

EQUAL OPPORTUNITIES COMMITTEE

Tuesday 11 January 2005

Session 2

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EQUAL OPPORTUNITIES COMMITTEE

1st Meeting 2005, 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

THE FOLLOWING GAVE EVIDENCE:

Councillor Irene Graham (Glasgow City Council)

Moirra McKinnon (Glasgow City Council)

Jean Murphy (Glasgow City Council)

Alex Neil (Central Scotland) (SNP)

CLERK TO THE COMMITTEE

Steve Farrell

ASSISTANT CLERK

Roy McMahon

LOCATION

Committee Room 1

Scottish Parliament

Equal Opportunities Committee

Tuesday 11 January 2005

[THE CONVENER opened the meeting at 10:04]

Prohibition of Female Genital Mutilation (Scotland) Bill: Stage 1

The Convener (Cathy Peattie): Good morning. I welcome everyone to the first meeting of the Equal Opportunities Committee in 2005 and wish everyone a happy new year. We have apologies from Sandra White this morning.

Agenda item 1 is consideration of the Prohibition of Female Genital Mutilation (Scotland) Bill. I give a warm welcome to Councillor Irene Graham, Moira McKinnon and Jean Murphy from Glasgow City Council. I understand that Ann Marie Mullaney is unable to attend.

I thank the witnesses for their interest in the bill. It is important that local authorities have been considering the issue that it addresses. I invite Irene Graham to make an opening statement.

Councillor Irene Graham (Glasgow City Council): I will not make a long statement. Glasgow City Council considers female genital mutilation to be part of the continuum of violence against women. In Glasgow, our approach to violence against women covers the whole range of violence, which includes prostitution—many of the committee members know our stance on that. That is the context in which Glasgow City Council is making its response.

The Convener: Do you have any views on the consultation process that the Scottish Executive carried out? The consultation period was short, as you said in your response to the consultation. Did you have enough time to respond? Would you have responded differently had there been more time?

Jean Murphy (Glasgow City Council): The timescale was tight for us, particularly as the consultation ran during a holiday period and many of the people who we felt might have had something to say that we could include in our response were not around. It was also during the council recess, so there was no time to prepare a report to go through the committee structure, which was problematic for us. However, I am not sure whether the response would have been any different had there been any more time. We might have been able to include other organisations' responses in ours, but we cannot be clear on that, although we were able to include the Somali women's action group. That group did not know about the consultation, but it was a new group, so

it would probably not have known about the consultation anyway.

The Convener: I was interested that the Somali women's action group had been involved. Was it your community workers or other links that you have with the group that enabled you to encourage its participation?

Jean Murphy: It was sheer chance that I had been invited along to the group's inaugural meeting a week before I received the consultation document. At that meeting, the group had stated that one of its objectives was to tackle FGM, so I knew that it would have something to say on the issue, which is why I encouraged it to respond to the consultation.

The Convener: Were you aware whether information on the bill was available in a language other than English or whether there was a process for asking for a translation? If not, should the information be made available in other languages? Should there be another approach to ensure wider access and participation in commenting on such a bill?

Jean Murphy: Yes, there should. The information was available in other languages, but that was not clear from the introductory letter. There was a line at the end of the letter to say that information was available in other languages, but it might have been better if the information had been available from the beginning in the most obvious community languages and other formats, such as on tape or in Braille.

Councillor Graham: The council has a lot of experience of producing documents in more than one language, but we are aware that even when we do that, it does not always meet the need, because many people in the communities are not literate. That is especially the case with women. We all—whether the Executive or the councils—have to think about other forms in which to make such sensitive information available. For example, a well-placed key worker working with the communities often provides a good route in. In Glasgow, an African-Caribbean development officer, Khadija Coll, has been recruited. She works through the Taleem Trust and is working with at least 12 established groups from African communities plus two new groups. We must all consider supporting such contacts to take the message into the communities by word of mouth.

The Convener: You are right. It is not enough for the information to be available in different languages, because if people do not know that it is available, it does not matter what language it is in. We need to have contact with the communities and other ways of working with them. That is an important point.

Moira McKinnon (Glasgow City Council): I will comment from a child protection point of view. I do not know how the consultation relates to the current three-year reform programme for child protection. If we had had a bit more time, we might have been able to create a debate on the child protection implications among child protection professionals, who are probably struggling with FGM as well and have limited knowledge of the issues.

Elaine Smith (Coatbridge and Chryston) (Lab): I will ask about terminology, but before I do so, I will pick up on something that Councillor Graham said. She said that she saw FGM as part of the continuum of violence against women. She did not say “male violence” against women, but I presume that the greatest violence against women and children is male violence. Therefore, how would you answer the comment that some folk have made to me—perhaps not on the record—that FGM is carried out on women and children by women? Why is FGM performed in that way?

Councillor Graham: First of all, I clarify that I meant male violence against women. To answer the question where this procedure fits in, given that many of the practitioners who perform it are women, one has to look at the cultural norms and the intention of female genital mutilation. From my understanding of the situation and having looked at submissions to the committee from experts, I think that it is clear that FGM comes from society. Given that men dominate society, and that African societies in particular are very patriarchal, men in society are attempting to control women's sexuality. Although women might be the practitioners of FGM, they conduct the practice in that cultural context, which is about controlling women's sexuality.

Elaine Smith: I hope that you did not mind my asking you that, because it is important to make such points on the record.

We have had some discussion about the word “circumcision”, which is often used to describe FGM. What are your views on using that word rather than “mutilation”? Is it important that we talk about “female genital mutilation”? Is that terminology likely to impact on the communities that practise FGM? Some people in those communities still speak about circumcision rather than mutilation.

Councillor Graham: We are in favour of using the term “female genital mutilation”. My personal reason is that when we hear the word “circumcision”, we think that it is an acceptable practice that happens legitimately with no outcry. We tend to think of male circumcision, which is an established practice in many faith communities and for which there are often good medical reasons. However, what happens to women is not

in any sense the same as male circumcision. The danger of using the word “circumcision” is that it diminishes what happens to women because we tend to think that the practice on men is accepted throughout the world. If we consider the range of mutilations that go on under the so-called acceptable term “circumcision”, in all conscience, I think that what happens to women is nothing like circumcision.

