

# **EQUAL OPPORTUNITIES COMMITTEE**

Tuesday 3 September 2002  
*(Morning)*

Session 1

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## EQUAL OPPORTUNITIES COMMITTEE

### 13<sup>th</sup> 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

Eileen Dinning (Scottish Trades Union Congress)

Rozanne Foyer (Scottish Trades Union Congress)

Joyce Magennis (Scottish Trades Union Congress)

Mary Newman (Scottish Executive Finance and Central Services Department)

Peter Peacock (Deputy Minister for Finance and Public Services)

Yvonne Strachan (Scottish Executive Development Department)

#### 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 3 September 2002*

*(Morning)*

[THE CONVENER *opened the meeting at 10:15*]

#### Items in Private

**The Convener (Kate Maclean):** I welcome everyone to the first Equal Opportunities Committee meeting after the summer recess. I hope that everyone managed to get some kind of break.

We have apologies from Lyndsay McIntosh, who is attending a meeting of the Local Government Boundary Commission for Scotland. Jamie Stone has indicated that he may be late, due to a clash with the Holyrood progress group.

The first item on the agenda is consideration of items in private. Does the committee agree to take items 7 and 8 in private?

**Tommy Sheridan (Glasgow) (SSP):** Before the recess, there was quite a discussion on the increasing tendency of committees to take items in private. Civic Scotland is worried that the openness and transparency of the Parliament's committees is coming into question. Why should we take items 7 and 8 in private? I do not see any reason to do so. I therefore ask that they be taken in public.

**The Convener:** One of those items is consideration of a draft report. The conveners liaison group has agreed that considering draft reports in private is acceptable practice. The other item is a housekeeping issue—the committee and other committees have previously dealt with such issues in private and I would be happy to stick to that precedent. Look at the statistics: compared with the other committees, the Equal Opportunities Committee has a good record on the number of items that we do not discuss in private.

**Elaine Smith (Coatbridge and Chryston) (Lab):** I have a point of clarification. The items that the agenda proposes that we take in private are items 7 and 8, but items 5 and 6 are consideration of draft reports.

**The Convener:** Sorry?

**Elaine Smith:** Items 5 and 6 look to me as though they are consideration of draft reports.

**The Convener:** At the committee's last meeting

before the recess, we agreed to discuss those draft reports in private.

**Elaine Smith:** So items 5 and 6, as well as items 7 and 8, will be in private.

**The Convener:** Yes. That was agreed prior to the recess.

**Mr Gil Paterson (Central Scotland) (SNP):** The Procedures Committee has been taking evidence on the issue. My instinct is to support Tommy Sheridan in this matter, but I prefer to wait until the Procedures Committee comes up with recommendations. As discussions have taken place in the conveners liaison group, I would like to leave the situation as it is. I am generally sympathetic to the view that more should be discussed in public, but at this stage I will cannie on it.

**Cathy Peattie (Falkirk East) (Lab):** I share the view that we should take as many items in public as possible. The committee has been good at doing that. I am aware that the issue is being discussed, but if other committees followed our line, the Procedures Committee inquiry would not need to take place. We agreed to take items 5 and 6 in private. We should go with that, but I am open to future discussion on what should and should not be taken in private.

**The Convener:** I suggest that we take items 7 and 8 in private unless someone moves otherwise.

**Tommy Sheridan:** I will not move otherwise, because Gil Paterson has made his opinion clear and has said that the Procedures Committee is looking into the matter. However, the fact that a committee has done something in a certain way in the past should not be a reason for continuing to do it in that way. The committee has a good record on taking items in public, but all the Parliament's committees must improve in that regard. I will therefore not press the matter to a vote.

**The Convener:** Do we agree to take items 7 and 8 in private?

**Members indicated agreement.**

**The Convener:** As I have stated, the committee has already agreed to take items 5 and 6 in private.

Item 2 concerns taking future items in private. If the committee is so minded, we can leave consideration of those items and deal with each as it comes up at the committee. There might be some change because of the Procedures Committee's inquiry. Is that agreed?

**Members indicated agreement.**

## Interests

**The Convener:** Does Tommy Sheridan have any interests to declare to the committee?

**Tommy Sheridan:** No.

## Gender Equality and Best Value Inquiry

**The Convener:** Item 4 is our inquiry into gender equality and best value. We will now hear evidence from Peter Peacock, who is the Deputy Minister for Finance and Public Services, and from Yvonne Strachan and Mary Newman from the Scottish Executive. I invite the minister to make a short statement, after which I will open the meeting to questions from the committee.

**The Deputy Minister for Finance and Public Services (Peter Peacock):** Thank you, convener. It is a joy to be back with you all.

We gave the committee a detailed set of memoranda in advance of the meeting. The memoranda are pretty comprehensive and, I hope, cover most of the points that the committee was considering. I will therefore keep my remarks comparatively brief. Nevertheless, I want to cover a reasonable amount of ground.

By removing compulsory competitive tendering and introducing best value, we are providing local government with a comprehensive and key framework to address equality issues, such as gender inequality, and much wider issues. As the convener and other committee members are aware from their pasts, CCT was a cost-driven process. Many contend that it had an adverse impact on women in particular, as women were dominant in certain affected sectors of the local government community.

Best value sets out new disciplines that are to be followed in deciding service levels and how services will be provided in future. It requires continuous improvement in service provision. It therefore broadens the range of considerations that a local authority can take into account to try to find a proper balance between cost and quality of service provision. In finding that balance, a council must have regard to efficiency, effectiveness, economy and the need to meet equal opportunity requirements. That means that the process of securing best value requires that regard be paid to equal opportunity in a way that was not the case under previous legislative regimes.

Such practice will, I hope, develop a more responsive and responsible approach to customer service delivery, to staff and work-force issues and to the local authority procurement process. Those issues will be developed further in the guidance on the Local Government in Scotland Bill, which the Parliament is considering at present.

As the committee is aware, the bill is designed to provide a framework to enable the delivery of better, more responsive and continually improving

public services not only through best value, but through the power to advance well-being and the power and duties that relate to community planning. The bill is designed to make it easier for councils to do their jobs. It will free them up in comparison to what they were previously able to do and will give them new powers. It is also designed to give them more responsibility to act within an appropriate framework and to encourage and support partnership with other bodies and communities that they serve. The bill is intended to embed a culture of quality, improvement and—explicitly—equality.

The bill's objective is better and constantly improving public services to meet the needs of individuals and communities—the users of those services—much better. The bill also empowers councils to have regard in achieving that objective to wider considerations than has been the case in the past. Councils and their partners already have considerable experience of best value and community planning, which some have introduced voluntarily. We want to build on the solid foundations of that experience and the good practices that have already emerged.

Despite the limitations that the Scotland Act 1998 places on us, equality has been made a central theme of the Local Government in Scotland Bill. That is reflected in the inclusion of a general equality provision at section 32, a specific reference to equality in the best-value duty and requirements to report on equality issues in the community planning and best-value provisions.

Extensive and continual consultation has taken place on the bill. Key stakeholders have made a valuable contribution through working with officials to develop the policies. In particular, the bill has been influenced by support from the equalities co-ordinating group, which represents all the key equalities groups and has made a positive contribution to our work. We fully expect that support to continue in months to come as we develop guidance around the bill.

Statute alone is not sufficient in such matters. Guidance on equality is being developed. It will ensure that a practical framework exists to illuminate what the bill says and requires. That framework will support good practice on equality throughout the sector. The guidance will, in part, describe appropriate behaviours for councils in regard to such matters. Work on equality guidance for best value, community planning and the power to advance well-being is led by the equalities co-ordinating group in conjunction with the community planning task force and the best-value task force. We hope that draft guidance will be available in October. We will ensure that the committee gets a copy of it as soon as it becomes available.

Audit Scotland, working on behalf of the Accounts Commission for Scotland and the Auditor General for Scotland, continues to recognise the importance of equality issues in its work, as it made clear in evidence. It ensures that each auditing service that it provides—thematic studies, performance audits and the development of performance indicators—reflects its commitment to equalities.

The provisions of the Local Government in Scotland Bill cover a large part of the public sector and local authority work, but I am conscious that the committee is interested to know how our work on equalities will impact on the rest of the public sector. The permanent secretary, in his role as the Scottish Executive's principal accountable officer, has updated the memoranda for accountable officers across the public sector to include specific references to best value and equal opportunities. That change will be supported by guidance for accountable officers throughout the public sector. The guidance, which is being drafted, will operate on the same principles as that for local government. It should be circulated to accountable officers in the autumn. We will ensure that the committee receives a copy in due course.

