

EQUAL OPPORTUNITIES COMMITTEE

Tuesday 12 November 2002
(Morning)

Session 1

£5.00

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EQUAL OPPORTUNITIES COMMITTEE

17th 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)

Karen Whitefield (Airdrie and Shotts) (Lab)

*attended

WITNESSES

Hugh Henry (Deputy Minister for Social Justice)

Angela McGarrigle (Scottish Executive Justice Department)

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 12 November 2002

(Morning)

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

Item in Private

The Convener (Kate Maclean): We have received apologies from Elaine Smith and Cathy Peattie, who are unwell, and Gil Paterson, who is attending another committee meeting.

Agenda item 1 is consideration of whether to take item 5, on a draft report that has not been signed off by the committee, in private.

Tommy Sheridan (Glasgow) (SSP): I oppose the committee's taking item 5 in private. I have a problem in that I will probably not be at the meeting for that item, but I register my opposition to the proposal.

The Convener: With that dissent registered, do members agree to take item 5 in private?

Members indicated agreement.

Taking Stock (Sexual Orientation Issues)

The Convener: Agenda item 2 concerns taking stock of sexual orientation issues. I welcome Hugh Henry, who is the Deputy Minister for Social Justice, Angela McGarrigle, Yvonne Strachan and David Thomson. They are here to give evidence. Does the minister want to make an opening statement before members ask questions?

The Deputy Minister for Social Justice (Hugh Henry): Yes. The Executive's equality strategy has a clear commitment to including and developing lesbian, gay, bisexual and transgender equality. I want to sketch out some progress that we think we have made.

There are four key themes: consultation, mainstreaming, research and awareness raising. We can report progress in all those areas. On consultation, we are engaging directly with LGBT communities in Scotland. There have been two seminars involving ministers, officials and LGBT communities, which have been useful in identifying priorities. We are funding consultation on capacity-building work with LGBT communities, which will develop a more structured approach to consultation over the coming years.

On mainstreaming, our equality strategy and the wide definition of equal opportunities in the Scotland Act 1998 give us a platform for driving forward mainstreaming of equality in the Executive's work across departments and policy services as well as in legislation. We have taken important steps to recognise same-sex partnerships in a range of legislation. For example, the Housing (Scotland) Act 2001 gives succession rights to unmarried partners, including same-sex partners, and the Adults with Incapacity (Scotland) Act 2000 recognises same-sex partners as nearest relatives.

We are actively tackling barriers to service delivery in a number of areas, such as health, and we have established an LGBT health discussion forum. We are also funding a project manager to conduct research into a mainstream approach to the effective inclusion of lesbian, gay, bisexual and transgender people in health and planning services.

We are involved in research. Research and statistics are important tools to advance our work, but we realise that it is difficult to explore issues around sexual orientation. We took an early decision that research was needed to examine the characteristics, needs and circumstances of Scotland's LGBT communities. We wanted to explore what data on needs exist in the Scottish Executive and which methods would be most

effective in providing data. Therefore, we are funding a study that will explore the existence of and need for data on sexual orientation. That work is being carried out by the National Centre for Social Research, which will report shortly.

We realise that much awareness raising is about tackling discrimination and inequality, which is a key strand of our equality strategy. The Executive's decision to repeal section 2A lifted barriers to the discussion of LGBT issues with young people, which allowed prejudice, bullying and harassment to be tackled more openly and effectively. Our LGBT health discussion forum is raising awareness within the national health service.

We realise that there is a great deal of discussion about implementation of the European Union employment directive under article 13 of the treaty of Rome, which will outlaw discrimination in employment and training on the basis of sexual orientation. That provides an opportunity to explore awareness raising with employers.

One of the strong messages in the equality strategy is the need to work in partnership. I acknowledge the important work that the LGBT communities themselves are doing along with other public sector organisations in Scotland. For example, a police and LGBT community liaison forum has been established, thanks largely to the hard work of Outright Scotland and others. The beyond barriers project has secured significant lottery funding to tackle discrimination and build capacity locally. Local authorities, such as Aberdeen City Council and City of Edinburgh Council, are taking action to tackle discrimination, and health boards, such as Ayrshire and Arran NHS Board and Tayside NHS Board, have examined the attitudes of young people and how we might tackle homophobic discrimination and prejudice.

A number of things are happening. We cannot afford to be complacent. Much more needs to be done, but we have a platform on which we can build.

Mr Michael McMahon (Hamilton North and Bellshill) (Lab): In his submission to the committee, the chief constable of the Northern constabulary, Ian Latimer, refers to work that is being carried out within the Scottish Executive to determine the experiences and service needs of individuals who are lesbian, gay, bisexual or transgender but who do not wish their sexuality to be widely known. What can the minister tell us about that work and its proposed outcomes?

Hugh Henry: I might bring in one of my officials to talk about the detail in a minute. We realise that there are sensitivities around those issues. The identification of individuals and the compilation of

statistics help to build arguments for change, but we know that, in many cases, people are reluctant to discuss their personal details openly—often with good reason. That should influence how we proceed. In the Executive, we want to build on the existing work.

