EQUAL OPPORTUNITIES COMMITTEE

Tuesday 30 May 2006

Session 2

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CONTENTS

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EQUAL OPPORTUNITIES COMMITTEE

13th Meeting 2006, Session 2

CONVENER

*Cathy Peattie (Falkirk East) (Lab)

DEPUTY CONVENER

*Nora Radcliffe (Gordon) (LD)

COMMITTEE MEMBERS

Frances Curran (West of Scotland) (SSP)
*Marlyn Glen (North East Scotland) (Lab)
Marilyn Livingstone (Kirkcaldy) (Lab)
Mr Jamie McGrigor (Highlands and Islands) (Con)
*Elaine Smith (Coatbridge and Chryston) (Lab)
*John Swinburne (Central Scotland) (SSCUP)
Ms Sandra White (Glasgow) (SNP)

COMMITTEE SUBSTITUTES

Jackie Baillie (Dumbarton) (Lab)
Ms Rosemary Byrne (South of Scotland) (SSP)
Linda Fabiani (Central Scotland) (SNP)
Patrick Harvie (Glasgow) (Green)
Mrs Nanette Milne (North East Scotland) (Con)

*attended

THE FOLLOWING GAVE EVIDENCE:

Adam Gaines (Disability Rights Commission Scotland)
Chris Oswald (Disability Rights Commission Scotland)
Lynn Welsh (Disability Rights Commission Scotland)

CLERK TO THE COMMITTEE

Steve Farrell

SENIOR ASSISTANT CLERK

Zoé Tough

ASSISTANT CLERK

Roy McMahon

LOCATION

Committee Room 1

Scottish Parliament

Equal Opportunities Committee

Tuesday 30 May 2006

[THE CONVENER *opened the meeting at 10:01*]

Disability Inquiry

The Convener (Cathy Peattie): Good morning and welcome to the 13th meeting in 2006 of the Equal Opportunities Committee. I remind everyone present—including members—that mobile phones should be turned off completely, as they interfere with the sound system. Apologies have been received from Marilyn Livingstone, Sandra White and Jamie McGrigor.

At our meeting today we will deal exclusively with our disability inquiry. I am pleased to welcome Adam Gaines, Chris Oswald and Lynn Welsh, from the Disability Rights Commission Scotland. I invite Adam Gaines to make a brief statement before we start our questions.

Adam Gaines (Disability Rights Commission Scotland): Thank you for giving us the opportunity to give evidence today. We see the committee's inquiry as a positive step in setting an agenda in Scotland for removing the barriers that prevent disabled people from participating fully in public life.

We believe that there has been progress, over the past few years, towards the inclusion and participation of disabled people in Scotland; however, we feel that much more still needs to be done to ensure that disabled people are seen as ordinary, full citizens in society. Unfortunately, disabled people in Scotland still face quite a number of inequalities, which limit and circumscribe their lives. In brief, disabled people are twice as likely as non-disabled people not to be in work. They are also twice as likely as non-disabled people not to have qualifications and twice as likely not to be able to make the type of journeys that non-disabled people take for granted.

We believe that, by 2020, all disabled people should have the same choice, freedom and control as other citizens. To achieve that aim, it is essential that independent living for disabled people becomes an important policy goal. We suggest that, to achieve that, there needs to be an independent living task force to consider the number of devolved responsibilities involved in achieving independent living. Such a task force would provide advice to the Parliament and to ministers on future steps towards independent living.

Since its introduction, the Disability Discrimination Act 1995 has had a significant impact through the duties on employers and service providers and the rights for disabled people that it sets out. Nonetheless, we feel that more needs to be done with regard to awareness of the act and its implementation by organisations.

As the committee's inquiry has helpfully shown, disabled people make up 20 per cent of the population, and the figure is projected to rise by a further 2 per cent over the next 15 years. We think that it is, therefore, important and relevant that disability policy issues are taken to the heart of overall policy making. We feel that it is important that disability issues are seen as part and parcel of policies that deal with, for example, poverty and employment and are mainstreamed, so that consideration of disabled people's issues can assist in meeting the overall challenges of overcoming poverty and addressing the lack of inclusion.

The Convener: Thank you. My first two questions are around policy. The DRC is currently conducting the disability debate. What is the current situation regarding that debate?

Chris Oswald (Disability Rights Commission Scotland): The debate was launched in the Parliament in October. We subsequently backed that up in January with an advertising campaign—are we taking the dis?—which has been very successful.

We are taking the debate to communities in Scotland and focusing on harder-to-reach disabled people, in ethnic minority communities and rural areas, for example. We are trying to engage as wide as possible a spectrum of people. We are planning events for the Parliament and the Executive and we will engage with other stakeholders. We aim to wrap up the debate element of the work by September and we hope to publish a final document in January 2007.

The Convener: What were the main conclusions of the "State of the Nation" research, which the DRC commissioned?

Chris Oswald: There were two main conclusions. First, as Adam Gaines said, the number of disabled people is projected to rise from 20 per cent of the population to 22 per cent during the next 15 years—the rise is particularly related to older people. Secondly, if Scotland is to be able to deal with issues around unemployment, skills gaps, health and poverty and successfully to meet the main social justice targets, disability issues will have to be central to policy making.

An important point about the report is that it is independent of the DRC—we are pleased about that. We deliberately outsourced the report to another organisation, so that there could be an independent view of the data.

The Convener: Throughout our inquiry and at our workshops and meetings across Scotland, disabled people have expressed concern about their need for easier access to information, to help them to access employment, education services and leisure provision. What type of information does the DRC provide to assist disabled people in such matters and how is it made available?

Lynn Welsh (Disability Rights Commission Scotland): The short answer is vast amounts. One of our main aims is to get information to people. We have succeeded in doing that during the past five years and knowledge about the DDA and the DRC has increased radically since the commission came into being. However, people still find it hard to access the information that they need.

We provide information in various ways. We run a helpline that provides free information and advice. We produce more than 150 leaflets—we have brought some to the meeting. The leaflets are available in print and in all the alternative formats; they are free on our website, which contains a substantial amount of information.

We have acknowledged that we need to go out to people. We started by holding six major roadshows in Scotland—one was in Orkney—at which we provided information to disabled people. Business meetings were tagged on to all the major roadshows and we held smaller roadshows last year that were targeted at small employers. We held education roadshows that took in every education authority in Scotland, to which parents were invited; we also held parents roadshows.

We ran legal surgeries throughout Scotland, including on Skye and Mull, at which we provided information and advice to disabled people and we worked with local disability organisations to ensure that events were advertised and that people could attend them. We have done a substantial amount of work and tried hard to cover the whole country, because we understand the difficulties for people in more remote areas.

The Convener: How does the DRC monitor the information that it provides, to ensure that it is appropriate to the requirements of disabled people?

Adam Gaines: We receive a large amount of feedback from disabled people. Lynn Welsh described the many meetings that we have held throughout the country. We try to seek direct feedback from people at such meetings and we provide feedback sheets that individuals can use. It is important that we ensure that the material that we provide is not only up to date but accessible and usable. That is why we provide material in different formats, which is crucial if we are to reach out to a broad audience.

Marlyn Glen (North East Scotland) (Lab): Can e-mail feedback be sent to the website?

Lynn Welsh: Yes, there is an e-mail facility on the website that allows people to ask for information or to feed back their own views on the website or anything else. Obviously, that is monitored regularly.

Adam Gaines: We have recently introduced a feedback form for each of our publications so that people can give us information about whether the publication meets its target or whether further information is necessary. Another recent development on our website is that we have made all the employment information available in British Sign Language because we discovered that that was a particular area of interest to deaf sign language users.

Marlyn Glen: I am interested in the idea of promoting that kind of website because the use of information technology is so important at the beginning of this new century. I know that not everyone has access to the web, but such access will increasingly become the norm.

Lynn Welsh: There is an issue around ensuring that all websites are accessible. Members might know that we carried out a formal investigation into that area, and found that more than 80 per cent of British websites are not accessible—obviously, those websites are in breach of the DDA. As people use websites more, there is a real issue around ensuring that they are accessible, especially for people who have reading software on their computers and so on. That issue remains to be tackled.

Marlyn Glen: Are you tackling it? I do not know anything about the training of web designers, but I presume that they need to know how to make websites accessible.

Lynn Welsh: Following the formal investigation to which I referred, we commissioned an extensive piece of work that tells people exactly how to ensure that their website is accessible. That information can be obtained from our website or from our helpline.

Marlyn Glen: That is interesting—thank you.

The Convener: The lack of information that is available in accessible formats, to which Lynn Welsh referred, is also a concern that the committee has heard about on many occasions. How does the DRC set positive examples and encourage best practice in that regard?

Lynn Welsh: I will bring out my little white bag, which contains examples that we have brought along to show the committee. We obviously have high internal standards for accessible formats. Everything that we produce comes in Braille, CD, DVD, EasyRead, large print and different languages, including black and minority ethnic languages, and is available on the website. We are exemplary in this area and we have every format available, as far as is possible. As Adam Gaines said, we now produce information in BSL on the website as well as in formats such as DVD—we use a huge range of formats. Our general policy is not to produce a document until it can be made available in all formats, so that nobody has to play catch-up when we put stuff out. That is important because we often find that people say that they will provide information in alternative formats but that it will take six months to do so. That in itself causes problems.

