

EQUAL OPPORTUNITIES COMMITTEE

Tuesday 27 November 2007

Session 3

£5.00

© Parliamentary copyright. Scottish Parliamentary Corporate Body 2007.

Applications for reproduction should be made in writing to the Licensing Division,
Her Majesty's Stationery Office, St Clements House, 2-16 Colegate, Norwich NR3 1BQ
Fax 01603 723000, which is administering the copyright on behalf of the Scottish Parliamentary Corporate
Body.

Produced and published in Scotland on behalf of the Scottish Parliamentary Corporate Body by RR
Donnelley.

CONTENTS

Tuesday 27 November 2007

Col.

| | |
|---|-----|
| PETITIONS | 91 |
| Employment Opportunities for Disabled People (Public Procurement) (PE 1036) | 91 |
| Employment Opportunities for Disabled People (Homeworking) (PE 1069) | 91 |
| BARRIERS TO MAINSTREAMING | 93 |
| BUDGET PROCESS 2008-09 | 120 |

EQUAL OPPORTUNITIES COMMITTEE

6th 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:

Morag Alexander (Equality and Human Rights Commission)

Carol Fox (Thompsons Solicitors Scotland)

Morag Gillespie (Scottish Poverty Information Unit)

Calum Guthrie (Scottish Council for Voluntary Organisations)

Angela O'Hagan (Scottish Women's Budget Group)

Muriel Robison (Equality and Human Rights Commission)

Mary Senior (Scottish Trades Union Congress)

Scott Skinner (Scottish Enterprise)

CLERK TO THE COMMITTEE

Terry Shevlin

ASSISTANT CLERK

Roy McMahon

LOCATION

Committee Room 2

Scottish Parliament

Equal Opportunities Committee

Tuesday 27 November 2007

[THE CONVENER *opened the meeting at 10:31*]

Petitions

Employment Opportunities for Disabled People (Public Procurement) (PE1036)

The Convener (Margaret Mitchell): Good morning everyone, and welcome to the sixth meeting in session 3 of the Equal Opportunities Committee. I remind all those present, including members, that mobile phones and BlackBerrys should be switched off completely as they interfere with the sound system even when they are switched to silent.

Agenda item 1 is PE1036. The petition has not been formally allocated to the committee; the intention is to note it and to give members the opportunity to comment. The paper that is included with the petition is self-explanatory. On page 3, there are various suggested courses of action. Do members have any comments?

Marlyn Glen (North East Scotland) (Lab): Rather than talking about mainstreaming, the petition asks a specific question. I am glad that a meeting has been set up; my only concern would be that mainstreaming should not be forgotten about at that meeting.

Elaine Smith (Coatbridge and Chryston) (Lab): I suggest that we incorporate the three suggestions in the paper, and write back to the Public Petitions Committee, saying that we would consider the matter further if the petition were to be officially referred to us.

The Convener: Do members agree to adopt the three options in the paper?

Members *indicated agreement.*

The Convener: We will say that we do not have any specific views, but that we look forward to the outcome of the public procurement meeting. We can also suggest that the Public Petitions Committee could perhaps refer the petition to the Economy, Energy and Tourism Committee.

Employment Opportunities for Disabled People (Homeworking) (PE1069)

The Convener: We move to agenda item 2 and PE1069, which again has been referred to the committee for comment. Do members have any comments on the petition?

Marlyn Glen: I have a similar comment to my previous one. Homeworking should be part of mainstreaming. People with disabilities could take advantage of homeworking, as could other people with caring responsibilities. I agree with the recommendations in the paper.

The Convener: If there are no further comments, are we happy to note the recommendations in our paper? The Public Petitions Committee might wish to monitor the outcome of the meeting on reserved contracts and public procurement.

Members *indicated agreement.*

Barriers to Mainstreaming

10:34

The Convener: Agenda item 3 is a round-table discussion on the barriers to mainstreaming in Scotland. The session marks equality and diversity week in the Parliament, and the European year of equal opportunities for all. I welcome all our witnesses, who have joined us at the table. The session will be less formal than our usual evidence taking, although I remind everyone that contributions should still be made through the convener.

I ask everyone to make a brief introduction. I will start: I am Margaret Mitchell, and I am the convener of the Equal Opportunities Committee.

Hugh O'Donnell (Central Scotland) (LD): I am an MSP for Central Scotland.

Morag Alexander (Equality and Human Rights Commission): I am the Scotland commissioner for the Equality and Human Rights Commission.

Marlyn Glen: I am an MSP for North East Scotland.

Michael McMahon (Hamilton North and Bellshill) (Lab): I am the MSP for Hamilton North and Bellshill.

Scott Skinner (Scottish Enterprise): I am the head of equalities for Scottish Enterprise.

Bill Wilson (West of Scotland) (SNP): I am an MSP for the West of Scotland.

Bill Kidd (Glasgow) (SNP): I am an MSP for Glasgow.

Mary Senior (Scottish Trades Union Congress): I am an assistant secretary at the Scottish Trades Union Congress.

Sandra White (Glasgow) (SNP): I am a Glasgow MSP.

Carol Fox (Thompsons Solicitors Scotland): I am head of equality at Thompsons Solicitors Scotland.

Elaine Smith: I am the MSP for Coatbridge and Chryston, and the deputy convener of the committee.

The Convener: Thank you, everyone. We are disappointed that Fran Wasoff will not be with us; unfortunately, she is ill. However, I am sure that we have got more than enough to discuss and that there will be more than enough views from the panel to make this a stimulating session.

Marlyn Glen: Do all organisations and members of society know what is meant when we talk about

mainstreaming equal opportunities? Does everyone support the principle of mainstreaming?

Morag Alexander: It is probably true to say that not everybody understands what mainstreaming is. However, I read the information that was sent to me by the clerk and, looking broadly at mainstreaming in the Scottish Government, and in the Scottish Parliament and its committees, the guidelines on how to do it are very effective. The guidelines look good, but I am not convinced that mainstreaming is actually done in that way.

The intention is that policy makers should look at what individuals and groups of people need in order to get the best possible outcomes. That is the way in which mainstreaming should be handled, but I am not sure that that is fully recognised or that mainstreaming is always done appropriately. Mainstreaming is not about treating everybody the same, but about recognising that people need different things in different circumstances, and that the policy process should enable that to happen. The right questions need to be asked about different groups of people. In education, for example, the question is whether all our pupils in Scotland can get the best outcomes for themselves. Those questions need to be asked in that thorough way.

The Convener: Are there any other views? Has mainstreaming become a cliché? Are people not focusing on what was meant by mainstreaming? Is the concept going over their head?

Carol Fox: Marlyn Glen asked whether all organisations and members of society know what mainstreaming means. Some organisations have half an idea of what it might mean, but members of society generally—the Scottish voters—do not really know what mainstreaming equal opportunities means to them in practice.

My remit in Thompsons Solicitors is to deal with discrimination complaints that go before the Tribunals Service. The number of complaints that we still get shows that although equal opportunities policies are in abundance in many organisations—and they use the language of mainstreaming—the issue is whether they are implemented and have any practical effect, particularly at the level of the workforce for which we deal with cases via our trade union clients.

The Convener: Is the situation the same for Scottish Enterprise?

Scott Skinner: Yes. I agree with Carol Fox and Morag Alexander. Mainstreaming is well understood by diversity practitioners, but perhaps not in wider society. We tend to avoid the term altogether and talk about embedding equal opportunities within organisations.

I will offer two perspectives: one from Scottish Enterprise and one from the business community. As an employer, Scottish Enterprise has done a lot of work to try to get the concept across to staff; we have been pretty successful at doing that. Linking the concept into the organisation's business objectives has worked wonders for us. We have said that following a diversity or equality route is not only a good thing to do—and a legislative requirement—but that it will help our staff to do their job in economic development.