Yvonne Strachan (Scottish Executive Development Department): I will flag up two areas. In his opening remarks, the minister mentioned the work that is being done on our behalf by the National Centre for Social Research, which is examining how we can deal with data and research in a complex, difficult and sensitive area. I am sure that the committee is aware that monitoring and collecting data and information on sexual orientation and on LGBT communities is sensitive and difficult for the reasons that the member implied in his question. For that reason, the Executive felt it important that we contribute to a wider piece of research, which will—we hope—give us a steer as to how we move the matter forward in future. That might be the research to which the chief constable referred.

In addition, some of the external qualitative research that has been done to try to identify and demonstrate the extent of the social exclusion, violence and other difficulties that gay men in particular face as a result of their sexual orientation has been recognised in the Executive's work. That research was part of the evidence that we gathered in developing the equality strategy and the way in which we want to progress. The research is also part of the reason why we welcome the initiatives for dialogue between police bodies and LGBT communities that have come as a result of the LGBT police liaison forum.

Does that answer the question?

Mr McMahon: Yes, and it leads to my next question. You mentioned the collection of data on violence, harassment and bullying. A report in 1999 for the City of Edinburgh Council's community safety unit noted that almost 40 per cent of an LGBT study group had been subjected to physical assault in the previous year, compared with 2.5 per cent of the general adult population, as reported in the 1996 Scottish crime survey. Given that apparently huge discrepancy, what actions, if any, is the Executive undertaking to improve the situation?

Hugh Henry: We want to work closely on that issue with the police, who are very much aware of the incidence of violence against particular members of the community. Our approach is to try to ensure that everyone is protected from mindless violence and that people are able to live their lives in safety and security. Our first reaction is to consider what more needs to be done with those who are responsible for ensuring law and order.

Secondly, having considered law and order on the streets and the steps that the police are taking to improve recognition of and reactions to the problems, we recognise that there is a responsibility to try to change attitudes in society to remove the source of the violence. In a country such as ours, that is a wide issue. People throughout Scotland from different age groups and backgrounds suffer from violence for a range of reasons. Many of those issues have been debated in the Parliament. We have an obligation to ensure that education that promotes acceptance and tolerance starts early and that those attitudes are taken back into the wider community. We must tackle prejudice and ignorance wherever they exist, particularly in areas in which we have a direct responsibility.

Those are our preferred approaches. Some people argue for legislative change, but we would have to consider such change carefully and my colleagues in the justice department would be responsible for any such change. The laws that seek to punish those who perpetrate violence and commit attacks appear to be capable of providing the appropriate punishment. We should concentrate on trying to prevent attacks. The organisations that exist to promote LGBT issues have been active in raising concerns with the police, which has been helpful, and the discussions that those organisations have had with the Executive have been constructive.

Mr McMahon: Nothing that you have said so far has not been mentioned by one group or another. There is general agreement on the broad sweep of what you are saying. However, a number of the submissions highlight the lack of funding for LGBT groups to carry out the work that you mention, such as awareness raising, capacity building and education. Outright Scotland said:

"it could be argued that discrimination against and exclusion of LGBT people starts with the decision makers of local and central government funding."

Are there any plans to improve funding for those groups?

10:30

Hugh Henry: I will bring in the officials to speak about the detail in a minute, but we have given funding where appropriate to a number of bodies on specific issues. There are certain things that the Executive can do, but other things need to be tackled at a local level. We hear the same argument from many groups in our community: they would like the certainty of central funding for a range of issues, and they are a wee bit uncertain of the consequences of applying to local authorities in respect of continuity and recognising the national or strategic focus. It is a dilemma.

The Parliament is founded on the principle of subsidiarity, which means making decisions at the most appropriate level. We would not necessarily want to start pulling all the decisions into the centre, but where there have been national perspectives and national initiatives for us to consider, we have considered them and supported them. We want to encourage our colleagues in local government in particular to reflect on some of the discussions that take place here, which need to be taken back out into the community.

Yvonne Strachan: Precisely for the reasons that were implied in the question, there was a need to see what kind of support could be given to enable LGBT communities to network to develop capacity. There was also a need for better engagement between the Executive and those communities on policy making. As a result, through the Equality Network, the Executive is funding a development worker for a three-year period. In addition, we have given a small amount of project funding to Stonewall Youth Project to do some youth work.

More generally, the important issue has been developing the process of engagement through all the different agencies and achieving recognition across the piece of the mainstreaming principle and of the fact that it is important to engage with different communities. The responsibility for that engagement and capacity building should not rest entirely with the networks and communities; there is a responsibility on us all to engage and to be accessible, which we have sought to be through the thematic seminars and other activities in which we have taken part.

Mr McMahon: Capacity building was mentioned in the minister's initial statement and he and Yvonne Strachan have mentioned it subsequently. The North East LGBT Forum raised the issue of the underdevelopment of the local LGBT community, which largely depends on volunteers. It noted that it was unreasonable to expect an underdeveloped community to provide services for itself with little or no professional support. Are there any plans to assist those communities other than through funding, for example through capacity building?

Hugh Henry: There are two strands. One is the fact that we recognise that there is a need for consultation. The equality unit is funding the Equality Network to develop structures and mechanisms for consultation. We are spending £97,000 over 18 months on the project "Your Scotland", which started in summer 2002, but it comes back to the argument that we hear not just on these issues but on a range of issues: local groups argue that there is no money to build capacity, whether that is in relation to debt and money advice, women's issues or youth issues.