The Convener: That is an important point. We hear from the Executive and others that information in a certain format will be available at a particular time. However, providing information only when it can be made available in all formats is a positive idea, and I think the committee would welcome that approach.

Lynn Welsh: It is not a difficult approach to take, if it is built into the planning stage, but I think it tends to be missed out at that stage. For example, people tend to do a leaflet and then think about how to produce it in alternative formats, rather than build in such provision at the initial planning stage. People should consider whom their leaflets are targeted at. For example, some Executive leaflets that are aimed at learning disabled people are not yet available in EasyRead.

The Convener: How can you encourage other organisations to do the planning that the DRC does? How can you promote good practice?

Lynn Welsh: That can be difficult. I hope that the DED—the disability equality duty—will help a bit with public authorities because the DED is partly about building the provision of information in alternative formats into planning. To be fair, organisations have to find a service that will provide such alternative formats for them, which is not always easy, depending on where they are in Scotland.

It is a matter of planning such things in advance. Organisations might ask where they can get Braille formats and then factor that into everything that they do. We try to give information as best we can, and we point people towards organisations that can assist them with such things.

10:15

The Convener: So you would play a role in signposting people to organisations that might be able to help.

Lynn Welsh: We try to.

Nora Radcliffe (Gordon) (LD): Do you target printers? People approach printers to print their leaflets, and printers have information about where the various alternative formats can be obtained. Is that another angle for spreading the word?

Lynn Welsh: Possibly. We have not worked on that to date, but it is a thought.

Adam Gaines: There is both a demand issue and a supply issue when it comes to increasing the number of accessible publications. We need to ensure that organisations are more aware that, if they provide materials in different formats, they will do more to reach out and meet the audiences with which they work. That is important from a sales perspective in both the public and private sectors. The difficult issue lies in ensuring that the level of supply is increased. At the moment, not enough organisations are able to provide the materials that are sought. The public sector needs to consider in advance the arrangements that are made with printers and other providers so that appropriate facilities are set up. In some cases, an organisation might need to consider whether to purchase Braille printers, so that the work can be done in house.

Organisations such as Update have lists of contacts of suppliers that can provide additional formats. About a third of the transcription services that are used in Scotland are not based in Scotland, but are located elsewhere in Great Britain. There is a market opportunity there.

The Convener: The committee has heard about the lack of availability of interpreting and transcription services. What can be done to increase the availability of those services? As Lynn Welsh said, people should be encouraged to adopt good practice, but it can be difficult to access the necessary services in Scotland. What needs to happen to change that? What recommendations for changing that situation should we include in our report?

Adam Gaines: It is important for public authorities, including health boards, local authorities and police forces, to consider whether they have—as part of their own provision or as part of a consortium—arrangements for the provision of the required services, including interpreting and transcription.

Some useful work has been carried out by the Scottish Executive, focusing on the position of BSL interpreters. However, the number of interpreters is still insufficient. There is a need not only to take on more of them but to get organisations to consider their own provision for interpreters. The vast majority of organisations tend to get their provision from other agencies, although there are one or two good examples of health boards that have taken on individuals and thereby created their own interpreting provision. Organisations should consider those examples as ways of filling the gap and creating facilities that can be used not just by traditional services such as social work but across the board. The worry is that the group of people involved is too small.

Lynn Welsh: Too often, people apply the approach "We can't find it, so we won't give it" to services. That is not on, especially with the DED coming into effect. Basically, services will have to be created. The Executive has to have a role. It must ensure that money is available for training and that the training is available on a sufficiently wide scale. The big service providers, especially public authorities, will also come under the DED. If there are no, or not enough, BSL interpreters in an area, effectively public authorities will have to create them. It is everybody's job to increase the availability of those services.

The Convener: There are issues around training and availability. What is the DRC doing to promote the training of more interpreters?

Lynn Welsh: We have worked with the Scottish Executive to raise awareness of the issues and to argue that money must be put in. It is a chicken-and-egg situation. If jobs might come up, more people would be willing to do the training. At present, people wonder what the point is of training to become a BSL interpreter if they cannot get a job at the end. If the service was used more, it would be more worth while for people to do the training.

Chris Oswald: As Lynn Welsh and Adam Gaines said, we try to emphasise the importance of the duty, particularly the element about involving disabled people. It will not be possible to involve disabled people unless they can be communicated with and can communicate. One advantage of the duty is that it will fall on a wide range of public authorities at the same time, so it provides an opportunity for some of the big public authorities, such as the police authorities, health boards and local authorities, to start to pool their resources, effort and profiling of supply and demand in local areas. Now is an opportune time to have this discussion. There is a potential for a great deal of growth, as authorities start to come together to share resources and ideas.

Lynn Welsh: As part of the equality duty, the Scottish ministers will have the job of looking across the board, not only in their policy areas, to consider how all services can be improved. I hope that, when the first report from ministers is produced in 2008, the situation will have improved, but we want such reports to say that people must come together, for example, to work to improve transport and health services.

Nora Radcliffe: To get back to the absolute basics, the committee has heard that, despite the DDA, simple physical access is still a barrier to employment, education and daily life. Why have we not cracked that problem?

Lynn Welsh: Oh God—there are a number of reasons. One is that, in the physical world in which we live, it is not always possible to crack the problem. We live in a world with old buildings that will never be completely accessible, so we must start from that basis. Another issue is that, for various reasons, some service providers have waited to see what will happen and have not immediately leapt to be accessible. We are making progress with cases on accessibility matters—we have two on-going cases in the Scottish courts and we are taking a case against Debenhams in England, which will have GB-wide repercussions. Those cases will start to have an impact, as organisations think, "Oh God, perhaps we actually have to do something about this."

After the physical access duty was introduced in 2004, take-up of our legal and casework services was fairly low but, in the past six months or so, take-up has increased radically. The message is obviously starting to filter through and cases are being raised with us. We have seen a lot of activity on the issue more recently, which we hope will have repercussions and will start better movement toward accessibility.

Nora Radcliffe: I presume that your organisation did a lot of work in the lead-up to the implementation of the duty under the legislation. Do you see it as your role to pursue test cases pour encourager les autres?

Lynn Welsh: We gave out massive amounts of information as part of our open for all campaign. We went round the country and also provided lots of information through our helpline. We produced vast numbers of leaflets, especially for small businesses, which can find compliance more difficult. We have done the pushing, but we are getting to the point at which we need to start pulling as well. However, we are definitely making progress.

Adam Gaines: When the new duties were introduced in October 2004, as Lynn Welsh said, we ran a Scotland-wide campaign to increase awareness among businesses and other service providers of their responsibilities. We saw an increase in the level of awareness. Encouragingly, about a third of organisations said that they had plans in place and others, as a consequence of the campaign, were seeking to make progress.

Unfortunately, for a small number—about 20 per cent—the issue was obviously not of sufficient importance. It is important that we reach those organisations.

Some of the barriers that people face are not difficult for organisations to overcome. When we asked disabled people what were some of the common barriers that they faced, 51 per cent said heavy doors, 48 per cent said steps and entrances to buildings and others mentioned parking spaces. However, we also considered what happened when disabled people complained. In Scotland, it was heartening to see that in 62 per cent of cases when people complained, something was done. Unfortunately, the situation was not quite the same down south.

As well as taking cases, we want to ensure that, as far as possible, individuals also let service providers know when the service is not up to scratch. In some cases where organisations are not enabling people to use their services, they are losing customers. Our research shows that when disabled people and their families received a poor service they looked to use other organisations.

Nora Radcliffe: We sometimes forget to encourage the consumer to be demanding.

Lynn Welsh: Yes.

Nora Radcliffe: What is the DRC's relationship with access panels and what are your views on their role?

Lynn Welsh: My part of the organisation has close contact with access panels. Last year we held a major conference to train them up on some of the DED duties. We have done quite a lot of work to tool them up to give better advice to the people with whom they are in contact.

Adam Gaines: Access panels have an important role to play in providing advice and information to organisations locally. They have provided valuable information for disabled people about what is accessible in certain areas. At the same time, we must remember that access panels are volunteer panels and there is a limit to how much they can do. The Executive has recently made available capacity-building funding to help with the development of access panels. We hope that local authorities' building standards and planning departments will do further work on access.

Chris Oswald: The disability duty—the duty to involve disabled people—goes beyond the access panel; it is about ensuring that there is wide consultation. The panels are extremely useful, but they do not have all the answers. The responsibility is on local authorities, and their planning departments in particular, to ensure that they are actively involved in consulting people.

Nora Radcliffe: You mentioned building standards, which I was about to ask you about. How adequate do you consider the current building standards mechanism to be and to what extent have you been involved in the current review of building standards?

Adam Gaines: The building standards regulations take forward the Building (Scotland) Act 2003. We are represented on the working group that is considering access for disabled people and the regulations. The regulations have changed a lot as a consequence of the 2003 act, which sets out a series of standards that are expected to be met. It is important to note that disability issues have been included in those standards. Nonetheless, hand in hand with the regulations goes the need for closer working between building standards and planning departments. We recently carried out some research with Historic Scotland on that, which showed that there was a gap between the long-term planning side and the building standards side.

A particular difficulty when it comes to designing buildings is that there is no duty on the architects; the duty applies primarily to the building owner. It is important, therefore, that we are able to ensure that consideration is given to disability issues and that building owners place responsibilities in that regard firmly on the architect, as that will ensure that the design takes such matters into account. Not only would that be more helpful, but it would avoid a later cost.