We are following the same route as far as the business community is concerned, because mainstreaming equalities is even further off its radar. Larger businesses get the concept of mainstreaming and understand that, like health and safety, it is everyone's job. However, small and medium-sized enterprises have a lot of work to do just to raise awareness of equality, before they even think about mainstreaming it. We have a project called equality matters in business, which is running across the Scottish Enterprise and Highlands and Islands Enterprise network areas. It is about creating a hunger among the SME community to get a broad understanding of what equality is and then working towards achieving the mainstreaming equality objective.

The Convener: Is there more of an emphasis on diversity and on equality coming through diversity? We have just returned from the equal opportunities for all conference in Lisbon. L'Oreal gave a presentation and told us that diversity was one of its core values, because it recognised the economic benefits and the benefits to its image that that could bring. Are other companies doing something similar? Are you seeing more of that in private sector companies?

I will return to the STUC in a minute to hear about the other side of the equation.

Scott Skinner: We are undoubtedly seeing more of that. Given the number of migrants from Europe, a lot of companies know that if they are going to fill skills gaps or positions in their organisations, they will have to look to non-traditional sources. They must deal with equality and diversity issues, particularly as they relate to workers from the accession countries.

Diversity is driving equality. There is a debate about what is equality and what is diversity. To me, diversity is the reactive side and equality is the proactive side. An organisation can be diverse, but it might not be equal. A business might have a diverse workforce, but it might not necessarily be equal.

The Convener: Do you want to give us the STUC perspective on that, Mary?

Mary Senior: Yes. "Diverse" is a safe and cosy term with which we feel comfortable, but it can

hide things like discrimination, which impacts on people's lives in a damaging and devastating way. When we use the term "diversity", we must remember that measures are needed to support all people to achieve their potential.

I agree that there is not a wide understanding of mainstreaming. It is important that the distinct needs of different groups of people are brought out. We can consider the six equality strands, but we must remember that people have multiple identities. To mainstream effectively, it is important that we consider how policies impact on different people and consider their needs, so that we can deliver for them.

10:45

Elaine Smith: The second issue within the wider context of barriers is to consider the ultimate goal of equal opportunities policy and legislation and how we will recognise when society has reached that happy state. Whether we use the term "mainstreaming" or any other term, we are talking about something that is second nature: considering people's different needs and requirements.

If you have an excellent, well-trained member of staff who has gone off on maternity leave, how do you ensure that they will want to, or will be able to, come back to work? Some of the obvious barriers to that are around child care, such as crèche provision, child care vouchers or arrangements for homeworking, which was raised in one of the petitions that we discussed earlier.

When will we know that we have reached the happy state of affairs? What sort of barriers are there to mainstreaming equality? Do you think that mainstreaming is about looking with equality eyes at every situation?

Morag Alexander: We recognise that there are a lot of barriers, some of which you identified. Your question how we will know when we have got there is huge. We need to know where we are at present, because we are not entirely clear about that. The equalities review, to which I understand that the Scottish Government will respond shortly, did not consider carefully or closely what is happening in Scotland. The Equality and Human Rights Commission and its statutory Scotland committee will be doing something to amend that. As you know, we were set up only in October. In the months before we respond to the review, we will listen to what people in Scotland think the situation is now and how we get from here to the happy state to which you referred. We need to do some work on understanding where we are now.

I do not think that we have a shared view of what equality really is. Once we have had that debate, on which the Equal Opportunities

Committee can lead, we will begin to understand how we make progress. We need to have a starting point before we get an understanding of how we move forward. We can then demonstrate year on year what progress we have made. The Equality and Human Rights Commission will make state-of-the-nation reports every three years. That will include a state-of-the-nation report on where we are in Scotland. We will be able to measure how far we are getting year by year and every three years we will make a formal report. That does not answer your question on how we will know when we have got there, but we will be able to measure progress.

Elaine Smith: My question was intended to stimulate discussion. It is hard to know how we will get there. Carol Fox provided an excellent written submission, which includes some practical suggestions on that. Perhaps she would like to comment.

Carol Fox: The starting point is that we have to build on strong foundations. From my point of view in the work that I do, it is just too difficult for individuals to challenge the discrimination that they face. I am focusing on the workplace particularly. We have a system that relies on individuals challenging and taking individual cases to an employment tribunal; all the onus and responsibility falls on their shoulders. When people start to ask questions or to submit a grievance or make a complaint, that is often the death knell for their career. That should not be the case. We have all the protections in theory, but the reality is that it is hugely difficult for people to make a complaint. If a person is not in a trade union, how do they fund an employment case? How do they ensure that they get access to a sympathetic lawyer who is briefed and knows about this area of the law? There are huge barriers to implementing the law as it exists, never mind looking at building on what we have. Having read everything, I am very supportive of the Equal Opportunities Committee. It is essential that we mainstream and integrate the principle of equal opportunities into all future legislation.

As I set out in my paper, my concern is how we ensure that there is effective monitoring and implementation of the existing legislation. If putting the theory into practice is cumbersome, with the result that the justice system is difficult to access, expensive and does not provide the outcomes that we would want for people, we must consider whether there is an opportunity in the smaller Scottish devolved jurisdiction to look at pilot projects and to run with some of the ideas that have emerged from the Westminster Government's discrimination law review. For example, we could consider piloting class actions and alternative dispute resolution and we could examine existing compensation remedies.

It is vital not only that we incentivise employers to implement equal opportunities policies and the work that is done by the Equal Opportunities Committee and legislators down in Westminster, but that we give people an understanding that such implementation is imperative. Perhaps I can use the analogy of the smoking ban. For years, persuasive arguments were made about the health benefits of stopping smoking. We tried to bring people with us but, ultimately, it was understood that it was in everyone's best interests to have a ban on smoking in public places. I would like a ban on discrimination in the workplace to be completely understood, implemented and robustly underpinned by access to justice, funding, early advice and mediation. It is to the benefit of all parties for mediation to take place before a legal case is pursued.

The process that I am talking about need not be scary for small businesspeople or employers, if they have access to good legal advice at an early stage, if they know how to implement the policies and if they understand the principles behind them. However, I get a bit frustrated that while we rehearse the same arguments, those of us who are employed to take individual cases, along with people such as Mary Senior at the STUC, know how immensely difficult it is to be a claimant in Scotland. It is extremely difficult to go to a tribunal and say, "Excuse me, but I've been discriminated against and would like to exercise my rights under the law."

Mary Senior: I return to the question of society knowing when it has reached the point to which Elaine Smith referred. We can all have an idea of a utopia in which there is no gender pay gap; in which black and minority ethnic people are able to do any job that they want, to get promotion and to access training; and in which disabled people are not more likely to be unemployed but are able to go into work. However, Carol Fox has made some good points about mechanisms in the workplace to enable people to assert their rights and to help employers not to discriminate in the first place.

In the Scottish Government and at Westminster, people need to move past the red-tape arguments and to realise that voluntary approaches to issues such as the gender pay gap and flexible working—whereby mothers, fathers and people who care for older or disabled people can get time off to look after them—have not worked. If people are to access such rights, they must be given them in law.

Stereotyping is another area that we need to get to grips with. Assumptions start to be made when boys and girls are at an early age, with the result that they are pigeonholed into certain roles, which can have a significant effect on them throughout their lives. That is a hard nut to crack. If we are

ever to address such issues, policy makers and the media will have a role to play and a raft of education and other measures will have to be taken.

The Convener: When we consider the budget later in the meeting, we will examine issues such as modern apprenticeships. There is a stereotype that apprenticeships in a profession such as engineering would automatically go to males. Is that the kind of thing that you are thinking about?

Mary Senior: Yes. Many girls and boys might have been forced into certain roles from the age of one or two, with the result that they make subject-choice decisions at school that affect their future work prospects, the modern apprenticeships that they can do and the careers that they can go into. It is important that we set gendered targets for modern apprenticeships and that we encourage more black and minority ethnic people into them. We have not looked at that area before.