Audit Scotland serves both the Accounts Commission and the Auditor General and so covers the whole public sector. It is working to ensure that a consistent approach to equalities is maintained by all the public agencies.

The Local Government in Scotland Bill presents us with the opportunity to advance the cause of equality and we have taken that opportunity. We have made provision for encouraging equal opportunities and observing equal opportunity requirements through duties in relation to all functions of local authorities. We have provided for specific duties of equality within best value, for public reporting on progress and for the establishment of audit trails for monitoring progress.

With the assistance of my colleagues, Mary Newman and Yvonne Strachan, I will be happy to try to answer your and your committee colleagues' questions, convener.

**Elaine Smith:** Good morning, minister. Thank you for coming along this morning. I will start with some general questions and I hope to have time later to ask some more specific ones about the paperwork that we have received.

The Executive is committed to a mainstreaming approach on equal opportunities, as has been stated often enough in policy guidance. Equal opportunities are clearly being considered at policy level at the outset, rather than just being added on as an afterthought. From your experience, how successful has the mainstreaming approach been

in addressing gender inequality? What are the key barriers to successfully integrating issues of gender equality through the best-value mechanism?

If I may be slightly controversial, I will quote from page 31 of the responses papers, in which Professor Arthur Midwinter states:

"Ministers should be pushed to define both 'mainstreaming' and 'modernising' in an operationally meaningful way."

Perhaps you would care to comment on what you think Professor Midwinter means by submitting evidence that finishes in that way.

**Peter Peacock:** On the general question of embedding equal opportunities in all the Executive's work, I would say that the provisions of the Local Government in Scotland Bill, in dealing with best value, community planning and the new power of well-being, will pervade the activities of local authorities. Every aspect of local authorities' work will be subject to best-value considerations. Our inclusion of equalities provisions in the bill will ensure an all-pervasive effect in every activity in which local authorities are engaged.

Using the best-value route is an excellent way in which to embed mainstreaming in people's thinking from the outset. In every review process that local authorities undertake—for example, on new service provision, on reconfiguring existing service provision or on establishing how better to target services to excluded groups—they must have regard to equal opportunities.

As well as being all pervasive, the bill is systematic. Taken together, the guidance and the requirements under the bill for authorities to test whether they have regard to equal opportunities will ensure a systematic approach to considering equal opportunities across local authorities' activities. That will mean that equal opportunities, as well as other aspects of best value and community planning throughout local authorities, become auditable—we can see what has happened. Auditors can, through the systems that have been established, check to ensure that equal opportunities matters are being given proper consideration. The bill presents a good opportunity for us to ensure that equal opportunities are firmly embedded and that things are done systematically. We are taking that opportunity.

10:30

I have a couple of thoughts about what barriers exist. Best value and community planning are not new. Work has been done on them voluntarily for a number of years and it is already apparent from audit work that equal opportunities considerations are being taken into account pretty extensively.

With any cultural or organisational change, it takes time for people to adjust to that change's impacts, which is why the guidance surrounding the bill will be particularly important. The guidance will, I hope, be practical; it will be based on best practice and practical experience from throughout the country. It should help those who are encountering equalities considerations as part of best-value reviews and should inform them about how to respond to the issues effectively.

The system will inevitably take some time to bed in fully. However, given the legal framework, existing practice and the guidance, as well as the training by equalities groups and local authorities, I do not detect many barriers. The frameworks that are being established will ensure that any barriers that exist continue to come down and that people recognise what good practice is. We are moving forwards in that regard.

As for Arthur Midwinter's comments, you would be best to ask him what lies behind them. Having known him for many years, I am not sure that I could possibly interpret what he said.

**Elaine Smith:** I would like to return to your comments about barriers. In its submission, Unison Scotland mentions the importance of

"new and flexible ways of working"

in overcoming the gender discrimination barriers that exist. Although I take on board what you are saying, I am not sure that the barriers are coming down. The issue is about more than just guidance. As we are fond of saying in the committee, it is about changing hearts and minds—an attitudinal change.

Unison has said that there may be a reluctance on the part of managers to embrace working patterns that, for example, allow for time off to care for children when they are sick. There is a perception that such practices may be difficult to manage or that they may somehow create an improved condition that other staff do not enjoy—in other words, they could be viewed as special treatment. It was once said to me when I was in local government that time off to allow people to tend to sick children was an advantage given to parents over people without children. Frankly, I was appalled at that suggestion. Having a sick child is certainly not an advantage. Such attitudes and ways of thinking are still around. How do we change them? Guidance is all very well, but the attitude that I have described is an example of a barrier.

**Peter Peacock:** As I said, it takes some time for people to adjust to the new culture in any situation of change or when new requirements are being introduced. All the evidence that I have come across from the local government community suggests that authorities quickly gear up to



proposed legislation making its way through Parliament. They are enthusiastic about ensuring that they will meet all its requirements. There is a lot of evidence to suggest that a huge amount of consideration is being given to best value and equalities and that much activity is being undertaken to make the system work. The issue is partly a matter of establishing what best practice is and sharing it across authorities.

Members may have noticed that, in the recent white paper on the future of local government, we sought views about establishing an improvement agency to help local authorities to pick up on best practice in local government so that it can be rolled out more quickly. Some of these things inevitably take time, but I am very confident that people are on the move and want to make progress with best practice.

Under the statute that, with the Parliament's approval, we are about to enact, local authorities will be under a duty to encourage consideration of equal opportunities matters. Equal opportunities are not a question that authorities can just leave to one side; rather, equal opportunities are one of the factors that they have to weigh up in considering how they design their services. They will have to have regard to whether the design of their services enhances or diminishes equal opportunities. The framework now exists to enable matters such as those that Unison raised to be consistently challenged and brought to the attention of local authorities in relation to how they design their services.

In the final analysis, local authorities will have to make a judgment about the best way in which to deliver services with the interests of the consumer of those services in mind. They will also have to take account of matters of cost, effectiveness and economy and of the impact of service delivery on equalities. We are entering new territory, but I am confident that we will make a lot of progress.

**Cathy Peattie:** A fair amount of work has been done on mainstreaming. The work that the Executive has undertaken in that respect is positive and provides an example to other Parliaments. However, do you agree that policy on equal opportunities seems to be ahead of practice? What more can be done to increase the extent to which equalities issues are addressed at the front-line service delivery level? Although it is a good thing that local authorities ensure that policies on mainstreaming are in place, if mainstreaming is not happening on the ground, the policies are meaningless.

**Peter Peacock:** I agree completely. The purpose of the legislation is not just to express mainstreaming equality on the face of the bill, but to change behaviours in organisations. In the main, the bill is a response to the requests that

local government has made over many years. Local government has said that, under previous regimes, it has been totally constrained in what it could take into account in doing its work. It said that it was driven down a particular route in which cost was the principal factor, particularly in relation to the awarding of contracts. The Executive is now telling local government that it can use a range of factors to do its work. We listened and responded to local government.

However, having put equalities on the face of the bill, we will continue to require local authorities to ensure the development of best practice. Some of the points that I made in response to Elaine Smith's questions apply equally in relation to Cathy Peattie's question. We will ensure that mainstreaming happens on the ground not only by encouragement and by pointing out what the law requires, but by sharing the good practice that exists.

We are undertaking consultation on the improvement agency because we detected strongly that the essence of local government is the fact that it is local—it looks to itself and to the boundaries of its local area. It tends not to look as actively across its boundaries to see what other people are doing. However, a huge amount of effort is being made to encourage it to do that.

Part of the best-value process is for local authorities to compare, contrast and benchmark their work with the work of others. Local authorities are setting up new benchmarking clubs to share information. They are also conducting peer-group reviews, in which a group of what are in effect external inspectors is invited to examine an authority's policies and give feedback and constructive observation about how those policies could be developed and improved. A range of inspection processes now exist: Her Majesty's inspectors undertake inspections in respect of schools, police and the fire service and other inspection work is undertaken by Audit Scotland. Local authorities are constantly questioned about their practices and activities.