The Executive can support certain things that have national significance, but we do not generally fund local work and local groups; largely, that remains the responsibility of local authorities. For example, if the group that Michael McMahon mentioned is having difficulties in its area, apart from considering all the other funding organisations that exist, it should also relate directly to its local council. I am not sure that we would want to take direct responsibility for funding local groups in relation to this or any other issue.

Kay Ullrich (West of Scotland) (SNP): Good morning, minister. I will ask you some questions about health issues, so it will be like old times. The submissions that we have received repeatedly highlight concerns about the way in which the LGBT community is treated by health services. Angela Mason, executive director of the Stonewall Youth Project and a commissioner with the Equal Opportunities Commission, stated in the *Equal Opportunities Review*.

"we have observed little progress in the NHS because they are driven by government-set targets, of which equality is not one."

That is a fairly harsh statement. What efforts are being made to improve service provision in health for LGBT people and the issues that surround them?

Hugh Henry: The Executive has funded a project manager to conduct research and to develop a mainstreamed approach to the effective inclusion of lesbian, gay, bisexual and transgender people in health and in planning services, simply because we recognise the validity of some of the comments that have been made.

That is part of our drive to ensure that the NHS is patient centred. We have been at pains to argue that there is no room in the NHS for discrimination of any form. As Kay Ullrich is aware, we have discussed how to ensure that the NHS does not display ageism—given that older people are the core business of the NHS. We also recognise that problems concerning many sections of the community flow from some of the structural habits in the NHS.

I hope that our research work and our encouragement of a mainstreamed approach will have some effect. It is important that the Executive's message, which goes out through the Minister for Health and Community Care and the health department, continues to hammer home our belief that the health service must be inclusive, that there is no room for prejudice or discrimination and that services have to be targeted at those who need them most.

Where there are obvious forms of discrimination, we want to know about them and tackle them. Sometimes it is much more difficult to address

hidden discrimination, which is just as bad. We must continue to work to change attitudes to that.

Kay Ullrich: One of the most glaring things relates to sexual health advertising. There is a lack of positive images for LGBT people in health advertising campaigns. I am also concerned by the low number of gay men attending genito-urinary medicine—GUM—services. Clearly, there are gay men who have GUM and sexual health problems, but they are not experiencing the existing provision of GUM services. That is a core concern when we take into account the number of gay men not using GUM services.

Hugh Henry: It is difficult to comment specifically on what the health service is doing in that regard—it is not in my brief. If there are particular concerns about things that are not happening properly in the health service, the committee might want to address them to the Minister for Health and Community Care.

I am aware that the LGBT health discussion forum was established at the suggestion of the then Minister for Health and Community Care, Susan Deacon. A thematic seminar has been held, which considered ways forward and identified and addressed equality issues.

If you wish me to feed back any specific matters to my colleagues in the health department, I will do so, but it might also be useful for the committee to take up particular issues with the Minister for Health and Community Care. I do not think that it would be appropriate to comment on some of them.

Kay Ullrich: I understand that. There is clearly a problem at grass-roots level, with general practitioners and citizens advice bureaux simply not knowing to whom to refer people with certain problems. Sometimes, the referrals do not happen.

The minister's response to a written question from Nora Radcliffe on suicide and self-harm among young LGBT people mentioned a consultation document—the "National Framework for the Prevention of Suicide and Deliberate Self-Harm in Scotland". What progress has been made on the development of that national framework? The number of suicides among LGBT young people is a concern.

Hugh Henry: Obviously, the issue is complex and involves a wide range of social, economic and psychological factors. Suicide is a particularly distressing problem in Scotland. Men account for more than three out of four suicides.

Kay Ullrich: Particularly young men.

Hugh Henry: That is right. Suicide is the biggest killer of young men under the age of 35 in Scotland. That is appalling. In the white paper

"Towards a Healthier Scotland", we affirmed that mental health is a priority for the national health service. Our three-pronged approach considers life circumstances—tackling poverty, unemployment and the problems of a polluted environment—lifestyles and health topics and helps to facilitate enhanced mental well-being.

The document "Our National Health: A plan for action, a plan for change" commits the Executive to considering ways to overcome stigma. We are funding an inquiry into that issue. Research evidence provides information that practitioners can use when assessing an individual's suicide risk. A draft national framework for suicide prevention was issued for consultation in October 2001. There is also the breathing space telephone support line for people, particularly young men, who are in a low mood and/or are at risk of suicide. The advice line is funded by the health improvement fund and was launched on 8 April 2002.

The line's initial publicity focus was in greater Glasgow, but the line is available from anywhere in Scotland. The line handled more than 3,000 calls between its launch and the end of September 2002. That is commendable and justifies the existence of the project, but it is also extremely worrying that there is that level of demand. We are developing a national strategy and action plan to prevent and reduce the rate of suicide in Scotland.

The breathing space telephone support line and the other measures to which I referred are now part of a wider national programme to improve mental well-being in Scotland. A programme director was appointed on 1 April 2002 and the national advisory group, chaired by the Minister for Health and Community Care, had its third meeting on 2 September 2002.

Kay Ullrich: Are there any statistics on those programmes, for example on the number of callers to the support line who are concerned about LGBT issues?

Hugh Henry: I do not know, but I can find out and write back to you.

Kay Ullrich: It would be helpful to know whether a high number of calls are from that group of young people.