Hugh O'Donnell: I have a brief question for Carol Fox. Anecdotally, it seems that discrimination cases are often strongly focused on an individual. My limited knowledge of a class action suggests that it would have a much wider scope. In proceeding with a class action on a point of principle, how do you ensure that the individual cases of discrimination under that umbrella are addressed?

Carol Fox: With individual cases, whether they are to do with pregnancy discrimination or a refused application for flexible working, one often finds that although only one person has been brave enough to put their head above the parapet and take a claim to a tribunal, many people in the workforce are affected. The number of legal cases that are proceeded with represents only the tip of the iceberg. A large number of people just leave their job or look for alternative employment, so the issue is not addressed. What happens to one person is often representative of what happens more widely in the workplace.

It would be an improvement if a successful outcome in a particular case could have an effect on what happens back in the workplace. As things stand, an employment tribunal has powers to make recommendations, but they are seldom used. If a case has a successful outcome, the individual's situation is considered and they might be given a relatively small amount of money by way of compensation, but no look is taken at the broader impact of what is happening back in the workplace or at how the future career of the person concerned might be affected.

With representative or class actions, a whole body of people might await the outcome of a case. If we structured the means of taking cases differently, the outcome of a particular case could

have a much wider impact. The process would be less difficult in that individuals would not have to be brave on their own—bodies such as trade unions and the Equality and Human Rights Commission could step into their shoes and share the responsibility and the difficulty.

Hugh O'Donnell: Thank you for that. The number of large-scale employers in Scotland is not great. How would developing a representative or class action model impact on small and medium-sized businesses? If a decision in a case is generalised in what I would think of as case law, what impact would that have on smaller operators? I am not talking about the big employers, such as IBM. Increasingly, Scotland's economy is founded on SMEs.

Carol Fox: We must offer support to small and medium-sized businesses to understand the law. We must also ensure that they have the tools and the mechanisms to implement it in the first place, which would avoid the difficulties that arise when they face tribunal cases. There is no exemption for small businesses from the obligations of the equal opportunities legislation. We must enable them by ensuring that they have the funds and resources to implement the legislation and to stop and think about how they treat staff. If one person takes a case to a tribunal, there will be an effect throughout the workplace, given the adverse publicity and the low morale that accompany such proceedings.

When I worked with Morag Alexander at the Equal Opportunities Commission, I was involved in the equality exchange, which was a forum that employers could sign up to, through which they could share expertise and attend seminars. The problem was that one was often speaking to the converted—the people who were interested in the issues and wanted to know more about them were often in the room. The challenge was to get to the people who were not in the room. The project that Scott Skinner mentioned is about showing that such principles are important and are to everyone's benefit, including that of the employer.

At present, the only way of dealing with a polarised situation is to become involved in adversarial litigation, which is in no one's interests. That is why I bullet pointed my top four recommendations in my submission. I asked the Parliament to look at the amount of money that is spent in Scotland on employment tribunals and at the outcome of discrimination cases. Given how difficult it is to take such cases, we should consider creative alternatives. Although the primary legislation on such matters is reserved to Westminster, we in Scotland have it within our power to find new and creative ways of ensuring that mechanisms are built in underneath all the legislation. If we can make it mean something, we

will take a small step towards increasing the pace of implementation of equal opportunities in Scotland.

11:00

Scott Skinner: That is an important point. If we carry on as at present, it will take 200 years before we achieve equality in Scotland.

I want to make a couple of points. First, I guess that I get disappointed by the them-and-us feeling that exists in the equality field. There is a feeling that employers are baddies and that the public sector is not doing enough. I believe that we all need to work together on the issue. Employers in general—Carol Fox is in the thick of things, so she sees employers that may not be as advanced as those that we come across—are not overly discriminatory or prejudiced. They just want to get on with the job. They want people who are happy to work for them and who can get products out so that wages are paid.

Undoubtedly, prejudice exists and we need the law as a backstop, but an adversarial approach will just not work. We need to pull employers along with us by selling the business benefits. I think that employers are pretty aware of those benefits, but they may be ignorant of how to have equal opportunities policies to handle workforce diversity and that sort of idea. Generally, if we give businesses the tools, I think that they will be successful in mainstreaming equality.

Another important aspect is individual empowerment. In our work, we see many disabled and ethnic minority people who lack the confidence to stand up for themselves and to point out incorrect employment practice. We also need to empower people to start their own businesses. Empowerment is about that sort of idea. We need to look at the individual as well.

If we can all work together—both the public sector and the private sector, both employers and individuals fully empowered—we will make massive steps towards achieving equality. Unless we include all the players and get away from the them-and-us mentality, we will not make major strides towards equality in Scotland.

The Convener: That is an important point. Instead of pigeonholing people, we need to work together and look at where people can co-operate.

Bill Wilson: I have two questions. First, given Carol Fox's comment that tribunals generally do not make enough recommendations, do we need to have the opportunity to take class actions or do we just need tribunals to make recommendations? If tribunals always made recommendations about the workplace or more general recommendations, would that solve most of the problems that we have discussed?

Secondly, perhaps I am just being slow, but I always thought that a class action involved a group of people getting together to take legal action. However, Carol Fox suggested in her answer that such actions involve acting on behalf of an individual in a company and that such individuals need to put their head above the parapet for the action to be taken. Can she clarify my slight confusion?

Carol Fox: Surely. On the first point, yes, it would be an improvement if tribunals exercised their recommendation powers more often, but such recommendations would apply only to the individual complaint and might have limited impact back in the workplace.

On the second point, the issue of how representative/class actions might be implemented within our system needs further examination and research. Obviously, class actions raise the spectre of an adversarial American litigious system. At the moment, legal action can be taken on behalf of a group of people, but each person must fill in the necessary application form, and the process is cumbersome. For example, we know that tribunals are currently dealing with large numbers of equal pay complaints. For each of those, the individual will have had to ensure that they submitted the complaint within the necessary time limit and put their individual grievance in terms of the law as it is at the moment—although, thankfully, the law is now being re-examined. Lots of boxes need to be ticked in such a bureaucratic, formulaic process, and a great deal of responsibility is placed on the individual, who is required to ensure that they do certain things within a certain time.

If, as Trevor Phillips said recently in the context of equal pay complaints, a representative body could step in as the agent for a group of people and act on their behalf, the legal onus would not be on the shoulders of the individual claimant, as is the case at the moment. Perhaps the committee and the Justice Committee could explore that issue further.

Morag Alexander: Everything that Carol Fox said is absolutely accurate and correct.

We still face the absolutely shocking scandal of the gender pay gap. Although the Equal Pay Act was passed in 1970, in 2007 we still have a gender pay gap of 14 per cent. Over the past two years in Scotland, the gap has widened, which is disgraceful. We obviously need better legislation to enable people to exercise their rights.

Many of us were disappointed with the Westminster Government's proposals for a single equality bill which, broadly speaking, seek simply to bring bits of legislation together to make the law clearer, but that misses a tremendous opportunity. I understand that the Westminster Government is

now listening and that it recognises that we need to take the opportunity to recast the legislation to ensure that there is better access not just to equal pay but to genuine equality for everyone.

We tend to look at the various protected groups that are identified in the legislation that established the Equality and Human Rights Commission and in the exceptions to the reservation in the Scotland Act 1998, but equality is actually for everyone. There will be a time in everybody's life when they feel that something is not fair, and the committee and the Scottish Government can play an important leadership role by putting the case that the issue is about them as an individual. We need to make that case based on the real experiences of people. Equality is not just about groups; it is about you and me, our children, the people who live next door and the kind of society that we want to build. It is about respect for others—respect for each and every one of us—and helping people to be the best that they can be.