The Accounts Commission for Scotland, through Audit Scotland, will examine the equalities systems that local authorities have in place to evaluate equal opportunity matters in relation to best value. The framework is in place and we now need to keep moving along the road to best practice, encouraging people to adopt the best practices that exist as fast as they can. I am sure that Cathy Peattie knows from experience that, where good practice exists, it can be extremely good. Indeed, it can be thoughtful and considerate. We want that good practice to extend more widely.

**Cathy Peattie:** You have stressed the importance of monitoring and evaluation. How do

we ensure that stakeholders are involved and that the process is not just about paying lip service to good policies and good practice? How do we ensure that people do not feel that the policies are not being undertaken on the ground? What mechanisms can be put in place to ensure that people in local communities—women in particular, who are often excluded—have a say about what is happening in their local council area? How can people be given a say about whether the services that are delivered suit them? Will people continue to be excluded?

**Peter Peacock:** You touch on an important point. One of the general critiques of the public sector over the past number of years is that too often service provision has been decided according to the view of the service provider and not the receiver of the service. When the individual citizen or community group looks at the great public sector—the Scottish Executive, the local authorities, the health service and so on—that surrounds them, it does not make a lot of sense to them. That is because public services were designed according to the viewpoint of the public sector. A huge amount of effort is now going into examining service delivery through the eyes of the consumer of the services in order to ensure that the services meet the requirements of the service user.

Part of the discipline of best value and community planning lies in how local authorities consult the consumer. Guidance will help to illuminate that issue. Local authorities will be required to listen to the requirements of service users and to design services to meet the users' needs. In order to refine those services, local authorities will be required to listen to their service users again once the services are delivered. The process is a constant loop of feedback, redesign, delivery, listening, redesign and delivery until local authorities improve services in the interest of the groups that use them.

We are working closely with colleagues in the Executive's social justice division and with Margaret Curran. That work follows the agenda that is set out in the community regeneration statement, which aims to close the opportunity gap and to find new consultation techniques for use with young people, elderly people, women or ethnic minority groups. New techniques are being developed all the time in the voluntary sector and the wider public sector to get to people, listen to what they have to say and respond to their particular needs.

A lot of work is also being done on capacity building. The aim is to improve the capacity of individuals and groups in a community to benefit from the opportunities that are presented to them. Margaret Curran's people are considering that and

Communities Scotland has a requirement to consider capacity building among other areas.

The committee can expect us to say more in the not-too-distant future about how the Executive co-ordinates across its departments and across the public sector the support mechanisms that we have put in place to allow communities better to participate. From my past experience in community work, I know that communities are often unable to benefit from opportunities when they do not have the necessary skills at their disposal.

The community learning agenda, which is being developed by what was called community education, is in part about capacity building. It is designed to ensure that people have the facility to articulate their views. The new requirements on the public sector are designed to ensure that it listens to people's views and responds accordingly.

**Cathy Peattie:** Do you agree that the voluntary sector plays a key role in ensuring that communities have the tools to participate in the evaluation and design of services in their communities? Do you also agree that it is important for local government to recognise that that is one of the roles of the voluntary sector?

**Peter Peacock:** As you rightly say, the voluntary sector is hugely important to a variety of dimensions of Scottish life. The unique facility of the voluntary sector is to identify new needs that emerge in that sector and to respond quickly to meeting those needs by employing new forms of organisation.

**Cathy Peattie:** I will move on to community planning. My question will be brief—I thank the convener for being so good to me. The community planning task force consists of representatives from a broad range of sectors, including the voluntary and community sectors. Will you clarify the role of the community planning task force in relation to the equal opportunities requirements of community planning that are developed in the bill?

**Peter Peacock:** The community planning task force and the equalities co-ordinating group are examining the guidance on that. The equalities co-ordinating group is looking in particular at the equalities dimension in terms of best value, community planning and the power to advance well-being. It is doing so in conjunction with the community planning task force and the best-value task force, but it is taking the lead. It is making the key input to that work, which is then being fed into the work of the community planning task force. We have designed the process in that way, rather than having the community planning task force take the lead on that aspect of the work.

**Cathy Peattie:** When do you expect that work to

be completed? Will the joint working between the voluntary sector and the community planning task force also happen at local level? Community planning is taking place at local level, but the process often involves umbrella organisations from the voluntary sector and not the communities themselves. That means that the people who are affected by the community plans are not involved. Will structures be put in place to ensure that communities have an active say in their community plans?

10:45

**Peter Peacock:** Two things come immediately to mind. Now that community planning is being introduced at a local authority level and involves all key partners strategically, people are beginning to examine community planning at a neighbourhood level and how we can better join up public services not just strategically but locally. As a result, aspects such as community budgeting are emerging, in which communities are being given the capacity to examine public expenditure in their areas and how it might be reconfigured to suit their particular interests. Moves are being made on that issue, and we can expect more to happen as a result of the community regeneration statement and the social justice department's work.

**Kay Ullrich (West of Scotland) (SNP):** The Local Government in Scotland Bill proposes that local authorities should report publicly on how they are encouraging equal opportunities for both best value and community planning. However, the detail of what will be reported and how it will be reported is to be left up to the local authorities. Do you feel that such an approach is robust enough?

**Peter Peacock:** Obviously I support the approach, because I suggested it. We have to put the matter in context. In the past, local authorities felt very constrained by the way in which they had to report things. In fact, they were under an obligation to publicise in a particular way how their performance matched the performance indicators designed by the Accounts Commission across the range of their activities.

In my previous life as a council leader, I had to approve one-page adverts for *The Press and Journal* and various other instruments of the news media that publicised the whole of the local authority's performance indicators. However, no one read the adverts, because they were completely turgid and boring and did not mean anything to anyone. We are telling local authorities that they will not be required to do that anymore and that they can choose the best way of communicating with their communities, because they are best able to decide that. However, they will have to carry out such communication; indeed,

they will be required to devise and produce a framework within which they will do so, no matter whether they publish a whole page of turgid statistics in *The Press and Journal* or use some other mechanism.

Local authorities will find the system more flexible and better for communicating their performance to the public at large. That said, we will keep the system under review and if at any point we feel that our requirements are not being met fully or taken seriously, we will use our existing power to examine the matter.

**Kay Ullrich:** But leaving such decisions up to local authorities could be problematic.

**Peter Peacock:** Local authorities are clearly under a duty to report their performance. However, they and others have asked us to move away from previous rigid systems and I expect authorities to respond positively to our proposals. Many of them already put a lot of effort into their reporting mechanisms, which include not only written communication but public meetings, focus groups and a range of other ways in which they feed back to the community and receive feedback about their service delivery. That issue will remain important. Although we are making it a requirement for local authorities to tell the public—who have a right to know how their local authority is performing—we feel that any decision about particular mechanisms is best left to the local authorities.

**Kay Ullrich:** Given the structural nature of much inequality, to what extent is best value an appropriate mechanism for addressing gender inequality within local government? Are there better ways of addressing the problem?

**Peter Peacock:** If inequalities are structural and built into the fabric of the system, best value is probably the best way of attacking them. As I said to Elaine Smith, we are introducing a systematic process. Local authorities will have a clear set of duties and will be required to follow them systematically by applying best value to all their activities. In that sense, the process will be all-pervasive and will reach every aspect of local authority work. Indeed, it will also affect the wider public sector and our work in placing duties on accountable officers.

We are also building in a system of public performance reporting in the local authority sector, and an audit trail will be available to allow Audit Scotland and the Accounts Commission to comment on whether performance is adequate. Those instruments will, if required, allow us to pursue any individual local authority that is not meeting our requirements. Such a systematic and all-pervasive approach probably best addresses the structural issues that you mentioned.

**Kay Ullrich:** An equality standard that covers all

aspects of equality has been produced for England, and the same has happened in Wales. How can the development of a standard in a Scottish context ensure that gender equality is adequately addressed?

**Peter Peacock:** I am interested in the work on this matter that has been going on in England and Wales. Indeed, I was discussing that very point with my two colleagues. We have not made any final decisions on the matter, and want to examine it more closely. We might well be able to adopt such an approach for a number of aspects that we have discussed this morning. Perhaps Yvonne Strachan will give us some of her insights into this question.

**Yvonne Strachan (Scottish Executive Development Department):** As the committee knows, the Scottish approach to best value has been different to the approach that was taken in England and Wales, which means that our approach to addressing equality has also moved differently. For example, the Convention of Scottish Local Authorities and local authorities have had a voluntary system of engagement for some time, and guidance on mainstreaming and best value has been developed.