Evidence that was given to the committee said that some of the practices that are carried out on women are done for reasons to do with cleanliness. I do not see the medical evidence for that and think that such claims confuse the issue and give female genital mutilation a legitimacy that it does not have.

Elaine Smith: Do you think that, despite the number of people who might feel offended by the term “mutilation”, the purpose of using it is to call a spade a spade and to raise awareness of what the matter is really about?

Councillor Graham: We have to tap into how the different communities use their own terminology if we are to make a difference and a change. However, we should be clear that we are talking about the World Health Organisation definition of female genital mutilation. Although we have to work with the communities and perhaps access their understanding by using whichever words they use to describe the practice, we have to go beyond that. If we just accept their terminology, we will not be giving people the tools with which to mount a challenge in their communities.

Marlyn Glen (North East Scotland) (Lab): My questions are about policy objectives. Do you believe that the new law will protect girls and women from FGM and that it will provide more protection than the existing law?

10:15

Moira McKinnon: The new law is welcome. At the moment, young people and adults are protected. However, the difficulty concerns what happens in practice. Although a law exists to protect children and vulnerable women, from a child protection perspective, we know little about any children in our community to whom FGM is happening. We hear that it is happening, but it is not coming to our attention. In Glasgow, we are not working with children in families in which we know that the practice is happening and we are not working to protect children. Although I cannot speak about the national context, I think that that situation will be replicated throughout Scotland.

The law is welcome because it gives us a legal status and a position from which we hope to be able to protect children in the future. However,

how we implement the law and how we begin to work with families and to get into communities to identify the problem that is happening are a different issue. We still face many difficulties in communities.

Councillor Graham: The law will give us a framework that will let us set out our stall and our intentions. However, the law on its own will not be sufficient and has to be backed up by a range of measures. First, there has to be clear political leadership, which the law will provide, but how we deal with that thereafter will be crucial. A range of training and awareness raising needs to be provided alongside the law and that must be aimed at many different professionals. Awareness must be raised in communities and education must be provided in schools. We also need to look at what support we can provide in communities. If we raise awareness of FGM in schools, we have to consider what support we give to young people who might disclose either that it has happened to them or that they suspect that it will happen to them or to a younger or older sister.

Marlyn Glen: Moira McKinnon said that you are not working with families at the moment, but that you hear that such practices go on. The policy memorandum notes that there is anecdotal evidence of FGM in the Somali community in Glasgow. Are you aware of any other groups or communities where it is likely that the practice is carried out?

Councillor Graham: No. We considered that question and we do not have anecdotal evidence from any other communities, although that might change as the issue is brought out more into the public domain and we have more confidence about speaking about it.

Marlyn Glen: So the bill is helpful in that way. The explanatory notes to the bill explain that there have been no prosecutions under the existing law and that the Scottish Executive does not expect there to be many prosecutions under the new law. What are your views on the lack of prosecutions under the existing legislation?

Councillor Graham: In looking at why there have been no prosecutions, we have to understand the context in which FGM happens and the fear, shame and stigma that would be attached to communities if someone were to push for such a prosecution. Typically, the sense of family is much stronger in those communities and community pressures on people are much stronger, so it is not unusual that there have been few prosecutions at this stage.

We can draw a parallel with the number of prosecutions for and reports of domestic violence and abuse in this country. It is not the case that there is a much higher incidence now than there

was 20 or 30 years ago; it is just that the political climate has changed and women are now able to come forward. However, it has taken a long time for that confidence to come out in women and as we know, many women still find it very difficult to come forward. One can translate that experience to those much newer communities in Scotland, in whose culture the sense of family is strong. I am not surprised that there are few prosecutions, because there is very little reporting.

Marlyn Glen: That is a helpful analysis.

Elaine Smith: On that point, when I met the Somali women's action group, its members thought that there were no prosecutions under the existing law because it acted as a deterrent and people knew that it was illegal to carry out the practice in this country.

We know that girls are being sent abroad, even if the evidence is only anecdotal. I hope that the bill will prevent that by making it illegal. I will take up the family issue that Irene Graham raised. The worry is that when the bill kicks in to make sending girls abroad illegal, that might have an impact on whether families seek medical help or help in the community, for example, because people might be concerned about having to give evidence against their family, who had arranged for the procedure to be undertaken abroad. Could that be an issue?

Councillor Graham: Yes. In the hypothetical scenario that a young girl who was taken abroad for one of the forms of female genital mutilation developed an infection on her return, her family might be unwilling to take her for medical assistance, for the reasons that you gave. That could also apply much later. The issue might arise not when the practice is undertaken, but when a young woman becomes pregnant and goes to gynaecological services. The issue could suddenly arise then.

Perhaps there are parallels with child sexual abuse, much of which is not disclosed until girls and boys become adults. The impact that you described could occur. We must send the message that women and girls are valuable and are valued and equal members of society. We must break through the old patriarchal traditions that still apply in many African communities. From speaking to some people who work with African communities, I know that women are often not allowed to attend meetings—those are the words that are used. The stakeholders and gatekeepers for consultation are often men. Therefore, we must go beyond that or try to work with leaders. If they take the lead, some taboos will begin to be broken down.

Marlyn Glen: You talked about the need for leadership, training and awareness raising and I will develop that. In the absence of initiatives to

support it, will the bill assist in working towards eradicating FGM? If so, how?

Councillor Graham: I am sorry—did you say, “In the absence of”?

Marlyn Glen: Yes. I mean the bill on its own.

Councillor Graham: If the bill is passed and no campaign or process is put in place to back it up and to make people aware of it, the danger is that it could be just a well-intentioned bit of paper. I hope that that will not be the case. The scrutiny of the bill and the consultation that is taking place suggest that the bill will not stand alone. People already have to discuss and consider it.

The issues that the council must deal with are not easy. That is why we are pleased that Moira McKinnon is here today to deal with child protection issues. In a sense, those have not been tested, so we are not sure what can happen. The bill is forcing us to consider potential scenarios. We have discussed how the council would respond if it was given information and notice, given that it has not done that before.