Mary Senior: I want to pick up on a couple of points that Scott Skinner made. Although there are clearly some good employers, some employers are not good and they do not comply with the legislation. For example, around 1,000 women a year are sacked or suffer some detriment just because they are pregnant. People still face racism and discrimination because employers do not have effective bullying and harassment or dignity at work policies. Employees suffer as a consequence. In addition, we still have a gender pay gap, which is clearly just exploitation of women, in that they are not paid the rate for the job.

I also challenge the point about BME people lacking confidence. Generally, we do not need to put the onus on the individual; we need to look at the structural issues. Before it was merged into the EHRC, the Equal Opportunities Commission did some work earlier this year on pay and progression for black and minority ethnic women. We found that assumptions are made about such women, that child care is not always suitable for their needs and that they do not receive training opportunities. I do not want the committee to be left with the idea that the issue is about confidence, because there are clear structural issues and barriers that need to be addressed in relation to how we support people to achieve their potential.

The Convener: I want to ask about data collection. The Scottish Trades Union Congress and all the organisations around the table must have a wealth of experience of discrimination cases. The issues that have been raised should be in the public domain and people should be aware of them, but we do not seem to have a system for collecting and using data in a meaningful way.

Mary Senior: We can look at employment tribunals and the useful statistics that are collected by The Labour Research Department. One problem with employment tribunals is that many cases are settled before the tribunal hears them or reaches a conclusion. As Carol Fox said, often nothing further happens after a case has been settled. In addition, a secrecy clause often prevents the person from publicising the issue.

When trade unions get settlements, they publicise them. Unison has been involved in a number of high-profile race discrimination cases in the past couple of years, but it is often in the member's interest simply to settle. Taking a case through an employment tribunal is a hard process, and trade unions must think of their members. Therefore, often no publicity results when a case is settled.

Elaine Smith: What are the views of Mary Senior or Carol Fox on tribunals being people's courts, as they are supposed to be? We can think of theoretical cases, but people inevitably are up against businesses that can employ many lawyers and Queen's counsels. Businesses may be able to take advice at that level, but individuals cannot.

Carol Fox: The situation is impossible for individuals now. In theory, people can represent themselves, but that would be very difficult, because there would be such inequality of arms. It is different for a party litigant going to a tribunal. The chair has a duty to ensure that the process is fair, but that is a difficult starting point.

I want to pick up on the issue of collecting data and information. A wealth of information exists. The *Equal Opportunities Review*, for example, is a good source of information. I have brought with me information on compensation awards that were made in 2006. The shocking reality is that, across all strands of discrimination, the average compensation award was £13,260. The median award—half of the awards are above the median and half are below it—was £7,500. Who will take a complaint to an employment tribunal and risk their job, their future financial security, their mortgage and their children's future for the prospect of getting £7,500, some of which may have to be paid to a lawyer if they are not in a trade union? That is why we do not have equal opportunities and why equal opportunities are not mainstreamed. Things are too difficult. We must consider the structural mechanisms.

I agree with Mary Senior. The issue is how to empower everyone. We should not blame victims. We must consider the difficulties that people face in enforcing their rights, and we must make the process much easier and simpler, so that employers understand people's rights and everyone in the workplace can have a dialogue and resolve problems at a much earlier stage. The

current system does not produce the results that we need.

Bill Wilson: Something that Morag Alexander said triggered me to think of a note that I have on my briefing paper. Why has the gender pay gap increased over the past couple of years? Long answers could be given to that question, but responses should be brief.

Morag Alexander: Discrimination is likely to be the cause of that increase. I think that discrimination against women is at the root of unequal pay. We are talking about full-time workers, but the situation for women who work part time is particularly disgraceful. Many women work part time because they need to balance their work and family commitments. They choose to work part time because they do not have access to the child care and support that would enable them to work full time, albeit that they would be discriminated against in full-time work to the extent that there is a 14 per cent gender pay gap.

There are other issues. Women and men largely do different jobs. In the care sector, for example, women are paid very low wages. Not many men work in that sector, but services would be much better if they did, because they would be more appropriate for the men who prefer to be cared for by someone of their own sex. In fact, wages are lower in areas in which a great majority of the workers are women.

Bill Wilson: I fully accept that discrimination has resulted in the gender pay gap increasing, but I was thinking about why that gap has increased in the past couple of years. Discrimination still exists, but if the situation had started to reverse and the gap had started to close, why has it increased in the past couple of years? What has changed? Has anything changed? Has there simply been a fluctuation? I accept without question the answer that has been given, but why has the pay gap increased in the past two years?

Morag Alexander: I do not know why that has happened. The increase has been tiny, but it has happened over two years, so there might be a trend. In that case, we would want to consider the matter.

11:15

The Convener: Does anyone else have any ideas about why the gender pay gap has increased?

Carol Fox: With respect to mandatory pay audits and making pay systems transparent in the workplace, it is disappointing—to say the least—that in this day and age employers can still have policies to discipline people who ask their colleagues what they earn. That is a big step away

from being open and transparent about pay systems. Questions need to be asked about that.

The Convener: We shall move on. Bill wanted to go into an issue in a little bit more detail.

Bill Kidd: Me?

The Convener: Yes, Bill Kidd.

Bill Kidd: There are too many Bills on this committee.

We will not move on far, because questions on equal opportunities interlink a great deal. I apologise to the witnesses, but I will try to ask about matters that have not yet been fully covered.

We know that our society is diverse, but new diversities are coming through all the time. A large number of immigrant workers with different cultural backgrounds and different expectations on wages and conditions are coming into the country, and there are new discriminations. Carol Fox may know a little about asbestos victims and haemophiliacs who have acquired HIV or hepatitis C and are looking for justice. There has been a failure to address the types of discrimination that currently exist in our society, so it is difficult to measure the new discriminations that exist or will exist. Can we measure them using the bare and inadequate data that a couple of witnesses have mentioned? Are the data the reason why there has been a failure to make a serious impact on discrimination in society? Is that failure down to existing data not being properly interpreted or acted on, or is it the result of our not having enough data? Anybody who understood those questions may answer them.

Mary Senior: In the previous session, the Scottish Executive set up a group to consider ethnic minorities in the labour market. In Scotland, we do not have enough data on black and ethnic minority people generally. One recommendation that the group wanted to make was that the census and the labour force survey for Scotland should be boosted so that the experiences of black and minority ethnic people in Scotland could be picked up. It would be useful if the committee progressed that recommendation.

I want to mention the role of audit and inspection bodies. In the public sector, local government, health bodies and non-departmental public bodies, for example, need to comply with gender and equality duties and the equal opportunities requirements of best value. If Audit Scotland and the other inspection bodies were to inspect the different public sector bodies on equalities issues, much of the discrimination that we face could be addressed. Such inspections would ensure that services for different groups in society were delivered in an appropriate way.

Morag Alexander: I am not sure that I will answer Bill Kidd's questions, but I think that there

are gaps in our knowledge and understanding of some of the new equality strands that are now protected under the Westminster legislation. For example, we do not know enough about the experiences of lesbians and gay men, about transgender people's experiences in employment, about people's experiences in society with respect to their religion or beliefs, or about the extent to which such experiences impact on those people's lives and their comfort in living in our society. Age is another aspect of people's lives on which we do not have sufficient information. If you are asking whether we need to plug some of those gaps, my answer is that we do—in Scotland as well as throughout Britain.

Scott Skinner: I am not blaming anybody for inequalities. We do not want to have a blame culture when we all have to work together.

Morag Alexander is right to say that there are big gaps in the evidence, particularly in the new equalities strands. On some of the more established strands, such as race and gender, we have quite a lot of information. A plea that we often hear from underrepresented groups is that, having researched them almost to death, we need to take action. A balance must be struck, but there are new areas, which Morag Alexander is looking into, on which there is a need for evidence.