We are also considering the fact that British standard BS 8300, which relates to access for disabled people, is optional. It works as guidance and it is helpful, but it would be better if it could be mainstreamed into the regulations so that the high standards that it sets could become part and parcel of the process.

10:30

Elaine Smith (Coatbridge and Chryston) (Lab): Mr Gaines said that architects have no responsibility in this area but that building owners do. Many people who commission architects will not be aware of that and might assume that the architect will assume the appropriate responsibility. I am not sure whether that fact has come out in evidence so far.

The Convener: You are absolutely right. You will recall that during evidence we have heard that there seems to be no formal training of architects in relation to disability and that there does not seem to be a feeling of responsibility for ensuring that disability issues are built in to the work that they do. We are concerned about that.

Elaine Smith: That is hugely important and what we have just learned ties in with that and might help to explain issues relating to access to old buildings, which Lynn Welsh talked about, and access to new buildings and redesigned buildings. I dealt recently with a case relating to the redesigned entrance to a public facility, which allows wheelchair users and other people with mobility issues to enter the building. However, once they are inside the front door, they cannot get any further. That kind of thing is absolute nonsense.

Lynn Welsh: Yes. There are various ways in which such matters can be tackled. The Disability Rights Commission is doing substantial work on training architects—my colleagues can tell you more about that. There is also a question about whether cases such as the one that Elaine Smith mentioned, in which people can gain access to a building but can go no further, constitute a breach of the Disability Discrimination Act 1995. It is quite possible that they do. However, we need to encourage people to make complaints. We should not have to rely on individuals in that regard, but sometimes we do. We have to let people know that they can come to us and that we will see what we can do about the problems.

Obviously, architects have a responsibility for meeting building regulations; to that extent, they will include disability access of some type as far as the regulations ask for it. However, we want architects to go further than that. We want there to be good practice that is more inclusive than are the basic building regulations.

Chris Oswald: There are some encouraging signs. For example, the University of Edinburgh builds into its architecture course—from the first year to the postgraduate years—specific elements and modules on disability discrimination. However, one of the things that has come up in our work with Historic Scotland and work that we have done on the built environment is that professions do not speak to one another, which creates some confusion. Responsibility for allowing for disability is assumed to lie somewhere else—planning people might think that building control people have that responsibility and building control people might think that architects have that responsibility. There is a need to create a forum in which people from various professions can talk about the sort of built environment that we want to live in.

Adam Gaines: The other matter that will be important in that regard, and which is currently being discussed in relation to the Planning etc (Scotland) Bill, is the suggestion that when a development is proposed, there should be statements that set out the implications of the development for disabled people with particular regard to access, for example. That would be done at the start of the process rather than the end of the process.

The other side of that is that, under the new building control system, once a piece of work has been carried out it will be subject to verification. That means that it will be important that the verifiers and certifiers understand disability access issues so that when buildings are being signed off and agreed, the people who are involved in the process know how the building regulations impact on disability access.

Lynn Welsh: That is an area in which the disability equality duty kicks in. If local authorities do not provide staff with suitable training, they will be failing in their duty. We want it to be made explicit that that is what the duty is about so that local authorities provide the relevant people with training and make them knowledgeable about access issues.

John Swinburne (Central Scotland) (SSCUP): Good morning. Many disabled people have expressed to the committee their unhappiness at the statutory deadlines for meeting the accessibility requirements for different modes of transport. What is the DRC doing to encourage providers to meet those requirements early and to share good practice?

Lynn Welsh: I assume that the deadline to which John Swinburne refers is 2020, which is the end date by which all trains and buses must be accessible. Even though that date is a long way off, we fought extremely hard to have it included in the legislation.

From December, transport will be covered under the DDA. The transport infrastructure, which includes ticketing systems, timetabling and access to platforms, has always been covered. Last year, we had a highly successful case concerning access to railway platforms and a rail provider’s duty to provide a taxi from one platform to another if a bridge is the only means of getting over the track. From December, even more issues will be covered, so it will not be possible to treat people who have disabilities less favourably. Auxiliary aids and services will have to be provided and policies will have to be changed. That will affect many transport providers.

Trains are the only mode of transport whose accessibility will not be covered for a long time. Although all buses do not have to be compliant until 2020, most already are. We have made vast strides and vast strides will continue to be made. We have just produced a transport code that relates to the duties that will be imposed in December and we will certainly put a great deal of effort into ensuring that all the measures are enforced and that advice and information get out to disabled people. Over the coming months, we will work to promote the code and the provision of such information so that people are more aware of their rights. I do not want people to think that the situation will not change for a long time—there are already legal provisions on which people can rely.

John Swinburne: Does that mean that from December people who go to Stewarton railway station will not face a 15in step to get on to a train?

Lynn Welsh: That is not what I am saying. I accept that trains themselves will not be accessible for a certain period.

John Swinburne: What is that "certain period"?

Lynn Welsh: Trains themselves do not have to be accessible until 2020, but if there is such a gap—

John Swinburne: Trains will not have to be accessible for 15 years.

Lynn Welsh: From December, train operators will have to provide a means for people to get from the platform on to a train. Although the trains themselves will not have to be accessible, an auxiliary aid such as a ramp will have to be provided to allow people to get on them. The legislation will have an impact from now.

John Swinburne: People will not have to wait 14 or 15 years.

Lynn Welsh: No. There will be significant change this December.

John Swinburne: What involvement has the DRC had in the Executive's consultation on the national transport strategy?

Adam Gaines: We had the opportunity to meet the Executive prior to the development of its consultation document on the transport strategy to discuss how important it is that the strategy both progressed disability access and tackled the difficulty that I mentioned in my opening remarks, whereby disabled people make only half as many journeys as non-disabled people.

We expressed the view that it is important that, as well as taking a national perspective, the national transport strategy should link with the regional transport partnerships. Interconnections for journeys, for example, are a vital issue for disabled people. That was the tenor of our input to the national transport strategy. We hope that as the strategy is rolled forward, the blockages that prevent disabled people from being able to make journeys will be examined.

Lynn Welsh: It is particularly sad for Scotland that ferries and planes will not be covered by the DDA because those modes of transport are considered to be international travel, which is dealt with elsewhere. The fact that the ferries and planes are not subject to an end date as trains and buses are will perhaps have a bigger impact in Scotland than it will in other parts of Britain, which is a pity. I hope that European legislation might help with that, but that will remain an issue for Scotland, sadly.

John Swinburne: What opportunities does the consultation present to progress towards a national strategy for accessible, affordable and integrated transport?

Adam Gaines: The consultation and the inquiry provide a good opportunity to examine some of the barriers that disabled people face when they travel. As has been said, although the changes that will come into effect in December will mean that it will no longer be possible to discriminate against people in their accessing a mode of transport, an overall picture will need to be taken of what needs to be done at national level and what needs to be done locally. As I said earlier, it will be necessary to provide information for disabled people about different forms of transport and what is accessible, as well as linkages and interconnections for people when they transfer from buses to trains. There needs to be more of that in how the regional transport partnerships and the national strategy take disability into account, especially as the national strategy can also now cover issues to do with rail travel. It is important that those barriers to disabled people be considered as part of the strategy, and not as an afterthought.

John Swinburne: Would it be better if your remit allowed you to enforce all those principles rather than just to make recommendations?

Adam Gaines: We have something of an enforcement role in matters that come under the Disability Discrimination Act 1995 in terms of services, but we obviously do not have a role in how the national transport strategy and such matters are taken forward: that is not for us. The Mobility and Access Committee for Scotland also has an important role in that context.

Marlyn Glen: The DRC's written submission states:

> "Ingrained, and sometimes unconscious, stereotypes and values still shape public attitudes to disability."

Do you agree that staff training in disability equality may help in combating negative attitudes to disabled people?

Chris Oswald: Staff training will always be essential, although its value depends on the quality and the sustainability of the training that is carried out. It is something that we would recommend, and it is an area in which we would like to see much more going on.

Marlyn Glen: Evidence has made us aware that there is differing quality of training. What passes for training sometimes leaves a lot to be desired. The DRC will be aware of the research that was carried out by the committee, which called for national standards in disability equality training. Do you consider that there is a role for the DRC and its successor, the commission for equality and human rights, in that process?

Adam Gaines: National standards, which the committee's research came up with, would be helpful. Such standards would ensure that, across the country, the training that people received would be of the same standard. However, we are not sure that there is a role for the DRC in taking that forward, given our statutory role in overseeing implementation of the DDA. We think that there may be some difficulty—almost a conflict of interests—if we were to try to do that. Nevertheless, we support the idea of there being national standards and, potentially, a body to bring those together. That body could also help to raise awareness of training.

10:45

Marlyn Glen: I am sorry—who do you think should take up that role?

Adam Gaines: I am not sure whether that role would necessarily be for us; it might be more for a group that the Executive would develop.

Marlyn Glen: Do you mean a new body?

Lynn Welsh: The role might be given to an existing disability body; the body need not be brand new.

Marlyn Glen: The committee notes that the DRC's submission calls for

> "A sustained public awareness campaign tackling the negative values which underpin public attitudes to disability".

How would that be delivered?