Moira McKinnon: There is a considerable need for professionals who work in child protection to debate the issue, of which we as a group have had no significant discussion or understanding. For the bill to have an effect and for the legal changes to mean something, we need to educate workers in those communities who come into contact with families.

That applies not only to the new communities that we are talking about, but to our own communities in social work services. Social workers need to be aware of FGM and the fact that it could happen to a child with whom they are working. They need to begin to identify signs and what they should be looking for, just as we did 20 years ago with sexual abuse, when we told social workers about aspects to look out for and questions that they had to think about when engaging with a family. The same process will be followed. FGM is another form of child sexual abuse and will be dealt with as abuse would normally be dealt with under our tried and tested child protection procedures and processes, which are well established. Each agency understands fully its roles and responsibilities in relation to those procedures and processes.

As Councillor Graham said, we have not yet sat down in a case conference to debate the implications for a specific child and how we keep that child safe. We have not debated what steps we would take to prevent a child from going somewhere if somebody in the community told us that they believed that that child would go next week for the practice. Could we use child protection measures, such as child protection orders, to prevent a child from going? We talked

about a child's return. What support will such a child need? What support will a family need in the context of their community? We have not tested that. We need to think through how we manage such issues.

The child protection process is no different. When we understand a child to be at risk of female genital mutilation, we will take the same steps and use our processes in the same way as we would if a child was being sexually or physically abused. Our processes are robust enough for us to do that. However, we have not debated that. We need to open that up in a wider context with a group of key professionals who work in communities.

Marilyn Livingstone (Kirkcaldy) (Lab): I will take that slightly further. One of my tasks in the Parliament is to chair the cross-party group on survivors of childhood sexual abuse. I have seen how long it has taken us to reach the current position in which we discuss the subject openly. We know that child sexual abuse happens in society. Support for victims is not perfect, but we have a group of professionals in child protection, and many voluntary sector groups work with victims of abuse.

I am concerned about one issue that Irene Graham raised. She said that the people involved might present years down the line. I believe that some women in the new communities that the witnesses talked about will need help when they are pregnant or at other times. That raises two questions, one of which you have partly answered. We need to start having the debate now, because we do not want to play catch-up, which we might have to do because of the types of community that are involved and because FGM could present in very young children—as with sexual abuse—or in women. As you have said, we have seen that.

I have three questions, which I will ask all at once, because they are related. How do we start the process of ensuring that we have support? How do we ensure that communities know that support exists? How do we first create a forum in which people consider how to put that support together? My comment was quite long, but the questions are interrelated.

Councillor Graham: Moira McKinnon mentioned the child protection review that is taking place. We need to consider whether dealing with FGM is part of that discussion. If it is not, we need to insist that it is. That would help.

Your first question was about how we start the process of support. I think that the process has started. It is clear that Somali women's organisations and other women in Scotland have raised the issue. Simply having the discussion has started the process. We need to look beyond that and ask women in the affected communities what

support they need. We cannot assume that we have the answers to that. You asked how we can ensure that the community knows that the support is there. That implies that there would be a set, standard response.

10:30

Marilyn Livingstone: That is not what I meant. People often know by word of mouth where they can go for support in relation to sexual abuse. Sometimes people go to a voluntary agency first, because child protection committees and the council are seen as authority bodies. Moira McKinnon is nodding; I think that she understands the point that I am making. Given the complexities of the issue, how can we make people aware of the agencies that are available to them?

Moira McKinnon: I do not know. I would have thought that one of the key places for debates should be child protection committees, which have responsibility in their area for key issues around child protection, the key debates that have to be had and the key decisions that must be made on a multi-agency basis. Most of the committees will have senior managers sitting around the table debating, discussing and agreeing to take forward their priorities.

That takes us back to the reform programme, which is taking a significant overview of what is happening in child protection in Scotland. We need to ensure that the reform programme sees FGM as a priority and begins to communicate that to child protection committees. The committees are the catalysts for taking forward the agenda that the reform team is driving.

Much multi-agency training is taking place in child protection committee areas. In Glasgow, we have a modular training programme that runs for nine months of the year. There is a range of modules covering sexual abuse and a number of other things. We are considering how we can raise professional awareness as well as awareness within communities, which Councillor Graham talked about. We need to ensure that that is part of the training agenda so that people can consider on a multi-agency basis the implications of female genital mutilation, what it means for the agencies, what their response would be and whether they understand their roles and responsibilities.

As Marilyn Livingstone said, in cases of sexual abuse, families and children will often go not to social work services but to other people for initial support, because sometimes they are frightened to approach social work services. For many people the same will apply in relation to FGM; they will go to their community leaders. We have to ensure that we work alongside community leaders, because we need them to take the issue seriously and to refer cases on to the appropriate persons.

Marilyn Livingstone: Thanks very much.

Councillor Graham: We are not talking about operating in a vacuum. The Scottish Executive has a national training strategy on male violence against women, on which a document is available. We need to consider whether we need to put the issue of FGM on to that agenda, if it is not already included. We also need to learn from what we know works in the broad spectrum of male violence against women. Glasgow City Council and other local authorities produce a comprehensive booklet that gives a range of information about who women can contact, whether in relation to child sexual abuse, rape, sexual assault or domestic abuse. That leaflet lists voluntary organisations as well as council services. The Glasgow violence against women partnership plays a key role in co-ordinating the production of such leaflets.

We know that, on their own, such leaflets are not enough. Many Women's Aid organisations and other organisations have produced credit card-sized information cards that women who are trying to deal with domestic abuse can keep safely in their purse. We can learn from the information systems that we know work; we also need to consider how we can go beyond that for the specific communities that we are talking about.

I mentioned the Somali women's organisation. Khadija Coll is working on developing an African-Caribbean network for Glasgow. We need to link in with her work, which she is doing across a range of communities. I know that she has taken up the issue of FGM over a number of years since she has been in Scotland.

We need to consider the key access points as well as what kind of information we provide. If women who experience female genital mutilation can understand that it is part of a range of abuse against women, that might help to allay some of their fears about breaking with their traditional cultures.