I agree 100 per cent with Mary Senior's point that the audit inspection bodies could have a massive influence on changing equality in Scotland. In particular, although Audit Scotland and Her Majesty's Inspectorate of Education are doing good work, they could do an awful lot more. Nothing focuses the public sector more than having an audit, and if we could mainstream equalities into the audit process we would be on to a real winner. It is not just the private sector that is failing to achieve equality in Scotland; the public sector has a big role to play as well. Much of the public sector—not through not wanting to do it, but through inexperience or ignorance—has not been able to take forward equalities in Scotland.

Bill Kidd: Are people saying that audit inspection bodies should have greater powers or that politicians have plenty of information but have just not acted on it to ensure that issues are followed up?

Carol Fox: I hesitate to get caught up in measuring things endlessly when we know the extent of the problem. We need action to tackle the problem. I do not think that there has been a lack of political will. The Scottish Parliament and Westminster have passed a lot of worthy legislation, but we need to examine the structures that people access and to protect their rights. A lot of awareness raising is carried out by campaigning organisations and trade unions, so that people are more aware of their rights. The question is more

about what people do when those rights are breached. That is one of the major gaps.

For audits, it might be helpful if private companies and public organisations had to publish in their annual accounts how much compensation they had had to pay out in legal cases for not implementing their policies. One strand of government is putting a lot of resources behind equality units, glossy policies and rolling out legislation, but do we know what is happening at the grass roots? I have raised that question.

We deal with cases across the board. Unfortunately, at times, cases against larger local authorities might run to a tribunal, whereas a small company might take a more pragmatic approach and secure an economic settlement. A local authority might allow a case to run because it is funded by taxpayers' money. There are issues to be considered, such as the stage at which the officers or the people within organisations who take the decisions whether to defend cases are accountable to the political powers—be they councillors or MSPs—and the ability of those people to say, "That is not acceptable. You have to deal with things in a different way."

I am aghast at some of the defences that are put up in some cases. Thompsons Solicitors acts only for trade unions and employees—I have to give the company a wee plug while I am here—but other solicitors firms charge vast amounts of money to some of our local authorities. Questions must be asked about the proper use of taxpayers' money in such circumstances. In cases in which an individual is up against respondents who, on behalf of a local authority, endlessly make every technical point that they can, I think, "Good God, what sort of bill is the authority going to get at the end of the case and who's going to pay it?" In fact, part of it is paid by me out of my council tax, and I am not happy about that. How can we address such issues? I always return to the pragmatic issue of the implementation of current legislation, which is just not enforced or enforceable.

The Convener: There is an accountability and transparency issue. Would Mary Senior like to comment? Your union will probably be in there defending individuals and considering how long cases have gone on past the stage at which they should have been settled and resolved.

Mary Senior: The STUC represents all the unions in Scotland rather than individual members, but Carol Fox has made some valid points. With regard to audit inspection, we are calling not for more powers but for enforcement of the existing powers and legislation, to ensure that organisations comply with the Race Relations (Amendment) Act 2000 and the duties to promote equality in the best value legislation. If Audit Scotland placed a higher value on that, the situation could be better.

The Convener: That is an interesting point. On a number of occasions I have been at meetings with many officials and wondered how much it was all costing the taxpayer, whether all the officials were vital to the meeting and whether there was a better way to do it. That was a very interesting line of questioning.

Bill Wilson: Carol Fox spoke about councils. Is it possible that the councils tend to argue things out for longer because they are large organisations and they are worried about setting a precedent, or is it just that they do not consider the implications for taxpayers' money?

Carol Fox: That could be an explanation, but it is more likely that cases get stuck within a department at a certain level in an organisation and do not go higher up to someone to consider whether it should be defended or settled. Reports might be made after the fact, but although councils—and not just councils, but large organisations and universities—have political principles and policies, we find ourselves having arguments with them that do not need to be had. Cases that could be settled at an early stage are not, because the individuals who take the decisions do not have the discussion within the organisation.

Bill Wilson: So it is not about precedent—it is about an almost incompetent use of councils' own procedures.

Carol Fox: I hesitate to call anyone incompetent, but yes, you might be right.

Morag Alexander: I have a point about inspection bodies, which relates to Bill Kidd's question and to what Mary Senior said. The inspection bodies do not need more powers, but this committee—and the Scottish Government—can control that area in Scotland and they have a real role to play. The issue is leadership, and asking whether we are focused enough on the quality of service that people get, for example in relation to equal opportunities and best value. The same is true of inspection in education.

The negative reports that some local authorities have had are searing, not just for the people who work there and for the councillors but for the people of the community. To draw a parallel, just as employers hate to get a negative report from an employment tribunal, local authorities hate to get a negative report from Audit Scotland and they try to do their best. West Lothian Council, for example, was the best council in the whole of the United Kingdom one or two years ago—it has been using that on its logo and on the sign that is seen on entering West Lothian along the M8, and it has done enormously well. Part of that is about councils getting it right on equality and best value. There are winners in all of that: not just the local

people, but the council, which can present itself as a good local authority. This committee, the Scottish Parliament and the Government have real clout in this area.

11:30

Scott Skinner: An example is the internal audit of our compliance with the race equality duty that we carried out a couple of years ago, which worked wonders in the organisation in focusing people's minds. The report had to go to our board and be seen by our chief executive, and all of a sudden the actions started motoring. There is a real opportunity for inspection bodies to get involved.

I have another comment about the public sector in general. Equal opportunities is a poor cousin among the other cross-cutting themes in Scotland, such as sustainability or health and safety. We are fortunate enough to be part of a forum involving the United Nations, the World Bank and the International Monetary Fund, whose equality people report directly to their organisation's chief executive. In the public sector in Scotland, there are few equality directors or people who report directly to the chief executive. There is a credibility issue in Scotland around equality. If the committee could do anything to boost credibility in the public sector, we could have a great advantage.

Sandra White: It is interesting to listen to all the comments, but I have a quick question for Morag Alexander. You mentioned a report coming to Parliament once a year and then every three years. If you had the information that Carol Fox referred to, on successful and unsuccessful tribunal cases, would that form part of your report?

Morag Alexander: It could do. We are looking to report progress, so results at tribunal could be part of that if progress is being made. If progress is not being made, we will want to know why and to report on it.

Sandra White: Who would say if that would or could be part of your report? Would the Equal Opportunities Committee feed into the process?

Morag Alexander: The Equality and Human Rights Commission has a responsibility to produce a report every three years. It is a state-of-the-nation report and it is a responsibility at Great Britain level. We would want to produce the same kind of report in Scotland, and we would certainly work with this committee and the Scottish Government to ensure that we had all the information that we needed to produce the report.

Hugh O'Donnell: My original line of questioning has been dealt with fairly adequately, but several witnesses have referred to the role of the Government. As everyone will be aware, we have just had the comprehensive spending review.

Notwithstanding that there appears to be an increase in the equalities budget, have you come across any evidence of specific allocations to deal with the issues that we have been talking about? I cannot find any.

Carol Fox: Not specifically in relation to the current budgetary issues, but if some of my suggestions about mediation were taken up, for instance, there would be a cost saving because there would not be the same lengthy process at an employment tribunal. That would not necessarily increase costs, and there might be a chance to stand back and ask about the most effective use of taxpayers' money to deliver access to justice.

We need to consider increasing funding for cases when people are not in trade unions. How do they fund access to justice? Legal aid in the employment sphere is very limited, and we need to consider the effect of that. It would not be too difficult to have an increase, and we could consider the statistics from employment tribunals in three years' time. Depending on the documents that you read, the current success rate for discrimination cases at tribunal is about 3 or 7 per cent. We would perhaps be able to show an incremental increase, but we would still have a massive problem on our hands.

