

# **EQUAL OPPORTUNITIES COMMITTEE**

Tuesday 23 October 2007

Session 3

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## EQUAL OPPORTUNITIES COMMITTEE

### 4<sup>th</sup> Meeting 2007, Session 3

#### CONVENER

\*Margaret Mitchell (Central Scotland) (Con)

#### DEPUTY CONVENER

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

#### COMMITTEE MEMBERS

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

\*Bill Kidd (Glasgow) (SNP)

\*Michael McMahon (Hamilton North and Bellshill) (Lab)

\*Hugh O'Donnell (Central Scotland) (LD)

\*Sandra White (Glasgow) (SNP)

\*Bill Wilson (West of Scotland) (SNP)

#### COMMITTEE SUBSTITUTES

Claire Baker (Mid Scotland and Fife) (Lab)

Jamie Hepburn (Central Scotland) (SNP)

Mary Scanlon (Highlands and Islands) (Con)

Jim Tolson (Dunfermline West) (LD)

\*attended

#### THE FOLLOWING GAVE EVIDENCE:

Tim Hopkins (Equality Network)

Calum Irving (Stonewall Scotland)

Fergus McMillan (LGBT Youth Scotland)

Hilary Third (Scottish Government Public Health and Wellbeing Directorate)

#### CLERK TO THE COMMITTEE

Terry Shevlin

#### ASSISTANT CLERK

Roy McMahon

#### LOCATION

Committee Room 2



## Scottish Parliament

### Equal Opportunities Committee

*Tuesday 23 October 2007*

[THE CONVENER *opened the meeting at 11:03*]

### Interests

**The Convener (Margaret Mitchell):** Good morning and welcome to the fourth meeting of the Equal Opportunities Committee in session 3. I remind everyone, including members, that mobile phones and BlackBerrys should be turned off, because even when they are switched to silent they interfere with the sound system. We have received no apologies.

The first item on the agenda is a declaration of interests. I warmly welcome Michael McMahon back to the committee—he was a member of a previous Equal Opportunities Committee—and ask him whether he has any relevant interests to declare.

**Michael McMahon (Hamilton North and Bellshill) (Lab):** Thank you for welcoming me back to the committee, convener. I have no interests to declare other than those that are already set out in the register of members' interests.

**The Convener:** Thank you for that.

### Decisions on Taking Business in Private

11:03

**The Convener:** The next item concerns decisions on taking business in private. Does the committee agree to take in private item 4, which is consideration of candidates for the post of budget adviser?

**Members indicated agreement.**

**The Convener:** Moreover, does the committee agree to hold in private any future items on the discussion of possible inquiry topics?

**Members indicated agreement.**

## LGBT Hearts and Minds Agenda

11:04

**The Convener:** We move on to today's main business. It is my pleasure to welcome to the meeting Tim Hopkins from the Equality Network; Fergus McMillan from LGBT Youth Scotland; Hilary Third from the equality unit of the Scottish Government's public health and wellbeing directorate; and Calum Irving from Stonewall Scotland.

I invite any or all of the witnesses to make a short introductory statement.

**Calum Irving (Stonewall Scotland):** I will kick off. I thank the committee for inviting us along. The hearts and minds agenda group, which has been hosted by the Scottish Government's equality unit, has been important to us. We have arranged it so that each of us will try to concentrate on the issues that relate closely to what our organisations do. Stonewall Scotland has considered closely what can change hearts and minds in relation to employment, particularly in the public services, and in relation to media perceptions of lesbian, gay, bisexual and transgender people in Scotland. We have also considered political leadership and leadership in public services in Scotland and how it can lead on LGBT issues.

**Tim Hopkins (Equality Network):** The Equality Network's main focus is on legislative and policy change at the national level. On the hearts and minds agenda group, I have been involved in the work of the religion and belief sub-group, which I will speak about today, and, with Fergus McMillan, the citizenship and social capital sub-group.

I am sure that members already know this, but I should make the general point that the group's recommendations are still at a relatively early stage—they have not yet been finalised. We hope that they will be published at the end of the year. We can tell you what our thoughts so far are, but things may change before the final publication is produced.

**The Convener:** That is helpful.

**Fergus McMillan (LGBT Youth Scotland):** Thank you for the opportunity to talk about the group's work. For the members who do not know this, I work for LGBT Youth Scotland, which is a national organisation that works throughout Scotland with young people up to the age of 25. We are involved mainly in offering young people informal youth work opportunities and in education. I am on the sub-group for education and will talk specifically about the recommendations on that, but also the work on

building capacity in local communities to respond to LGBT people's needs.

**The Convener:** Hilary Third is here in an advisory capacity—we are pleased to see her.

I would like to establish whether the new Scottish Government has given an undertaking to support the group's work, given that the previous Executive supported the project.

**Hilary Third (Scottish Government Public Health and Wellbeing Directorate):** Yes, the new Government supports the work of the LGBT hearts and minds agenda group. The three organisations that are represented today receive funding from the Scottish Government through the equality unit. The new Government is committed to equality for all and to diversity and condemns homophobic and transphobic prejudice and discrimination. As Tim Hopkins said, the work of the group is on-going and has not yet been completed. We expect the group's work to culminate in a report and recommendations towards the end of 2007. Ministers will then consider the recommendations and decide how to respond early in the new year.

**The Convener:** To underline and to be crystal clear, although the group will not report until the end of the year, can you give us a steer on the key recommendations, which, I hope, will not change?

**Tim Hopkins:** Yes, we can. We have a fairly good idea of the recommendations now. Each sub-group has drawn up recommendations, but they still need to go to the whole group for ratification and to allow us to look for overlaps. Some changes will be made, but we can give you a pretty clear idea of what the recommendations are likely to be.

To follow on from what Hilary Third said, my colleagues and I are grateful to the Scottish Executive and the Scottish Government and to Hilary Third and her colleagues for supporting the process. We have had a lot of support from the equality unit—it has helped to arrange meetings and done a lot of the secretarial work, which has been useful.

**The Convener:** It is good to know that there has been a smooth transition and that the group's work is being supported.

We now move to Bill Kidd, who has a question to ask on data—sorry, I mean Bill Wilson.

**Bill Wilson (West of Scotland) (SNP):** Too many Bills.

In my previous existence as a statistician, I remember having difficulty gathering data on LGBT populations. In policy development, are there major data gaps and, if so, are those a product of sensitivities in replying to questionnaires? If so, what might we do to

overcome such sensitivities? That is three questions in one.

**Tim Hopkins:** We have carried out survey work on sensitivities among LGBT communities, with a particular focus on the census. Local public bodies ask us how many LGBT people are in their areas so that they can plan their services properly, but we simply do not know the answers to their questions. We do not even know how many LGBT people there are in Britain. In general, we say that 4 to 6 per cent of people are lesbian, gay or bisexual, but we do not know the figures for certain. People move around—they go to big cities and so on. Getting an idea of the number of LGBT people in different areas would be helpful in planning public services and for other reasons.

We would like the 2011 census to include a question about sexual orientation. We carried out survey work through our network before we reached that conclusion, as we were concerned about people's sensitivities about being asked such a question. Our network includes getting on for 1,000 individuals and 300 groups—around 100 of which are LGBT groups—throughout the country. In the survey, we received responses from around 150 people, which was reasonably good. Some 88 per cent of those people said that they wanted the census to include a question on sexual orientation. The same number said that if the census included such a question, they would answer it openly and correctly, and that they would not hide their sexual orientation. On that basis, we have said that the census should include such a question.

There is a proviso, on which we will do more work over the next year. The people in our network asked to join it to get information about LGBT equality issues, and they may be rather more willing to answer a question about their sexual orientation than other LGBT people around the country. Therefore, we want to do more outreach work with other LGBT communities to find out whether similar numbers would be comfortable answering such a question. That said, we are already fairly sure that, generally speaking, LGBT people would be comfortable with the 2011 census including a question on sexual orientation. In the run-up to the census, publicity about why such a question was going to be asked would be helpful.

Another proviso is that the issue of gender identity is different for transgender people. There are two reasons for that. First, there are a lot fewer transgender people than lesbian, gay and bisexual people. Secondly, equality for transgender people is perhaps two or three decades behind where it has reached for lesbian, gay and bisexual people. As a result, our feedback from transgender people

has been that they do not think that the census should include a question on gender identity.

**Bill Wilson:** Why do transgender people, as opposed to lesbian, gay and bisexual people, not want such a question to be included in the census?

**Tim Hopkins:** There are several reasons. Definitions are part of the problem. We use the word “transgender” as an umbrella term that includes several different groups of people. Transsexual people are the best protected group in law—anti-discrimination legislation protects them—but no legislation protects from discrimination people with a physical intersex condition, people who define as cross-dressers and people do not define as either a man or a woman. Those are the main groups under the transgender umbrella. At the moment, some of those people would not even think of themselves or define themselves as being transgender. Therefore, it is difficult to come up with a question that would capture what we would want to capture, which is information on how many people may require particular services and how many may face discrimination of a certain sort. That is part of the problem. The other problem is that transgender people feel much more vulnerable to prejudice, because equality for them is much less further forward. People are therefore much more worried about coming out as being transgender.