Jean Murphy: I want to add to what Councillor Graham said about the leaflet that is distributed in Glasgow on where women can go for advice and support, which has been on the go for many years and lists all the different organisations that can help women. The Glasgow violence against women partnership recently produced a version that is aimed specifically at asylum-seeking women and refugees and lists the agencies that can support them. It has been translated into all the languages that we know will reach the targeted communities.

Shiona Baird (North East Scotland) (Green): I want to expand on the point about the expertise that is available in Scotland. One or two people have been mentioned, but are there enough

people in Scotland with the relevant experience? Some of our other witnesses have suggested that we should look outside Scotland to gain more information, help and advice to help further our expertise.

Councillor Graham: When the council considered lap dancing and prostitution, we considered the best practice and best models and considered whether they were transferable to Scotland or whether they needed to be modified. Rape and sexual assault centres are one of the proposals for which we hope to get funding for a pilot—fingers crossed. We did extensive research in England and elsewhere to find out what makes a good rape and sexual assault centre and what provides the best support for women. We have come up with what we think would be the most appropriate solution for Scotland. I note the evidence given by the woman from the Foundation for Women's Health, Research and Development. Can we learn from the expertise that she has built up? Is her experience transferable to Scotland? If so, we should do so. If not, we need to consider where we can build up the expertise in this country.

Shiona Baird: You mentioned in your submission the need to raise awareness in the wider community and you have talked about training and awareness issues and education in schools. Can you suggest other activities that the Scottish Executive should undertake to raise awareness?

Councillor Graham: I mentioned leadership. We need someone to lead on the issue politically so that, when the bill is passed, there is publicity about it. We should have a champion, which is a word that Cathy Peattie has heard me use many times. We need someone who is clearly identifiable as being associated with the issue and who is prepared to be outspoken about it and to promote the bill. One of the good things that the Scottish Parliament has done is to take a strong lead on male violence against women. We have a strategy for that and a roll-out programme. We need to ensure that FGM becomes part of that agenda so that it does not operate in a vacuum and is not seen as separate. That would bring the issue within the training strategy that I mentioned. Given the funding that the Scottish Executive has made available to deal with a range of male violence against women, perhaps a project could be supported to give FGM additional prominence.

Shiona Baird: I have a final question on information gathering. The nature of the practice is such that people are secretive about it. Have you any suggestions for how we should gather statistical evidence and information about how widespread the practice is?

Councillor Graham: Previous evidence has noted the lack of baseline data. If we really want to

get the data, there are ways of doing so. One of the research exercises that has been conducted in Glasgow focuses on male violence against women in minority ethnic communities, which is a sensitive area. The research has taken a bit longer than we expected it would, but we have had to adjust the normal ways of conducting research to gain specific access.

That is one example of our going outwith the normal research methodology to bring in people who are sensitive to the cultural issues. We brought in a lot of women researchers on that project. If we really wanted to, we could embark on a research exercise and work with organisations such as the Somali women's organisation and the African network to determine how the research should be conducted. Unless such research is carried out, we will not know whether we have had much impact.

The Convener: I will allow Elaine Smith to ask a question if we have time, but we are really struggling for time. Marilyn Livingstone has a question on penalties.

Marilyn Livingstone: I will be brief. The new law will increase the possible term of imprisonment from five years to 14 years. Do you have any views on the change in the penalty?

Councillor Graham: We welcome it.

Nora Radcliffe (Gordon) (LD): I want to go back to some of the things that have been said and tap into the witnesses' experience of working with communities on such sensitive issues. I wonder whether it would be helpful for the committee to take evidence from male leaders of the communities. Would that be helpful or would it be counterproductive? Given their experience in the field, it would be valuable for us to know whether the panel members feel that that would be helpful.

Councillor Graham: I immediately think of the parallel with how we have dealt with domestic abuse in some of our minority ethnic communities. Some years ago, when we held a number of seminars in Glasgow to raise awareness of that issue, there was a bit of a backlash from some male members of the communities. They wondered why we were raising such an issue and denied that it existed; however, that proved not to be the case. We know that domestic abuse exists in every community. I cannot say that you should not take the evidence that you suggest, but you would have to understand that they would not present the same view as some of the women's organisations would.

Nora Radcliffe: We would get a different perspective. From the point of view of raising awareness in the communities and for our inquiry, would it be helpful for us to get male community

leaders' perspective on the issue? Might that facilitate changing their stance?

Councillor Graham: In some communities in England, faith community leaders have taken a clear stance against FGM. They have spoken out against it in the mosques, for example, and have said that it is not a religious practice and that it should not be encouraged. If we could move to that, that would be ideal. Whether the way to do that is to invite people along to a committee such as this, I do not know.

Nora Radcliffe: It is useful to have the benefit of your experience. I thank you for that.

In your submission, you express concerns about the fact that the bill makes an exception in law in relation to FGM for reasons of physical or mental health. Will you expand a little on that?

Jean Murphy: We are a wee bit concerned that the bill says that it would not be illegal for someone to perform the procedure if it was for the good of a person's mental health. We think that that could be used as a loophole; that is what worries us. The bill should expand on that a wee bit and say exactly what is meant by mental health. If sex reassignment surgery is what is meant—if the bill is trying to ensure that that can still happen without the procedure being illegal—perhaps that should be mentioned somewhere in the bill, otherwise the provision will be open to abuse.

10:45

Nora Radcliffe: And interpretation. Indeed.

Some countries that have laws against FGM have an age limit of 18 years, which allows consenting adults to undergo elective cosmetic surgical procedures. Should the law here include an age limit?

The Convener: Irene Graham wanted to add something to what Jean Murphy said on the question of physical and mental health.

Councillor Graham: We know that women in the communities in which FGM takes place and is long established are under severe cultural pressure from everybody in those communities. Therefore, an argument could be made that, if FGM were not conducted, the women would be more mentally unstable, which would badly affect their mental health, and they would perhaps be rejected by their society or experience difficulty in getting a marriage within that society. Therefore, a coherent and cogent argument might be made for FGM being good for a woman's or child's mental health. For that reason, we are against the provision in the bill as it stands.