Hugh Henry: Okay.

Kay Ullrich: Finally, I have a question on awareness and training. Outright Scotland's written submission states:

"There should be pre-registration and on-going awareness training on LGBT issues for all social-care workers, doctors, nurses and other professionals allied to health care."

Are you aware that any such training programmes are being provided or planned? Awareness

training is the core of the matter.

Hugh Henry: Awareness training of medical staff would be an issue for our colleagues in the health department. For several years, there have been discussions about the type of training that doctors, nurses and other health professionals get, because there have been worries that the training sometimes leaves them unprepared for the realities of life in the community. I know that there have been discussions with the relevant bodies about training requirements. I could not comment on what the training needs of professionals are, but perhaps Yvonne Strachan can.

Yvonne Strachan: It is difficult to give a specific reply on LGBT issues. Work has been done to develop equal opportunities training within NHS staff development as part of a comprehensive programme to improve patient-centred care. If it would be helpful to the committee, we could examine the specific initiatives within that programme that are directed at LGBT communities.

Kay Ullrich: As a very aged social worker, I am concerned about the training that social workers and social care workers receive. In my day, such training did not happen.

Hugh Henry: We will go back to our health colleagues to obtain more information. We will feed back the concerns on health issues through Malcolm Chisholm and we will feed back the social work concerns through Cathy Jamieson. Cathy Jamieson has been concerned about a number of aspects of social work training. A need to recruit and retain social workers has been identified. There is also a need to re-examine the training that is offered.

10:45

The Convener: This is the fourth taking-stock exercise that the committee has undertaken. We realise that it is sometimes difficult for you, as the Deputy Minister for Social Justice, to give in-depth answers to questions on other ministers' portfolios. The clerks can liaise with your officials to ensure that questions that are not answered fully today are answered in due course.

I want to ask about the legal system. Several submissions—in particular, the submission from Professor Kenneth Norrie of the University of Strathclyde—highlighted significant anomalies in the legal treatment of gay men. Professor Norrie drew attention to the use of offensive language in legislation and to the fact that the law continues to criminalise gay men more than non-gay men and women. He also stated that there are many instances of discriminatory treatment, whereby opposite-sex couples are treated better than same-sex couples.

Some aspects of that issue have been dealt with. The Equal Opportunities Committee was instrumental in ensuring that the Adults with Incapacity (Scotland) Act 2000—the first piece of legislation that the Parliament passed—gives same-sex couples the same rights as different-sex cohabiting couples. Does the Scottish Executive have any general plans to review and update the law in that respect?

Hugh Henry: We are committed to ensuring that the law strikes a non-discriminatory balance between the protection of the public and the protection of an individual's right to a private life that is free from harassment. As you indicated, we have already made progress on that issue in a number of ways. It is clear that the laws should be reviewed regularly. It would be for my colleague Jim Wallace to deal with the specific criminal justice system matters that you mentioned.

In relation to the social justice portfolio, we want to ensure that some of the issues that affect communities, including those that you identified, are taken account of. We want to ensure that our approach is non-discriminatory and inclusive. We would want to consider opportunities to change the law where such opportunities existed. I cannot comment on the specific issues that you raised and I cannot commit our justice colleagues to dealing with them. Angela McGarrigle might want to give some feedback from the justice side.

Angela McGarrigle (Scottish Executive Justice Department): We are working closely with Whitehall colleagues in examining the position of same-sex couples. UK ministers will consider the issue and we will liaise closely on any aspects of devolved legislation that affect same-sex couples. We have already made provisions in law in that area—for example, in the Housing (Scotland) Act 2001. We will consider the issue and will keep in close touch with our colleagues.

Hugh Henry: We acknowledge that you make a valid point. The Equality Network has highlighted differences of terminology and categorisation in existing law. Although we should use existing statute and common law where possible, we should always be alive to the possibility of considering what needs to be changed to afford protection. However, it would be wrong of me to commit another department at this stage.

Mrs Lyndsay McIntosh (Central Scotland) (Con): I want to move on to the subject of young people. With the repeal of section 2A, a key barrier to the development and delivery of targeted support for young LGBT people in schools has been removed. Will you tell the committee whether services have moved on and, if they have, how?

Hugh Henry: For a start, we have removed what was a blatant piece of discrimination. We

have given confidence to a group who felt discriminated against. Much more was made of that repeal by people who wanted to cause mischief than was necessary. I am not sure that we could come up with specific examples of differences that it has made to individuals, but it was right to remove a discriminatory element of our legislation and afford the same rights and protection to everyone.

If the repeal of section 2A has created a more tolerant, constructive and inclusive society, that has been a major contribution in itself. I do not know whether officials want to talk about some of the specific work that has been carried out, but one thing that we are doing—not just as a result of the repeal, but because it is right—is trying to tackle bullying in schools. Bullying is pernicious, destroys lives and often contributes to the tragedies of suicides, which Kay Ullrich noted earlier. There are too many young people of school age committing suicide and too many young people whose problems start at school age.

As part of our work to tackle bullying, we want to examine homophobic bullying and cruel remarks and actions, whether they are in the playground or beyond. If anything, the repeal has given teachers the confidence to discuss some of those issues in a caring, constructive environment without having to worry about whether they are transgressing a law that was based on bigotry and prejudice more than on anything constructive.