However, we are interested in what is happening in England and Wales. As the minister has indicated, we are keen to examine any lessons that we can learn from that experience and to find out which aspects might or might not be appropriate to our situation. Through consultation with equality interests and local government—which is something we have tried to do throughout this whole exercise—we might be able to find out how we can best translate anything from that experience into the Scottish context. That is the stage that we have reached.

As the minister said, we have already discussed the best way to move equality forward in our dialogue on the guidance on the Local Government in Scotland Bill and on best value, and we will also find the experience of others and the committee's views on the matter helpful.

**Peter Peacock:** One of the advantages of being a couple of years behind England and Wales in legislating on best value is that we have been able to pick up the difficulties that they have encountered in implementing a much more prescriptive approach. Indeed, our approach has been based partly on observing such difficulties. We have had the benefit of seeing how the equality standard is working and have an open mind about how it could apply in Scotland. It is a very interesting piece of work.

**Mr Michael McMahon (Hamilton North and Bellshill) (Lab):** In an answer to Kay Ullrich, you made it clear that you believe that best value is a

good way of addressing structural inequalities. How appropriate are gender and equality audits or gender impact and equality impact studies in testing the effectiveness of best value?

**Peter Peacock:** In any design—or redesign—of a particular service that takes best value into consideration, such studies will be one of the tools available to local authorities or, under the wider obligations, other parts of the public sector to inform them before they make any decision. They will allow them to find out the impact of current policy and practice on specific groups in society. I should point out that I am no expert at all on such studies or on the results that they have produced, but I do not rule out their use. Perhaps my colleagues could add to my comments.

**Mary Newman (Scottish Executive Finance and Central Services Department):** As far as best value is concerned, we have discovered that one of the big inhibitors to improvement is for local authorities not to know how they are doing or not to find out how they stack up against others. As a result, benchmarking data are required and the more information that we have, the better. Indeed, we support having as much information as possible. Work is continuing on the disaggregation of statistics, but that is not without its own problems as far as statisticians are concerned. That said, there has been a big push across the board to get more information about what is happening so that we can assess the impact of some policies.

**Yvonne Strachan:** The general principle of mainstreaming equality relies on the idea that one assesses policy and practice against equality criteria. We are still developing a systematic approach to that matter, which is why mainstreaming has taken time. However, tools are available, and the committee will be aware of the work of the women and equality unit in the Cabinet Office on the policy appraisal for equal treatment guidelines and so on.

We are anxious to consider what is best and most appropriate for Scotland. That is part of the process of developing mainstreaming and the equality strategy. The thinking behind gender impact assessment is that gender needs to be considered along with other equality areas. We must work through how best to do that, and that will be part of the process that we will engage in more generally around mainstreaming and specifically around best value.

On the issue of appropriateness, members will be aware that the Race Relations (Amendment) Act 2000 brings a requirement to reconsider race equality in this context. Some of the issues that emerge from that exercise will be helpful for us in establishing what lessons might be learned in the other sectors. We are clear that gender impact

assessment is one of the tools for mainstreaming and we are considering—as we are across the board—how best we can use such tools in the Scottish context.

**Mr McMahon:** You have almost pre-empted my next question, but have not quite got to the point that I want to make.

In the drafting of the bill, there was an intention to ensure that equalities issues were addressed. What more can be done to ensure that what the bill envisages, in terms of addressing inequality, becomes reality?

**Peter Peacock:** As I have hinted, the guidance will be important in bringing to life the practices that we want people to adopt. As with everything surrounding the implementation of any new legislation, COSLA and several of the professional associations in local government will want to run training events, seminars and conferences about making progress on such things. There is an awful lot of good practice around, which we need to share more. The improvement agency that may follow our consultation exercise could be a way of highlighting good practice to improve current practice. A whole range of things will fall into place. Perhaps Yvonne Strachan can add something to that.

**Yvonne Strachan:** We hope that the guidance on best value and the process for ensuring the implementation of the bill will give us a mechanism for ensuring that the process of improvement is continued. The Executive is committed to establishing a mainstreaming approach and developing equality. We are anxious to find appropriate mechanisms for ensuring that what is committed to is delivered.

**Mr McMahon:** I have a specific question on that. The bill refers to the four Es of efficiency, effectiveness, economy and equal opportunities as underpinning best value. However, the Public Finance and Accountability (Scotland) Act 2000 sets out the statutory requirement of the Auditor General for Scotland to audit public sector bodies on the basis of only three Es—economy, efficiency and effectiveness. What weighting is given to equal opportunities in relation to those Es?

**Peter Peacock:** We are considering that question. Mary Newman can perhaps say more about our discussions on that.

**Mary Newman:** Discussions are being held with the Auditor General for Scotland about the way in which best value will be audited across the public sector. At the moment, local government audit conversations are a bit ahead of that because of the Local Government in Scotland Bill. The discussions that we have had with the Accounts Commission, which commissions the audit of local authorities in Scotland, have revealed that the

Accounts Commission thinks that it is entirely compatible with its growing audit approach—as you know, the commission has been auditing best value for a couple of years—to consider the arrangements that authorities have in place for paying regard to equal opportunities requirements. That is not quite the same as monitoring the outcomes of those requirements, but it is an audit of whether an authority has made such arrangements as part of its duty of continuous improvement.

The bill establishes a moving target, as it imposes on authorities a duty to secure best value, which is a duty to ensure continuous improvement. Wherever authorities get to, it will never be enough. Some of the pure best-value duties in the bill—although they are around in the best-value regime more broadly—concern consultation, reporting and performance. They are meant to generate comment and input about where continuous improvement and priorities for continuous improvement might lie.

In the context of the audit regime for equalities, auditors in Audit Scotland, working for the Accounts Commission, are collaborating with local authority representatives to establish the way in which the audit will run and how assessments of risk will indicate areas for the auditors to investigate first. It will be a cyclical audit and all of that has to be fed in.

Over the next few months, the auditors will return to the best-value task force with updates on their progress. They will monitor progress on the guidance from the task force and the guidance that hangs underneath the statutory ministerial guidance on the bill, to ensure that those are kept in line. It is a little early to say exactly how the audit process will push that along, but the auditors know that the issue is there to be addressed.

11:00

**Peter Peacock:** The policy intent is not to have three Es and a subordinate fourth E. There are four Es, which stand to be considered equally in the process of securing best value: one does not have less validity than any other. If there is a requirement to update the provisions in relation to the audit process, we will seek to do that.

**Mr Paterson:** Mary Newman touched on other public sector bodies and, in response to a parliamentary question, the minister spoke of best value being rolled out to other public sector bodies. What plans are there for that? If such plans exist, is there any clear time frame in which that roll-out will take place?

**Peter Peacock:** We have already acted on that. We have powers to alter the standing instructions to the accountable officers, who are responsible

directly to Parliament, right across the non-departmental public bodies and other parts of the public sector. In his role as the principal accountable officer, the permanent secretary to the Scottish Executive has changed the standing instructions to the accountable officers, to ensure that they are having regard to best value and encouraging equal opportunities requirements in the process.

The guidance that supports all that has not yet been produced, but it is being worked on and we hope to have it later in the autumn. It will be sent to all the accountable officers. By virtue of the fact that it is comparatively new for them, it will take a while for that guidance to work through the system fully. However, our firm intention is that the best-value principle will apply right across the public sector, and we have acted to ensure that that is happening.

**Mr Paterson:** Is there any evidence to suggest that public sector bodies are gearing up for that in advance? Does good practice exist already?

**Peter Peacock:** There are instances of good practice across the public sector, in relation to what could be termed best value. It may not have been termed best value in the past, but bodies will now be gearing up because of the requirements. I am pretty sure that the principal accountable officer required each accountable officer to ensure that, in giving him feedback, they had read the clear instructions that they had been given recently and acknowledged the requirements. The main force for change will be the guidance that will be produced and the processes that we have talked about, which have been followed in local government for the past two or three years. Inevitably, it will take slightly longer for other public bodies to reach where local authorities are in the framework, but all the provisions are in place to allow that to happen.

**Tommy Sheridan:** We are 30-odd years past the Equal Pay Act 1970, yet there is still a significant and unacceptable gap in pay between men and women for the same work. Is there scope within the Scotland Act 1998 and European directives for the imposition of equal pay via the vehicle of the Local Government in Scotland Bill, given the wider responsibility that the Parliament has in relation to European legislation as well as in reserved matters?