On the age limit, we feel that part of what you are trying to do is to achieve consistency with the

legislation in England. For that reason alone, it would be useful not to have an age limit. We should recognise that, although FGM sometimes happens to very young children, it also happens to women over the age of 18. Whether women have free choice even at the age of 18 or into their early 20s and beyond is a moot point. Such are the pressures and such is women's position within these communities that the reality is that women may not have any power at any stage in their life until they achieve elder status.

Mrs Nanette Milne (North East Scotland) (Con): It is suggested that the existing law has created a situation in which people are likely to send their children abroad to have FGM carried out because it is illegal in this country. In your submission, you note specifically that pressure is placed on certain families to have their daughters sent abroad. Realistically, do you think that the proposed new law will prevent that?

Councillor Graham: It has the potential to prevent it, which is why the bill has been introduced, but how can we know whether it will do that? We are making the strong statement that it is illegal to perform FGM. If we back that up with awareness raising and the training of professionals, we will put the whole issue in a very different light.

When FGM was discussed by the council about four years ago, it was quite shocking to talk about it. We have moved well away from that. I hesitate to say that we are comfortable with talking about it, but we now have little hesitation in saying that FGM is an abuse of women. The fact that legislation on the issue has been drafted gives a strong message. If the bill is widely promoted and if the information gets to the communities in which FGM happens, that will send a big signal to those communities that if they do it, they will be breaking the law and there will be serious consequences. The bill has potential, but unless we promote it, tell people about it and make it clear that we are serious about FGM, the danger is that it will be just a well-intentioned piece of legislation.

Mrs Milne: So, you think that it could have a significant effect on the communities that are resident in Scotland.

Councillor Graham: Yes, if we back it up with awareness raising, education and support.

Elaine Smith: I hope that you do not mind if I pick up on a few bits and pieces, convener.

The Convener: Please be brief, as Councillor Graham needs to leave soon.

Councillor Graham: I have rescheduled my later meeting, just in case.

Elaine Smith: It is important that we explore the issues while we have the chance.

Let us return to an issue that was touched on in response to Shiona Baird's question. Councillor Graham mentioned the fact that the bill is part of the agenda to address male violence against women and children, which is right. Do you also see FGM as being an issue that runs across the Executive's departments? I am thinking in particular of its sexual health strategy. When the strategy was presented to the Parliament in 2003, I noticed that it contained a brief mention of FGM. A Tanzanian member of Parliament was shadowing me at the time and I took the opportunity of asking a question on the subject. Is it important not only that the Development Department, with its responsibility for communities, picks up on the issue but that other departments also do so?

Councillor Graham: Again, the committee might want to draw on our experience of the wide range of issues in respect of male violence against women, which is that such issues do not fit neatly into one category. For example, it is clear that a centre such as the rape and sexual assault centre that we are trying to set up as a pilot in the city crosses three main Executive departments: it falls within the remit of the Justice Department in terms of the criminal side of things; of the Health Department; and of the Development Department, because of its responsibility for communities. The challenge for the Executive—as for councils—is for departments to cross-cut effectively, so that a corporate approach can be taken to issues that do not fit into neat categories.

The procedure could have consequences for health, including the mental health problems that we have discussed. There is also a long-term issue of women having to fit into communities. The same issues arise for women who experience FGM as for those who experience sexual abuse, domestic abuse or rape and sexual assault. We need to see FGM not as something that is out there and different that must somehow be treated differently, but as part of the wider issue of violence against women. If we do that, we can consider how women who have experienced other forms of male violence cope and the range of services and agencies that have to come into play to make women's lives better. That is the parallel that I would draw.

Elaine Smith: That leads me neatly into a question about the cost implications of the bill. The assumption is that any additional workload will be absorbed into the everyday work of social work departments; the bill anticipates no additional costs for the local authority social work system. What is your comment on that? I know that the Somali women's action group receives assistance from Glasgow's social work department, for example.

You said earlier that the bill could become a well-intentioned bit of paper. What systems need to be put in place to ensure that that is not the case? If the bill is enacted, there will be a need for education and guidance on not only child protection measures but other areas. Do you envisage costs to local authorities? I will let you answer that question before I put a question on an issue you raised in your submission.

Moir McKinnon: I will answer by returning to what Councillor Graham said about responsibilities. A parallel can be drawn with the fact that child protection is not the responsibility of one agency. That is a key issue for us, given that we need to ensure that every agency and community is aware of its responsibility in respect of child protection. The issue of FGM is no different, as our response to it takes us across a range of agencies, community groups and individuals, all of whom need to understand their roles and responsibilities in the wider context of the protection of children, of which FGM is one aspect.

Child protection is a priority area for social work services. If a child is at risk, the stops are pulled out and workers are taken off other duties so that they can follow up a case. If an issue such as FGM arose through our child protection work, it would be dealt with immediately. The case would receive an immediate response. We would try to ensure that the agencies that are working together collaboratively put together a programme and package to try to ensure the safety of the child. That said, our work with and support of communities have cost implications; we have to come up with the cost of training and awareness raising.

We sit with the child protection committees, which have the task of ensuring that they have an overview of the child protection measures within their committee area. Although they develop that understanding, they have no budget to do so, as no money is assigned to the child protection committees. The action that they take is based on the good will of the agencies that sit around the table. That is a difficult position in which to place committees. We must consider their funding and how to give them additional funding that will allow them to take forward the programmes that they want to develop.

Elaine Smith: In your submission, you say:

"Resources to appropriately empower these vulnerable women and increase their capacity to collectively work in partnership with others on this agenda will now be required."

Who will require them? Will the resources come from local or central Government?

Councillor Graham: More than one set of costs is involved, but let us deal with the cost of the resources. Typically, new groups that form around an issue look to a range of funding sources of which local authorities are one, as is the lottery in all its forms. The Home Office has made some money available, for example to the development worker who works with our African communities. Although that work is not specifically focused on FGM, we know that the issue has arisen as a result of her work with women's groups. Having met the worker, we know that she feels a bit overwhelmed because of the numbers involved. She has identified around 7,000 women and 12 to 14 separate groups. Although not all of those groups are working on FGM, it is an issue for many of the women with whom she works.