Mrs McIntosh: I was not trying to make a political point.

Hugh Henry: I know. I was just telling you my thoughts.

Mrs McIntosh: I want to take you back to the specific point about suicide. As recently as Thursday, in our debate in the chamber on the quality of life, none of your ministerial colleagues had anything to say when I mentioned bullying at school and doing something to help children.

Hugh Henry: You would not expect me to give reasons why my colleagues say or do not say something. They replied in a way that they thought was appropriate to the debate.

Mrs McIntosh: They avoided the subject altogether.

The Convener: Lyndsay, does your question relate to LGBT issues or to that debate?

Mrs McIntosh: It concerns children.

The Convener: Are you talking specifically about homophobic bullying?

Mrs McIntosh: I am referring back to a question that Kay Ullrich asked and trying to move it on to the specific issue of LGB children. In its submission, the Educational Institute of Scotland

told us that teacher training and continuing professional development courses needed to cover equal opportunities training in general, as well as specific training on sexual orientation issues. What are you doing to encourage that approach?

Hugh Henry: What are we doing to encourage the EIS?

Mrs McIntosh: No, what are you doing about the approach of more specific training for teachers?

Hugh Henry: A number of things have been examined as part of the McCrone deal and the wider question of teacher training. We do not believe that singling out one particular issue would be the right approach. We want to modernise the teaching profession in a range of ways. We want to ensure that our teachers are equipped for the 21st century; equal opportunities must be fundamental to that. Teachers are crucial in helping to form and develop young people's characters. They must be aware of some of the issues of conscious discrimination and of unconscious discrimination, which can be just as damaging.

"The Standard for Initial Teacher Education in Scotland", the benchmark that will replace the guidelines for initial teacher education courses, says that by the end of their course students will

"Demonstrate an understanding of principles of equality of opportunity and social justice and of the need for anti-discriminatory practices"

and

"Demonstrate that they value and promote fairness and justice and adopt anti-discriminatory practices in respect of gender, sexual orientation, race, disability, age, religion and culture."

That is fairly comprehensive. We have a high expectation of teachers. We do not expect them to replace parents or to do the parents' job, but we acknowledge that they are hugely influential. It is right to give teacher training the proper underpinning. The benchmark does that.

Mrs McIntosh: What is the Executive doing to target homophobic bullying in schools? "Something to Tell You", which is a health needs assessment of young gay, lesbian and bisexual people in Glasgow, showed that although 57 per cent of young LGB people knew that their school had an anti-bullying policy—the effectiveness of such policies is up for debate—only 5 per cent were aware that the policy covered homophobic bullying. Will you comment on that?

Hugh Henry: We take that seriously and we have committed resources to dealing with it. We have had more focused discussion on bullying in the past few years than we had before.

As I said, bullying can be distressing and have horrendous consequences. The Executive has produced guidelines for local authorities. We established and continue to fund the Scottish anti-bullying network so that teachers, parents and young people can share ideas about attacking bullying. Through that network, we ensure that good practice on tackling bullying is shared. We fund the Scottish schools ethos network, which aims to encourage the creation of a positive ethos in schools. We are providing grant funding to underwrite ChildLine's special anti-bullying helpline, to ensure that it continues.

Having set guidelines and given the support, we expect local authorities to implement that work in schools. From correspondence with the director of education in my area, I know that that is being taken seriously. It would be foolish to suggest that all bullying will be eliminated, but that work should ensure that families, pupils, teachers and schools know how to tackle bullying.

Guidelines exist on how homophobia should be tackled in the classroom and on how it should be discussed. Such matters should be agreed at full staff meetings. That relates to Lyndsay McIntosh's earlier point. We now have an atmosphere in which people can confidently help young people who face such problems without worrying about whether they are transgressing the law. We think that we have created the environment and the structure. We have put money into the development of guidelines and into the helpline.

Mrs McIntosh: "Something to Tell You" highlighted the need to address the whole-school culture—you touched on that—to create a welcoming environment for young LGB people and to ensure that they are treated with respect. Are you aware of any plans or programmes that are aimed at improving the whole-school culture? Will you tell us more?

11:00

Hugh Henry: The key factors in improving whole-school culture are the leadership in the school and the co-operation of staff. The best schools are those that have highly motivated and enthusiastic staff who are committed to their profession. We can set guidelines, we can create the environment and we can provide the money, but the key to delivery is that people carry through the guidelines locally. Everything that has to be done nationally has been done. I am not being complacent—if there are things that we can do to strengthen guidelines and to make them more explicit, we shall do them. However, the whole-school culture is best developed locally, because we cannot legislate for it.

Those of us who have been in politics for many years and who have represented communities can

see the difference that good staff can make. We know the changes that can be brought about when there is an injection of new ideas and enthusiasm into schools that are struggling a wee bit. The whole-school culture is critical to the success of the comprehensive model in relation to bullying and other issues.

Mrs McIntosh: We have a tragedy on our hands if we cannot tackle that.

Tommy Sheridan: I want to explore the question of what the Executive is doing to address the needs of the LGBT community. You gave us a wide-ranging and largely upbeat introduction about the work that the Executive is doing. What is the Executive doing to encourage local authorities specifically to meet the needs of the LGBT community?