**Peter Peacock:** As you acknowledge in your question, we are not acting alone in this. We are doing what we can in the context that we are given, under the Scotland Act 1998, to make progress. It is important to remember that the previous regime—of compulsory competitive tendering, which we are trying to alter—required local authorities, especially in the latter stages of CCT, to come to a decision about the delivery of

certain services that were subject to competition. Very often the services that were put out to tender affected women, in particular. Many would argue that the contracts that were established disadvantaged women.

We have moved forward significantly from that point. As members are aware, the Transfer of Undertakings (Protection of Employment) Regulations provide minimum protection—a safety net—but that is all that they provide. Increasingly, when local authorities are awarding contracts they are negotiating terms that are better than TUPE. Ministers and trade unions are discussing the so-called two-tier work force that may emerge because of certain current practices. There are concerns about public-private partnerships, and we are working to eliminate the problem of a two-tier work force.

As a consequence of best-value considerations, we are allowing local authorities for the first time to take into account, in certain circumstances, the employment practices and terms and conditions of their contractors. That was not allowed under CCT. We are seeking to contribute and to make progress in areas where we are able to do that. However, we are limited by UK statute, which others are responsible for enforcing.

**Tommy Sheridan:** Are you suggesting that there will be general and overarching consideration of the employment practices of potential contractors? As I recall, the bill refers to exceptional or special circumstances. Will local authorities be able to consider in general the employment practices of potential partners before awarding contracts?

It may not be possible specifically to impose equal pay, but do you set targets on the issue? Is your aim that within five or 10 years we will have significantly narrowed or eliminated the pay gap?

**Peter Peacock:** We do not set such targets. I am not sure that it would be within our competence to do so. However, everyone is committed to making the journey that Tommy Sheridan describes.

The member asks whether local authorities can take into account in a general sense the terms and conditions of contractors with which they may be about to enter contracts, or of contractors that are currently working for them. If a local authority felt that by not taking such matters into account it might be in breach of its duty to secure best value, which includes equalities, it could have regard to the terms and conditions of employers or potential employers. Such consideration would have to be evidence based—it could not be based solely on a sense of injustice. However, if there were evidence that equalities requirements were not being taken into account by employers, to the extent that local authorities could not meet their

statutory obligation to ensure best value, authorities would be able to consider contractors' terms and conditions.

**Tommy Sheridan:** If a trade union presented evidence that a private contractor or potential contractor was not having regard to equal pay, and that there was a significant difference in the pay received by its men and women employees for equal work, might that be a reason for not awarding a contract?

**Peter Peacock:** We are on delicate legal territory, and I would hate to give a definitive legal opinion on this matter. We would not be able to enforce through Scottish-based statute requirements that originate at UK level, unless they fell within the terms of the bill. The bill requires us to meet equal opportunities requirements—if that is not too convoluted. I am not sure what the position would be in the particular case that Tommy Sheridan describes. However, I would be more than happy to examine the matter and to come back to the committee with a more definitive statement on it. I am acutely aware that we are on very complex legal territory.

I emphasise the point that I made earlier about the general issue. If a local authority felt that it was unable to meet its statutory requirements under the bill, it would be able to take into account contractors' terms and conditions.

**The Convener:** We would appreciate your writing to the committee about the issue that Tommy Sheridan has raised.

We are running slightly late, but I am aware that Elaine Smith, who is the reporter on gender issues, would like to ask another question.

**Elaine Smith:** Tommy Sheridan has raised many of the issues that I wanted to raise with the minister, so I will ask a different question.

I found your response to Tommy Sheridan's previous question rather convoluted. In paragraphs 18 to 23 of your memorandum, you discuss reserved issues. Can you explain those paragraphs for us, perhaps in less legalistic terms? Responsibility for equal opportunities is devolved to the Northern Ireland Assembly, but not to the Scottish Parliament. Might that situation change in the future?

I want briefly to pursue the point that Tommy Sheridan was making. Fair Play Scotland discusses in its written evidence whether best-value arrangements should apply to council workers as well as contractors. It states quite clearly that, under CCT, equalities requirements were not built into contracts—as you admitted. You said that we are moving forward, but Fair Play says that that is not happening because of PPPs and the private finance initiative. In its submission it states:

"As with CCT, the lowest paid, most vulnerable (mostly female) workers have been the biggest victims."

Under the bill, local authorities will be able

"in certain circumstances, to take into account information about current and potential contractual partners before awarding contracts."

I know that you cannot provide a specific answer to the question that Tommy Sheridan asked, but can you be specific about the circumstances in which local authorities will be able to take into account information about current and potential contractual partners, and how those powers relate to devolved areas, as opposed to reserved ones?

Unison states in its submission:

"As the funding for local government in Scotland comes from the Executive"—

that puts the issue back into your court—

"we believe that a future condition of funding should be that all local authorities must undertake equal pay audits and set up structures to continue to monitor pay outcomes by gender."

Unison adds:

"we understand that the Executive has ordered all Non-Departmental Public Bodies to complete equal pay audits by April 2003."

Clearly, the Executive can take action on that issue under the devolution settlement.

**Peter Peacock:** I hoped that members would not ask me to explain paragraph 18 of the submission, because it takes us into some extraordinarily complex legal territory, concerning the nature of the first and second exceptions to the reservation in the Scotland Act 1998. The interplay between what we can and cannot do to encourage equal opportunities, on the one hand, and the requirement that equal opportunities requirements be observed, on the other, is extraordinarily contorted.

Because we are short of time, and because I would like to read Tommy Sheridan's and Elaine Smith's questions in the *Official Report* of this meeting, I suggest that I come back to the committee with a properly considered answer to those questions. This is very difficult territory, and I would hate to mislead the committee inadvertently. I will need to take legal advice before formulating my position. That is the approach that I would like to take.

**Elaine Smith:** I am glad that I am not the only one who could not make head or tail of paragraphs 18 to 23.

**The Convener:** I thank the minister and his officials for giving evidence to the committee today. I suspend the meeting for five minutes to allow a changeover of witnesses.

11:14

*Meeting suspended.*

11:22

*On resuming—*

**The Convener:** I welcome Rozanne Foyer, Eileen Dinning and Joyce Magennis from the Scottish Trades Union Congress. Rozanne Foyer will make a brief statement before I open up the meeting for questions.

**Rozanne Foyer (Scottish Trades Union Congress):** I thank the committee for inviting us to give evidence. As Eileen Dinning, Joyce Magennis and I are all women's officers within our organisations, we can bring a lot to today's meeting.

If best value is operated effectively and properly, it should have a positive impact for women on two levels, because not only are women the biggest users of local government services—such as home care, child care and transport—but they are local government employees, the vast majority of whom are in low-paid front-line services. Best value has a potentially large impact on women but, if the committee does not mind, we will focus in our answers on women as employees. The committee has had a lot of information about the service side of best value, but much ground needs to be covered in considering how best value impacts on women as local government employees.

For the STUC and all trade unions, the key thing is that best value should mean best practice in employment and in the promotion of equal opportunities for women. We feel that that is not happening in a lot of areas. We believe that if you want to have quality services, you need to have quality jobs. We want to touch on the many issues surrounding equal pay and deal with a range of other areas that affect women as local government employees.

**Elaine Smith:** Given what you have said about employment, I would like to return to the question that I was exploring with Peter Peacock. The minister's submission says that, in certain circumstances, local authorities can take into account

"information about current and potential contractual partners before awarding contracts",

including information on terms and conditions for employees.

Eileen Dinning may also want to respond to my question, as I know that Unison has been involved in the "Working Together for Equality" report, and I know that Rozanne Foyer and Eileen Dinning were in the public gallery when I asked the

minister about Fair Play Scotland's comments on comparisons with CCT, PPP and PFI. What is your opinion? Do you think that best value could be used in those areas to ensure that we get the best conditions for employees?

**Rozanne Foyer:** I shall let Eileen Dinning and Joyce Magennis comment if they have something to add. As far as the Scottish Trades Union Congress is concerned, if best value were implemented properly, the key difference would be that we would expect local government to do exactly that. Authorities would have to evidence their having carried out equal pay audits. They would have to monitor training patterns, access to training for women, access to promotion and promotion patterns, and they would have to prove that they were making an effort to include family-friendly policies and work-life balance policies. We would like that to apply to all areas of local government and to any private contractors who are contracted to provide local government services.