The question is how that work can be resourced. As the committee knows, local authority budgets are set, so it is not always easy to fit a new issue into existing budgets. Although we will do what we can, partnership funding with the Scottish Executive is a useful way forward. That is how we are funding our work with faith communities. In my role as the equalities spokesperson for the council, I chair the equalities sub-committee. The council is entering into a joint venture with the Executive to fund a faith liaison officer for Glasgow, again on a pilot basis.

We should not expect local authorities to be the only source of funding. If we consider the key community planning players, we see that many of them—such as the health boards—have huge budgets. We should consider whether the health boards can have a role in funding work. An element of work around women's confidence and training could also be met by Scottish Enterprise funding, even indirectly.

The kind of community support to which I have referred will need support, as will issues around training. As a result of a multi-agency domestic abuse pilot in the east end of the city, we know that the huge resources that are required for training cannot be met from existing budgets. One of the issues is how to release staff who deliver a service to allow them to receive training. Often, the people who offer services are in the voluntary sector, as that is where the expertise lies. How can the voluntary sector be resourced? Community development support and training are two key areas that we have not tackled yet and our budgets for them are already stretched.

Elaine Smith: That is an issue that we will want to put to the Executive.

I have a final question on asylum.

The Convener: Right, but you may have one question only.

Elaine Smith: The Glasgow City Council submission states:

"the provisions of the Bill will not apply to women and girls who are seeking asylum or those who have been granted Indefinite Leave to Remain/Humanitarian Protection."

Obviously, that issue is of concern. I understand that the Westminster bill does not cover those areas. Although our bill will not be hugely different, it is good that we did not legislate under the Sewel procedure and that we are having this robust scrutiny of the bill.

What are the panel's views on whether the bill should offer the same protection to those who are seeking asylum or who have been granted indefinite leave to remain? One of the reasons for the bill not offering protection to those groups is that if someone who is seeking asylum goes abroad, their asylum application would fall. Whether that would apply to children who are sent abroad with someone else is a different issue.

11:00

Councillor Graham: In front of me I have the response that rejects the point about asylum seekers leaving the country and their applications becoming invalid. Other members of the community taking children out of the country is another issue. There have been various reports of children arriving in the country with their aunts, or whomever, and some of those cases have had very tragic consequences as we know. Just because the legislation is in place, we cannot assume that children will never be taken out of the country by other family or community members. We are concerned that the bill should contain additional protection.

We have been trying to get a bit more information about those who have indefinite leave to remain. The committee might be better placed to get that. I understand that anyone who has indefinite leave to remain will be covered by the legislation. Is that right?

Elaine Smith: I do not know.

Councillor Graham: The question should be asked and, if they are not covered by the bill, those people should be protected. If the bill covers them, we will not need to do any more.

The Convener: We are waiting for further information from the Executive. When the minister comes before the committee, we will ask those questions, because members are concerned. We will pursue the issue.

Marlyn Glen: I will understand if panel members feel that the answer to this question is not within their remit but I take the opportunity to ask it. It goes back to exceptions and age limits. Do you envisage any difficulty with adult women being caught up in the legislation when they elect to

have cosmetic surgery? I accept that the point might be outwith your remit, but I would value your comments if you have any.

Councillor Graham: We anticipated that question through our discussions with the committee clerks. When I first came across the question, I did not really understand what it was about. However, I have read the other evidence and it is quite clear that there are occasions when people choose to do that. It is so outwith my experience that I cannot comment.

Marlyn Glen: I just wondered about the issue in the context of the council's extended remit on violence against women. I take it that it has not come up so far.

Councillor Graham: Not so far.

The Convener: I thank the witnesses for their evidence this morning. It has been really helpful.

11:03

Meeting suspended.

11:08

On resuming—

Proposed Commissioner for Older People (Scotland) Bill

The Convener: For the next agenda item, we welcome Alex Neil and Claire Menzies Smith. We are at the stage where we want to ask Alex Neil about the consultation process for his bill. We are not going to grill him about the substance of the bill, although we hope to have the opportunity to do so in the future. Alex, what consultation method did you choose and on what basis did you choose it? For example, did you consider holding consultation meetings in addition to the written consultation process?

Alex Neil (Central Scotland) (SNP): I will go through the process. Before I started the formal consultation, I contacted a number of organisations in Scotland that operate in this field, including the Scottish Pensioners Forum, Age Concern Scotland and Help the Aged. We also contacted the National Assembly for Wales, because the Welsh proposal to establish an old persons commissioner is quite far in advance of ours. Moreover, we contacted the parliamentarians in Westminster who—unsuccessfully so far—are supporting the principle of an old persons commissioner for England.

As a result of those consultations and discussions, we decided to tackle the consultation in several ways. First, as the parliamentary process rightly requires, we sent out a copy of our proposal with various questions to 238 organisations in Scotland—we have already received 27 responses. Those organisations represent a cross-section, including local authorities and bodies involved in transport, education and lifelong learning, access issues, health, employment and other categories that affect older people.

Secondly, we sent a covering letter with the consultation paper, asking people to let us know if they required any translations in minority languages. So far, we have had a request from the British Sign Language society, to which we will adhere. If necessary, we will extend the consultation period beyond 14 January in order to facilitate that society.

Thirdly, we asked the 238 organisations to which we sent the consultation to circulate it to other bodies that they thought would find it relevant, as well as to their own branches. I know that that has been done: I was told yesterday that one of the local authorities on the west coast has sent it out quite extensively, way beyond what has been done before. That is because of that council's interest in the subject.

In addition, since we launched the consultation paper in October, I have undertaken a series of meetings. Yesterday, I was with the executive committee of the Scottish Pensioners Forum, going through the consultation paper and discussing it with the committee's members before getting the forum's formal feedback, which will probably be sent next week or the week after.

We launched the consultation in the middle of the changeover to the new process. The formal deadline for submissions is 14 January but, as I indicated, we will probably extend that by two or three weeks in order to facilitate the British Sign Language society in particular.

Mrs Milne: You have already answered the question that I was going to ask: it was about whether you would be flexible with regard to the deadline for responses. You are saying that you might extend it by two to three weeks.

Alex Neil: Yes. We have allowed more than the required 12-week period, but I think that it is important to give the maximum opportunity to people who want to respond. That 12-week period has included Christmas and new year. There has also been the special request from the British Sign Language society. I said to that organisation that we will extend the deadline by the time necessary to allow it to respond. As we are doing that, we will accept responses from anyone else who wishes to respond during that additional period. I think that that is a fair and flexible approach.