Hugh Henry: The issue is to identify what our respective responsibilities are. The Executive's responsibility is to examine some of the legislative issues to which the convener referred and which the committee has influenced. We need to continue to review some of the problems that have been identified in criminal law. It is our responsibility to set broad guidelines for the delivery of health services. We must ensure anti-discriminatory practice and equal opportunities right through employment and the delivery of services. In relation to the discussion that we have just had about education, it is our responsibility to help to create the guidelines for tackling bullying and training teachers. It is also our responsibility to help to fund national organisations that can promote national services and support the local organisations from the centre.

We have to acknowledge that local authorities have specific responsibilities. I know that a number of politicians have made it clear in the years since the Scottish Parliament was established that the Executive should not necessarily interfere in the work of local authorities, which should be allowed to do what is within their remit. We think that we have created the environment at a Scotland level. We have created a funding mechanism, although it is always arguable that there could be more funding.

Our local authorities will be required to respond to the legislation and we hope that they will respond to the guidelines and exhortations that are made. What local authorities do is a matter for local politicians, such as Tommy Sheridan, as is deciding priorities and how services should be delivered. The way in which best value works will be central. Best value is not about getting services on the cheap; it is about ensuring that the money that has been spent on services has the desired effect, so that improving the quality of life is delivered in imaginative ways, and it is about considering equality opportunities, inclusion and

engagement. We think that the best-value process is an important strand in helping to deliver services. It would be wrong for us to be prescriptive about what local authorities do locally, because that is for local politicians to decide.

Tommy Sheridan: Three years down the line of the Scottish Parliament, do you believe that you have struck the right balance between the Executive identifying priorities and promoting issues and local authorities delivering on them?

Hugh Henry: That question goes wider than this issue and it would not be appropriate for me to go too far down that road. The relationship between the Scottish Executive, the Scottish Parliament and local government is evolving. For example, the Convention of Scottish Local Authorities has argued vociferously that when it comes to the allocation of funding there should be less ring fencing and local authorities should be given the responsibility to spend the money as they see fit. We have responded to those concerns. COSLA would still argue that that has not gone far enough. Whether a local authority decides to spend more money on issues such as this is a matter for it.

The other side of the argument is that we could get involved in more ring fencing and should determine centrally what local authorities spend locally. That is a legitimate political perspective. This is part of a much wider debate: it is part an evolving debate on the relationship between the Parliament and our local authority colleagues.

Tommy Sheridan: On the particular issue of the development of LGBT strategies, are you suggesting that the Executive is doing enough?

Hugh Henry: I am not sure that you could suggest that the Executive is doing enough on anything. You could always do more on everything—as Tommy Sheridan knows. A number of positive steps forward have been taken. We have taken steps through legislation, funding, consultation and communication to encourage the police, the health sector and others. We have implemented measures on staff training, such as the one that I mentioned earlier for teachers. We have supported helplines to deal with bullying. We have done a number of things that have been for the good, but we could probably do other things. That applies to every aspect of public life. We should never be complacent.

Tommy Sheridan: But you are satisfied with your current approach and you do not think that the approach that the Executive has taken on the matter needs to be examined.

Hugh Henry: We always want to examine what we do. It would be foolish for any politician to refuse to examine what they have done or to consider whether it has been successful—so that they can build on the success if it has been

successful or change tack if it has been unsuccessful. I would not say there is no need to examine what we have done. We always examine what we have done.

Tommy Sheridan: I am glad that you have made that point. In March of this year, in response to a question from Mike Rumbles, Margaret Curran said:

"It is entirely up to local authorities if they wish to develop strategies to provide help and support to lesbian, gay, bisexual and transgender communities."—[*Official Report, Written Answers*, 22 March 2002; p 258.]

The Equal Opportunities Committee requested information from COSLA about how many local authorities had developed strategies to provide help and support for LGBT communities. We received six responses. One of the responses was that that particular authority had no plans to develop any strategy. Five out of 32 local authorities say that they have a strategy. Do you not think that the Executive has to be much more proactive and that it is not good enough to say, as the minister did in March, that it is

"entirely up to local authorities"

whether they want to develop strategies in this field?

Hugh Henry: What the Minister for Social Justice said in March is consistent with my earlier remarks. We recognise subsidiarity. We recognise what is appropriate for the Executive and what is appropriate for local government. On this issue and on other issues it is an entirely legitimate political argument to say that the Parliament and the Executive should take powers to dictate to local authorities what they should do. That may be Tommy Sheridan's point of view. Local authorities have argued that they should have subsidiarity and should be allowed to take the decisions that are appropriate at their level.

I think that we have done what has been appropriate at our level. We can always do more and we will always examine what we have done to find out how effective it has been. Undoubtedly, we could improve on certain things, but it is for others to discuss on another day whether the Parliament should legislate on and specify what local authorities should do on a whole range of matters, including the matter in question. I have said nothing today that differs one iota from what Margaret Curran said.

Tommy Sheridan: I have a difficulty. In response to questions about funding LGBT groups, you have said that it is not for the Executive to fund such groups directly and that such groups should relate directly to local councils. We now have evidence that, out of the 32 local councils, only five have developed specific strategies in relation to LGBT groups.

The Convener: I want to intervene, as you are labouring the point. The minister has given an answer. Councils may not have a strategy, but it is possible that they have given grants to local groups. I do not think that we asked COSLA about that. If you do not mind, you should end that line of questioning and move to other questions.