Chris Oswald: We are interested in addressing three target audiences: the public, employers and disabled people. Many public attitudes to disabled people can almost be characterised by a pity model. People say that a disability is "a shame", "a problem" or "an individual tragedy". We would like a shift towards a campaign that covers rights, entitlements, participation and opportunities. Our recent are we taking the dis? campaign was predicated on those lines. We asked whether non-disabled people would stand for such behaviour.

A campaign needs to address the fundamental inequalities rather than individual situations. It will need to be sustained, because changing such attitudes will take a long time. Their seeing disabled people in positions of public prominence will also change people's attitudes. The more normal and mainstream that becomes, the more likely people will be to lose negative attitudes to disabled people.

With employers, we want to emphasise the skills, talents, benefits, opportunities and entrepreneurship that exist among disabled people. We could highlight the vast amount of assistance that is available from the DRC. One quarter of the calls to our helpline are from employers, for whom there is a lot of assistance out there.

We must raise expectations among disabled people. We need to say, "You can do this. You are entitled to do this." We need to stress rights to assistance but also to encourage people to participate actively. Perhaps because of negative life experiences, disabled people may have retreated into passivity and into being less active than they could be.

Elaine Smith: You mentioned three categories: the public, employers and disabled people. Should another category—very young children at nursery school and primary school—be targeted? Targeting them is hugely important. Have you considered liaising with an organisation such as the Zero Tolerance Charitable Trust on its respect project, which it has had some success in rolling out to schools? Could we tie such initiatives together?

Adam Gaines: You are right that children are an important group to reach, because we are trying to change attitudes early. We have worked with schoolchildren: we produced a pack that was aimed at non-disabled secondary schoolchildren to try to convey issues to do with disability. The aim was to impact on young people's attitudes, because the next generation will be powerful in building up awareness that there is no need to be discriminatory and that disability is an ordinary part of life. Your suggestion of working with organisations that have links with children rather than having just a specific disability initiative is sensible.

Lynn Welsh: One great benefit of the Executive's policy of a presumption of mainstreaming disabled children into mainstream schools is that a disabled person will sit beside another pupil, who will not think about the disability—that person will just be their pal. That is part of what mainstreaming is about, for all that it has been slated in some quarters. Mainstreaming is about us all working together and all being in the same schools. If we are all together, there will be no real thought or concern about differences.

Marlyn Glen: I will come back to education, although I think my question about inclusion has been answered. We have discussed training, but are there other ways of combating negative attitudes towards disabled people? The need to be inclusive was mentioned.

Adam Gaines: Inclusivity is crucial. As Chris Oswald said, role models should be built up. The more disabled people there are in public life, the more their visibility will permeate and suggest to other disabled people that it is possible for them to do whatever they want to do. Such aims are never easy to achieve, but there is a role for the media in trying to get across positive images of disabled people to people throughout society. The media have an impact on many people's outlooks. I am not talking about newspapers only, but about how broadcasters could portray characters in soap operas and so on. Such things impact on people's perceptions and could have an educative role.

Lynn Welsh: In considering enforcement of the disability equality duty—you might be thinking that that duty will solve everything—we have thought hard about, and intend to focus strongly on, a specific duty to promote disabled people in public life, which should be a major aim of many public authorities so that people are obliged to give due regard to ensuring that disabled people are represented on public organisations such as community councils, councils, tenants associations and partnerships that are being set up. We want a proper proportion of disabled people to appear in such public arenas. That could dramatically change attitudes.

Marlyn Glen: I am interested in pursuing that matter, if we have enough time to do so. The perennial question is this: how can such things be done? I agree with your analysis. We want diversity, but you are talking about democracy and different groups choosing representatives, which we have talked about in different forums; for example, John Swinburne and I were at a meeting on ethnic minorities in which that issue was discussed. I do not think that one can legislate in the area.

Lynn Welsh: We cannot demand that people vote for a certain person, but by considering how people are brought into the process, we can ensure that there are disabled people to vote for. If a tenants association is set up, it should ask whether it is providing accessible information about meetings, whether it is holding meetings in accessible places and whether it is saying that disabled people, black and minority ethnic communities or whoever can come to meetings. We need to ensure that people's issues—harassment of disabled people or whatever—are represented and that systems are set up to attract people that are necessarily fully accessible. That takes us right back to the beginning and the question of how to get people interested in the process and to come forward.

Marlyn Glen: I have a cynical view because although political parties have tried for a long time to encourage women to come forward, to welcome them and to encourage accessibility, their attempts do not seem to have worked.

Lynn Welsh: We must consider what needs to be changed. People can be asked questions, but there will be no change if the things that stop people doing things are not changed. If people continue to hold their meetings in inaccessible venues, they can invite people to those meetings as much as they want to, but people ain't going to be at them. If people have not been told in advance that a BSL interpreter will be present, they ain't going to turn up. We must consider what stops people coming forward now, change things and then say, "We've changed things. Now's your chance. Now we're really going to ensure that what you need is available." That is the ideal.

Marlyn Glen: It is a big agenda, but that is the ideal.

John Swinburne: In the same vein, do you think that there should be some way of approaching the Electoral Commission to get it to promote the idea of co-option of disabled people and ethnic minorities where they do not exist in a Parliament, so that they can be co-opted as representatives of their own groups?

The Convener: That is a big question.

John Swinburne: That is democracy.

Lynn Welsh: Is that democracy? If people do not vote for them, maybe it is not. There are issues around that question that are bigger than today's discussion.

Adam Gaines: Co-option is not necessarily the answer to overcoming some of the long-term barriers. One would hope that disabled people, once they have overcome those barriers, will be elected for the policies that they promote. There are undoubtedly more steps that we need to take to ensure that barriers are removed and that the unconscious thoughts that lead to people having to tackle those barriers are also overturned, so that disabled people are encouraged to come forward.

John Swinburne mentioned the Electoral Commission. We have worked closely with it to try to ensure, as far as possible, that barriers to disabled people's ability to vote are overcome. Recently, there have been a number of improvements in the law in that respect, and it is important that those improvements be progressed to ensure that disabled people are able to vote in person. Quite often, it has been expected that disabled people might not be able to go to the polling station and that they would therefore have a postal vote instead. It has been important to overcome such barriers so that the base issue of democracy for disabled people can be taken forward.

Chris Oswald: An important point has been raised about the fundamental issue of citizenship and participation. There are issues for some disabled people, because of their life chances and lack of opportunity; people could benefit from shadowing, mentoring and positive involvement. It is not just about political parties but about public appointments and a wide range of opportunities. Ultimately, we want to reach the point where people are seen for their skills, not for their disabilities. At the moment, what we tend to see in public appointments is that disabled people are concentrated on disability issues, but they have much more to contribute than that. It is a question of creating opportunities and pathways into that broader public involvement.

Marlyn Glen: You mentioned expectations. The DRC submission states:

> "Negative stereotypes can be internalised and lead to a dangerous culture of low self-expectation, especially amongst younger disabled people."

What are you currently doing with young disabled people to ensure that those low expectations do not take hold?

Adam Gaines: Our work in that area has been twofold. Most of our initial work in that connection has been on the legislative front, to try to ensure that young disabled people actually have rights when it comes to education—hence the amendment of the DDA to include education. We also did work in helping to develop the disability strategies, which every education authority now has to have. We ran a series of events across Scotland involving young people, parents and education authorities, at which we discussed what steps need to be taken to promote further inclusion. Our emphasis has been on that kind of work, as well as on trying to reach non-disabled people to change their attitudes. What we have not yet been able to do sufficiently is to go on further to engage directly with many young people, other than through our more direct national campaigns.

Chris Oswald: That is an appropriate model to adopt. The DRC Scotland is a relatively small organisation and, with the introduction of the disability duty, the responsibility turns away from the commissions and on to the public authorities. It is about trying to encourage them, in a positive way, to meet their responsibilities using their own resources. They have far greater contact with younger people than we would ever have.

11:00

John Swinburne: How do you reconcile that with what you have been saying all morning about all this being implemented by 2020? A kid of 16 will be 30 years old by then. Surely, that is not bringing younger people into the equation at all.

Adam Gaines: That is an important point. We hope that by 2020, overall, the barriers that exist will have been removed for disabled people of all ages. Our aspiration is that, by 2020, we will have a Scotland that is barrier free to disabled people. We recognise that there is still quite a long way to go to get there; however, that does not mean that we should not continue to work to ensure that young disabled people are able to participate. Where we see barriers, we will work to overcome them.

We must not forget that some provisions of the DDA are already being implemented, which will, I hope, give young disabled people rights to be able to move forward. However, as Chris Oswald said, we need to challenge the climate of low expectation that sometimes exists, regarding both the way in which society views disabled people and the way in which many disabled people think that they cannot achieve goals. We must try to instil confidence among disabled people, so that they think, "Yes, I can do that."

Marlyn Glen: You have talked about the DRC "Citizenship and Disability" classroom resource pack for secondary schools. What feedback are you getting from teachers on the usefulness of that pack? How are you monitoring its effectiveness in achieving its objectives?

Adam Gaines: We have, via citizenship co-ordinators, issued the pack to nearly all secondary schools throughout Scotland. Different schools may have taken different approaches to its introduction. We have not yet been able to put in place a formal monitoring process on the effectiveness of the pack, but informal feedback from several areas tells us that the pack has been useful. One high school has dedicated a week to discussion of such issues, to ensure that children and young people in that school are aware of them.