We should stand back and look at our opportunity in Scotland to take a lead and do something creative and robust through mediation. We should not take a timid approach. For instance, when someone puts in a tribunal application, they tick a box to say that it is a discrimination complaint. Perhaps there could be pilot project, with the agreement of all the parties involved, in which mediation is tried at a much earlier stage. That may save money in the employment tribunal process.

We now have a helpful practice direction from the tribunal chair that a complaint will be sisted—no legal action will be taken on it—to see whether mediation will assist, but that seems to have come out of the ether, as people have to ask what mediation is and how they access it. That has been one small incremental step, but we need to introduce mediation much earlier in the process.

Sandra White: That idea sounds very good and I am sure that the committee will pick up on the budget implications of mediation.

We have mentioned most of the six equality strands, but what are the key equality issues that face Scotland? Are you content with the pace of change on them? There is, as we have said, terrible inequality in pay, but surely you know of other areas that need to be highlighted.

Scott Skinner: In this European year of equal opportunities for all, we should not ignore the great advances that we have made. If, five years ago,

my partner and I had been told that one day we would be discussing the arrangements for our civil partnership, we would have been amazed at such progress in Scotland. Of course, there is still much progress to make.

As Morag Alexander said, a major issue in Scotland is pay disparity: we are still ignoring 30-year-old legislation in that regard. We have still not tied down the major tensions between the LGB community and religion and belief, and we must focus on addressing that problem in Scotland. We also need to examine unemployment among underrepresented groups, which is still terribly unjust, and, from a Scottish Enterprise perspective, the engagement of the private sector, particularly SMEs, in equality.

Mary Senior: We have not yet touched on the challenging issue of violence against women. Young people can be brought into situations involving domestic abuse and still think that in certain circumstances it is acceptable to hit women. Issues such as prostitution, the so-called sex trade, trafficked women and pornography are all part of the violence against women agenda and I am deeply disturbed by the objectification of women in the media, given the impression that it gives to and the role models that it provides for young people.

We must examine the issue of carers, by whom I mean not only the parents of young children but those, particularly young people, who care for older and disabled people.

I am concerned about the underemployment of black and minority ethnic people in Scotland. At the moment, we are trying to address the needs of migrant workers from the eastern European countries that have recently joined the European Union, but black and minority ethnic people have been in Scotland for a number of generations and we must ensure that they do not suffer from discrimination and that they get the same opportunities to achieve at school and go into employment.

Morag Alexander: As I agree absolutely with Scott Skinner and Mary Senior, I will not repeat their points.

This country has come a long way since 1998, not only because of this committee but because of the Scottish Government equality unit and the vision of successive Governments in Scotland. However, as the comments of Scott Skinner and Mary Senior have highlighted, we still have a long way to go. Indeed, one fact that should shame us all is that two thirds of young gay men in schools report that they have been bullied. That issue must be recognised and tackled.

The Convener: To what extent does bullying in general need to be tackled? How do you relate

that to the particular issue of bullying of young gay men in schools?

Morag Alexander: Bullying is abhorrent. People who are in a minority and are a bit different tend to be bullied. Many of our schools are doing a great deal to tackle the issue, but focusing on it will help people to understand how important that is. Bullying can blight young people's lives. It happens not only in schools, but in workplaces and in society generally. People with disabilities are often bullied. Gay men and lesbians are bullied in the workplace, in the streets and in pubs. We do not want a society in which that happens.

We must enforce the law and ensure that there is in Scotland stronger legislation on homophobic hate crime and hate crime in relation to disabilities, to match the legislation that is in place in England and Wales. It is also important that we help our children and others in society to recognise that they must treat people with respect and that we all have the right to be treated with respect for our dignity. Bullying is a general issue, but I have with me the statistic for bullying of young gay men in schools, which is a disgrace.

Carol Fox: I agree with everything that the other witnesses have said. There must be mutual respect between all people in the workplace, so that individuals' enjoyment of work and job satisfaction are not drained and so that they can progress and be productive for their employer. They should not be constrained by their lifestyle or be required to edit it; they should be able to be themselves and to get sympathy, understanding and respect from their colleagues. There will be real mainstreaming of equal opportunities when the principle is embraced, rather than seen as a fashionable add-on that does not affect the majority of people. In fact, it affects us all. We must all take responsibility for ensuring that we live in a tolerant society. If we hear something to which we object, we must step in and not leave it to the individual concerned to challenge it. Trade unions and campaign organisations encourage that in the workplace.

Sandra White: It is interesting that you did not pinpoint any one of the key equality issues; you were right to say that we must tackle bullying in the round. Mary Senior spoke about violence against women. Do you think that that follows from the fact that women are seen as worth less than other people—I refer to pornography—and receive lower wages and poorer job offers? Is the problem in the whole of society, rather than in just one aspect of it?

Scott Skinner: There is no doubt that if someone is bullied at school, their confidence is damaged. That affects them in their adult life and in the workplace, unless they are given a confidence boost. We work with an organisation

called the Centre for Confidence and Well-being, which is seeking to increase confidence in Scottish society. We see a lot of women who admit that they need confidence and networking to help them start their own business and to access finance. The same issue affects all the equality streams. Much of it comes back to bullying in school, which we cannot ignore. Morag Alexander is right to say that we must focus on the issue if we are to change society in the longer term.

Mary Senior: I disagree slightly with Scott Senior's emphasis on confidence. The issue is power and the abuse of power in domestic situations, in prostitution and in the workplace. The problems that we are discussing are linked to power and exploitation.

11:45

Carol Fox: I will pick up on a point that Sandra White made. One of the cultural changes that I am shocked by is that in popular television shows such as "Friends", which a lot of children watch, porn is referred to by the by as if it were fashionable—that is unacceptable. I have discussed the matter with my daughter. I do not want that invidious issue to come in by the back door—all of a sudden it is fashionable and we do not object. I object, and I will be a grumpy old feminist and object to those things every day with every breath I have. There is an issue about what is acceptable. We must say, "Wait a wee minute, is this really what we want our children to watch? Should it come in on mainstream television?"

Elaine Smith: I was going to make the point that the continuum of violence against women is a manifestation of gender discrimination. If we allow the normalisation of things such as pornography and do not tackle the issue, the pay gap, for example, will grow wider.

Given that everyone has talked about respect, I will mention Zero Tolerance's respect project, which has been around for a long time. Some local authorities have engaged with it and others have not. What do panel members think about that project, if they know about it, as a tool in the box for helping to tackle the barriers?

Scott Skinner: Communication is vital. The zero tolerance campaign was brilliant in that it raised awareness about the issues quickly. People could identify with the branding.

In general, we are not very good at communication on equality—we could be a lot better at it. The Government has done a lot through the one Scotland, many cultures campaign, which has been positive, but we need to make many of the messages a lot clearer. In society in general in Scotland, people see equality as being terribly politically correct, despite the fact

that it is 20 years since we went down the PC route—that is not what we are about.

The equality community must consider what message we want to send out. We must make it clear that it is not about treating everyone the same, it is not about the thought police and it is not about not being able to say certain words: it is all about individual respect. The zero tolerance campaign was very good at doing that.

The Convener: The fairness issue is fundamental.

Hugh O'Donnell will follow on from that.

Hugh O'Donnell: Yes, I will follow on from exactly that point. You cued me in nicely—thanks for the nice segue.

What role do the various sectors of civic society, such as the Government, the voluntary sector and religious institutions, have in taking forward the equalities agenda? We have spoken about the Government's role, but where do the other organisations fit in and how should they fulfil their role?

Morag Alexander: That is a very important point, because nobody can do it alone. The EHRC has a range of responsibilities and we can work with others to ensure that we make progress, but there is no way that an organisation such as ours, which is just part of the picture, can do it alone. There is no way that the Equal Opportunities Committee can do it alone or that the equality unit in the Scottish Government can do it alone. Here in Scotland, we all have to work together.