Tommy Sheridan: Sure. I am not suggesting for a moment that councils that do not have strategies do not dispense grants, although I wonder why they do not have strategies if they dispense grants. The point that I am trying to make, minister, is that your encouragement of local authorities to develop strategies does not seem to be working. Is it time for the Executive to be more proactive with the vast majority of local authorities, which obviously do not think that it is incumbent on them to develop strategies?

Hugh Henry: At the risk of repeating myself for the third time, what you have said takes us into another debate. We can engage in a debate in the Parliament on whether the Parliament should take powers to tell local authorities what to do about LGBT issues, what those authorities will spend money on, how much they will spend and with whom they will spend it. The Parliament could take powers to tell local authorities how much to spend on debt and money advice services and with whom they will spend that money; or take powers to say how much local authorities will allocate to youth issues, to whom they will give that money and how strategies will be developed. The Parliament could do the same in respect of women's issues, tenants groups, parent-teacher groups and local elderly forums, which often complain that they do not get enough money. The list is endless.

The Scottish Parliament could decide at the centre everything about what will be done in every local community. So far, the Scottish Parliament and local government have not wanted to develop in that way, but you have made an entirely appropriate political argument. However, as far as we are concerned, what we have done is appropriate. What local authorities do at their level is a matter for them. If they do not do something, they will be held to account as democratically elected politicians by their local electorate.

Tommy Sheridan: I will move on to another matter, although you have missed the crux of my argument.

Hugh Henry: I do not think so.

Tommy Sheridan: I would be surprised if the majority of local authorities did not have strategies to address youth, tenants and drugs issues as well as other issues, but they do not have strategies for LGBT communities.

You mentioned the Housing (Scotland) Act

2001, the Adults with Incapacity (Scotland) Act 2000 and the long overdue recognition of the need to secure equal rights for same-sex couples. You will be aware that the Cabinet Office is examining the potential for a legally binding partnership registration scheme that will be open to same-sex partners. Does the Scottish Executive have any plans to legislate to allow same-sex couples to register their relationships and thus benefit from equal treatment in law?

Hugh Henry: We do not have any such plans at the moment. We need to discuss a number of matters as a result of the proposals. There are huge implications for reserved matters such as benefits, pensions and immigration. We will need to discuss such issues with our Westminster colleagues—that is the current position.

Tommy Sheridan: Are you actively discussing those matters with a view to legislating in Scotland?

Hugh Henry: No, I did not say that. We will have to reflect on the implications of what is being done at a UK level, which you have talked about. All I am saying is that some of the factors that you have identified have huge implications for benefits, pensions, asylum and so on and that any progress in that direction would need to be done in partnership with the UK Government because of the reserved issues.

Tommy Sheridan: I assume that, given our approach to the Adults with Incapacity (Scotland) Act 2000 and the Housing (Scotland) Act 2001, you agree that it would be consistent to take the approach that I am suggesting in relation to same-sex relationships.

11:15

Hugh Henry: There will be things that, in the fullness of time, might be discussed by our colleagues at a UK level and we will reflect on the outcome of those discussions. We will need to consider a number of factors as a result of what we have done in relation to other pieces of legislation but, at the moment, we have no plans in that regard.

Tommy Sheridan: You will be aware of the fact that a number of organisations have highlighted the irony of legislating under the European employment directive for equality for the LGBT community while allowing discrimination in all other areas of life to continue. Now that the draft employment equality (sexual orientation) regulations 2003 are out for consultation, can you tell us what representations, if any, the Scottish Executive has made to Westminster to push for an extension of coverage of the legislation to include, for example, access to goods and services? Given the significance of the regulations for Scotland, is

the Scottish Executive doing anything to facilitate or co-ordinate responses to the consultation?

Hugh Henry: As you have clearly indicated, that is a matter for the UK Government and should be left to our colleagues in Westminster. Our first priority is to get right the legislation on employment and training that the directive requires and to ensure that the rights and obligations are widely understood and command general support.

This huge undertaking will, in itself, bring about a cultural change and broader benefits and we should not underestimate the progress that will be made.

Tommy Sheridan: Is the Executive doing anything to facilitate or encourage involvement in the consultation?

Hugh Henry: That is a question for our UK colleagues, not us.

Tommy Sheridan: The Westminster Government is consulting on the matter but I would like to know whether the Scottish Executive is doing anything to facilitate that consultation process or encourage responses.

Hugh Henry: Yes. We will do what we can to encourage the relevant organisations to respond. The strategy has already been informed by extensive consultation. There have been around 1,000 or 1,050 responses from trade unions, business representatives, equality bodies, the voluntary sector, religious organisations and so on and we will continue to help in that regard.

Mr Jamie Stone (Caithness, Sutherland and Easter Ross) (LD): You might have answered this partially in passing already, but I want to push you on the issue of gender re-registration. The Equality Network has noted that the UK is one of only four countries out of 43 in the Council of Europe that do not legally recognise the gender identity of transgender people and it is calling for a Scottish gender re-registration bill that would allow people to re-register gender for all legal purposes, including marriage. Should I take it from your answer to Tommy Sheridan that the Scottish Executive has no plans to do any work toward such a bill?