We have also received interesting feedback from disabled and non-disabled young people about the consequences of their using the pack. The non-disabled young people tell us that they would not necessarily have come across such matters; the disabled young people tell us that their non-disabled peers are starting to realise that there are certain issues on which they had unconsciously made assumptions. We have not formally evaluated the pack, but informal feedback suggests that it is having an impact.

Marlyn Glen: The committee would be interested in that kind of evaluation. Just asking for the evaluation reminds people that the pack exists. There is a lot of good material in schools, but if it sits on the shelf and gathers dust, at the end of the session it goes instead of being used again. We would be interested in following that up.

Elaine Smith asked about younger children. There may be a need for the same kind of resource for primary school children or even for children in nurseries to raise awareness of disability issues at a younger age. What are your thoughts on that?

Adam Gaines: The idea of there being information for younger children is very good. Resource-wise, we had to think carefully about where initially we could target, and we decided on secondary school students. A pack for younger children is not something that we have had the resources to produce. Who might take that forward is an open question, but it is something that we would definitely encourage. If we reach children, we can challenge some of the attitudes that are prevalent in society before they are inherited.

Marlyn Glen: Absolutely. Unfortunately, by the time pupils are in secondary school, a lot of attitudes are already ingrained, so it would be good to talk to pupils about inclusion at an early age.

Elaine Smith: In your submission, you describe your vision that, by 2020,

> "People with hidden impairments will be confident to 'come out', if they so wish, without fear of stigmatisation or discrimination."

How widespread are the problems at the moment? I am thinking about hidden disabilities and learning disabilities such as dyslexia, autism or attention deficit hyperactivity disorder. I know of a case in which parents were discouraged from getting an educational psychologist's assessment for their child because of the stigma that might be attached to the child if the child had been diagnosed as having a disability. What are your thoughts on that? Will you tell us more about your vision? It is hugely important.

Lynn Welsh: You are absolutely right, and what you say is particularly true around mental health and learning disability issues. That is true not only in schools but in employment. People will not necessarily come forward to say that they have such disabilities.

How we can change attitudes is a huge problem. The see me campaign is part of the move to do that, especially around mental ill health, but it is a long-term project. There can be stigma, but we need to encourage parents not to be put off. If people want the rights that the DDA or the Education (Additional Support for Learning) (Scotland) Act 2004 gives, they have to stand up and say, "Yes, I've got it. Give me what I'm entitled to" rather than say, "Oh God, I've got it. I have to hide in a cupboard." We need to support parents and children to understand that they have rights that they can demand and that they should not be ashamed of the label. However, it is difficult to make that change.

Chris Oswald: Ultimately, it is about getting to a point where people perceive and expect equal and fair treatment. That is what will encourage people to come forward and disclose. Again, it is a question of attitudinal change in society.

Adam Gaines: Another important factor is the way in which people perceive that they are labelled. There has been a useful move away from special educational needs to additional support for learning. The "special" tag that was placed on people was not helpful. We are now concerned with appropriate support for individuals; the focus is on the individual; support is not necessarily based on the person's condition.

John Swinburne: We heard in evidence that disclosing disability, particularly to further and higher education providers, is a complex issue. What are the solutions to the problems of encouraging disclosure?

Lynn Welsh: I have to say that we have not come across the issue of non-disclosure in further and higher education, but I know that previous witnesses have said that it is a particular problem. To some extent, no disclosure means no rights for the individual, so we tell people, "If you want to use the rights you've got, people have to be aware that the disability is there."

Again, it is a question of changing attitudes and creating environments that people know are safe and confidential. There is an issue about the belief—sadly, it is sometimes the fact—that if one discloses confidential information it will end up all over the organisation. It is important to ensure that there is a safe environment and that confidentiality is maintained. It is also important for people to seek information. Our code of practice on further and higher education says that providers should actively say, "Please come and let us know if we can do anything for you or if you require any particular changes or adjustments." People have to believe that those things will be provided and that there is a safe environment.

Nora Radcliffe: The committee heard oral evidence from Tom Berry. In connection with the are we taking the dis? campaign, he said:

> "we discovered that many people with rights under the Disability Discrimination Act 1995 do not respond to concepts of disability or rights"—[*Official Report, Equal Opportunities Committee,* 25 April 2006; c 1679.]

How can you engage with those people to ensure they do not continue to be excluded or discriminated against?

Chris Oswald: That is a difficult question, which we have been considering. That situation perhaps applies particularly to people who have transitional or long or short-term limiting illnesses such as diabetes or cancer. In such cases it is important for people in the national health service to stress at the point of diagnosis that the person's life is going to change as a result and that there will be positive and negative consequences. As part of the general information that such people are given there should be specific information about rights.

People know when something has gone wrong. In a survey, some 31 per cent of the people whom we polled who had issues about being labelled as being disabled knew that they had been discriminated against. We need to make sure that people know that they have rights and that back-up is available when they need it. They might not always agree with the label that society confers on them, but they might benefit from using the vehicle—the legislation—to protect and enforce their rights.

More broadly, the issue is also about public awareness. We must say to the public, "These conditions can be dealt with, but there are sometimes unfortunate consequences. How would you feel if you were treated like this?" It is important to try to engage with non-disabled people and to say, "How would you expect to be treated in this situation?" If we do that, it might give disabled people or people with limiting long-term illnesses more confidence to come forward because they will feel more supported by the society that they live in.

The Convener: I suspend the meeting to allow our witnesses a short break.

11:12

Meeting suspended.

11:23

On resuming—

The Convener: We resume our questioning.

Elaine Smith: We have talked about awareness of disability issues among primary school children. I wonder whether we have covered children in nursery schools. What are your views about that?

Adam Gaines: Thank you for raising that. Earlier, I omitted to mention that some very good work has been undertaken by an organisation called Playback, which works with parents and disabled young children and is aimed not just at disabled young children, but at non-disabled children as well. It produces videos, DVDs and other information that is useful in reaching out to children about disability issues.

Elaine Smith: How is that being rolled out?

Adam Gaines: The organisation has worked with several education authorities, which have taken the issues on board. If I remember rightly, it has also worked closely with Children in Scotland.

Nora Radcliffe: On the issue of reaching children, I wonder whether we are talking about normalising disability. Are there any ordinary children's books that have characters in them that just happen to be disabled? I do not know whether there is any positive encouragement for that sort of thing. Do you know of any books of that kind?

Adam Gaines: I do not necessarily know of any such books off the top of my head, but that is a good point. That is precisely the sort of issue to which we alluded earlier. We need to build that in so that people receive the message that disability should be taken for granted as an ordinary part of life.

Lynn Welsh: As I said before, we love "Balamory" for that very reason. The fact that the shopkeeper is a wheelchair user is not part of the story; it is just a fact. We want more of that.

Elaine Smith: On the important issue of employment, I note that the DRC's submission welcomes the fact that some employers groups have recognised that disabled people represent a huge untapped labour resource. That is true particularly of people on the autistic spectrum, among whom the issue is perhaps more prevalent than among the disabled population. However, the DRC's previous submission mentions that as many as one third of employers think that employing someone who is disabled is a risk, so some employers clearly view employing people with disabilities as a threat rather than as the opportunity that it clearly is to tap into a labour source.

We heard evidence from the Federation of Small Businesses that, although the DRC offers advice, some employers are still nervous about asking for it in case they are then asked awkward questions about how they recruit and support people in employment. We also heard that employers are terrified of disability discrimination legislation. To what extent is employing disabled people an issue, given that one third of employers view it as a risk? How can that be overcome?

Lynn Welsh: That point is probably true. We have done a substantial amount of work with small businesses. Towards the end of last year, we targeted small businesses by running roadshows with the FSB around Scotland, including up in Aberdeen and in the direction of Nairn as well as in Glasgow and Edinburgh. We tried to explain to small businesses what employing disabled people can mean for their business and how it can be a great advantage. At the roadshows, we had with us some employers who already employed disabled people so that we could show what kind of practices needed to be put in place and provide concrete examples of how disabled people had benefited the business. We tried to show how easy it is to integrate disabled people into the workforce. That kind of real example is important, but we also made available substantial amounts of other information such as "Employing Disabled People—Top Tips for Small Businesses".

It is also true that, despite our best efforts, small employers think that, if they contact us, we will use what they say against them. That does not happen, as all calls to our helpline are anonymous. More than 25 per cent of our calls come from businesses, so some employers are happy to contact us.

We have set up an employment reference group within the organisation to get feedback from employers about how we can work with them better. We are also working with Scottish Enterprise on its benefits of business diversity project, which the Executive is funding. Along with the Commission for Racial Equality, we sit on the steering group of that project and we target small businesses specifically to explain the benefits of business diversity. I hope that project will start to have an impact once it gets off the ground.

Elaine Smith: Is it important to work with the enterprise agencies?

Lynn Welsh: Yes, very much so. The enterprise agencies are a gateway. People who might not come to us on their own may be in contact with one of the enterprise organisations.

Adam Gaines: On that point, it has been recognised in our research on employment that small businesses get information from the DRC and other sources. The DRC has thought carefully about how to tailor information for busy organisations that often do not have great resources. We developed a specific CD-ROM that we sent out to some 18,000 businesses. The CD-ROM provides people with top-level information if that is what they require and more detail if they want to go beyond that.