11:15

**Calum Irving:** Data are important, particularly with respect to public services. It is important that public services know who they are serving and which communities they are reaching. At the moment, the fear factor that leads to the inability to collect data on who public services reach allows some of those services to sustain either the myth that the populations that they serve do not include LGBT people or the myth that they need not take account of the needs of LGBT people.

That is particularly important in relation to health services. Some of our work with health services over the years has revealed misconceptions among health service workers that can lead to misdiagnoses. Part of the reason for that is that people have not been able to reveal their identity, as it were. That comes back to the question of openness and the reason why hearts and minds work is important. We want to create situations in which people can be themselves. That is important with regard to health services, particularly mental health services, as the prejudice and discrimination that someone might face might be a feature of the mental ill health that they are experiencing. The incidence of mental health issues among LGBT people is particularly high. However, the LGBT people who we have talked to

have told us that they routinely do not say anything about their sexual orientation to health service providers, even if the information would be pertinent.

It is not just about collecting the data; it is about creating a situation in which people will either answer a question or volunteer the information where it is pertinent. The issue is important and we would like there to be more leadership from public services in at least attempting to collect data or in encouraging people to come forward with information about their sexual orientation or gender identity.

**Hugh O'Donnell (Central Scotland) (LD):** You mentioned the 2011 census. Have you had any engagement with the compiler of questions and, if so, what sort of reaction have you had?

**Tim Hopkins:** That is an interesting question. The census in Scotland is run by the General Register Office for Scotland. We have been talking to it about this for at least two years and the engagement has been positive. About a year and a half ago, the GROS did a postal test of the census. The full census forms were sent to selected rural and urban addresses in the west of Scotland and people were asked to fill them in and send them back. One of the reasons for the exercise was to find out whether different questions would change the response rate. There were two questions that the GROS were particularly worried about: one was a question on sexual orientation; the other was a question on income. It was thought that people might be unwilling to answer those questions. The forms were split into four batches, with some batches containing the questions and others not. It was found that the response rates for the forms that contained the sexual orientation question and those that did not were identical. There is a proviso, however, which is that the response rate for the postal surveys is quite low—I think that the percentage is somewhere in the 30s. The GROS said to us that, although the results showed that the inclusion of the question had no effect on the response rate in relation to the test that had been run, the fact that the rate of response was low means that the test does not absolutely prove that there would not be an impact on the 2011 census response rate. That said, the test helped to eliminate one of the concerns that the GROS had.

The GROS is also concerned about the response rates from LGBT people, which is why we want to ask lesbian, gay and bisexual people more widely whether they would respond correctly.

So far, the engagement that we have had with the GROS has been positive. Obviously, however, it will be up to the Scottish Parliament to decide what goes into the census.

The census in England and Wales is run by the Office for National Statistics and my understanding is that it is less positive than the GROS about including a sexual orientation question in the English census. However, I know that some of the public bodies in England are strongly asking for that to happen.

The Office for National Statistics did a study of the need for data on different issues from the census. Sexual orientation was one of the issues in relation to which it identified the strongest need for data. However, it went on to say that it was felt that that was an inappropriate question for the census, although it did not say why that was felt to be the case. Our colleagues down south are looking for a sexual orientation question in the English census.

**Marlyn Glen (North East Scotland) (Lab):** I can see the need for accurate data. However, are you concerned that the exercise might be counterproductive, because it might result in statistics being gathered that are incorrect because of underreporting, which would mean that the public services that you are trying to influence would be influenced the wrong way?

**Tim Hopkins:** We know that there will be underreporting; we have to say that up front and be absolutely clear about it. The underreporting will be different in relation to different age groups. The question would be asked only of people who are 16 and over. We know that, in relation to young people, there will be some underreporting partly because some people over the age of 16 have not yet decided what their sexual orientation is. We know that there is likely to be underreporting for older people because—as we might have the opportunity to say later—LGBT people of different ages have different attitudes to each other because of their different histories and the huge changes made during the past three decades or so. There will be underreporting, but we have to make a start. Survey work done among employees of large public bodies has shown that once a start is made, the numbers are higher the second or third time around, and they approach more closely what appear to be the real numbers.

**Marlyn Glen:** So the idea would be to put the argument out to public bodies at the beginning that it is really important to get that information.

**Tim Hopkins:** Exactly. Notwithstanding the underreporting, asking the question would show differences around the country; we would get some useful data out of it.

**Bill Wilson:** You said that public bodies run the census. Do you know of any other nations that conduct censuses and ask such questions?

**Tim Hopkins:** I do not.

**Calum Irving:** There are some, but I could not name them. We could get back to you on that.

**The Convener:** Is there a question around confidentiality for anyone revealing such information in the census?

**Tim Hopkins:** Census data is kept confidential for 100 years. It is not quite confidential at the point where the census people employ an enumerator, who is responsible for going to approximately 100 households and encouraging people to hand back their forms. The enumerator, who will have been recruited locally, will see the forms from those 100 households. That means that someone in a person's local area will have seen their census form.

When we surveyed our network to find out what people thought about having such a question in the census, we made all that absolutely clear. The survey said that the enumerator would be recruited locally, that they would see the census form, that obviously it is against the law for them to reveal any information that is on that form and that once the form is with the GROS, the information will be kept confidential for 100 years. Despite all that, 88 per cent of the people surveyed said that they would be happy to answer the question correctly. About 10 per cent of those said that they had some concerns about confidentiality, but that they would answer the question correctly nevertheless. Something like 6 per cent overall said that they were so concerned about confidentiality that they would not want to answer the question.

So although people know about the locally recruited enumerator who will see their form, it does not look like concerns about confidentiality will have a big effect on the data return.

**The Convener:** That is helpful.

You mentioned some health implications. Should there be something like a checklist? For example, we know that questions about childhood sexual abuse are pushed and asked automatically to try to find out if there is something underlying someone's mental health problem. Should questions about gender identity and sexual orientation be asked in those situations?

**Calum Irving:** I cannot say whether a checklist or other specific mechanism would be necessary. A lot of work has been done, but we would like to see more being done to ensure the building of health practitioners' confidence, so that they can exercise judgment about the relevance of sexual orientation or gender identity, and so that they can ask for and gain information with confidence and then take it into account. I picked mental health because it is the most pertinent issue.

At the moment, the issue is not necessarily about prejudice; it is about lack of confidence, awareness and information on LGBT issues, and, as I said before, that can lead to misdiagnosis or something inappropriate being said. I lean more towards the confidence-building and information-gaining type of activity rather than using checklists and so on. However, in order to gain movement within the health service, we sometimes need to use the more process-led activities so that all practitioners become fully aware.

**Tim Hopkins:** The Scottish health survey—which surveys 6,000 people each time it is done, and is therefore much smaller than the census—already asks people about their sexual orientation. I understand that the next survey will have a question about gender identity, although, as we have explained to the people doing the survey, having 6,000 responses means that only two or three transgender people will respond because the number of transgender people in Scotland is quite small. However, I understand that the health department is keen to ask the question, not least because it will send out the message that the department understands that discrimination and health issues do arise for transgender people. The Scottish health survey is a vehicle for asking specific questions that will highlight the specific health needs of LGBT people.

**The Convener:** Are you confident that enough people understand the definition of transgender?

**Tim Hopkins:** That is a good question. James Morton is the development worker for the Scottish Transgender Alliance and over the past week he and I have been working with the Scottish Centre for Social Research on the wording of the question on gender identity for the Scottish health survey. For the reason that I mentioned earlier, it is quite difficult to come up not only with a question that transgender people will understand—so that they recognise that it applies to them and are able to match themselves up with a response—but with a question that the large majority of people who are non-transgender will also understand so that they do not accidentally label themselves as transgender. However, we think that we have now come up with a question that will work.

**Marlyn Glen:** You say in your submission that significant progress has been made in legislation over the past decade. What has been the main driver in achieving that progress?

**Tim Hopkins:** A number of things have happened. Public attitudes have changed. Although the hearts and minds agenda group is all about addressing negative attitudes towards LGBT people—including our own attitudes towards ourselves—we acknowledge that there have been huge changes in attitudes over the past three decades. Attitudes hit rock bottom in 1987, as

shown in the British social attitudes survey, but they have been improving ever since. We had to reach a certain point in terms of public attitudes for it to become politically possible to make changes to legislation.

A second factor is Government leadership. Nothing changed between 1980, when sex between men was decriminalised in Scotland, and 1997-98. At that point, we started to see changes at Westminster, and from 1999 we saw important changes here at the Scottish Parliament. The leadership from the Government and from other members of the Parliament was really important.

