

# **EQUAL OPPORTUNITIES COMMITTEE**

Tuesday 2 November 2004

Session 2

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## EQUAL OPPORTUNITIES COMMITTEE

16<sup>th</sup> Meeting 2004, Session 2

### CONVENER

\*Cathy Peattie (Falkirk East) (Lab)

### DEPUTY CONVENER

\*Nora Radcliffe (Gordon) (LD)

### COMMITTEE MEMBERS

\*Shiona Baird (North East Scotland) (Green)

\*Frances Curran (West of Scotland) (SSP)

\*Marlyn Glen (North East Scotland) (Lab)

\*Marilyn Livingstone (Kirkcaldy) (Lab)

\*Mrs Nanette Milne (North East Scotland) (Con)

\*Elaine Smith (Coatbridge and Chryston) (Lab)

\*Ms Sandra White (Glasgow) (SNP)

### COMMITTEE SUBSTITUTES

Jackie Baillie (Dumbarton) (Lab)

Linda Fabiani (Central Scotland) (SNP)

Patrick Harvie (Glasgow) (Green)

Carolyn Leckie (Central Scotland) (SSP)

Mr Jamie McGrigor (Highlands and Islands) (Con)

\*attended

### CLERK TO THE COMMITTEE

Steve Farrell

### SENIOR ASSISTANT CLERK

Ruth Cooper

### ASSISTANT CLERK

Roy McMahon

### LOCATION

Committee Room 2



## Scottish Parliament

### Equal Opportunities Committee

*Tuesday 2 November 2004*

[THE CONVENER *opened the meeting at 10:05*]

### Items in Private

**The Convener (Cathy Peattie):** Good morning and welcome to the 16<sup>th</sup> meeting in 2004 of the Equal Opportunities Committee. We have no apologies for this morning's meeting.

Item 1 is to ask members whether to take in private items 3 and 4, which deal with approach papers that include potential witnesses' details. Is that agreed?

**Members** *indicated agreement.*

## Petitions

### Care Homes (PE522)

10:06

**The Convener:** Item 2 is consideration of two petitions, the first of which is petition PE522. Members will recall that, following our initial consideration of the petition, we have written twice to the Executive requesting updates on progress on research into the care needs of disabled young people. In May, the Deputy Minister for Health and Community Care told the committee that the working group that had been set up to look into the aims and focus of research in the area had disbanded. There is an update on that in the committee's papers.

At one stage, we discussed the possibility of covering some of the issues that relate to young disabled people, including quality of life and access issues, in our disability inquiry. Do members agree that we should write again to the Scottish Executive asking about the remit for the scoping study? Do members also agree that we should include the needs of disabled young people in the remit for our inquiry?

**Shiona Baird (North East Scotland) (Green):** I am concerned about the lack of information, which raises many questions. It is wrong that, in 2004, we still have inadequate information about the needs of and provision for younger disabled people. The Executive should be addressing the issue more quickly than it appears to be doing. I want our consideration of the issue to proceed as quickly as possible and in the most efficient and effective manner.

**Ms Sandra White (Glasgow) (SNP):** I, too, am concerned about the issue. I have been dealing with a case in which a badly disabled young person has been put into an old folk's home because there was nowhere else for them to go. It is sad that the Executive has taken so long to get even to this stage.

The issue is complex and affects many people, but we should include it in our disability inquiry. I agree with Shiona Baird: the issue has come before us and we should look into it without further delay. As part of our inquiry, we will be able to talk to people about the issues and get feedback from them.

**Marilyn Livingstone (Kirkcaldy) (Lab):** I agree that we should cover this crucial issue in our inquiry. I also agree on the need to write to the Executive about the remit of the scoping study. We should do both things, so that we can consider the short-term issue as well as the medium to long-term issues.

**The Convener:** Obviously, given that our inquiry is into the barriers that people with disabilities face, we will require to engage with the petitioner on the issue. As Marilyn Livingstone said, there is also a need for the Executive's scoping study. We have neither the opportunity nor the time to look into the issue of care homes, for example. Sandra White is right to say that it has taken far too long to do any work to move the matter forward. I am sure that we have all heard horrific stories of young people not being able to access appropriate respite care.

**Mrs Nanette Milne (North East Scotland) (Con):** I apologise for being a few minutes late, convener. I agree with what I have heard since I arrived. The issue affects young people throughout the country and we should examine it carefully.

**Marlyn Glen (North East Scotland) (Lab):** I agree with what has been said about the correspondence and about including the issue in the remit for our disability inquiry. I am concerned by the fact that the letter from the Deputy Minister for Health and Community Care states that one of the research advisory group's aims was a review of the available literature on the needs of adults under 65. I was not aware that that was what we were focusing on and, although I am interested in adults under 65, I thought that the petition was concerned with younger people.