We do not see any reason why that could not be written into guidance, and perhaps there is a need to make it a bit more explicit. The bill contains a statutory duty to achieve best value, which we welcome, but perhaps there should be a more explicit statutory duty on local government to promote equal opportunities, which would set out the obligations much more clearly. There is a need for detailed guidance on how to mainstream equal opportunities. At the moment, there is a best-value task force, but we are not convinced that it has the expertise to come up with the sort of detailed guidance that is needed. We would advocate a group to come up with a range of practical things that would have to be evidenced by all employers who provide services under best value. That group should include employee representatives and expert equality practitioners, who could put together guidance and root it practically in real actions.

**Elaine Smith:** Before Eileen Dinning responds, I would like to ask her to focus specifically on the point that I discussed with the minister about barriers. I quoted Unison's paper and gave the example of sick leave for parents with sick children. Are there other barriers that you would like to expand on? Listening to what Rozanne Foyer was saying made me think that that is perhaps what Professor Midwinter was getting at.

**Eileen Dinning (Scottish Trades Union Congress):** There are two ways of answering that question, the first of which is based on practical experience and on the work that I do for Unison. In the past 10 years, I have frequently received calls from branch secretaries and women members asking what their rights are, not just in terms of the law but with regard to the policies that apply in the



authorities where they work. I still get such calls, even now in 2002, and I often wonder whether authorities have an equal opportunities policy in practice or only on paper. I looked out some of the guidance before today's meeting and if one really wants information on where there is a good case for work-life balance policies, one need look no further than the Westminster Government's substantial evidence on the business case produced by the Department of Trade and Industry.

Our experience is that, when we actively challenge inequality, there is often a failure on the part of employers to recognise exactly what we mean by discrimination. That is the kind of barrier that I am concerned about. I do not see why employers who have extensive equal opportunities policies in place should allow those policies simply to remain on paper. Nor do I see why it should be a constant battle for women in the workplace to get what is rightfully their due because it has been negotiated by the trade unions with the employer or because it is their entitlement under the discrimination laws of this country. Does that answer your question?

**Elaine Smith:** That is very helpful.

11:30

**Joyce Magennis (Scottish Trades Union Congress):** The Transport and General Workers Union regards the introduction of a statutory duty of best value and the repeal of CCT as very important. However, we believe that a best-value regime must be judged according to whether it meets certain key principles, such as promoting successful direct services and placing quality of services on an equal footing with cost considerations.

I was listening to the debate earlier in the meeting, when members asked whether guidance was robust enough. We do not believe that it is robust enough; we believe that a statutory duty is required. I spent 22 years in local government in Dundee, serving under Kate Maclean.

**The Convener:** Not for 22 years.

**Joyce Magennis:** I was not under Kate Maclean for 22 years, but Kate was our leader and my equal opportunities convener when I was an equal opportunities officer.

The voluntary approach just ain't working. If the committee wants to enhance the bill, a statutory requirement must be included.

**Elaine Smith:** I would like to follow up with a more general question on gender discrimination. If the witnesses have been following the work of the committee they may have noticed that I originally hoped for a much wider inquiry into gender discrimination throughout society, but that was not

possible and it seemed better to tackle the subject under best value, which covers a lot of areas. I hope that that approach will also allow the committee to achieve a reasonable outcome at the end of the inquiry.

We are still talking about glass ceilings and the pay gap, and we still do not have equal pay. What is your view on the structural discrimination underneath those problems? I am referring to such things as the perception of women, stereotyping, the pervasiveness of pornography in society, the growth in the number of lap-dancing clubs, violence against women and maybe even lack of opportunity due to poverty. Do you think that all those underpinning issues have a bearing on the continuing gender discrimination in our society? If so, how do you think that best value in local government can begin to break down some of those barriers?

**Rozanne Foyer:** That is a wide-ranging question. Looking at local government lets us see a slice of society. That clearly demonstrates to us some of the underlying structural issues that affect our society and the way in which women and women's work have traditionally been valued. For example, the key areas in which women work in massive numbers in local government are cleaning, catering and caring services. Those areas are all massively undervalued by our society, in terms of the remuneration that workers get, but they are extremely important services, which enable our society to continue. That issue is linked to the unpaid work that women are expected to carry out privately day after day. If best value is doing its job, it should tackle some of the wider questions about how we value women's work. Best value should tackle the problems faced by the underpaid women who work in those sectors, and that reflects wider issues.

It could also be said that violence against women and the licensing of clubs in the sex industry are areas on which local government has a big impact. If we are talking seriously about mainstreaming equality through best value, that should make a great impact on everything in wider society. Local government services are very important services.

**Eileen Dinning:** Unless women have economic equality in society, their voices are much less important and they simply do not have the same impact in any political debate, whether at Scottish level, at UK level or even at global level.

Unison believes that the whole point of the best value inquiry is that there is a fundamental link between best value and economic equality—how gender inequality is addressed in our society. That is why one cannot divorce equal pay from the potential outsourcing of contract work in local government.

I was curious about the reference to a complex legal argument in the minister's response. I am not a lawyer, but I know that the Parliament is governed by European and United Kingdom law, which puts a duty of care and responsibility on employers and Governments to ensure equal pay and equal treatment. I do not understand why a mechanism is not put in place to ensure that local authorities not only undertake equal pay audits, but bring women towards more economic equality in a way that they have never had before.

Unison would like a general statutory duty on local authorities to promote equality as part of the Local Government in Scotland Bill. That could be linked with detailed guidance on how we define how the Parliament promotes equalities. We cannot address equal pay without addressing potential outsourcing. There is no doubt that local authorities will go down that road. We have identified the areas that will be affected by outsourcing or contracting out—whichever euphemism one wishes to use—which include catering. The bulk of the workforce are women who, traditionally, have been low paid and, generally, are part-time workers. That is why we included in our submission the fact that we want what we call a fair wage clause, to ensure that if services are put into either the voluntary or the private sector, people's working conditions are no worse than those of their counterparts in local authorities where there is a certain amount of protection.

**Kay Ullrich:** Eileen Dinning has touched on what I was planning to ask. The bill proposes to remove some of the more prohibitive legislation that affects how local authorities contract out services. Research by the Equal Opportunities Commission into the impact on women of CCT showed that, in catering and cleaning services, 90 per cent of the savings were made at the expense of the mainly female part-time workforce. Given those findings, what lessons do you think we can learn when we consider guidance under best value? There is no doubt that females are particularly vulnerable when it comes to contracting out and the figures prove it.

**Rozanne Foyer:** We are getting to the crux of the issue now. One could go as far as to say that Government policy on CCT in the past was indirect discrimination against women workers on a massive scale. It is ironic that although we have had policies to promote equal pay for almost 30 years, Government policy in fact widened the pay gap for thousands of women throughout the country.

Best value has the potential to do something about the situation if its principles are adhered to in a proper manner. The key point is that there should be strict guidelines or some sort of

statutory duty that ensures that, when one considers procuring services or contracting out services, that will not be to the detriment of a group of predominantly women workers. That takes us back to the key structural issue of women having a voice—is it by accident or by design that the services that are consistently privatised are in areas in which women work and that savings are made on the back of women's labour? I suspect that it is much easier to reconsider those areas and other areas that involve manual workers, for example. If one examines other areas of local government, one sees that many more women are on sessional working contracts than are employees. Those workers are denied a right even to maternity leave. On the other side are the male manual workers, who consistently receive bonus payments. Workers in the traditionally female areas have no access to such payments. The massive structural inequalities in the current system must be addressed.

**Kay Ullrich:** Anyone who worked in local government as I did saw the effect of CCT—suddenly the cleaners in the office were taking pay cuts and cuts in their hours. It was appalling. We must stop that happening again. How do we use best value to ensure that?

**Eileen Dinning:** It will not happen on a voluntary basis. I have been doing my job for 10 years and I have had to drag people kicking and screaming towards equality.