Mrs Milne: The committee will be pleased that you have allowed such a long time for the consultation in any case. You said that you have received responses from around 27 of the hundred and thirty-whatever organisations.

Alex Neil: We wrote to 238 organisations, and we have so far received 27 responses. I am told that that is above average in percentage terms. Claire Menzies Smith will be able to answer this in more detail, but I understand that the average number of organisations that are invited to respond to a consultation is around 70 to 90 and that the usual number of responses is around 20 to 25. By the time that we are finished, we will have well over 30 or 35 responses, I hope. The responses will not be like those to the consultation on health board elections, with people just ticking yes or no. The responses that we have received have gone through all our questions and have given us a lot of detail, aside from those that were sent by the five organisations out of the 27 that think that the proposal is not a good idea in principle.

Marilyn Livingstone: You have also answered quite a bit of my question, too. Given those numbers, you seem to be content that you have reached a sufficiently wide range of people.

Alex Neil: Absolutely. I should add that we circulated a copy of the consultation paper to every MSP, asking them to consult and to give their responses, too. Furthermore, I have formally requested a meeting with the minister with responsibility in this area—Malcolm Chisholm, the Minister for Communities—and I am told that I will be able to have a meeting within the next two or three weeks. Obviously, I am keen to ensure that the Scottish Executive supports the bill, at best, or does not block it, at worst. This is not a party-political issue—it cuts across all parties.

We are ahead of England but behind Wales on the matter and have been able to learn from the Welsh experience. I am arranging to go down to Cardiff within the next three weeks to talk to the people who are responsible for the Welsh proposal and to consider where it may differ from ours and how we may be able to improve ours further.

11:15

Marilyn Livingstone: Have you received responses from individuals, as well as from organisations?

Alex Neil: We have. A couple of people have responded through the website, on which the consultation has been placed. We received one such response this morning. Unfortunately, we had to ask the respondent to convert his e-mail attachment to Word, because we could not read it. However, it is encouraging that people have responded through the website.

We have also been impressed by the range of people who are responding. One of the responses that we received yesterday was from the Mobility and Access Committee for Scotland, which is important for old people in particular. We are reaching the people who have front-line experience of the problems that older people in Scotland face.

Elaine Smith: What is your understanding of why a member consults on a member's bill? Is it to inform the member of what to include in their final proposal or whether to proceed at all? Clearly, if all the consultees said that the bill was not a good idea, the member might have to consider whether to proceed. I ask those questions to establish how robust the consultation needs to be and because, if you proceed, the proposal will come to one or more of the Parliament's committees, which will have to conduct their own consultation. Presumably, they could have access to your consultation, if that would help to inform them.

Alex Neil: The Procedures Committee outlined the benefits of consultation. First, it said that consultation was designed to develop and test any legislative idea by drawing out both positive and

negative responses. I think that we are doing that. The vast bulk of responses have been positive, but we have received some negative responses, too. That shows that we have consulted as objectively as we can.

Secondly, the Procedures Committee said that consultation

"gives advance notice to those bodies and individuals likely to be affected by any Bill".

We have had in-depth discussions with bodies such as Help the Aged, Age Concern and the Scottish Pensioners Forum. I have been invited to Marilyn Livingstone's constituency in Fife in two months' time to talk to the local elderly forum. We have received a positive response from the Borders elderly forum. The 25 members who are involved in running the forum are all signed up to supporting the bill and are starting to suggest improvements to it.

Thirdly, the committee said that consultation should help

"to ensure that legal and technical problems can be identified and resolved before the policy has become too firmly established."

Consultation also has a fourth purpose: to build support for a proposal. My background is in business. One of the reasons for writing a business plan is to involve people in the development of a proposal, so that there is commitment from a very early stage. One of the biggest benefits—if not the biggest benefit—of the consultation process is that it allows us not only to refine, develop and improve the proposal, but to build support and a consensus behind it. The Procedures Committee did not identify that as the key benefit of consultation, but the responses that we have received so far show that we are building support for the proposal.

Elaine Smith: The consultation is also raising awareness around the issues. I believe that you are planning to visit Muirhead seniors forum in my constituency.

Do you think that the purpose of the lead committee's consultation is different from what the member is trying to do?

Alex Neil: The purpose of the member's consultation is to try to get the proposal into a sensible shape. The purpose of the pre-legislative scrutiny at stage 1 is obviously to improve the bill. As you know, I am currently the convener of the Enterprise and Culture Committee, which is dealing with the Further and Higher Education (Scotland) Bill. We are still at stage 1, the pre-legislative scrutiny stage, but the proposal has been round the houses four times. It originated as a proposal of the old Enterprise and Lifelong Learning Committee, of which Marilyn Livingstone

was a member. However, as you will see from our stage 1 report, which will be debated on 20 January, we have suggested further improvements to the bill as a result of this fourth round of consultation.

That is the purpose of the process and the reason why the standing orders of the Scottish Parliament are written in the way that they are. We never get things right first time, even with a lot of consultation. Of course, there comes a point at which one has to stop consulting and start acting. However, the role of the committee is to further improve the bill and to ensure that there is support for its proposals.

Yesterday, we had discussions with representatives of the Scottish Pensioners Forum, who told us that they wanted to be sure that a commissioner would be independent of the Executive rather than being a mouthpiece for the Executive. That was raised in relation to the fact that they do not believe that a number of the proposals in the better government for older people programme have worked very well. I explained to them that the commissioner reports to and is appointed by the Parliament, not the Executive. They were also concerned about whether the commissioner should be able to take up individual cases. That is a good question and I have not come to a final position on it; it might be that I decide that they should be able to but the committee decides the reverse or vice versa. It is an evolving process.

Elaine Smith: On publicity, you arranged to have a launch event, which can be effective if the media pick up on it, because a range of people will be made aware of the situation. Attracting such coverage can maximise awareness. I know that you have consulted extensively as well, but have you publicised the process in any other ways? For example, have you asked doctors' surgeries or community centres to put up posters about the consultation?