The third key factor has been Europe. A number of the changes in legislation—such as the introduction of anti-discrimination employment legislation for sexual orientation, and the Gender Recognition Act 2004, which recognised transsexual people—were driven either by the European Union, as in the case of employment legislation, or by judgments from the European Court of Human Rights, as in the case of the 2004 act. As well as those two cases, there are other examples of legislation driven by Europe. However, Government leadership, both down south at Westminster and here, has gone beyond the requirements of European legislation. The Gender Recognition Act 2004 is better than it needed to be if it had only to satisfy the European Court of Human Rights.

Another example is changes to adoption legislation in England and Wales and here in Scotland. Same-sex couples have been recognised in law: for legal purposes, civil partnership is treated equally with marriage, by both the Government in London and the Government here. Of all the issues, political leadership is the most important.

**Calum Irving:** With the Scottish Parliament, there was a very optimistic start in 1999. However, we feel strongly that there is still a section 28 hangover. That has to be brought into the open, and people in the Parliament have to be aware of it. It has affected political leadership on certain issues. One issue on which we feel there is still insufficient political leadership—although we await what the new Government will say—is homophobia in education. That is a very serious problem, which is not being tackled sufficiently.

Fergus McMillan will be able to talk about the work that is going on. However, over the past few years, we have heard, “Yes, we will support work and will fund it, and we will work with you—as long as you don’t talk about it and as long as we don’t have to talk about it.” A recommendation that we hope will come out of the hearts and minds agenda is that, on particular issues, political leadership is required.

We often look at the leadership that is shown on sectarian issues with a great degree of jealousy. We feel that there has been movement on sectarianism, but not on homophobia in certain areas such as education. Teachers and schools are waiting to hear the message. They need the confidence to tackle those issues and they need political leadership behind them to enable them to do so. We have all been calling for that recently.

11:30

**Marlyn Glen:** We will address education in more detail later. I had planned to ask whether there are any remaining areas of legislation in which we still need to make progress, but I am sure you agree that there are. However, progress seems to have been made.

The United Kingdom Secretary of State for Justice, Jack Straw, has been reported as saying that he will seek to make inciting hatred against gay, lesbian and bisexual people a crime, as an amendment to the UK Criminal Justice and Immigration Bill. Would you support such an amendment? How widespread is the incitement of hatred against LGBT people in Scotland?

**Tim Hopkins:** As representatives of Scottish organisations—albeit Stonewall Scotland is the Scottish arm of Stonewall UK—it is not for us to say what happens in England and Wales. Obviously, however, we would support that happening in England and Wales. Hate crime is an area of legislation in which Scotland has fallen behind England; another such area is the law on sexual offences.

There are two kinds of hate crime legislation. First, there is statutory aggravation, which is a sentencing measure that enables an offence to be labelled as having been motivated by malice and ill-will on the grounds of race, religion or whatever. In Scotland, we have statutory aggravations for race and religion, but not currently for sexual orientation, transgender identity or disability. In England and Wales, on the other hand, statutory aggravations covering sexual orientation and disability, as well as race and religion, have existed for four years.

The second kind of hate crime legislation is to have a new offence of incitement to hatred. In Scotland, we have only an incitement to racial hatred offence; in England, there is also an incitement to religious hatred offence. Jack Straw recommends an incitement to sexual orientation hatred offence. He has also said that he will look into the possibility of offences covering incitement to disability hatred and incitement to transgender identity hatred.

We are focused on statutory aggravation, which we think is by far the more important of the two

types of hate crime. That is perhaps reflected by the fact that such offences have existed in England for a while. There, the Government is moving on to dealing with incitement to hatred offences. There are a number of reasons why we think that statutory aggravation is more important. In each of the past two years, about 4,200 reports of racially aggravated offences of various kinds were made by the police to the procurator fiscal. Last year, just four incitement to racial hatred offences were reported; the year before, three such offences were reported. The number of reports to procurators fiscal for racially aggravated offences is running at 1,000 times the number or reports for incitement to racial hatred offences, of which there are comparatively very few.

On the reports that people have given us during survey work regarding the kind of hate crimes that they encounter, incidents include being attacked in the street, having property damaged, having a car damaged, having windows smashed and continuous harassment. Those things can all be charged as aggravated offences, whether they are assaults, vandalism or breach of the peace.

An example of incitement to hatred might be somebody standing up in a pub or other public place and making homophobic remarks because some gay people had been identified. There was a case in which somebody stood outside Queen Street station and shouted sectarian things—they were charged with religiously aggravated breach of the peace. If people did that in a homophobic way, the charge could be one of aggravated breach of the peace, were a statutory aggravation to exist.

We think that the use of any incitement to sexual orientation hatred offence would be quite small. Our clear priority is to get the statutory aggravation, if possible. We very much welcome the fact that three of the parties in the Parliament had that in their manifesto. It was also the recommendation of the previous Executive's working group on hate crime. The new Scottish Government has said that it will introduce the measure when an opportunity arises. Meanwhile, Patrick Harvie has lodged a proposal for a member's bill. We do not know what will happen first—the member's bill might precede Government legislation—but we very much hope that one of those two options will be pursued, perhaps within the next year.

**Marlyn Glen:** Are you happy for the legislation to follow the statutory aggravation route rather than that of incitement to hatred?

**Tim Hopkins:** Yes.

**Marlyn Glen:** Thanks very much—that was a helpful explanation.

**Sandra White (Glasgow) (SNP):** In your submission, you mentioned the various sub-groups from which the main group will draw its information. Have you found a great deal of overlap in the findings of the sub-groups or are you waiting for the final report to be produced? If you have found areas of overlap, might they form the basis of a more general approach to changing hearts and minds?

**Tim Hopkins:** I will mention four areas of overlap that we have identified, which my colleagues might want to talk about in greater detail. The first of the four key themes that have emerged from all five working groups is the need for people in a position of influence—that means from the First Minister downwards—to show leadership. The second is the need for LGBT people to organise ourselves, which is about capacity building and LGBT people—both as individuals and as groups—changing attitudes by being more out and open in their communities. The third is the need for better public representations of LGBT people in the media and in curricular materials in schools. That runs through all the working groups. The fourth is the need to give people confidence and certainty about what LGBT equality means. Many people, including employers, want to see LGBT equality—they are not opposed to it—but they do not really know what it means or what they need to do, and they do not have the confidence that they will take the right action. Those are four key themes that have emerged.

**Fergus McMillan:** A theme that runs through all the recommendations and which might cover the last few questions that the committee has asked is about ending the silence and invisibility of the LGBT population in Scotland, from which many LGBT people suffer.

We come across that in schools, where we are often told, “We challenge all forms of bullying in our school because all forms of bullying are unacceptable. Why do we need to deal with LGBT people differently?” Recently we did a piece of research on LGBT young people’s expectations of school. When we asked general questions about school, the answers were what we would expect—they said that school was okay, in much the same way as their peers would do. However, when we asked them specifically about homophobia and about their position in schools as LGBT young people, they said that they experienced homophobic bullying. If we are to end the invisibility and silence of LGBT populations, we must ask the correct questions, so that we get the right information to give us a true picture of the lives of LGBT people in Scotland. That theme runs through many of the recommendations that have been made as part of the hearts and minds work.

**Sandra White:** Are you saying that those themes are not specific to particular groups? Your feedback is that they apply to all the groups.

**Fergus McMillan:** That is certainly true of my point about leadership, which is that the law can change on hate crime or on education, but such changes will not have as great an effect on society or on LGBT people in particular as they would have if there was political leadership in all those areas. Political leadership will filter down.

To return to the legacy of section 28, teachers are still frightened that there is something that prevents them from tackling homophobia in schools or that they will get into trouble in some way for explicitly mentioning the existence of LGBT people and their lives. The idea of being open about the fact that we have LGBT colleagues and that there are LGBT people in schools, for example, runs through the recommendations. Such openness will mean that LGBT people will face less prejudice in the long term.

**Sandra White:** So you are saying that your various sub-groups have found that it is better for the matter to be taken forward by the Government than by individual groups. Do you consider that individual groups should also take action? If so, are you properly resourced and funded to do that?

**Tim Hopkins:** The groups that we have identified to take action are, on the one hand, public bodies—in particular, there is a big role in leadership for the Scottish Government, but there are also roles for public bodies throughout the country—and on the other hand LGBT communities ourselves.

There is a big role for the national LGBT organisations in leadership, in organising work and in doing some of the national influencing work. There is also a key role for a stronger LGBT community around the country and a need to support capacity building for LGBT individuals so that they can play an open role in their communities.

The key actors are the Scottish Government, public services around the country, the national LGBT groups, and LGBT organisations around the country. In relation to the last of those, the key thing that we have identified is the need to capacity build organisations because the LGBT sector is weak.