I have mentioned a few of those involved, but another one is the voluntary sector—many parts of which have excellent equality policies and put them into practice every day. Many voluntary sector organisations are working to ensure that people who do not start from the same point—because we do not all start from the same point—get the best chance to make progress in their lives and reach their full potential.

We should also consider the public sector. It has many good policies but not always such good practices. Policy and practice do not always match up, so we need to work closely with the public sector.

Scott Skinner mentioned the difficulty, which we have always had, of engaging with the private sector. It has been less difficult to deal with big companies, which have well supported human resources departments. They have good policies and sometimes they even have good practices. They can afford to do some of what we would like everybody in the private sector to do.

The situation is more difficult for small and medium-sized enterprises. We need to work to

ensure that we make it less difficult for them, that we support them in doing the work that they need to do and that we highlight to them the terrible disadvantages of not getting it right—of, for example, not employing a wide range of diverse people who can bring different thoughts, skills and backgrounds and new ideas into what they need to do. If they get it wrong, they experience negative publicity and an impact on the bottom line, which is tremendously important for small and medium-sized enterprises. If they must fork out after an employment tribunal, that is bad news.

We must all work together. I hope that, in my role and with the statutory Scotland committee of the commission, we will work closely with the Equal Opportunities Committee. I hope that we will add value to what you do and that you will add value to what we do. We must ensure that we do that.

Carol Fox: It is important that all organisations have a responsibility to implement the law. I said in my submission that we must base everything on the lived experience of the individuals and communities that suffer discrimination. Voluntary organisations and trade unions do a tremendous amount of good work but, sometimes, there is a tendency not to listen and to think that organisations have an agenda. I encourage more listening—this meeting provides an excellent opportunity for that to happen.

Gibbons reviewed dispute resolution procedures that were introduced only in 2004. Many people said that those procedures were unworkable. The aim was to reduce the number of tribunals, but many claimant organisations said, "Don't do this—this is madness. In the real world, this'll not work. Don't go there." We then had a review to unpick a system that should never have been introduced. If people had listened to and respected more points of view that were valid and based on experience, and if they had not thought that organisations had an axe to grind or a set agenda, greater understanding would have built up.

The Convener: I ask Michael McMahon to move us on, as we are nearing the end of the session.

Michael McMahon: My question arises partly from confusion about something Morag Alexander said about the possibility of a single equality bill. I understood her concern about that, because it is similar to my concern about a single equality body: we cannot look at things in the way that she said the single equality bill will do. However, we are looking at equality issues differently. How will we consider those issues differently from now on as a result of having the single equality body?

Morag Alexander: The exceptions to the reservation of equal opportunities in the Scotland

Act 1998 mean that the Equal Opportunities Committee and the Scottish Government have for a long time had not just a responsibility but a terrific opportunity to look at the issues in the round, not in reserved legislation but in promotion, policies and practices. Opportunities exist to make more of that for the future.

The Equality and Human Rights Commission has appointed most of its staff. Most come from the legacy commissions—the Equal Opportunities Commission, the Disability Rights Commission and the Commission for Racial Equality—but we will recruit new people who have skills and experience in human rights and in the new areas that will be protected under Westminster legislation.

We will work across the board to acknowledge that we need to think about equality in different ways. People recognise that it is not about treating everybody in the same way. Not everybody starts from the same position, so we must consider how to ensure that everybody can get the best out of their lives, which might mean treating people in different ways that depend on their circumstances. That means acknowledging that, from time to time, all of us have equality issues and feel that we are being treated unfairly. We will work across all those issues, but we recognise that we must deal with people in the circumstances in which we find them.

I hope that you will find it possible to work closely with us. That is certainly our intention. It is our responsibility to make the case that equality is not just about specific groups of people but about everybody and the kind of society in which we want to live.

Michael McMahon: I would be interested to hear how the trade union movement and the business community look differently at equality now.

Mary Senior: I do not think that we are drawing a line under what we did previously; it is about recognising that people are not one-dimensional, but multi-faceted, and have different needs. There might be specific issues for a woman who is black, for example.

It is also about mainstreaming effectively. I am not convinced that everybody is taking equality into account in everything that they do. We in the trade union movement must ensure that we do that in organising and negotiating with employers. Other organisations have to take equality on board. For example, one of our concerns about the Scottish Government skills strategy was that although there is a one-page statement at the beginning that the Government will mainstream equalities, the strategy should have examined what actions we need to take in relation to schools, colleges, universities and modern

apprenticeships to support black and minority ethnic people to access education, for example. I do not think that we have to make a big change. Rather, we have to develop what we should be doing already.

Scott Skinner: We recognise that SMEs in particular welcome a single equality approach. When I came into post four years ago, a lot of people from single equalities groups were trying to get on to the SME community purely about race issues, disability issues or sexual orientation issues, which did not engage the SME community at all, because it wants sharp, clear messages about what equality is. If we can get buy-in to that, we can start looking at the overall benefits of a single equality approach. A lot of people face multiple barriers—such as black people with disabilities—and are even more disadvantaged than people in a single equalities stream. The business community would welcome a single equalities approach, because that will encourage hunger for equal opportunities.

The Convener: The message that came through in Lisbon was that we should look at the whole package of a person, who could well face more than one discrimination issue, and that we should not pigeonhole people.

We have five minutes left. I will invite our panel to have their final say by briefly answering two questions. Stewart Maxwell, the Minister for Communities and Sport, is coming next week to answer questions about the budget. Is there anything that you would particularly like us to bring up with him? Secondly, if you could choose an inquiry for the Equal Opportunities Committee to conduct, what would be the topic?

Morag Alexander: The Equality and Human Rights Commission is only just up and running, so we are listening at the moment. You could consider holding an inquiry into the exceptions to the reservation and examine whether the Scottish Government over the years has made full use of the opportunities in that regard. That would be worth while. I suggest also that you consider the areas of inequality in Scotland that we know least about. We in the commission are about to conduct a research project to pull together what is not known about the progress towards equality, especially in the new strands to which I referred. One is the experience of migrant workers and the extent to which our public services are meeting their needs. Another is faith communities and the experience of community cohesion in Scotland. That is an area in which people would be genuinely pleased to see some investigation. There is also the experience of transgender people in employment and in public service delivery. Those areas are open to the committee and the Scottish Government to have a look at. I commend them to you.

The Convener: It is difficult to single out one area. That is useful.

12:00

Scott Skinner: The Government has said that the economy is its priority. Considering how equality can help in that would, more than anything, help mainstream equalities throughout the work of the Parliament and the public sector. I would be pleased if the committee looked at that area. The second important area is the public sector duty in Scotland. On the basis of anecdotal evidence, I am not convinced that the public sector is using that extremely powerful tool to mainstream equality throughout Scotland. An inquiry into how the public sector is handling it and how bodies such as Audit Scotland and others can help mainstream that process would be useful. Those would be my two hits.

Mary Senior: The committee should ask Stewart Maxwell whether he thinks the public sector has been given enough money to pay women fairly. The STUC is meeting him next week and I shall ask him that, too.

The suggestions that Morag Alexander made for an inquiry are equally valid. There is mileage for work on carers. You could also consider occupational segregation and the gender pay gap.

The Convener: Last, but by no means least, is Carol Fox.

Carol Fox: If I may be so bold, I respectfully refer you to the four points that I made at the end of my submission. One of the posters that I recently got from a TUC event said, "Equality, everyone's right. Discrimination, everyone's problem." If we use language that Scottish voters understand—rather than terms such as "mainstreaming"—we will make great progress in tackling all the issues that are of concern to us.

The Convener: Thanks very much. By any standard, this discussion has been incredibly worth while. The committee has been given lots of food for thought. All that remains is for me to thank you very much for giving up your time to come along and take part in this discussion, which I think is a fitting way for us to celebrate the European year of equal opportunities for all—it is just one of the ways in which we are doing that in the Scottish Parliament.