However, such issues are not only for the DRC. Small businesses will not necessarily come to organisations such as ours for information. Accountants, or lawyers who are providing advice to the business, might be key gateways for small businesses to receive such information, as well as the enterprise companies that Lynn Welsh mentioned. It is important to be able to target such influential second-tier organisations to get information out, because some organisations will respond better to those sources.

11:30

Elaine Smith: Your submission says:

> "Employers must be encouraged through public sector procurement, awareness campaigns and the provision of advice and support to see the person, not the disability".

We have been discussing how the DRC is going about doing that. Would you like to tell me a wee bit more about the DRC's role in raising awareness? Also, could you expand a bit on what you said about public sector procurement? Questions have been asked in the committee about that and how it might dictate what companies do when they are engaging with the public sector.

Adam Gaines: We have sought to invest quite a lot of time and resources in reaching out to businesses. Employment is too critical an issue for us just to wait for people to come to us. That is why we sought to travel the length and breadth of Scotland to meet employers and try to find out what their key concerns are and what information they require.

There is a particular aspect of the disability equality duty that relates to procurement because duties will be passed on to other organisations that are going to provide a service on behalf of the public body. The disability equality duty sets up particular duties, so it is important and will be an important driver that organisations will have to take account of. It also means that public sector bodies will be required to think carefully about how they approach organisations and the expectations that they place on them. The disability equality duty can be quite a powerful tool for extending, if you like, some of the issues around rights.

Elaine Smith: I agree; that is really important.

One of the important factors in disabled people being able to break through the barriers and access employment is the poverty issue that you spoke about earlier, Adam. The DRC's submission says that

> "Poverty and disability are strongly linked and mutually enforcing".

It seems to me that one of the most important things that the Government of Scotland could do is tackle poverty. It is a shameful indictment of our society that we still have it, so tackling and eradicating it should be our number 1 priority. Obviously, from what you said earlier, there are links between poverty and disability. Could we explore your thoughts on that a bit further?

Adam Gaines: Poverty is clearly critical when it comes to the position of disabled people because they are twice as likely to be in poverty as are non-disabled people, so policies for tackling poverty as a whole need to take disability into account. That can mean employment issues—given that disabled people are less likely to be in work than non-disabled people—and what can be done to encourage the employment of disabled people. There is also the reserved matter of benefits and how such matters are progressed. There is also the qualifications aspect to be considered, because disabled people are less likely to have qualifications than non-disabled people. That has a bearing on further and higher education and trying to encourage more disabled people to get qualifications and improve their chances in the labour market.

Elaine Smith: That fits nicely with my next question, which is on education. In oral evidence, Anne Simpson of the University of Strathclyde said:

> "The mainstreaming of disability into services must incorporate the idea that, under part IV of the DDA, teaching is a service."—[*Official Report*, *Equal Opportunities Committee*, 21 February 2006; c 1459.]

How does the DRC work with colleges and universities to encourage that approach?

Lynn Welsh: The short answer is that teaching is a service under part IV of the DDA. In the cases with which we deal that relate to further and higher education, the problems often revolve round individual lecturers or teachers with attitudinal issues. That may be the point that Anne Simpson was making. For example, a teacher might not turn round so that students can see them when they speak or they may not provide their notes in advance or in accessible formats. In that situation, disabled people have rights that they can enforce, if required. The problems in further and higher education often come down to individuals.

Elaine Smith: In oral evidence, including from the Deputy Minister for Enterprise and Lifelong Learning, the committee has heard significant support for the idea that accessibility and disability awareness should be a core element and module of each college and university course. What are your thoughts on that approach?

Chris Oswald: I suppose the question is what courses we are talking about. For vocational education, the suggestion might have a lot of benefit but, for pure arts or science courses, I am not sure whether we would take that line. However, as we said earlier about the architecture schools, it is crucial that students in the higher and further education environment are enabled to understand their responsibilities under the law and to society.

Elaine Smith: Do you not think that, at some point in every course, a disability awareness element might be useful for students, whatever their line of work or business might be in the future?

Chris Oswald: I would prefer us to focus on vocational education, in which there is clear linkage and end product. Throughout the education spectrum, there is a role for general social awareness work on all fields of discrimination.

Elaine Smith: On student support, do you have any knowledge of the Beattie report and the BRITE—Beattie resources for inclusiveness in technology and education—initiative that arose from it? The reason why I ask is that Coatbridge College recently opened its horizon centre. Have you had any input to such initiatives in colleges?

Adam Gaines: We had input into the development of the partnership materials that were produced for colleges to use post the BRITE initiative. Colleges find those materials useful, although an issue arises about how to ensure that they are used across the spectrum. As Lynn Welsh said, many of the issues that come to us have been not about structural issues in colleges, but about how individual lecturers use such materials—or do not, in some cases. We need greater spreading of good practice on that. I regret to say that I am not aware of Coatbridge College's horizon centre.

Elaine Smith: It was opened recently.

How can we ensure that good practice is spread? Should colleges appoint someone to ensure that that happens? Should someone have responsibility for monitoring and evaluating what is put in place? Should there be spot checks?

Adam Gaines: That issue has two aspects. General work needs to be done on access and disability provision in colleges—many universities and a growing number of colleges have somebody who works full time on that. There is a separate issue about the monitoring of the provision and support on the teaching or academic side. Several colleges take that aspect seriously.

Elaine Smith: Is that a matter for Her Majesty's Inspectorate of Education?

Adam Gaines: I am sure that it has a role in that.

John Swinburne: In your written submission, you say:

> "An Independent Living Task Force should be established to … make a series of recommendations to Parliament and Ministers."

How would such a task force work in practice?

Chris Oswald: I am sure that members are aware that a task force has been established in

England, which is working across—I think—six Government departments. In Scotland we face the same problems that are faced in England, although there are additional problems to do with devolved and reserved responsibilities.

The achievement of independent living is a huge task and it will probably take until 2020 to get the various elements of Government departments and local authorities to work together. Issues such as what legislation needs to be amended and interagency working can be resolved only if the key players are brought round the table to discuss what needs to change. We need the Parliament and the Executive to set out a clear vision of what is wanted and then we need the technicians—the people who operate services—to work together. Without that focus there is a danger that the situation that we are currently witnessing will continue: there will be a great deal of activity but it will not be co-ordinated. For example, an agency might head off in one direction without thinking about the consequences for other agencies. If we are to achieve the vision that is proposed we must integrate policies. For example, we must consider the interactions and interconnections between policy on transport, employment, poverty and education. Only a high-level task force would have the vision to do that and the authority to require departments to work together when they might prefer to diverge.

Adam Gaines: A significant number of policy challenges must be faced if we are to move towards independent living. In particular, consideration must be given to how social work provision can work alongside health service provision and to the legislation in the area, some of which is helpful but some of which is quite old. It would make sense to consider the different life stages of a disabled person, to ensure that proposed measures would be practical and covered by legislation. As Chris Oswald suggested, consideration should also be given to how the institutional change that is needed can be brought about. For those reasons, it would make a great deal of sense to consider how best to proceed, so that the Parliament and the Executive could receive the best advice and develop a plan, rather than rush at the issue.

Such an approach seemed to work well in the context of "The same as you? A review of services for people with learning disabilities", which led to the introduction of primary legislation and a series of reports and practice recommendations that are still current. The approach has enabled issues to do with learning disability to remain on the agenda and has meant that a strategy is being taken forward. A similar approach should be taken to independent living, which can make a significant contribution to the creation of a society in which disabled people are equal citizens.

John Swinburne: The witnesses' comments are interesting, particularly given my perspective on politics. The Kerr report identified the need for care in the community for people who are disabled to some extent because they are not as ambulant as they used to be. An independent living task force that could consider and perfect a forward-looking scheme would be of tremendous benefit. The task force could consider the health issues that the Kerr report identified.

Chris Oswald: If we think about town planning and the built environment we can identify many players, such as roads maintenance people, transport providers, architects and builders. We will have accessible cities only if people work together, but too often people work apart. As you say, the advantages go beyond those for disabled people, because the design faults and snags that Adam Gaines discussed also affect older people and families with young children. The only way that we will be able to deal with that issue is by taking a step back and getting the right people to sit down and consider it.

Nora Radcliffe: Inevitably, after talking about something for an hour and three quarters, a degree of overlap occurs. In your written submission, you note that the DDA's provisions

> "are not always reflected in policy-makers' thinking."

Will you expand a little on what you said about how the DRC works to influence policy makers?

11:45

Chris Oswald: Since the publication of the draft disability equality duty, we have adopted a basic change in tenor and now make specific reference to the duty in any consultation or set of recommendations to a public authority that the duty will cover. We ask them a set of questions and tell them that, although the duty is not in force yet, they will have to start thinking about it very soon. It is a matter of making a link to the broader policy outcomes that we want, many of which we have been discussing today, such as the point that it will not be possible to deal with poverty unless disability is addressed head on or that it will not be possible to deal with skills gaps unless the lack of skills is dealt with head on. It is about reversing the responsibility, which brings us back to the disability equality duty: it is not the responsibility of the Disability Rights Commission or disabled people alone to promote those issues, because policy makers also have a responsibility to do that. We can supply information—the report that we have published in the past couple of days provides a one-stop shop for statistical information as a reference manual—but we have to challenge the public sector to be accountable and transparent in what it does.