Hugh Henry: That issue is being considered by our colleagues in Westminster. There are implications from the judgment that will need to be reflected on. The Scottish Parliament has been established on the basis of compliance with European legislation, so we will need to reflect on the implications of that matter. At the moment, UK and the Scottish ministers are considering the best way forward.

Mr Stone: Let me push on to the issues of sexual assault, rape and abuse. In a recent meeting with the sexual orientation reporter,

Outright Scotland stated that although it accepts the fact that the majority of sexual assault, rape and domestic abuse cases are the result of male attacks on women, it is concerned about the representation of male victims of sexual assault, transgender victims and female victims of female attacks. What will the Scottish Executive do to ensure that the wider range of victims is being supported?

Hugh Henry: The evidence is still that the largest number of victims are women who suffer male violence. A small percentage of men suffer female violence and a smaller number of men suffer violence from other men. The main theme is male violence, with women most likely to be affected, and our efforts have been targeted at tackling that problem.

The police statistics for 2000 show that only 0.4 per cent of cases involved a male perpetrator and a male victim. That is not to say that there is not a problem to address; there is a shortage of research on domestic abuse in homosexual relationships. A US survey suggests that men who live with male partners face a higher risk of violence than men who live with female partners. On the basis of the evidence that we have—we would obviously like to get more—we will ask service providers what their current practice is and whether any action needs to be taken.

The Convener: The committee has no more questions. Thank you for giving evidence: it has been very useful.

11:22

Meeting suspended.

11:31

On resuming—

The Convener: We now resume the meeting.

Kay Ullrich: I would like to raise a point of clarification. I was concerned about the chairing of that last session, convener. On two occasions, once with Lyndsay McIntosh's questions and once with Tommy Sheridan's, you intervened—inappropriately, in my opinion—to try to save a minister who was struggling. I do not think that that is the role of the convener of a committee.

The Convener: Well, Kay, anyone who knows the way I chair these meetings or the way I conduct myself as convener knows that I do not always support the Executive or ministers. I felt that Lyndsay McIntosh was moving away from LGBT issues, which is what we were questioning the minister on. I also felt that Tommy Sheridan was moving away from LGBT issues and that he was labelling a point that had already been well made.

As convener of this committee, I have to ensure that the business is carried out fairly, and I think that I was being fair. Obviously, you are entitled to your opinion, but I think that, if you read the *Official Report* of this meeting, you will find that I was being entirely fair as convener.

Does anybody else have anything to say?

Mrs McIntosh: Yes, I do. I have to disagree with that. I was raising a point that had been raised by Kay Ullrich about prevention of suicide and deliberate self-harm. We were talking about that and there was an issue that I wanted to take forward. The issue was raised in the Parliament on Thursday and I wanted development of it. I also ended up getting a political answer to a question about section 2A. All I was seeking was information on how to take the subject forward.

The Convener: I really do not think that we have to get into a huge debate about it. If you look at the *Official Report*, you will see that you were straying away from the LGBT issues that we were here to question the minister on and that we were going into wider issues that were discussed in the Parliament. On this occasion, we will just have to agree to disagree. I will look at the *Official Report* and speak to you and to Kay Ullrich. If I feel that I have been unfair, I will obviously speak to you about that. At this stage, however, I do not think that I was unfair.

Mr McMahon: I would like to ask why this point of clarification has been raised. I think that it is just a piece of spurious nonsense. A point of clarification is not raised to attack the convener of a committee. If Kay Ullrich has a problem, she should take it to the appropriate authority. I have been on this committee since the Parliament was founded. Kate Maclean's record on scrutinising the Executive is second to none. I have watched the development of committees in the Parliament. I just wonder what is the purpose of raising, under a spurious point of clarification, the fact that Kate was doing her job this morning.

Kay Ullrich: I was appalled, quite frankly, at the convener's intervention at a point where members of this committee were questioning a minister. The minister was obviously under pressure on both occasions and the convener intervened to try to save him. I find that totally inappropriate.

The Convener: I will close this down now, as we should move on to the issues that are on the agenda. However, I state categorically that I intervened because I thought, in my experience of chairing this committee since its inception, that that was the correct thing to do. Under no circumstances was it done to save the minister. I am sure that ministers are more than capable of conducting themselves at committee meetings.

Let us move on to item 3.

Mainstreaming Equality

The Convener: Members have copies of a paper on the themes arising from the consultation on mainstreaming equality in the work of parliamentary committees. If members do not have any comments on the paper, do they agree the proposals for the next stages in that work? Do members also agree that we should delegate the necessary authority to the clerks to carry forward the action?

Members *indicated agreement.*

Reporters

The Convener: Item 4 is the gender report. Due to Elaine Smith's illness, we did not proceed with the report at our previous meeting. Elaine is still unable to attend, but has asked that the paper go forward at this meeting. Are there any comments on the paper?

Mr McMahon: What would Elaine Smith like to happen? Has she indicated what she believes requires to be done, now that the report has been produced? It is an excellent report and she deserves credit for bringing the information to the committee, but does she have a specific request as to what we do with it?

The Convener: As far as I know, she wants us to agree the recommendations, which are in paragraph 54 of the paper. I do not think that there is anything else. There is also another paper, which is a note of the meeting that the gender reporter held with Scottish Women Against Pornography. Do members agree to the recommendations?

Members *indicated agreement.*

11:37

Meeting continued in private until 11:44.

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