Members might be interested to know that in the train on my way to the meeting I made a phone call to our legal officer. I asked him how many outstanding sex discrimination cases we had against local authorities. He told me that the number of cases was in excess of 300. We are getting a wee bit fed up with that traditional style of negotiating approach, where people say, "If we challenge you as an equal opportunities employer, we will take you to a tribunal." There must come a point at which that stops. A message must be sent to employers to tell them that it is not about a paper policy or a principle—we mean what we say. That is why I am here to say that some sort of statutory code must be included in the bill and there must also be strong contract compliance elements if we are serious about giving women economic equality. At the same time, we must ensure that we have quality services, and not just for the general public. Members will probably find that the vast majority of women in Scotland use local authority services more than anybody else. That includes employees, who are also service users.

**Kay Ullrich:** Our experience of contracting out is that it has led to a diminution of the quality of the service. One need only consider hospitals, where there are more infections because we all know

what happened to the cleaning force.

**Joyce Magennis:** I agree with what Kay Ullrich says. One need only consider CCT to discover the huge inequalities that existed throughout the system. The Transport and General Workers Union is concerned that the Local Government in Scotland Bill states that local authorities

"shall have regard to ... the need to meet the equal opportunity requirements."

In our view, it is necessary first of all to establish what "have regard to" means in relation to the requirements on local authorities.

When considering gender equality and best value, it is important to approach them from the two angles of employment and service delivery. The statistics are clear that the majority of people employed in delivering local services are women, all of whom are at the lower end of the pay scale. We feel that it is important for the committee to consider the employment conditions of the people who deliver services, because they will have a significant impact on gender equality in relation to employment. It will be necessary for local authorities to recognise and provide for gender-specific needs and requirements.

11:45

Although we are talking about catering and home care workers, we are also concerned about people in the child care sector, particularly nursery nurses. Along with Unison, we are heavily involved in recruiting in that area. It is important that we have more child care, after-school clubs and breakfast clubs, but the people who work in them are in the same position as the domestic ancillary staff and home carers were when CCT was on the go: nobody wants to know them and they are undervalued even though they provide a service that is invaluable, as early-years learning prepares nursery kids for going into education. It is important to raise the issue of those workers because local authorities are going to have to contract out more and more of that work because of national constraints. When local authorities contract out, they have a duty and a responsibility to ensure that employment rights are adhered to and that the level of pay represents a living wage. In the past, serious inequalities, poor provision of services and poor employment standards have resulted in a failure to recognise the consequences of using only cost as a determining factor in the provision of local government services. While cost is important—and we appreciate the requirement to adhere to budgets, as we all have to do that—it should not be the only factor that is taken on board.

**Cathy Peattie:** There has been a great deal of discussion about equal opportunities and I am

sure that people share my experience of seeing equal opportunities policies, after they have been asked for and produced, being stuck in filing cabinets. We all know that CCT, which caused the problems for women workers that we have discussed, was practised by local authorities that had equal opportunities policies.

I am enthusiastic about the idea of mainstreaming, but I would like to ask how we can ensure that it works. How do we ensure that policies that are designed to mainstream equality work at a local level and that they affect women who work for local authorities or for voluntary organisations that depend on local authorities for funding? Local authorities have, in the past, questioned why women workers in the voluntary sector need a fair wage.

**Rozanne Foyer:** Training is required at every level, which requires that appropriate resources and investment be put into mainstreaming. Once specialists have put in place the required mechanisms, that knowledge has to be spread out. Everyone who is involved in local government—whether they be a middle manager, a front-line service provider or a senior manager—must understand what mainstreaming means with regard to their job and what role they have to play in mainstreaming equality. That is failing to happen at the moment. The policies are in place but they sit in a drawer and do not translate into practice, which, with regard to employment practice, is why so many employment tribunal applications are made.

The problem is not that the knowledge is unavailable, or that the Department of Trade and Industry has not issued good guidance on how mainstreaming equality can be achieved; it is to do with how the guidance can be spread out in a way that ensures that people understand it. The only way to do that is to train people, which requires investment. Securing that investment will require a degree of political priority being given to the idea of making mainstreaming work. Too often, that priority has not been given to the matter. Appropriate guidance will have to be issued to ensure that that priority is given to the matter at local level.

There is a big job to do and we appreciate that local authorities have limited funds. It is a pity that duties such as mainstreaming are placed on local authorities without their being given the necessary funding to ensure that they can perform properly.

**Cathy Peattie:** I take issue with you on the subject of training. I agree that training is important, but you could train some people until they are blue in the face without ever convincing them of the importance and value of mainstreaming equality. The problem is also to do with winning hearts and minds, which takes time.

How do we monitor progress in that area? I agree that issuing guidance is important, but I have seen good reports from awful departments. Such departments often claim that they are doing brilliantly and that they are funding the organisations that they should fund but, when you take away the wrapping, you discover that the report is nonsense.

How can we ensure that the users of a service and the people who work in that service—the stakeholders—influence the monitoring process and have a say in determining whether mainstreaming equality is taking place? There are people in local government departments who are committed to making what we are talking about work, but it is hard for them to push the matter forward.

**Rozanne Foyer:** A massive part of the guidance that needs to be provided should deal with monitoring. We have to think about what sort of information we want to monitor. Obviously, every local authority department should monitor its progress in mainstreaming equality at every level. We have to ensure that there is feedback from the employees and that employee representatives are fully involved in setting up the monitoring processes that are used.

If equal pay audits were carried out regularly, they would be an effective way in which to monitor equalities and inequalities with regard not only to gender but to race, disability and other areas. The money that people are paid for the jobs they do reveals much information about promotion patterns, training, career paths, access and so on. We want more monitoring of those areas and we believe that that should be set out in the guidance.

**Eileen Dinning:** If I had a definitive answer to the question of how we can effectively monitor progress in relation to mainstreaming equality, I would be earning huge consultancy fees. However, I do not.

We have to tackle the training of local authority employees differently. How do we define training? At one end of the scale, a low-paid woman in a front-line service might not understand the requirements of disabled people and, at the other end of the scale, a chief executive might say that an audit has been done and that is that.

My experience of talking to employers over the past year has shown me that, if there is any ray of light in this area, it is that employers are much more willing to work in partnership on equal pay audits than they were previously. In a way, the need for that negotiation process has been removed and we do not have to engage in hard bargaining on the issue any more.

I repeat that we must examine our approach to training in the public sector. One of the national health service trusts produced a useful draft

guidance document. Because of the Executive's line on domestic violence, that trust had to rethink its strategy on, and its approach to, domestic violence. There are lessons to be learned from other services in the public sector.

**Joyce Magennis:** A raft of issues can be brought together. The work that has been done on various areas has to be pulled together to enable us to determine what best practice is.

It is important that local authorities take on board the views of the service users. They could do that by involving communities more and by being more consultative out in the community. That is especially true of some communities in Dundee which, I recollect, do not know that the local authority wants to know how they find a service and how accessible that service is at the first point of reference. It is important that local authorities start doing that within communities.

Although, as trade unionists, our bread and butter is at the work face, our members work in one place, but then go out and live in their communities. Everything is interlinked—trade unions protect wages and conditions in the workplace, but it is also important that we ensure that when people go back to their communities, they have knowledge of and are able to access services.

With regard to hooking up with the equal pay campaign, the Scottish Trades Union Congress is now training learning representatives. Shop stewards in local government will be trained as learning representatives and will go in as equal pay representatives. That will assist local authorities in doing equal pay audits.

I find that people in the work forces of local authorities understand equal opportunities. The chief executives and labour groups also understand the issues, but middle management does not. Understanding is coming up and going down and stopping at middle management, which is the barrier. Never mind a glass ceiling—the barrier is middle management. It is an education and training problem.

**Rozanne Foyer:** I have one thing to add to that. We have considered awareness raising, training and monitoring, but we need to go back to enforcement. It would be all very well to have awareness raising, training and monitoring in place, but if people turn a blind eye to the fact that not much progress is being made—which, it seems to me, has been a problem sometimes—those programmes will not be effective. I return to the fact that we need to build in something more explicit about a duty to promote equal opportunities in local government.

**Mr McMahon:** You might have answered my question, because you referred to monitoring and

assessment. I was going to refer the panel to the question that I put to the minister about gender and equality audits and impact assessments. Will you clarify that you believe that there is a place for those?