Adam Gaines: It is also about taking forward much of the work on mainstreaming that the committee has done and will, I am sure, continue to do. We must try to ensure that disability-related issues and other equal opportunities issues are part and parcel of considerations at the start of policy development. Policy makers should ask whether there are any issues in the policy that will have a particular impact on disabled people or other groups, how they can build them in and, if they are not built in, whether there is anything else that they might need to consider. That is happening increasingly—as you will be aware, there is a growing amount of legislation that takes the DDA into account—but we want it to become almost second nature so that it is part and parcel of the process. The disability equality duty will help in that, but people might not always think about particular matters that have a particular impact on disabled people, such as employment issues, poverty or access. Nonetheless, those need to be considered, as they have been to some extent for the Planning etc (Scotland) Bill, for example. We want that approach to be spread across the piece so that it is not just a case of our having to ask policy makers whether they have taken disability into account.

Lynn Welsh: It is also necessary to make policy makers aware—in effect, to train them to know what disability issues are. It is fine for us to say that they should take such issues into account but, if they do not know what they are, they ain't any further forward. Policy makers might get stuck in thinking that we are worried about physical access. They have to be trained to be aware of what the real issues are so that they can examine them properly when they are working.

Chris Oswald: For example, if somebody is trying to deal with the high levels of unemployment among disabled people, they have to be able to break down the concept of "disabled people", because there are wildly differing employment rates for different groups. It is about getting the right information and data, from the Executive in particular, so that we can have a critical analysis. Equality impact assessment, which is the tool in the legislation, is something with which public authorities are becoming increasingly familiar. The challenge is to build on the experience that they have had with race issues and apply their learning to new fields, while acknowledging that there are nuances and differences between disabled people. We will not achieve the policy aims unless we address issues in the round.

Adam Gaines: The disability equality duty helpfully introduces the concept of the involvement of disabled people. If there is proper involvement at an early stage, it will assist in identifying what disability issues need to be considered. Lynn Welsh was right that we have to consider what examples to provide to people to show them what practices can be mirrored.

Nora Radcliffe: The DED built on the DDA. I refer to a point that John Swinburne made earlier. One of the concerns that has been brought to our attention about the DDA is the lack of compulsion. We heard evidence that

> "After part III of the DDA, on access to goods and services, came into force in February 2004, a DRC survey found that 70 per cent of businesses had made no changes or adjustments whatever. The core reason for that could be the lack of compulsion, in that there is no local or national inspectorate."—[*Official Report*, *Equal Opportunities Committee*, 9 May 2006; c 1790.]

Do you think that that has meant that the DDA has been less effective than it might have been?

Lynn Welsh: That goes back to an answer that we gave earlier. The 70 per cent that was quoted—

Nora Radcliffe: That was just a snapshot in time.

Lynn Welsh: Yes, and it relates to the period before we started our campaign. We carried out research at the beginning of 2004 to allow us to show the change after we did our work. The figure is probably somewhat out of date. There is compulsion in that court cases can be taken. We strongly encourage disabled people to work in partnership with us to bring such cases. I mentioned earlier cases that we are taking, which are in court just now, and which I hope will start to have a bigger impact.

Nora Radcliffe: That is probably more effective than setting up the bureaucracy of an inspectorate.

Lynn Welsh: I think so. It is not as simple as determining whether there is physical access. I will not bore you with all the details of the legislation, but because some places cannot be completely physically accessible, there are opportunities for service providers to provide their service in alternative ways. We cannot simply say that because a particular place is not physically accessible it is in breach of the legislation; it is not that simple. It would be difficult to set up an inspectorate with an enforcement role.

Nora Radcliffe: It would not necessarily be helpful.

Lynn Welsh: No. I do not think so.

Adam Gaines: In addition to the role that we are able to play in taking strategic cases, another element to consider is to what extent such issues are built into organisations' performance management processes. A good example is Audit Scotland, which introduced a couple of performance indicators to do with disability access post the 2004 duties coming into effect. It is asking all local authorities to demonstrate the extent to which their buildings are accessible. We need more such questions to be asked as part of ordinary, central frameworks—not necessarily just on the disability side—so that we can see to what extent progress is being made. The Audit Scotland example showed that although some local authorities had made great progress, some were still getting out of the starting blocks. By shining a torch on the issue through that indicator, it was clear that there were certain areas in which further improvement would be necessary. It would be helpful if there were more examples of disability issues being built into performance management.

Marlyn Glen: I appreciate the positive encouragement approach, but the committee has heard concerns that the DRC lacks the teeth to deal with complaints under the DDA. You have addressed that a little bit. Do you just plainly disagree with it?

Lynn Welsh: Yes. We have very sharp teeth. We do not lack teeth but, as I said, we rely on people coming to us. We undertake a lot of work to get people to come to us. We can take strategic legal cases and we provide a more basic casework service, which results in quite a few settlements. For example, we have had disabled toilets put into restaurants. We also have a conciliation service and can enter into section 5 agreements—which are legally enforceable contracts—with service providers who have breached the DDA to ensure that they change their policies and practices. We have a practice development team that follows that through.

We also have a formal investigation power. As you know, we have used that in investigating accessible websites, and in England it has been used to investigate health. We are now going on to look at how disabled people are getting into careers—specifically nursing, teaching and social work—and we will conduct an investigation into a specific named organisation, probably in the leisure or hotel field. We have substantial teeth and we are fairly forcefully using the whole range of tools that is available to us.

Adam Gaines: Our motto used to be “Change through advice, information, conciliation and legal enforcement.” We wanted to be able to use the full range of our powers through persuasion and, if necessary, the legal approach that Lynn Welsh has outlined. Where it is essential to do so, we take strategic cases to clarify the law and, where necessary, to set precedents. We have taken forward a number of cases in Scotland specifically to that end, as we think it is important that people know the law and what our role is. Our helpline continues to receive a significant number of inquiries—50,000 in the past five years—from people in Scotland who want information and so on. In addition, where appropriate, we have provided some casework support.

Marlyn Glen: Thanks. That is helpful.

The committee has heard that the issue of what constitutes “reasonable” in the DDA causes confusion and concern among service providers and disabled people alike. Can anything be done in a Scottish context to make the legislation any clearer?

Lynn Welsh: We have already outlined the massive amount of work that we have done to roll out training, provide information and all the rest. We have given detailed information to service providers and employers about basic things that they can do. We have also given them information about things that are always going to be reasonable. The simple advice is that they should take proper professional advice, look at what they can do and then do it. It is not that difficult; it is not rocket science for people to go and get the information they require. People tend to run away and do nothing rather than get information and move forward. They use the issues around what is reasonable as a get-out, to some extent, rather than see the DDA as an opportunity for them to change and include people.

The Convener: Who would give that professional advice?

Lynn Welsh: We give practical advice. When we are out doing talks, for example to small employers, people ask us what is reasonable and what should happen in situation X, Y or Z. We always answer that kind of question. We do not talk about specific cases or specific people, but we give general information about what would be reasonable and we tell people where they can get more information.

Small steps are always reasonable, but people sometimes say, “I don’t know, so I’ve just done nothing.” If the provider of a phone service does not have a text phone, if their reception does not have a loop system and if they have not looked at their lighting or painting contrasts—all of which are cheap and simple to address—they are failing. I do not want people telling me that they could not install a ramp and asking me whether that is reasonable; they should do everything else that is obviously and clearly reasonable and worry about the big items later.

Adam Gaines: We have tried to provide examples to back up what we are saying, which organisations can look at. Where physical adjustments are necessary, we are mindful of what is reasonable and what might be done from the point of view of small businesses. We have done everything from case studies of what might be necessary to adapt a hairdresser’s through to providing information for public houses. We have tried to cover the different examples and waterfronts, so that people have practical advice that they can look at in the context of their business. The presumption is that people will have to think about what they can do.

12:00

Marlyn Glen: Written evidence from the Scottish Consortium for Learning Disability suggested that it is not always obvious where people can go or who can help them in relation to the DDA. You have told us about the information that you put out. Is there anything more that the DRC can do to make it easier for people to find such information?

Lynn Welsh: We are running a huge programme of what we call transfer of expertise, the aim of which is to spread information to other advisers. We have held advisers roadshows, we are giving information to councillors in local authorities and we are doing work with Jobcentre Plus, child care partnerships and the Scottish Trades Union Congress's one workplace initiative. We are funding a solicitor, to be based in a law centre in Glasgow, to give advice and we are partners in a project with the Scottish Legal Aid Board, which has employed a solicitor, based in Lanarkshire, to do the same.

We are trying hard to ensure that there is not only one place to which people have to come and we have concentrated on skilling up other advisers. We have held training roadshows for advisers in citizens advice bureaux and we will do so again this year, so that there are many more places where people can get information. We are also providing a second-tier advice line in my team for other advisers in Scotland. If someone comes to their door and they are not absolutely certain about the answer to the question that they are asked, they can contact me or someone in my team to give them specialist back-up, so that they do not feel abandoned. We have done a huge amount to get information out to more people.

Marlyn Glen: Concern was expressed in evidence to the committee about the fact that the DDA is constantly changing and that different aspects of it come into force on different dates. How does the DRC work to keep people up to date with the changes to the legislation?