Alex Neil: We have not done that directly. We got page 2 of the *Daily Record* for the launch. I do not always agree with the *Daily Record* but, as you know, it ran a successful campaign last year on the issue of elderly abuse and gave a lot of good publicity to the bill as a result of that.

We have written to other organisations as well. If someone writes to a newspaper to raise an issue relating to old people, I usually write to them individually, not necessarily through the newspaper. In that way, we try to ensure that we pick up anyone whom we might have missed and give the maximum number of people the opportunity to take part.

Resources must always be borne in mind. It would be a bit premature to start dealing with

doctors' surgeries and so on because at this stage we are dealing with the matter at a policy level. However, the national organisations such as Age Concern have ensured that their branches are made aware of the consultation process. I have spoken to a number of Age Concern's branches and have spoken at its annual general meeting and at seminars. That has been more effective than trying to cover all the doctors' surgeries.

Nora Radcliffe: One of the aspects that arise in regard to resources is the extent to which you use alternative formats when you are trying to communicate with people. In your covering letter, you made it clear that people can request alternative formats. Did you do anything proactive in that regard, such as producing large-print documents for older people or making tape recordings of the documents?

Alex Neil: We provided fairly large print for organisations that we thought would request it. We have also tried to have more front-line contact. In the previous session of Parliament, when working on my Public Appointments (Parliamentary Approval) (Scotland) Bill—which was, in effect, eventually taken over by the Executive—I found that it was much better to go to the front line and talk to people face to face. I have therefore had meetings with, for example, Age Concern and the Scottish Pensioners Forum. I have preferred to do that rather than trying to make contact through, if you like, paper propaganda or other media. If one relies too much on other media, one tends to get squashed out. In addition, posters and suchlike do not lead to as good a response. Posters are usually up among a lot of other posters and responding to them is not necessarily people's primary concern. Face-to-face contact and dialogue are far more effective than doing everything in paperwork.

We have, however, written to people not once but twice. We sent out the original letter with the consultation paper in October and in December we sent out a reminder to all the organisations, again with the consultation paper and with a reference to the website. By doing that, we have improved the response rate.

Nora Radcliffe: I totally agree about the benefits of talking to people face to face. It takes a lot of extra time and effort but is well worth doing. I was also going to ask about electronic media, but you have covered those points.

Elaine Smith: I want to ask about the resources involved in providing information in alternative formats. Alex, you can judge the extra time and work required for you to go and meet people face to face, but what about payments? For example, if you need translators, do payments come out of your office budget?

Alex Neil: Under the Parliament's rules, the work that we will do in, for example, British Sign Language will have to come out of my members support allowance. In this financial year, I have allowed for us to do that. We have indicated that we will respond positively to any request for translations. One of my jobs at the moment relates to the Gaelic Language (Scotland) Bill, so I am especially sensitive to the need to offer information in alternative languages. I have also said to people whom I have met from ethnic minority communities that, if they required a translation—into Urdu, for example—we would try to facilitate that. So far, we have not received such a request. Within certain minority groups, particular issues relating to older people can sometimes arise.

Elaine Smith: Do you not think that the non-Executive bills unit, for example, should carry out that function for back-bench members who are working on a bill? Otherwise, there could clearly be a drain on members' office resources, which could impact on staff salaries.

Alex Neil: Because I knew that I would be working on this bill, I budgeted accordingly. I have to congratulate NEBU—I am not saying this simply because Claire Menzies Smith is sitting next to me and, even more threateningly, David Cullum is sitting behind me—on the work that the unit has done and the assistance that it has given me on this bill as on my previous bill.

Issues arise to do with the Parliament's resources—how they should be used and from which budgets they should come. Those issues are for the Scottish Parliamentary Corporate Body and the Procedures Committee, rather than for me. All I have done is to try to work within the existing rules to make progress with the bill.

Elaine Smith: However, it is helpful to raise the issue, because back-bench members can have difficulties. Obviously, the Executive has many resources that back-bench members do not have.

The Convener: Certainly, the committee wants to encourage people to use any kind of formats that are available and to use signers and interpreters. We would be concerned if that did not happen simply for financial reasons. That is an interesting point.

Alex Neil: As I said, the only specific request that we have had so far is for British Sign Language, but we may get other requests.

Marlyn Glen: You have obviously done a lot of work in sending out the letters and in contacting organisations. Do you have any plans to monitor and evaluate the levels of participation to identify groups that are under-represented? We are concerned that equalities groups should be participating in such an exercise.

Alex Neil: I made a few phone calls just before Christmas to some people who I thought would have responded but who had not, just to gee them up a bit. Once the consultation period has ended—as I say, we are going to extend it to facilitate the British Sign Language society, in particular—NEBU will carry out an independent assessment of the responses; it will provide a detailed analysis of the answers to each of the questions as well as of the overall comments that have been made. That analysis will be available in the Scottish Parliament information centre and will be passed on to the lead committee on the bill, which I assume will be the Equal Opportunities Committee. All that information will be made available to every member of the committee and to the general public.

The Convener: The committee has no further questions. Is there anything else that you want to say?

Alex Neil: I just ask committee members to lobby their groups to support the bill.

The Convener: I knew that you were going to say that. Thank you very much. Are members satisfied with the statement of reasons that is attached to the proposed bill?

Members indicated agreement.

Subordinate Legislation

Race Relations Act 1976 (Statutory Duties) (Scotland) Amendment Order 2004 (SSI 2004/521)

11:31

The Convener: The final item concerns subordinate legislation. The order came into force on 31 December and will remain in force unless it is annulled by the Parliament within 40 days of its being laid. The purpose of the instrument is to amend the Race Relations Act 1976 (Statutory Duties) (Scotland) Order 2002.

The amendment order applies the employment monitoring duties of the original order to the Gaelic bòrd and adds four bodies to schedule 1 to the order, requiring them to publish a race equality scheme. It also removes one organisation from the list of bodies that are excepted from the employment monitoring duties. No motion to annul the instrument has been lodged. Are members content with the order?

Members indicated agreement.

The Convener: Are members content to report to the Parliament that the committee has no recommendation to make in respect of the order?

Members indicated agreement.

Meeting closed at 11:32.

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