**The Convener:** You are absolutely right.

**Shiona Baird:** That is what I was going to say. The petition is about younger people and it is important to focus on them. The witnesses from whom we have already heard have shown us what a big contribution young people can make and it is important to focus on that.

**The Convener:** It is worth engaging the petitioner in our inquiry, but we also need to push for work to be done for young people who are in need of respite care. Committee members are right to point out that the petition is not about adults under 65, but about appropriate care for young people who need respite or long-term care. We should go back to the minister for an update on provision and on whether there have been discussions about taking the work forward.

Does the committee agree that we ask the minister to consider the matter and to feed back to us and that we contact the petitioner with a view to her inputting into our disability inquiry on the barriers that young people face?

**Members indicated agreement.**

## Pornography (PE752)

**The Convener:** Petition PE752 proposes that the Scottish Parliament should define pornographic material as incitement to sexual hatred and make such incitement an offence similar to incitement to racial hatred. The committee considered many of the issues that are raised in the petition under the gender reporter's report in March 2004, about which we wrote to the Executive. I invite members to comment. I will take Elaine Smith first, as she was the gender reporter.

**Elaine Smith (Coatbridge and Chryston) (Lab):** I have taken evidence from Scottish Women Against Pornography and others over the years and have written various papers on the wider issues around violence against women and children, including on pornography. For some reason, I thought that the petitioners might be here for us to question, but that is not the case and we are obviously deciding only how to deal with the petition.

If we consider the whole issue, we can see that pornography is another symptom of the capitalist economy in which everything is a commodity for sale. Big business is putting profit before people and, given the sums that are involved, there is no doubt that pornography is big business. SWAP says that pornography is the production and consumption of inequality and I say that our society has been desensitised to pornography because of its proliferation around us.

In presenting the issue as it has done, SWAP has taken an innovative approach. I would like to take evidence on the petition because I would like to ask the petitioners how much money we are talking about, what kind of businesses are involved in the pornography industry and why SWAP has taken this innovative approach. I would also like to ask questions on the censorship debate.

Pornography is an uncomfortable subject for anyone, including politicians, to debate. Those who oppose pornography can be viewed as Mary Whitehouse-type, right-wing anti-libertarians or worse, but we must have the debate. I have highlighted the issue over the five years that I have been on the Equal Opportunities Committee, but we have never properly debated it or taken evidence on it.

I am a bit concerned about the statement in the ministerial response that

"for every study that purports to demonstrate a harmful effect associated with the consumption of pornography, there was another study which rejected any such effects."

The existence of studies that demonstrate harmful effects should signal to us the precautionary principle. We should be doing further research into

the issue; we cannot ignore it any longer.

I suggest to the committee that we have items for discussion that we might want to develop by, perhaps, writing again to the Executive and to the justice committees, drawing their attention to the petition. I strongly urge this committee to take evidence not only from SWAP, but from other experts—I am sure that we can be supplied with a list of who is out there. It is time that we grasped the issue and debated it properly.

10:15

**Marilyn Livingstone:** I concur with much of what Elaine Smith said. I am convener of the cross-party group on survivors of childhood sexual abuse, which is looking at working with a ministerial team on a preventive strategy. We have considered the issue of internet grooming and there are links between such activities and pornography. The cross-party group wants more work to be done on that. Pornography is a big issue and, as Elaine Smith said, the Equal Opportunities Committee should address it.

The petitioners have done a first-class job in bringing the issue to our attention. We should all be aware of and concerned about it. As well as drawing the issue to the attention of other committees, I would be interested in including it in the wider remit of my cross-party group. Further work should be done on the cause-and-effect aspect to pornography.

**Marlyn Glen:** I concur with other members' views. I found the Executive's response unsatisfactory on a number of counts, including its statement that for every piece of research that proves one thing, another piece proves the opposite. That is an unsatisfactory, numerical way of viewing research. The point is the kind of research that has been done and how wide its remit was. We would do well to look at the research that the Executive considered. Alternatively, we could ask the Executive for a more detailed report of how it reached its conclusions. I do not mean that the work should be repeated, but I think that the Executive's response to us was unsatisfactory.

The Executive has said in numerous places that it is keeping the issue under review. I want to ask what that means. It seems to me that women's safety should be a priority for the Executive and the Parliament. We need the political will to push that through. There are good examples of the issue being pushed to the fore of the political agenda—for example, the Greater London Authority prioritises women's safety. I want to ask the Executive what keeping the issue under review means and I want to be assured that action is being taken.