Lynn Welsh: What you say is true—it has been hellish in the last wee while. The situation has become very complicated and there is hardly anything that people can pick up that tells them what the whole law is. We are running seven roadshows this year to clue people up on the changes that came into force in 2005. We are also running four or five disabled people's roadshows to tell disabled people what changes will come in later this year. Our intention is very much to get around Scotland and inform people of the changes face to face. The legislation is quite impenetrable if someone does not sit down with people and talk to them about it. They will not get it if they pick up a copy of the legislation and read it. We try to produce easily understood information leaflets in plain English for people.

Adam Gaines: The fact that the legislation has come into force on a progressive, rolling basis is one reason why we have sought to have mini-campaigns on particular topics, to make it easier for folk to understand what they may need to consider. That is why we ran a campaign on the October 2004 changes. Previous to that, we ran a campaign aimed at education authorities and schools, because the education provisions were coming into effect. We aim to run one later this year on transport. We decided to take that approach because it is best to target those organisations that are most likely to need to know and, as Lynn Welsh said, to do so through information in plain English, so that people have the nub of what they need to do. I agree that it is not an easy process because of the amount of legislation that is coming into force.

Elaine Smith: I turn briefly to the disability equality duty. From earlier comments, it is clear that it is dear to Lynn Welsh's heart. My question may also be relevant to what you said about the DDA.

In your submission, you note that the DED

> "presents enormous challenges for the public sector in Scotland : but it also represents a huge opportunity for organisations to design and deliver better, and ultimately more efficient and cost-effective, services."

What approach do you take in assisting organisations to fulfil their responsibilities under the DED? What progress are organisations making towards implementing the DED? How does the DRC intend to monitor and enforce compliance with the DED?

Lynn Welsh: I wrote the code on this one—the lovely, lovely code—and I can certainly talk about monitoring and enforcement. We are writing our legal enforcement strategy now, and considering how we will check what organisations have done come December 2006. That will be one of the biggest pieces of work that we will tackle as we disappear. It will also be a big piece of work for the CEHR, because the gender duty is coming next year as well. Because of the huge opportunities that the DED presents, we will be tackling it head on and looking for real work and real improvements from authorities.

It is difficult to say how organisations are getting on at the moment, and it will be difficult to do so until the schemes start to come out. However, I am not sure that public authorities have got the idea—I have a horrible feeling that they have not. They think that they are already there on the race duty, but the equality duty is so radically different from the race duty that they will not even get close if they are thinking along the lines of the race duty.

Elaine Smith: If they have not got the idea, what assistance can you give them?

Lynn Welsh: We have decided not to do a hand-holding exercise. The CRE went down that route and regretted it in some ways. We cannot run around every organisation saying, "Here's a good way of doing this," and, "Here's a good way of doing that." They have to take responsibility themselves. We have a code, we have produced bucketloads of guidance and we will give as much advice as we can, but we will not necessarily hold their hands through the entire process.

Adam Gaines: We have developed quite a programme to provide information to organisations. Across Scotland, we are running a series of events for public authorities on the disability equality duty. The information will cover certain sub-sectors as well. For example, there will be information for local authorities, information to do with education, and so on. That will be a constructive way of making progress. As Lynn Welsh says, we have produced a range of information for organisations, from simple and straightforward material through to the code, which will offer real detail.

This is not just about information for public authorities; it is also about information for disabled people on what their rights will be under the DED. We will be running events for disabled people so that they are more aware of what the duty is about. As has been said, the disability equality duty is different from the race duty in some ways, particularly in the requirement to involve disabled people. It is vital that public authorities and disabled people understand what that will mean.

We have set about developing guidance on particular areas. That guidance will be available to local authorities, education authorities, health boards, Scottish Executive agencies and so on. We have tried to put together a programme to run over the coming months. We hope that it will give people the tools to make progress. However, what we cannot do, because of the scale of the task, is offer direct support to individual organisations. That is not feasible.

Lynn Welsh: Although we have a right to enforce the disability equality duty, it is not only down to us. In order to carry out their own duties, audit and inspection bodies will have to audit and inspect compliance with the DED. We expect them to play a substantial enforcement role and to check on what progress is being made. The first Executive report will come in 2008. We want to know what information the Executive requires from public authorities so that ministers can report. The Executive needs to get out there and say, "This is what we need you to provide us with so that the minister can do his work." That will provide extra impetus for authorities.

Elaine Smith: I might be putting words in your mouth, but has the Executive a responsibility to go out and do what you do not have the time and resources to do? Should the Executive approach individual organisations?

Lynn Welsh: It will have to let staff in its policy areas know what is required of them to fulfil their duties, but it does not have to say, "This is what a scheme should look like." For ministers to produce a report that is fit for purpose, the Executive must say to people, "We require this kind of information from you so please give us your figures, show us your auditing, give us information about your inclusion, show us where an overlap with another area might not be working well and where you would like to see better joint working so that it can be reported on." It is better to do that sooner rather than later so that organisations know what information they will be required to provide to enable the Executive to report.

The Convener: At its consultation events, the committee heard that few disabled people are active in communities and that they can often feel isolated. We heard this morning about the need to encourage disabled people to participate at all levels in our communities, including in this Parliament. In the DRC's original submission to the inquiry, it recommended:

> "A target should be set for increasing the numbers of disabled people in the public appointments system in Scotland".

How would such a system work?

Chris Oswald: It is easy to set targets and then watch them fail. Returning to what was said earlier, it is important that when we set a target we also provide a means or a pathway to achieve it.

We recently met the commissioner for public appointments in Scotland with whom we talked about the potential for co-working and looked at events to do with one of our programmes, which is about encouraging disabled people to take on positions of leadership, although we recognise that that can be difficult.

As Lynn Welsh said, leadership starts with involvement in organisations, and volunteering, community councils and tenants associations all provide pathways for disabled people to become active citizens and give them the opportunity to get involved in mentoring and shadowing, for example. That kind of involvement will eventually allow people to be more prominent appointments.

It is important to look at changing the attitude towards disabled people and seeing them as active citizens. At the moment, only 6 per cent of disabled people are volunteers, and they tend to volunteer in disability organisations. We want that to change, but there is a continuum.

We have not touched on lifelong learning as much as we wanted to, or on the opportunities that it can create for people who might have been out of work for most of their lives and who have no qualifications but who want to get involved. Community education organisations and community learning strategies are pathways and a means of involving disabled people in greater public participation. Targets are one way of measuring success, but we need to think about how we resource and realign local and national services to include disabled people.

The Convener: That is not happening at the moment. I do not know whether the new duty will make a difference. You talk about lifelong learning, community development and so on, but a whole group of people is excluded from those. The emphasis is on doing things for disabled people rather than on encouraging necessary participation.

12:15

Chris Oswald: Absolutely. Independent living means leaving people to become more autonomous and self-directing. Furthermore, as you say, it fits into broader community development strategies, which might in turn link to economic development. The more that people are involved, the more likely they are to turn that social interaction into economic interaction.

Adam Gaines: We should also think about what more can be done about shadowing, mentoring and, indeed, capacity building to encourage and support people who might put themselves forward for public appointments. Although, as Chris Oswald pointed out, targets are aspirational, a target would, I hope, send a message to public bodies that they must consider disability issues and think about whether any barriers can be removed to help disabled people take up public appointments. At the moment, disabled people account for only 3 per cent of formal public appointments, which is simply too low. A target would set a marker for where we would like to be.

Marlyn Glen: I was interested to hear that you have spoken to the commissioner for public appointments in Scotland, because I know that shadowing for public appointments has taken place in other parts of Great Britain for a couple of years. Do you intend to take practical steps to encourage such activity, which seems like a good way of jump-starting a process that can be extremely slow?

Chris Oswald: We have had only one meeting with the commissioner, but the issue is certainly on our agenda. The meeting was positive, and I did not sense that she was reluctant to move forward on the matter. Our organisation simply has to find ways of progressing the matter and of embedding the principles in the Scottish public sector and the public appointments system.

The Convener: I imagine that the introduction of a shadowing system in the Parliament would be one step forward.

The Prime Minister's strategy unit report "Improving the Life Chances of Disabled People" was published in January 2005. How have the recommendations of the United Kingdom-wide report been implemented in Scotland?

Chris Oswald: It is difficult to say. The Executive has a representative on the independent living task force, but because so many of the report's recommendations touch on devolved responsibilities, the process has not been mirrored in Scotland. To an extent, the committee's work mirrors some of the strategy unit's early work on its report.

We regard the establishment of the independent living task force as the logical extension of that work. Although public authorities in Scotland have looked at the strategy unit's very interesting report, there is no delivery mechanism and there is a real danger that different departments might start firing off in different directions and take action that might be worthy and laudable but unco-ordinated. We will not be able to achieve independent living for disabled people in Scotland unless we take a co-ordinated approach. The establishment of the task force down south was absolutely central in taking the debate forward, and the same will hold true in Scotland.

The Convener: We have asked you many questions this morning and I thank you for sitting through such a long evidence-taking session. As you know, we are about to complete our draft report. What three recommendations in our report would make a difference to disabled people in Scotland?

Adam Gaines: First, we would be interested in any recommendation on the further steps that could be taken to remove barriers to disabled people's involvement in public life and the community. Secondly, the committee could make a recommendation on the key area of access to employment. Finally, it would be very constructive if the committee made recommendations on the significant issue of independent living.

The Convener: Thank you very much for your evidence.

Meeting closed at 12:20.

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