**Sandra White:** Do you have sufficient funding or are you looking for more?

**Calum Irving:** You would be surprised if we said that we all have sufficient funding.

**Hugh O’Donnell:** And pleased.

**Calum Irving:** Yes.

It might be easiest to answer the question with an example. The media in Scotland is sometimes still a problem for LGBT people. It is difficult to cope with the salacious misrepresentations of LGBT people and the constant tirade of "It's all political correctness gone mad" when we try to do anything to address prejudice. Those things are sometimes due to a prejudicial editorial approach, but they are often due to the invisibility and lack of information that Fergus McMillan mentioned. We do not have the resources to be able to help the media and give them better material.

What is most important and most lacking in Scotland—much more so than in England, in my perception—is the ability and confidence of LGBT people to come forward and talk to the media so that they get a better-balanced and fuller view of LGBT life. One of the recommendations is likely to focus on how we can better resource capacity building, training, confidence building and so on, so that we have LGBT people who can talk to the media. We all receive phone calls from the media when an issue flares up but, because of the massive fear factor that still exists, it is rare for people to be confident and able to come forward and talk to the media.

**The Convener:** On the bullying of LGBT people in schools and how you hope to tackle that, if we had hate crime legislation in relation to sexual orientation or disability and there was bullying in a school in either of those areas, would that have repercussions for the children? How would it be dealt with?

Secondly, just to play devil's advocate, if a strong lobby focuses on particular aspects of bullying such as LGBT issues or disability issues, is there a danger that other issues in bullying—for example, obesity, some other physical attribute, or the clothes that someone wears—will assume a lesser importance?

**Tim Hopkins:** I will respond to your question on how bullying relates to the move on hate crime. Fergus McMillan is the expert in relation to schools; I will hand over to him on the wider issue.

The statutory aggravation measure will apply only to something that is being charged as a criminal offence anyway. Statutory aggravation is a flag that is attached to an existing criminal offence to show that there was a hate motivation. Quite rightly, bullying in schools would not normally be dealt with as a criminal matter unless it was serious. However, such a case would go to the children's reporter rather than to court, so the statutory aggravation provision would not apply. In other words, I do not think that homophobic bullying in schools is related to hate crime.

11:45

**Fergus McMillan:** I can give the committee further information later if it wants to know a bit more about the specific recommendations of the education sub-group. However, work is on-going with the Scottish Government on homophobic bullying. My organisation, LGBT Youth Scotland, undertook research in 2005 with teachers and, in a smaller way, with young people about what is going on in schools around homophobic bullying. Teachers said strongly that they were aware of their role in young people's lives in tackling bullying and that they were quite willing to do that. However, they found it difficult to challenge homophobic bullying because they were not sure what to do—they reported having low levels of confidence in that area. Again, they felt that there was an absence of leadership at local authority or school level. They were not sure what they could tackle or how they would do it.

**The Convener:** What kind of steer would they look for from a local authority that would be different from that for tackling any other form of bullying?

**Fergus McMillan:** I return to the point about invisibility. If you were to ask young LGBT people who are currently at school in Scotland where they see themselves reflected at school or in the curriculum, they would say "Nowhere." They go to lessons on sex and relationships education, for example, but little or no mention is made of the existence of same-sex relationships or LGBT people in general in such lessons or throughout the rest of the curriculum. Day in and day out, if they see no representation of their life or reality, perhaps it is difficult for them to challenge any bullying around their sexual orientation. If there is a stigma around someone's identity—we know that there is a stigma around LGBT people's identities—the onus is on the individual to challenge the bullying that they receive.

Teachers need to hear strongly from people who make decisions about education policy that it is okay to talk in the curriculum about LGBT people's lives and experiences—in sex and relationships education, for example—so that young people have the opportunity to talk about their concerns and their well-being.

**Elaine Smith (Coatbridge and Chryston) (Lab):** I want to ask Fergus McMillan more about bullying because I am interested in exploring the issue. You talked about the direct bullying of LGBT people. I wonder, however, where that bullying comes from and about the invisibility issue. It seems to me—and this is simply anecdotal—that in times past young children would have thrown insults at each other about issues such as disability and race but that that is less common now because of all the work that has been done in

schools—for example the Zero Tolerance respect project. However, it seems to me that it is a common insult now among young children to call people gay. That does not target someone specifically in a bullying fashion, but do you think that it might lead to their thinking that they can do homophobic bullying with impunity later?

**Fergus McMillan:** Yes, absolutely. We have non-anecdotal evidence, from our own research and from research that Stonewall did with young people on homophobic bullying, about the existence or incidence of such bullying in our schools. Our research asked teachers about general insults around sexual orientation, and they told us that the word “gay” is used in a negative way to describe not just people, but lots of physical things, such as what someone is wearing—it is just used generally as a negative word in schools. Such use often goes unchallenged, but I think that the racist or disablist bullying to which you referred does not go unchallenged in schools.

When we consider prejudice and discrimination in general, we should understand that low level prejudice often leads to behaviours that are in some ways deemed acceptable. Teachers are rightly saying that a problem arises if the word “gay” is not always challenged directly among young people in schools. How can they say to a young person who commits a more serious act of bullying in school that such behaviour is wrong when it is not challenged in other parts of the school? There needs to be a clear message that homophobia and homophobic bullying in schools is as unacceptable as other forms of bullying, that it needs to be challenged and that it can be reported by young people. Another important point is that when we talk about homophobic bullying we are referring not only to the bullying of young people who identify as lesbian, gay, bisexual or transgender. The bullying in school is wrapped up in gender norms and stereotypes from a very early age. All young people can potentially experience homophobic bullying, not only LGBT young people.

**Hugh O'Donnell:** You mentioned teachers. To what extent has the hearts and minds agenda group worked with the Convention of Scottish Local Authorities, with education authorities and with institutions that represent teachers, such as the Educational Institute of Scotland? What reaction have you had from them? I know that I am pre-empting the group's overall report, but it would be helpful to get a feel for what you have found.

**Fergus McMillan:** We recognised early on in the education and family sub-group that it was a huge area for us to cover and that we needed to decide on our focus. We decided to focus on the

experience of young people in schools, colleges and universities. We recognised the importance of teachers in school and we recommended that our colleagues in the workplace group think about that matter in the context of LGBT workers, if you like, in a variety of professions.

In general, I can talk about my own experience of engagement with LGBT teachers while working at LGBT Youth. The EIS has had difficulty maintaining its network of LGBT teachers. One of the reasons for that is their invisibility and the fear about LGBT issues in education. Very few LGBT teachers in Scotland feel confident enough to be out in their schools, wherever that school might be. When *The Herald* did an article a year and a half or two years ago about LGBT teachers, it struggled to find any teacher in Scotland who was willing to have their name put in the article when they talked about their experience of being an LGBT teacher in a Scottish school. That tells us that it may be a particularly interesting recommendation to consider. The EIS has since tried to re-establish its network of LGBT teachers and we have presented the research on homophobic bullying. That allowed some LGBT teachers to come along and discuss their experience, but we do not know nearly enough about the experience of LGBT teachers in Scotland and we need to know more.

**Hugh O'Donnell:** I mentioned COSLA. Has the group engaged with it? Ultimately, despite the Parliament's legislative powers, responsibility for leadership on the general attitude to homophobic bullying in our schools fundamentally rests with education authorities. If you have engaged with COSLA, what was its reaction? If you have not, why not?

**Fergus McMillan:** There are two issues. First, the hearts and minds education sub-group has not had direct engagement with COSLA, but that might be something that we want to consider in relation to getting the recommendations out there.

**Hugh O'Donnell:** It seems fundamental.

**Fergus McMillan:** Absolutely. Secondly, we recognise the importance of that factor, particularly in relation to the guidance about homophobia in schools that we are developing with the Scottish Government. Obviously, the guidance will be dependent on local authorities using it and recommending it to their schools. Again, we are looking to the Government to provide leadership and support when the guidance is available. We want the Government to recommend that local authorities use it. Obviously, we have less capacity to recommend that.

**The Convener:** Marlyn Glen, very briefly.

**Marlyn Glen:** This is an important part of the discussion and it is worth spending some time on

it. Everybody wants to get in on it, and there are quite a few ex-teachers around the table.

I have always thought that the subject is hugely sensitive because, as you said earlier, lots of young people have not decided on their identity yet. Schools reflect society, and although I like your positive approach with schools, you have a hugely difficult job. I am glad that you talked about teachers. LGBT teachers have the most difficult job, because the truth is that it is young people and children who are bullies, and they do not just bully each other. They bully members of staff in schools as well. I hope that, when you are positive about the whole thing, you are positive about the teachers who are in that situation, because it is a huge thing to challenge that behaviour.