The report by the working group on hate crime recommended that

"A statutory aggravation for domestic abuse should also be considered by the Executive."

The report makes various recommendations, but it seems to come out against having a specific aggravation based on gender. The SWAP campaign could perhaps focus on any forthcoming legislation on domestic abuse. There is a good argument for the Equal Opportunities Committee to consider such legislation closely to ensure that it does not avoid the topic raised by the petition. The legislation might concentrate on other aspects of the issue, but that would be okay only if the particular difficulties that the petitioners raise were covered in another area.

**Shiona Baird:** I support what Elaine Smith has said. It is important that the Equal Opportunities Committee should carry out an investigation. The mere fact that we have not been able to receive through the post some of the evidence that was submitted with the petition—it will be shown to us privately—indicates the type of material that we are talking about. Pornography is very much an equality issue.

If I can beg a few moments of the committee's time, I would like to read two paragraphs from a report that was written by a man—Professor Robert Jensen. He says:

"People routinely assume that pornography is such a difficult and divisive issue because it's about sex. I think that's wrong. This culture struggles unsuccessfully with pornography because it is also about men's cruelty to women, and about the pleasure that men sometimes take in that cruelty. And that is much more difficult for everyone to face."

He ends the report by saying:

"There are many controversial issues in the pornography debate, but there should be nothing controversial about this: To critique pornography is not repressive. We should be free to talk about our desire for an egalitarian intimacy and for sexuality that rejects pain and humiliation. That is not prudishness or censorship. It is an attempt to claim the best parts of our common humanity: love, caring, empathy. To do that is not to limit anyone. It is to say, simply, that women count as much as men."

I think that that says it all. I urge us to have an inquiry on pornography.

**Ms White:** I agree with all the members who have spoken—we should hold an inquiry on pornography. I, too, congratulate Scottish Women Against Pornography for having brought the issue to the committee's attention in such an innovative way.

According to our briefing paper, the legal position is that the Public Order Act 1986 could be applied in relation to a definition of pornography as incitement to sexual hatred, so there is no legal barrier to classifying pornography as a hate crime.

However, the issue runs deeper than that. We need to take evidence from all groups as part of an inquiry into an industry that denigrates women.

The Executive's response is limited and patchy. As has been mentioned, we do not know what evidence was examined. The suggestion that because for every study that showed that pornography had a harmful effect there was another study that rejected that conclusion is not an answer. I was angered by the statement by the former Minister for Communities that

"further research would not be a beneficial use of the limited Scottish Executive research budget."

The committee must remind the Executive that we have never examined the knock-on effect of pornography as a reason why there is so much domestic abuse and violence against women. Pornography, which affects women and perhaps also men, is visible every day. We see it in the pictures of women in the magazines and newspapers that people read on the train. I have seen the evidence that the clerks have been unable to circulate freely and it is quite distasteful; it is aimed at teenage boys and it just uses and abuses women.

An inquiry into pornography is long overdue. We should get people in to give us evidence. We should tell the Executive that its answer to us was not good enough and that it has not examined enough evidence. Even though we have many debates on domestic abuse—I think that there will be another one on Thursday—we have not got to the nub of the issue, which is the pornographic material that is produced by the media in magazines and on television. I concur with everything that has been said. It will be in the long-term interests of women and men in society if we have an inquiry, take evidence and tackle pornography.

**Elaine Smith:** I had printed off the gender reports that I have produced over the years, but I do not have in front of me a copy of the one that I want. A few years ago, the Equal Opportunities Committee agreed to look into the subject further and, I believe, to take evidence on it, but that was never actioned. I thought that it might be helpful to mention that there is such an agreement lying somewhere in the system.

**Frances Curran (West of Scotland) (SSP):** There are two issues to do with women and pornography—the general debate and legislation. If members cast their minds back to the debate on domestic violence that took place more than 20 years ago, the argument that we came up against and had to overcome was that domestic violence was a private matter for the individuals concerned. However, in the past 20 years, a whole analysis has been done that shows that domestic violence

is abuse of women and that it is a societal issue. Like many other bodies, the Scottish Executive has now taken that view of the analysis about domestic violence. Once the issue was debated and explained, we moved towards legislation.

I believe that we are at a similar stage in the debate on pornography. At this stage, attitudes in society are divided down the middle, but I nail my colours to the mast in stating that I believe that pornography is violence against women. It is about abuse and it is about undermining women in society. That much is clear.