**Joyce Magennis:** Absolutely.

**Rozanne Foyer:** Yes.

**Mr McMahon:** However, you are concerned about the effectiveness of the information and its use.

**Rozanne Foyer:** Yes. The monitoring, training and policies can all be done, then shoved in a drawer and forgotten. An equal pay audit will throw up all the inequalities that exist, but the crucial part of that process is not doing the audit; the crucial part is thereafter coming up with an action plan that will address the issues thrown up by that audit. It is difficult to find good examples of people taking the process forward to that level. There are ways of doing it and expertise is being built up, but there are not enough examples of that happening.

**Eileen Dinning:** We thought that the committee might want to take on board one other thing. We know that local authorities must publish an annual report that contains information such as how many streets were swept in the past year and how much that cost. It might be useful if there were a requirement for local authorities to include in those annual reports and accounts exactly what they had done to monitor, assess and audit equality issues, either for service users or for their staff. We would like the committee to take that practical suggestion on board.

**Joyce Magennis:** That is what we need.

**Elaine Smith:** I would like to wind the whole thing up by leading on from what Eileen Dinning said about partnerships. As women's officers, do you think that you are being meaningfully consulted and involved in best value in relation to gender discrimination and gender equality? Part of the reason for that question is the written evidence from the Association for Public Service Excellence. I was delighted to read the association's answer to question 6, which asks:

"What support needs to be in place to ensure that gender equality is integrated into how local authority services are delivered?"

One of the answers was that there should be closer partnership with the trade unions.

However, on page 20 of the association's submission, I was disappointed to read the answer to the question:

"As a local authority, do you have partners in planning services?"

One hundred per cent of respondents answered that they did. There was a list of the partners, but

there was no mention of trade unions. That seems to be contradictory. Do you think that you are being meaningfully consulted?

Thinking about training perhaps a bit differently and laterally, could the trade unions be engaged by local authorities to use their skills to do the training, instead of being in conflict with them? Some of the best training I ever got was via trade unions.

12:00

**Joyce Magennis:** I will answer the last part of the question about using trade unions' skills. The T&G has a good education programme and we are working in partnership with industry, particularly with FirstBus plc. We go in and train people on the shop floor and we train managers and people all the way up on all the issues. We can be used and we are available.

**Eileen Dinning:** I have, for example, been in discussions with one of the non-departmental public bodies that is required by the Parliament to carry out an equal pay audit by April 2003. That body wanted my views on the private consultants that had submitted bids, but I was not prepared to get into that debate. Once we had dialogue, the body asked me to undertake initial basic training for it in two weeks' time. It can work, but it will be a bumpy road because there will be employers that are members of the Convention of Scottish Local Authorities, but which all wear different clothing sometimes, as I am sure some of you know. There will be areas where we could achieve genuine partnership, but it will not be straightforward in other areas.

**Rozanne Foyer:** I will answer the question from a more general trade union perspective. Progress is being made. We are beginning to be consulted more by employers and by the Scottish Executive. We are a key social partner and we represent more than 630,000 working people and their families. We have much to bring to those issues for people as workers and as service users.

However, too many employers fail to realise that trade unions are only too willing to show them good practice—we have that expertise. We are, as Joyce Magennis suggested, doing a lot more training with people in partnership. There are a number of areas surrounding equal pay—on which we hope to conduct partnership pilots and to provide the same training to employers and trade unions on how to tackle mainstreaming. We are not being used enough and I put it on record that we are more than willing to give employers good advice on how to mainstream equality and good employment practice into all their activities.

**Tommy Sheridan:** I have two lines of questioning. In the earlier discussion with the

minister, which you heard, I was trying to get agreement to use the Local Government in Scotland Bill as more than just another set of words, and to get the bill to deliver equal pay. Given that it is 32 years since the Equal Pay Act 1970, that would not be too soon. Have any of you been involved, either via the STUC or individual unions, in discussions about how the relationship between the Scotland Act 1998 and Europe-wide legislation would allow the Scottish Parliament to legislate for the imposition of equal pay in local government and for contractors that deliver services to local government, or are you aware of any such discussions?

**Rozanne Foyer:** The STUC is working in partnership with the Scottish Executive in the "Close the Gap" campaign to encourage employers to conduct pay audits voluntarily. A clear line has been drawn in that we have not been allowed to discuss with the Scottish Government the placing of any sort of mandatory duty on employers because that is a reserved issue.

However, given that the Government has asked all of its non-departmental public bodies and all Government departments to conduct pay audits by the end of 2003, we do not see why the Scottish Executive or the Scottish Parliament cannot ask local government and service providers to conduct pay audits. We do not think that there is an issue there—that should happen. However, we have not been given an opportunity to have specific in-depth discussions on the matter with the Scottish Executive. Does that answer your question?

**Tommy Sheridan:** Partly, thank you.

There seems to be a discrepancy in the parameters of what is devolved to us and what is retained by Westminster in relation to equal opportunities. We are supposed to implement all Europe-wide legislation. The equal pay directive is a European Parliament directive that I thought we could have used to promote the kind of equal pay legislation that we are discussing. I worry that we are responsible for all local government matters but local government pay. There seems to be a dichotomy that we must get a handle on. There is an opportunity for us to try to push the parameters as wide as possible, which is why I asked whether discussions had taken place.

Have any of you been involved in, or are you aware of, discussions in other authorities—particularly the Greater London Authority—on employment legislation being imposed on contractual discussions about employers' employment practices? Consideration of employers' employment practices is now part of the Greater London Authority's statutory consideration in relation to contracts. Are any of the witnesses aware of colleagues down south

who have been involved in such discussions?

**Rozanne Foyer:** We are not, but Tommy Sheridan has made an interesting point that we will follow up.

**Eileen Dinning:** If I understand Tommy Sheridan correctly, the Greater London Authority has imposed a statutory element in respect of employment practice. If Westminster has not challenged that, perhaps the committee should take advice to find out whether that can be done in Scotland. I said earlier that I do not see why putting in place a mechanism to ensure that local authorities undertake equal pay audits cannot be considered. UK law currently stops short of legislating for compulsory equal pay audits, but I think that they will come in time, although it might be some way down the line. Perhaps Government departments in Scotland can be asked to do such audits, because the practice is widespread in Whitehall. I understand that every department in Whitehall has signed up to them.

**The Convener:** The minister has already agreed to give us detailed answers in writing on that matter. Whether there is any mileage in Tommy Sheridan's point about the Greater London Authority can also be considered.

**Eileen Dinning:** Sometimes, I become extremely frustrated about the reliance on legal arguments. I understand the importance of the law, but there is more-than-compelling evidence—much of it from the UK Government—of there being a strong economic case and that the issue is not just about best value. At the end of the day, good equality practice saves money and provides better services. If the economic issue is not addressed in the long term, there will be consequences for employers in this country in relation to the number of claims that go before the courts. There are hidden costs related to high turnover and poor attendance at work if conditions are not good. There is a compelling argument in favour of there being good equality practice throughout the public sector in Scotland.

**Joyce Magennis:** Eileen Dinning is right about the economic argument. Good equality policies make good business sense and will enhance the work of the whole local authority, the services that are delivered to users and the work of the people who deliver them.

**Mr Paterson:** Much good evidence has been given about low pay and equality, but I would like to discuss contracting out. What an employer pays to an individual may be set in stone, but an employee might be made to do more work through staff cuts. Do you have any recommendations to make in respect of that?

**Eileen Dinning:** Our submission mentions a fair employment clause that would allow trade unions

to negotiate more than best practice. There would be elements to ensure that people would be paid the rate for the job. Is that what you are getting at?

**Mr Paterson:** Employees might get a minimum wage of £5 per hour, but instead of 10 people doing the job, only six people might be do it. Numbers might simply be reduced. Can a mechanism be put in place?

**Rozanne Foyer:** That could be tackled through standards of service. There are two sides to the issue. I repeat: we believe that to deliver a quality service, quality jobs for service providers are needed. Those providers should be fully trained, remunerated properly and have good conditions. They would then work together to provide a quality service and take more pride in what they do.

I return to the three Es. We should ensure that equality and effectiveness are much more highly regarded than efficiency. If six people do a job that 12 people used to do, there will be big reductions in staff service, morale and commitment to doing the job well.

**The Convener:** I thank the witnesses for their evidence. I am sure that the committee will look forward to working with you in future.

Before the committee goes into private session, I should say that apologies have been received from Ann Hamilton of the Zero Tolerance Charitable Trust, who was mentioned on the agenda. She was unable to attend the meeting.

12:13

*Meeting continued in private until 13:00.*





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