My experience as a teacher was that, when I challenged somebody who used the word “gay” negatively, they did not know what homophobia was. They actually listened—they did not know what I was talking about, so they listened. The situation is not all bad, but I am glad that you are looking at teachers from a sympathetic point of view. It is not always the right approach to say, “Teachers should be doing this and that, and this is another part of the curriculum that they should be looking at.”

I think that Tim Hopkins said something about curriculum materials in schools. That is a way in to the subject that does not involve asking teachers themselves to come out.

**Fergus McMillan:** Many of our recommendations to the previous Executive were about the curriculum. We said that, if LGBT people and their experience are mentioned in the curriculum, that will have positive effects not just for young people, but for LGBT teachers as well. We, and I think the other organisations as well, know of countless examples of LGBT teachers who want to approach LGBT issues in their subject—modern studies particularly lends itself to the area—but are told by their head of department or headteacher, “No, just avoid that. It’s easier if we avoid that particular area.” What message does that send to the LGBT teacher? What opportunity is missed when that happens? If there is a possibility to be more open, that is the beginning.

We are not unrealistic, and I acknowledge that young people often bully teachers, particularly in this area. However, how will we begin to challenge negative assumptions and stereotypes if they are never spoken about in schools?

**The Convener:** We have had a worthwhile discussion on the matter. There is clearly a lot more that we could go into if we could allocate the time, but unfortunately we are unable to do that this morning.

**Sandra White:** How does the work of the hearts and minds agenda group fit into the wider context of the LGBT work that your groups do?

**Tim Hopkins:** Members have seen the manifesto that the Equality Network published just before the election. The three groups worked together on that. It identifies four areas that need to be worked on to promote LGBT equality in Scotland. Legislation is one of them, and we have already talked about that. Two others link closely with the hearts and minds agenda—first, education and young people, which Fergus McMillan has been talking about, and secondly employment and public service provision, which is an area on which Stonewall Scotland focuses in particular. The fourth area is hearts and minds.

We think that all those areas are closely linked. Legislation is possible only when hearts and minds have reached a certain point. We have reached that point. Changing legislation has a big knock-on effect on hearts and minds. For example, the introduction of civil partnerships has influenced attitudes. One reason why we would like the statutory aggravation measure to be introduced for hate crimes is that that will send important messages about the sort of country that Scotland wants to be.

12:00

**Calum Irving:** We are pleased to be involved in the hearts and minds agenda group. To use the example of employment, we have developed work at Stonewall Scotland that has gone beyond the idea of this all being something difficult that employers have just got to cope with, and has led to something in which employers can show a bit of pride and actually get into a competitive situation. We publish the “Workplace Equality Index”, in which we assess employers’ progress on LGB issues in terms of policy and practice, and then rank those employers. The index has become fiercely competitive, and public and private sector employers have ended up competing to show that they are continuously improving on LGB matters in the workplace.

That shows that there are mechanisms and ways in which the issue can be moved from being one that people stubbornly co-operate with or barely tolerate to one in which people can show a bit of pride. Employment is a good area in which to work. There is a tight labour market in the United Kingdom and in Scotland, so it is a good time to say, “We are actively trying to attract gay staff to our organisation”. One of the recommendations in the report is likely to centre on encouraging and raising awareness of the workplace equality index and the other work that we do with employers in Scotland.

**Sandra White:** Do you think that belonging to the hearts and minds agenda group and producing one big report, rather than individual groups trying to raise different issues, has been beneficial?

**Calum Irving:** Absolutely. It is hugely beneficial. Although we all have a lot of work going on—whether it is to do with employment, public services, education and so on—the issue of hearts and minds runs underneath that and is needed to back it up. The message that comes across today is that there is a lot of good work going on in Scotland—we want to encourage that and see more of it. The missing link in all that work is to look at how it is changing and winning hearts and minds, and to see where leadership can be brought in—whether that is through public services, employers, political leadership, or encouraging some of the media to take a better lead on this kind of activity. That is what lies underneath all this, and what we are still waiting for in Scotland and sometimes feel frustrated about.

**The Convener:** Just before we move on from looking at legislation tackling discrimination and sexual offences, does the hearts and minds agenda group move on with the LGBT recommendations on male rape? Rape law is being looked at and encouraging comments have come from the Lord Advocate about recognising the status of male rape. Are there recommendations on that in the hearts and minds report?

**Tim Hopkins:** Given the way things look at the moment, it is unlikely that there will be a recommendation about male rape in this particular report. Although we have said that all these things are linked, that is not specifically a hearts and minds issue. As you know, it is mentioned in the manifesto that we circulated. It is another key area of legislation in which Scotland has fallen a bit behind—in England, male rape has been recognised as rape in law since 1994. The Scottish Government has pledged to look closely at the Scottish Law Commission's draft bill, which is due to be published next month. We are expecting a bill to be introduced in this Parliament in May 2008 to reform the law on rape and sexual offences. That is a high priority for us—people often raise with us the issue that male rape in particular is not recognised as rape, although it is a crime.

There are other out-of-date anomalies in the law on sexual offences—for example, the fact that any sexual act between men is called gross indecency under the law on sexual offences even if it is legal, which seems absurd in the era of civil partnerships. There are anomalies in the offences as well, some of which relate to the protection of young people. For example, sentences for the

sexual abuse of boys are lower than they are for the sexual abuse of girls. There are a number of anomalies that date back to the days when homosexual acts were simply illegal and that still need to be sorted out. We hope that the Scottish Law Commission's recommendations will include all that and that the Government will take them forward next year.

**The Convener:** Thank you for that.

**Bill Wilson:** You mention in your submission that the hearts and minds agenda also covers the attitudes of LGBT people towards themselves. Given the comments that you made about the responses and data sensitivities, is there a need for different approaches to tackling the attitudes of non-LGBT people and those of LGBT people? Do you also need different approaches to tackle the attitudes of LGB people as against those of T people?

**Tim Hopkins:** The last part of your question is something that we have already clearly identified: different approaches need to be taken in some places to deal with issues around transgender people.

To answer the first part of the question, it will directly improve LGBT individuals' attitudes about ourselves if we address some of the cross-cutting issues that we have identified, such as the need for leadership from politicians, public services and employers and the issue of representations in, for example, the media and the school curriculum. If young LGBT people see themselves positively represented in materials that are used in school, it has a direct effect on them, but it obviously has a direct effect on non-LGBT people as well. The same is true with leadership.

In the other two cross-cutting areas that I mentioned, things are slightly different. Building the capacity of LGBT people and organisations is obviously aimed primarily at improving the self-esteem and organisational capacity of LGBT people. That will then have a knock-on effect on the attitudes of non-LGBT people. However, the recommendations that Calum Irving mentioned on giving employers and public service providers confidence and certainty about what LGBT equality means, what they can do about it and that it is okay to do it are aimed primarily at changing the attitudes of non-LGBT people but will, again, have a knock-on effect.

You asked about differences for trans people. We have identified a number of differences that are based on two points. There are a lot fewer transgender people in Scotland than there are LGB people. We do not know, but there might be 200,000 LGB adults in Scotland, whereas we think that there are between 5,000 and 10,000 people who would identify themselves as transgender in

Scotland. Part of the issue is that not everybody agrees on the definition of transgender.

Transgender people are a lot more isolated, and equality on trans issues is further back than equality on lesbian, gay and bisexual issues. That has several effects. First, there are far fewer social opportunities for trans people to meet together than for lesbian, gay and bisexual people. On the other hand, many more transgender people are interested in being activists and in changing society as well as changing their own lives. The Scottish Transgender Alliance has estimated that up to 50 per cent of trans people might be interested in working to change attitudes and change society as well as their own lives. However, many lack the skills, knowledge and confidence to do that, so one recommendation that we have made to address transgender equality and attitudes is for a programme of capacity building for transgender individuals who are keen on doing that kind of work in their local communities but need skills and confidence to be able to do it.

We think that things are similar in some other areas. For example, the religion and belief sub-group—the sub-group of which I am a member—has identified similar issues for transgender people to those for lesbian, gay and bisexual people but, in some cases, they are worse. In particular, to take an extreme example, there are some religious organisations that, because they do not agree with lesbian, gay, bisexual and transgender identities—really, they do not believe that there are such things—have the effect of undermining people's identities. For lesbian, gay and bisexual people, the ex-gay movement is an example.

**Bill Wilson:** I am sorry, but I did not catch that.

**Tim Hopkins:** It is called the ex-gay movement. Basically, it consists of organisations that try to persuade people that they are not lesbian, gay or bisexual and that, in fact, everybody is heterosexual. People go back into the closet as a result of getting involved with such organisations. Similar work is done around transsexual people by organisations that, again, are generally religiously based and try to persuade transsexual people that they are not transsexual after all because there is no such thing.