Although the debate on domestic violence has largely been won—although not across society as a whole—we have not yet won the debate on pornography. That is where the Equal Opportunities Committee could play a role. First, we should take a view on the issue that is supported by the analysis. Secondly, we should ask the Scottish Executive to join us in taking the view that pornography is violence against women. Let us then debate the arguments about matters of individual choice and whether sexual preference and activity can be censored. We probably need to have that debate in society before we legislate.

My only problem with legislating is the definitional issues, which I would like to discuss. I think that we can achieve a legal definition that makes pornography a crime, but at this stage I am still not sure how we will do that. The legal issue is complicated. I am in favour of the petition, but I believe that we need to go through the process, so that many of those points can be clarified and some of the definitional difficulties can be taken on board. We can then come out the other end of the process with a definition that gives us a legal basis to act. I simply say that, as a society, we need to go through that process. The Equal Opportunities Committee should take the opportunity to take evidence, to initiate a debate and to take on the tabloid press. At a later stage, we could then produce a legal definition and some law.

**Mrs Milne:** I have no difficulty about inquiring into this important subject, but the issues surrounding pornography can be like those surrounding domestic abuse. Obviously, I totally oppose domestic abuse of any kind. I know that the vast majority of acts of domestic abuse are perpetrated by men against women, but the situation can sometimes be the other way round, as I have highlighted before. Similarly with pornography, although I suspect that the material that we are talking about involves largely the abuse of women, I presume that there is also pornography that involves the exploitation of men. If we are to consider the issues surrounding pornography, we should consider all the issues, including that one. I accept that most pornography affects women, but I simply flag up that issue.



I notice that paragraph 14 of the clerk's paper asks us to consider whether we want to draw the issue to the attention of the justice committees. When the Justice 2 Committee dropped petition PE476, it did so on the assumption that the Executive would commission research. Perhaps we should raise the issue with the justice committees.

**Shiona Baird:** Is there an opportunity to receive comments from the petitioners?

**The Convener:** We must stick by our agenda and discuss what we will do with the petition. Our discussion seems to have gone wider than that, as members have talked about conducting an inquiry in the longer term to consider how to deal with the issues. The committee could decide to do that and, if it so decided, we would of course hear further evidence from the petitioners and others. However, it is not fair to ask the petitioners to come and speak to us now. That is not on our agenda and we need to adhere to protocol. Committee members must decide how we take the matter forward. It is understandable and it is probably right that our discussion has gone much wider than the petition, but we need to decide what we do next with the petition and whether we want to take it forward.

**Elaine Smith:** I was a wee bit concerned when you spoke about a long-term inquiry. I have been on the committee since 1999 and became the gender reporter shortly thereafter. From where I am sitting, it seems that such inquiries have been going on for some time. I accept that a big inquiry might stretch into the longer term but, bearing in mind what Shiona Baird said, I would like SWAP to appear before the committee sooner rather than later to explore some of the issues. Then we could see how we wanted to make progress in the longer term.

10:30

**Marilyn Livingstone:** I agree with that—many good suggestions are coming from the committee. Perhaps because of my role as convener of the cross-party group on survivors of childhood sexual abuse, I believe that we need to think through what we would be taking on and how wide our remit should be—whether it should cover children, too, for example. We need to have a debate about that. We need to keep in mind that the issue affects men, women and children in our society.

**The Convener:** We need to find out what the justice committees have done so far in their consideration of the area. We probably need an update from the Executive. If we gather any evidence, we will have to decide whether we want to do an inquiry. If so, we will have to decide the scope of the inquiry—are we talking about women

and pornography or about pornography in general, given the issue of child pornography? We need first to decide what we want to do; we then need to consider a work programme and decide how to proceed. In a sense, that is what I meant when I spoke about the longer term. I do not suggest that we just talk about the matter and then lose it—the committee would not allow that to happen.

I suggest that we write to the justice committees and find out what work they have done—I know that they have done some work on hate crimes. We are not particularly happy with what the Executive has said to date, so perhaps we should give it an opportunity to be clearer on the issue.

**Marlyn Glen:** We should specifically ask the Executive for more information on the review of research because, if it has looked at the matter, it will have more detailed information that we could use.

**The Convener:** We need that from the Executive because we need to sit down and discuss how to proceed.

**Ms White:** We should also remind the Executive that the working group that it set up recommended that it should review that area of criminal law and continue to investigate the link between the undermining of women in society and crimes of violence. We have to remind the Executive of that, because it seems to have dropped that work.

**The Convener:** That is right. We need an update on what has happened to the hate crimes report. Given the input from organisations from across the board in Scotland, it would be awful if that report were written up and no action were taken as a result. We want to include that in our information gathering.

