we paid more attention to the discussion on mainstreaming. I thank Tim Hopkins for providing us with the slides that he used when discussing that topic at the event. It was a very worthwhile event. The Scottish Civic Forum will produce a report on it, and one of the recommendations in my report is that we should consider the forum’s report when it comes out, particularly with regard to mainstreaming.

The Convener: That would be useful. Does anyone have any questions for Michael McMahon?

Mr McMahon: I know that we will be discussing our work programme in private later in the meeting but, as this is the committee’s last meeting before the recess, I request that we get an update on taking evidence on the Chhokar inquiries. We discussed the matter previously and said that we should try to make progress on it. Jim Johnston and I have discussed the matter, and I wonder whether he could update the committee on where we stand.

Jim Johnston: As Michael McMahon is aware, the committee agreed to send a letter to Mr Chhokar and his representative, inviting Mr Chhokar to come to the committee to give evidence if he was well enough to do so. That letter was sent on 14 May. To date, we have yet to receive a reply to that letter, and the convener will be writing to Mr Chhokar and his representative again, inviting them to give evidence to a meeting of the committee in September. If we get a response to that letter, the clerks can, over the summer recess, deal with the arrangements for that meeting, to be held at a location convenient to Mr Chhokar.

Mr McMahon: That is great—thanks.

The Convener: If there is progress on the matter during the recess, members will be e-mailed so that they know what is happening.

Do any other reporters wish to comment?

Cathy Peattie: We have a written report from the sexual orientation reporter, and I am happy for other members to ask questions. I am involved in a further meeting tonight.

The Convener: Does anyone have any comments or questions on the written report from the sexual orientation reporter?

Elaine Smith: I had a meeting last week with Fran Loots, our adviser on the gender equality and best value inquiry, and the clerks, to discuss that inquiry. When the Parliament was sitting in Aberdeen, I was approached by representatives from Inverness, who were keen for me to take some evidence on gender issues from a few groups up in Inverness. I am discussing with the clerks the possibility of securing a meeting in September.

The Convener: Thank you. If there are no comments or questions to Elaine on that, we will move into private session.

10:56

Meeting continued in private until 11:24.

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