The damage that is done to people who have transitioned as transsexual persons and are persuaded that they are the other gender, after all, and should do their best to live as that gender tends to be much greater than the damage that is done to a lesbian, gay or bisexual person by encouraging or persuading them to go back into the closet. It is easier for them to come back out of the closet later, when they realise that they are gay, after all, than it is for a transsexual person to

transition back again, because transition for a transsexual person is a huge, life-changing event. The issues for transsexual people are stronger and, in a sense, worse than they are for lesbian, gay and bisexual people.

I will give the committee another example from the media. Yesterday a trans person said to me that, to a large extent, the media representations of trans people are still back in the "Are You Being Served?" era, when there was one-dimensional representation of gay people on television. Now we see a lot of lesbian, gay and bisexual people in soap operas, for example, with quite rounded characters. We are just beginning to see transsexual people in soap operas. However, the only other representations of transgender people that we get are of entertainers such as Pete Burns. Representations of transgender people in the media are still one dimensional, as they were for gay people two or three decades ago.

**The Convener:** Elaine wants to come in briefly on a point that you made. Bill Kidd is also anxious to follow up on your comments.

**Elaine Smith:** You mentioned certain groups that say that everyone is heterosexual. I wonder about the language that is used. Earlier someone said that young people at school have not yet decided on their sexual orientation. It crossed my mind that "recognised" might have been a better word to use. Do you agree?

**Tim Hopkins:** I was the person who said that people at school have not decided on their sexual orientation. You are right. Perhaps it would have been better if I had said that they have not yet discovered their sexual orientation. However, the personal experience of the large majority of lesbian, gay and bisexual people is that, when they reach a certain age—typically, when they are teenagers, but it can be earlier—they discover that they are different from the majority of people.

**Bill Kidd (Glasgow) (SNP):** It is obvious that the organisations that are represented here today are as one in their approach to the hearts and minds agenda. However, LGBT people are people, so they, too, will have discriminatory attitudes. Is there noticeable discrimination by one category of LGBT people against others? Is it possible that, because LGBT people have experienced discrimination, they are less likely than others to be discriminatory? Is there cohesion between groups of LGBT people across the country or only in the large organisations that you represent?

**Tim Hopkins:** You raise an interesting issue. For LGBT communities as a whole, the answer to your first two questions is yes. There is prejudice in LGBT communities. As lesbians know well, gay men can be as sexist as any other men.

Historically, in lesbian and gay communities there has been a significant lack of knowledge about and there has been prejudice towards bisexual people. However, at both national level and, to a significant extent, at local level in Scotland we have about 10 years' history of working together as organisations for lesbian, gay, bisexual and transgender people. Men, women, bisexual people and transgender people work in all our organisations, which is fairly unusual.

We do that better in Scotland than down south, where for historical reasons there are separate organisations. It is very noticeable in the three national organisations, but it also happens to a large extent at local level in Scotland. Because all the organisations have networks across Scotland, they have been able to encourage by example such co-operation. There is now a fairly broad understanding of the overlap between the agenda for transgender people and that for lesbian, gay and bisexual people. One sees that in all sorts of other organisations that have LGBT sections, such as the trade unions. As we heard earlier this morning, underlying both forms of discrimination are people's attitudes towards gender and gender norms.

12:15

**The Convener:** We move to a new line of questioning, which widens things out a bit.

**Michael McMahon:** A couple of times this morning, we have heard someone say that they hoped that certain recommendations would come out of the research. That is totally understandable. Every piece of social research is undertaken to test a hypothesis—it sets out to test a perception or expectation. To that extent, has your research thus far met your expectations at the outset or were greater perceptions created from it?

**Tim Hopkins:** Part of the answer is that the research that underpinned the work has been going on for a long time—indeed, some of it was done several years ago. Fergus McMillan mentioned LGBT Youth Scotland's research. The process over the past year was one of bringing together what we already knew as a result of such research. The process that the group undertook did not involve significant amounts of extra research, although it involved consultation with LGBT communities.

I turn to the question of whether the research met expectations. Obviously, new stuff has come out of the process, including our identification of the cross-cutting approaches and commonalities between the different sub-groups. Some surprising things also emerged. For example, members of the religion and belief sub-group were surprised to realise how difficult things are for LGBT people in

minority faiths. We are looking to set up a meeting for LGBT people in the faiths that have smaller memberships in Scotland and non-LGBT people in those faiths who could support them. It is proving difficult to make contact with LGBT people who are Muslim, Hindu or Sikh. Underlying that is the difficulty for people in those faith communities to come out. For me, at least, it was surprising to realise how difficult things are for people in that situation.

**Calum Irving:** In many ways, the process has exceeded expectations. If I had been asked the question before taking part in the process, I would have focused on the ways in which political leadership and the media affect hearts and minds. Having undertaken it, my focus is now on the discovery of the many simple and practical measures that can be developed to affect hearts and minds, some of which relate to education and public services.

Hugh O'Donnell mentioned COSLA. A lot of good work is being done in the public services, which could be developed. Principles of good practice could be shared with the local authorities that lack the information and confidence to deal with LGBT issues; in particular, I refer to those authorities outwith the big cities. With the right support, we could do a lot to spread some of this work further afield. That would have an impact on hearts and minds. It is particularly important for us to do that outwith the big cities. The issue applies not only to Glasgow or Edinburgh; we should have an impact across Scotland.

**The Convener:** That response leads nicely to Michael McMahon's next question.

**Michael McMahon:** It does, convener; if I may, I will put my next two questions together.

Earlier, you spoke about the five satellite groups and their cross-cutting work. You then spoke about the subsections on race, age, disability, gender and so forth. Have you seen cross-cutting work in those areas? What sort of lessons can be learned in terms of breadth and depth in that regard?

**Tim Hopkins:** I am not sure that I fully understand the question. Are you talking about the LGBT communities?

**Michael McMahon:** Each of the satellite groups looked at the media, workplace and education. In each of those, you could also have looked at age, race, gender, and so on.

**Tim Hopkins:** In each satellite group, different issues emerged for different parts of the LGBT community. For example, the education and family working group focused on young people, but there are hearts and minds issues at the other end of the age spectrum. Attitudes towards older LGBT

people tend to be more negative, for example because many older people grew up at a time when sex between men was illegal.

Disabled LGBT people face discrimination not just from LGBT organisations and services that are not accessible or have a discriminatory attitude to disabled people, but as a result of attitudes in disability organisations. The Equality Network conducted research last year on the accessibility of LGBT and disability organisations for disabled LGBT people. We found that services are quite hard for people to come by.

Those two groups—the group that is defined by age and the disabled LGBT group—are large. We are talking about tens of thousands of people in Scotland in each group. However, ethnic minority LGBT people and LGBT people from minority faiths number in the thousands rather than the tens of thousands. There might be 2,000 LGBT Muslims in Scotland. Such people, in the main, are very isolated, because they discover that they are LGBT when they are teenagers, living in a family that generally does not have LGBT members, in a community in which there might be little visibility of other LGBT people. People in such groups are the most in need of support and positive representations, but given the numbers the area is one of the most difficult to deal with.

**Michael McMahon:** Will the recommendations from the hearts and mind agenda group be transferable to other equality areas?

**Tim Hopkins:** That is an interesting question. It is clear that some of the main issues that we have discussed, such as political leadership, representations in the media and capacity building in communities, transfer across to other equality strands, such as disabled people and ethnic minority people.

From research into attitudes, we know that prejudiced attitudes towards different equality strands and communities can be underpinned by different things. For example, there is a fairly clear indication that the factors that underpin prejudice against older or disabled people are different from the factors that underpin prejudice against LGBT people and ethnic minorities. In the latter case, threat is an important factor. People regard LGBT people as a moral threat and think that they somehow undermine the fabric of society, and they regard ethnic minorities as a threat—some people say, “They’re taking our jobs.” However, attitudes towards disabled and older people are a bit different. People feel sorry for such people and a patronising attitude underlies the discrimination. As we develop the detail of the work, it is important to drill down and examine what underlies prejudiced attitudes, so that the right solutions can be picked.

**Calum Irving:** There is perhaps more transferability between the faith and sexual orientation strands—and scope for sharing expertise—than people expect there to be, certainly in the employment context. We ran a project in conjunction with the Scottish Inter Faith Council, in which employment advice and training was provided, on the back of the Employment Equality (Sexual Orientation) Regulations 2003 and the Employment Equality (Religion or Belief) Regulations 2003. People expected a major clash between the two strands, but we were able to identify employment issues in the two strands as keys to unlocking one another.

In other words, someone who can get their head round misconceptions about sexual orientation in the workplace and achieve better understanding might have a better chance of being able to take account of a person’s faith in the workplace. That relates partly to the fact that a person of faith or a gay person might not necessarily be visible to other people in the workplace and might hear all kinds of prejudice being expressed around them. A person does not necessarily announce their faith or the fact that they are gay when they arrive in the workplace, but they can experience considerable prejudice around their identity.