Okay, we will start to gather information on the issue and we will bring it back to the committee as quickly as possible so that it does not get lost.

**Elaine Smith:** Although I agree with everything that you have said so far, convener, I would like to make a request—that is not something that I do often in the committee—that we agree today to find an hour somewhere in our schedule in which we can make a start by asking SWAP questions. I feel strongly that we should invite the group to appear before us.

I will accept whatever else we agree should happen in the long run and in the interim, as well as what we agree about the kind of information that we seek and the scope of any inquiry that we hold. As you know, convener, because you were on the committee at the time, I wanted the committee to hold a gender inquiry into the wider aspects of violence against women and children, but that was honed down into a gender inquiry into best value in local government. As soon as we can

find an hour in which to do so, we need to have SWAP in front of the committee so that we can hear what it has to say about all the issues.

**The Convener:** We could do that. However, as I was about to suggest, we could pool the information together, ask the justice committees about it, get an update from the Executive about the research and get an update about what is happening with the hate crimes report. I was going to suggest that you, as gender reporter, could do some work or speak to representatives of SWAP with a view to bringing information to us. Before we get involved in any inquiry, we have to agree its scope, as we did with the disability inquiry. We did not just sit down and say, "Right, we're going to do an inquiry on disability." We took evidence on the scope of our inquiry and I suggest that in this case we ask SWAP to assist us in that regard.

**Elaine Smith:** I am perfectly happy to do that kind of work, but I have done background work with SWAP in the past. It is all there—it is in the archives. I really wanted the committee to hear from SWAP during a public meeting, rather than just getting the issues second hand, as it were, through my reports.

**The Convener:** I was not suggesting that we just get the information through your reports; I was suggesting that you speak to SWAP with a view to our considering evidence. If we are to take evidence, we need to have a wide range of witnesses. SWAP might be the first organisation from which we would take evidence, but we would also want to hear from other organisations that support what SWAP is saying. A report might already exist, but it was not written by the committee in this session. I am not suggesting that you go back to the archives.

**Elaine Smith:** I am sorry that we are having to have this debate, but it is important. SWAP could name a host of people from whom we should hear evidence. However, before we even get to the stage of considering the scope of the inquiry and so on, it would be incredibly helpful if the committee could have a question session with SWAP. After that, I could do the sort of work that you suggest, convener, and we could proceed on that basis.

**Marilyn Livingstone:** I am not sure whether this offers a helpful way forward but, before our previous disability inquiry, the convener and the committee asked me to hold informal sessions with groups around the country. I went to the Highlands and Islands and I spoke to various groups in Fife, for example. We asked people in each geographical area about the issue. I was able to come back to the committee with a report before we reached the stage of taking evidence and before we decided on the groups to call before us. Before the inquiry took shape, I had

spoken to representatives of about a dozen groups. That was not as many as I would have liked—unfortunately, I had to go into hospital. However, I was able to produce a report to say what I had found and to describe the wider agenda that was out there. I do not know whether it would be a good idea for us to ask Elaine Smith to do a similar piece of work. She could speak to representatives of SWAP and other organisations from around the country. As we found during the previous inquiry, there were a number of issues of which we were unaware. I wonder whether a similar approach could be taken this time.

**The Convener:** I did not want to consider only the evidence that SWAP provided, important as that is. I wanted to bring in wider evidence, with a view to actually doing something. We could have a talking session and we could all agree that things are terrible—Elaine Smith and I have been there and done that with other committees. I suggest that we do something tangible, so that we can change things.

**Elaine Smith:** I suppose that I am a wee bit frustrated about this, because of the previous work that I have done over the years. However, what Marilyn Livingstone is suggesting is probably what you are suggesting, convener.

**The Convener:** Yes.

**Elaine Smith:** Consideration of my member's bill should be finished by the end of the month and I am happy to do the work that has been suggested. We must ensure that we have a timescale for the work and that, after that work is done, SWAP and other organisations come before the committee. It is perfectly acceptable to me to do that work, if that is what the committee wants.

**Marilyn Livingstone:** I should add that I had support from the committee clerks when I attended the meetings that I held. The clerks took a note of each of the meetings, which was helpful. If the clerks could do the same for Elaine Smith, that would be very helpful to her.

**The Convener:** That is a good starting point. I was certainly not suggesting that we do some sort of long-term piece of work that could just end up getting lost. In fact, I feel absolutely the opposite: I do not see the point of our doing anything unless we can produce a report with recommendations that could change things.

The committee will now move into private session to discuss approach papers on the budget process and on our disability inquiry.

10:39

*Meeting continued in private until 11:20.*

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