There is transferability between the two strands. I think that we would all like to see more work being done together on the issues of sexual orientation and faith, where the greatest potential for misunderstanding exists.

**The Convener:** That was very helpful.

Let us move to another line of questioning from Bill Kidd.

**Bill Kidd:** Have we asked question 13?

**The Convener:** Sorry, I meant to call Sandra White.

**Sandra White:** My question follows on from the answers that were given to Michael McMahon’s question. It has been mentioned that some recommendations are transferable across the five strands. Will the group’s report—we are always asking about the report, but I know that we will see it at the end of the year—contain specific recommendations on individual groups of LGBT people? For example, will it contain specific recommendations on attitudes towards transgender people—who have already been mentioned—and bisexual people?

**Tim Hopkins:** A specific recommendation that I know is being considered by the citizenship and social capital sub-group is—I mentioned this earlier—on building the capacity of individual transgender people to be activists in the sense of advocating for transgender equality and understanding. The answer is yes, but that is the

only recommendation so far that has been identified as specifically aimed at one sub-group of LGB and T people. However, I am sure that more work will be done to ensure that the recommendations cover all parts, with sub-recommendations where necessary.

**Sandra White:** We will wait for the report to be published.

**The Convener:** Bill Kidd wants to ask about media, which I know has already been touched on. We are conscious of time, so we can take into account anything that has already been said. We want to get through all the questions so that we do not miss anything.

**Bill Kidd:** Some mention has been made of the image of LGBT people in the media. To what extent is the hearts and minds agenda helped or hindered by the images of LGBT people that are portrayed in the media? I am thinking specifically of characters in soap operas. Are such portrayals stereotypical and one-sided or are they beneficial just by their existence within such programmes?

One issue that I have jotted down on a wee note here is that I recently saw a television programme that I thought was a bit prurient in its demonstration of sex change operations. The discussion focused more on the mental state of a person in that circumstance than on understanding the person. How do you feel that you have influenced the media and how is the media influencing your agenda?

**Calum Irving:** That is an important question for the hearts and minds agenda. I touched on the issue earlier, so I will not go on too much.

When, some time ago, we did some focus groups of LGB people in Scotland—we did not manage to cover T people—on the representation of LGB people in the media across the UK, we found that people thought that it was less of a problem having a particularly notable LGB character in a comedy or a soap but more of a problem that representations of LGB people are always a little bit more interesting than they need to be. For example, they are either hopeless characters or deeply effeminate characters. They are very stereotypical. Obviously, as is the experience of most LGB people, I can say that I am a lot more boring than those representations would suggest. We found that there is a total lack of LGB people in the media doing the things that other people do, such as being teachers, going to work, going to church, bringing up families and all the other things that everybody does.

There is also still a problem, as you mentioned, with salacious or prurient interest in the media.

We all try to do media work but, as I said earlier, we need a greater ability to get more LGBT people

to come forward and build their confidence so that we can build a broader and more balanced picture of LGBT people in Scotland. Basically, we need to be able to help the media with the way in which they present people.

At the moment, we feel that the press or representative functions of public bodies, including the Scottish Government, local authorities and so on, are ill-equipped and unable to talk about LGBT issues and people properly. We feel that work could be developed to better support them and to give them basic information and confidence so that they can talk about such issues and, indeed, go further to take opportunities to say what they are doing to tackle LGBT inequality and prejudice. We hope that something positive will come out of the hearts and minds work.

12:30

**Bill Kidd:** That pretty much covered the areas of priority that we are considering. Are there specific priorities in relation to approaches to attitude-formers in society, such as the media, parents and peers, as well as Government, which you covered?

**Calum Irving:** I think that I summed it up in my previous answer—it is about better information, building confidence and our organisations being better able to deal with LGBT issues. It is also to do with those in public bodies who talk to the media being better informed and more confident to do so. We could develop specific work with those bodies and the media—a bit of media education, which my colleagues in Stonewall Cymru have tried and which has worked well. There has been quite an appetite for that.

**Marlyn Glen:** I prefer the positive attitude approach too—changing people's hearts and minds. However, when you spoke about the media and newspapers in particular, would not new legislation on incitement to hatred be helpful?

**Calum Irving:** I do not know whether that would be helpful; that is the simple answer. First, it is difficult to regulate the media; secondly, if we are talking about having a law to deal with incitement to hatred, we would want to be able to set the bar high so as not to restrict freedom of speech. My approach would be that trying to regulate the media is not the best way in which to deal with LGBT issues.

**Hugh O'Donnell:** Perhaps this is slightly controversial, but what responsibility do media personalities who are stereotypical representations have to reduce their stereotypical performances? How do you deal with that?

**Tim Hopkins:** That is a really interesting question. A lot of gay people look back 20 or 30

years to when “Are You Being Served?” was the main representation of gay people on television with not very positive feelings. However, my view—it is one that we have not discussed in the group—is that people should be able to present themselves in that way if that is how they feel. The problem with media representations is not so much the individuals and the way in which they present themselves, but showing the breadth and diversity in the LGB and T communities. If you see only very camp people, it suggests that all gay men are very camp. Some gay men are very camp and there is nothing wrong with that; they should be visible on television. However, most gay men are not very camp and those men, too, should be visible on television. Similar comments could be made about lesbians and every part of our communities. The point is about showing diversity and breadth.

**Hugh O’Donnell:** My concern is that for reasons of personal career development those who might be regarded as camp will behave in an excessively camp way in order to enhance their media profile, therefore taking advantage of the stereotype that we are trying to undermine. Those who do not fit that stereotype and who live fairly mundane and ordinary lives, like Calum Irving—I find that difficult to believe, Calum, but I know what you mean—are therefore of no interest, in relation to characterisation that they represent.

**Tim Hopkins:** Things have got much better in soap operas over the past 20 years, for example. Now, soap operas include characters who are gay, and the fact that they are gay could just be said to be part of the storyline. They go through the similar exaggerated trials and tribulations that everybody has in a soap opera, but their relationships are with somebody of the same sex, rather than somebody of the opposite sex. That is a very positive thing.

As for the boring LGBT people—[*Laughter.*]

**Hugh O’Donnell:** That is a matter of record now.

**Tim Hopkins:** They are on television all the time; the issue is whether people are out or not—whether it is known that they are gay. I do not want to say anything about anybody being boring, but I will start with one particular example of a gay person who is not camp but who is openly gay. When I moved to Scotland, Eddie Mair was on the radio all the time, and nobody knew then that he was gay. Then he came out, and that is a positive thing. Sir Ian McKellen is another example—we are talking about people who are not stereotypes, as we might think of them.

On the first part of your question, I cannot really say whether people exaggerate their stereotypical behaviour if that is the way that their act or

entertainment is done. However, I saw Julian Clary in a small pub in London in 1986, long before he was famous on television, and he was just as camp then as he is now.

**Hugh O’Donnell:** That was when he was performing as the Joan Collins Fan Club.

**Tim Hopkins:** Yes.

**The Convener:** It is encouraging to know that Julian Clary is consistent.

You have made some pertinent points about the media and there has been an interesting discussion about the regulation of freedom of speech. The comments that have been made will go to ministers at some point, but when will the subject hit the relevant committee? When will that committee—I am not sure which one it will be, but it could be the Education, Lifelong Learning and Culture Committee—look in depth at the subject? Does that happen? We constantly talk about mainstreaming, but where is that happening? Where is the evidence that what we are discussing will be looked at? What is your perspective on that?

**Tim Hopkins:** A number of the recommendations will be for the Scottish Government and other public services. We would very much like a mainstreamed approach to be taken in parliamentary committees’ scrutiny of what the Government is doing. I do not know whether that answers your question.

**The Convener:** I think that the term “mainstreaming” is sometimes counterproductive. It would be good to explain in words of one syllable what we mean, as we have done with education and the media. We should put it in stark terms. In that way, we could do away with the issue of mainstreaming and get down to the actual discussion.

**Tim Hopkins:** Absolutely. As far as I am concerned, mainstreaming simply means that it is everybody’s job to look after equal opportunities. It means that all the committees in the Parliament have to consider equality issues. We would certainly want the Education, Lifelong Learning and Culture Committee to hold the Government to account on what it is doing on the media recommendations in the report.

**The Convener:** Are you satisfied that mainstreaming is being filtered down, that it has been in the past and that it will be in the future?

**Tim Hopkins:** We have had positive experiences with some parliamentary committees taking LGBT equality into account. I am thinking in particular of the former justice committees’ work around the Sewel motions on the Civil Partnership Bill and the Gender Recognition Bill, and the

Education Committee's work on the Adoption and Children (Scotland) Bill.

More needs to be done to get equality, and LGBT equality in particular, embedded in the work of different areas of Government and of the corresponding parliamentary committees. Those areas will perhaps be identified in the recommendations.

**The Convener:** We come now to Hugh O'Donnell's line of questioning.

**Hugh O'Donnell:** Sorry—it is back to me again.

There has been a substantial amount of media coverage of perceived conflict between LGBT people and faith groups and institutions. Can you give us a flavour of the recommendations that have come from the relevant satellite group? To be clear, I am talking about institutions, rather than individuals.

**Tim Hopkins:** The religion and belief sub-group considered that issue. The media do not reflect the breadth of views within religious institutions about LGBT issues. It tends always to be the same voice or small number of voices that are reported in the media, which is why, whenever a proposal is made to move us towards LGBT equality, we generally see opposition to that, generally from the same quarters.

**Hugh O'Donnell:** Effectively, the orthodoxy—to use the generic term.

**Tim Hopkins:** If you like, yes.

To be explicit, we often see reports of statements from the Roman Catholic media office; we do not often see reports of statements from the Church of Scotland or the Episcopal Church. We know that there is a wide range of views in each of the churches—in particular, there were different views among those churches on the Adoption and Children (Scotland) Bill that went through the Scottish Parliament in the previous session—but only one tends to be reported. I think that, in part, that is because the media like to report opposing views. Consensus, or even a range of views, is not so interesting to them.

We also examined whether it is true that there is a conflict between equality and freedom from discrimination for LGBT people and freedom of religious expression and the manifestation of religion. We think that there is less conflict than is reported in the media. Calum Irving has already mentioned the successful project that Stonewall Scotland did jointly with the Scottish Inter Faith Council. They visited employers to explain to them both the law against discrimination on grounds of religion and belief and the law against discrimination on grounds of sexual orientation. They looked at the similarities rather than the conflict.

It is true that there have been cases in which the two freedoms have come into conflict, so several of the recommendations from the religion and belief sub-group are about dialogue—dialogue between faith organisations and LGBT organisations and between LGBT people of faith and their colleagues within those faiths who are not LGBT. We think that dialogue can be an effective way of dealing with some of the difficulties and stresses.

I can give the committee an example of a successful dialogue. The Church of Scotland working party that considered issues of sexual orientation and reported to the General Assembly last May was an effective way of bringing together people with different views on sexual orientation issues. It brought them together successfully to publish a report that did not say everything that we would have liked but was a major step forward. It was signed up to by all the diverse people involved. Dialogue is key.

We also think that it is important to clarify the framework of the law that we now have. We have laws on discrimination on grounds of religion, sexual orientation and transgender identity, and we also have human rights law on freedom from discrimination, of expression and of manifestation of religious views. It is important to clarify what those laws mean and where they interact. There are some hard cases, such as whether adoption agencies run by the Roman Catholic Church should be able to turn away same-sex couples. There has been a lot of controversy in that case, and the line in the sand is drawn by the law. It is important to clarify what the law says.

Some of the law is new and still developing through casework, so there will be a recommendation probably for the Equality and Human Rights Commission to look at cases to clarify where the boundary in law is.

We want to consider the issues positively. I hope that there will be a recommendation about facilitating a wide discussion in Scotland about what we want Scotland to be like. As the religion and belief sub-group of the hearts and minds group, we firmly believe that it should be possible to reach an agreement to disagree. We are never going to agree with everybody in Scotland on, for example, whether homosexual acts are a sin. Some people believe that they are; it is their right to believe that; and it is their right to say that they believe that. Surely, however, we should be able to agree to disagree about that and still live in mutual respect without discriminating against one another.

We would like a broad discussion about those issues in Scotland: what does it mean for Scotland to be a 21<sup>st</sup> century country in which people are free from discrimination and from unfair prejudice,

but also free to express views that are different? It is similar to the question of living in a multifaith Scotland, where people have different views but need a way of living alongside one another in mutual respect.

I hope that there will be an opportunity to discuss that also in the context of what the law should be and what the constitutional arrangements are around that law and around the way in which human rights are built into the Scotland Act 1998 and any developing constitutional changes.

12:45

**Hugh O'Donnell:** To some extent, my second question has been dealt with, but I have an alternative, very brief, question. In the dialogue that took place around the recommendations that will appear in the report, did you engage with any of the faith groups directly?

**Tim Hopkins:** Yes. The Equality Network held a conference earlier this year, which fed into that work. We had a set of workshops to consider religion and belief issues, and we specifically invited people who are involved in Christian faith organisations because of the difficulties that I mentioned earlier. We invited a range of people, including ministers, priests and laypeople who had grown up in a Christian background or who had joined the Christian churches. We listened to those people and heard about their experiences.

We heard about a range of experiences. For example, we heard from one man who grew up in a small Catholic community in Northern Ireland who found it very difficult; however, we also heard from people who did not find it difficult. For example, one of the people who spoke to us was a gay Episcopal priest who discovered his sexual orientation at about the same time as he realised his vocation in the church. He had gone to theological college as an out gay man and had not experienced the difficulties that some people experienced. Part of the value of that dialogue with those people with different experiences is the realisation that there can be a way through without it being a difficult experience.

**Hugh O'Donnell:** A good liberal approach.

**Elaine Smith:** I have some questions on process, delivery and the way forward. I wonder whether Hilary Third might be able to answer this question. I understand, from what Tim Hopkins said earlier, that the recommendations are due to be published around December. If the Government accepts the recommendations, will it consult on them? With whom will it engage? Basically, what happens next?

**Hilary Third:** The recommendations will be signed off by the core group, which will meet for the last time on 10 December. The group has not yet decided what it would like to ask for, and ministers' response will depend on what the group asks for. We will have some discussion about that later. We expect that there may be some informal, private handover and discussion with the minister in advance of the report's being made public. We expect ministers to give a formal response to the report some time in the new year; however, as I say, we need further discussion within the group.

**Tim Hopkins:** For us, the key thing is to get a positive response from the minister, but we will have to wait and see. We have no problem with the minister having a private look at the recommendations once they are finalised, especially if that leads to an early response from the minister. It would be disappointing if we had to wait for months for a response. If it were possible for the minister to look at the recommendations in advance and for us to launch the report publicly with a response from the minister, that would be very welcome.

**The Convener:** The committee would appreciate it if you could keep us updated on progress.

We have covered a wide range of issues in our questioning, but is there anything that we have not covered that could appear in the report's recommendations?

**Calum Irving:** I want to return to the issue of funding. We all receive specific project funding from the public purse, but Stonewall Scotland's funding is diverse and only the minority of it comes from public sources. I have two points to make.

The positive aspect is that, as the committee will be pleased to hear, much of the work is not about public funding but about what can be made clearer and done better, and voicing that to help strengthen political leadership.

We want existing funders, whether the lottery or local authorities, to be much more aware of LGBT needs and of the low capacity of the LGBT community sector in Scotland. We want to ensure that existing funders reach out and make funding more accessible, which would make it more diverse and less reliant on the Scottish Government.

**Fergus McMillan:** An area that has not been represented as well as others in our discussion is the work of the satellite group on citizenship and social capital, which looks at LGBT people as citizens, representatives and activists. The group looks at areas of good practice such as—I may be slightly biased in saying this—my organisation's work in Dumfries and Galloway, and the Borders. LGBT visibility often happens only in cities such as

Glasgow and Edinburgh, but our work outwith the cities provides a model for working with the LGBT community in rural areas.

Our work with young people in our LGBT centre in Dumfries and Galloway has highlighted the need for work with adults, who have come into the centre and said, "Your work with young people is all very well, but what about us? There is nothing for us."

One of our workers in Dumfries and Galloway reflected recently on the work that has been done there in the past 18 months or two years and felt that it had had one effect at least on the hearts and minds of the local population because they now know what LGBT stands for, whereas they did not have a clue before. The work is beginning to change, in a small way, the hearts and minds of local people. However, the citizenship and social capital group knows that there is a long way to go.

We have found that LGBT people in Scotland might not necessarily want to get involved in, for example, a committee or a local forum—the problem is often just about having things to do. A more positive celebration of the diversity of LGBT communities is LGBT history month in February, which will be in its third year in 2008. The project, which LGBT Youth Scotland hosts, involves a variety of activities, including the first showings of films with an LGBT theme in isolated communities, such as Knoydart in the north-west. For the first time, people in such communities can have the opportunity to end their invisibility and talk about issues.

Although Calum Irving said that many of the recommendations are not about capacity building and additional resources, some of the recommendations on citizenship and social capital are about increasing capacity, particularly in local areas. That goes back to the difficult question of how we impact on local communities if our recommendations are aimed at the Scottish Government—our work in local areas needs to be strengthened.

**The Convener:** Thank you. I thank all the witnesses for coming along today. We have found the session extremely worth while and I hope that you have, too. You have certainly given us a lot to think about and follow up on. I hope that you will keep us advised of your progress with the report.

**Tim Hopkins:** Thank you.

**The Convener:** The meeting will now go into private session.

12:54

*Meeting continued in private until 13:10.*



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