We will take a short break while we change over witnesses for the next item.

12:03

Meeting suspended.

12:11

On resuming—

Budget Process 2008-09

The Convener: Agenda item 4 concerns the Scottish Government's draft budget 2008-09. I am pleased to welcome Muriel Robison from the Equality and Human Rights Commission; Calum Guthrie from the Scottish Council for Voluntary Organisations; Morag Gillespie from the Scottish poverty information unit; and Angela O'Hagan from the Scottish women's budget group. Unfortunately, Tim Hopkins from the Equality Network cannot be with us today as he is unwell. He has a wealth of experience in this area, but I am sure that we will be very well served by our four panellists.

I will start with a general question. The last budget document made explicit the action that each portfolio had to take to promote equality. That is missing from this budget document. What are your comments on that?

Angela O'Hagan (Scottish Women's Budget Group): Thank you for the opportunity to come to committee today. The Scottish women's budget group welcomes the committee's interest in the budget. I will preface my answer by saying how much I enjoyed the round-table discussion; I am pleased that I was here to hear it.

I agree absolutely that measures to promote equality are absent from the budget document. First, that reflects an absence of the requirement for the budget to be subjected to an equality impact assessment. It is apparent that such an assessment was not undertaken. Secondly—this links to the earlier discussion on mainstreaming—there is no evidence of the mainstreaming thinking to which I have referred in the past when giving evidence to committees of the Parliament. Previously, I have described such thinking as being akin to someone showing their workings in the margins, as we used to be told to do at school. We need to see the thinking behind the various measures, but that appears to be absent from the budget document. We have a raft of outcomes that may be valuable in themselves, but which have no equalities specifics and no reflection of equalities understanding.

Mainstreaming is a specific approach to public policy making, which government uses to effectively analyse the different realities and experiences of women, men and other groups in order to design programmes—for example, to deliver transport, education or care—that reflect those differences. The women's budget group believes that gender budget analysis is a key tool or process in mainstreaming: we believe that it

provides between policy making and resource allocation an effective bridge that leads to better policy making, which is better targeted and more effectively focused and which makes for better interventions. That is what is missing.

We are disappointed that we have lost the ground we thought we had secured through our work with previous committees, previous Administrations and the on-going equality proofing budget and policy advisory group within the Scottish Government, which the committee met recently, on making that process of analysis part of the budget process and making it visible and transparent in the budget documentation. There are positive statements about equality, but they are undermined by a lack of specificity, of targeting and of clear links between the intent, content and objectives of the programmes and the attached spending lines.

I probably have much more to say on that, but I will leave it there by way of introduction.

12:15

Calum Guthrie (Scottish Council for Voluntary Organisations): I echo what Angela O'Hagan has said. My concerns relate to the analysis of equalities that underpins the budget. Although I welcome the high-level commitment to

"ensure that ... investment and ... policies promote equality and do not discriminate unjustly or perpetuate inequality and disadvantage",

the analysis of equality that is used is not clear from the budget.

There is a lot of discussion about equity but not about equality. Equity, from my perspective, is not necessarily compatible with equality. There is also a heavy emphasis on economic inequality, which to an extent disregards some of the other factors that are involved in discrimination, particularly power issues and institutional and structural discrimination. The performance target framework to which the budget is operating appears to be fairly narrowly focused on inequality of economic growth so, although there is some mention of mainstreaming, the detail of the budget does not contain much evidence of how it will take place and how Government departments will report on it. That contrasts with previous budgets, in which there has been much more specificity. There is also little evidence of equality proofing of policies, processes or spend. That is something of a retreat from previous attempts to drive mainstreaming across Government departments.

On the analysis that underpins the budget, it seems to me that there is an implication that equal opportunities is about compliance with legislation and that, in some sense, that is not compatible with the sustained growth that is the budget's

headline purpose. It is an interpretative thing, but I think that it is contrary to the positive promotion message from the EHRC.

On the business case for equalities, there is a lot of work to be done on aligning performance, quality and growth with equalities outcomes, because they are not necessarily mutually exclusive. It might be more helpful to the budget to consider how they might be aligned more closely.

Muriel Robison (Equality and Human Rights Commission): I echo what my colleagues have said. At the EHRC, we welcome the initial headline commitment to equality and are particularly pleased that there is a treatment of equality issues in the strategic outcomes. However, we are concerned that there is a lack of clarity about what is meant by equality.

That links to Calum Guthrie's point about the emphasis on economic inequality. There are references to inequality, which seems to equate to poverty, and references to equality of opportunity, which seems to refer to discrimination, but there is a real lack of understanding of what equality is and the outcome that is sought. We would expect more talk of the need to promote equality, which was missing from our discussion earlier this morning. We talked about challenging discrimination and, in a sense, we touched on the need to promote equality when we talked about public sector duties.

However, from the EHRC's point of view, the real progress will be made on promoting equalities and ensuring that the public sector duties are implemented. That seems to be missing. There is certainly a lack of clarity. Clarity is needed if we are to have meaningful goals and targets to achieve equality. We all need to have a common understanding of what we mean and what we are trying to achieve.

Despite the early references to equality issues in the targets and spending plans, they seem to be lost in the other parts of the budget, with no reference to equality and no links between promoting equality and the budget. That concerns us.

Morag Gillespie (Scottish Poverty Information Unit): I would like to add a couple of points, particularly on the back of the round-table discussion, which had a strong focus on employment and equal treatment of employees.

I am disappointed with the budget. I come from the Scottish poverty information unit and I absolutely recognise the importance of acknowledging and addressing economic inequalities. However, given some of the changes that were implied in the budget statement in relation to how money is spent and what is and is not ring fenced, there are particular dangers in the

lack of equality scrutiny that is built into the budget process this time.

Individual local authorities will take on responsibility for services that need to be equally accessible to all groups. I am concerned that that change will happen at a time when eyes have been taken off the equality and mainstreaming impact that the budget will have. There is clearly an intention in the budget that services will shift from public service delivery to the voluntary sector. I presume that that is why the voluntary sector is to get funding for capacity building. What will be the consequences? In many respects, it could be a positive thing, but what will be the impact?

Some things have disappeared off the radar. I am happy to talk more about others, but the obvious one is child care. We can no longer see clearly what is happening with child care and what priority it is given. How will it fare as part of the roll of things that will go to individual local authorities? In a year or two, will we know whether child care has been sustained, has got worse or is better? It has a huge impact on women who try to return to work or seek to participate in the economic advantage that will, we hope, be developed for Scotland.

The Convener: To be clear and to put the draft budget in context—Angela O'Hagan touched on the matter—there does not appear to be any evidence that the Scottish Government used its equality impact assessment tool. Therefore, it has not been applied in determining policy and was not considered in relation to spending allocations. Should the budget have been clearer on that point?

Muriel Robison: There ought to have been an equality impact assessment of the budget overall and of the spending plans for the various portfolios. We expect there to be equality impact assessments of some of the targets that are set out in the spending plans, although there is no apparent reference to that or obligation to do it.

We acknowledge that it would be a huge task, but we support the recommendation of the equality proofing budget and policy advisory group. Each portfolio would impact assess one or two key targets each year. Over the three-year period, an equality impact assessment would be done of each target and the results would be built into future spending plans. That would give us the bottom line and work could be done to build for the future.

Angela O'Hagan: Picking up on Muriel Robison's last point about the EPBPAG recommendation that specific portfolios should be the focus of scrutiny, I hope that the committee might give thought to considering select areas of policy as well as the budget process overall. I also

remind the committee—and, I hope, others who have an interest in the process—that the previous Finance Committee supported EPBPAG's recommended approach. Key members of that committee who are now key ministers supported an approach of working through discrete targets in specific portfolios. That process is considerably undermined by the absence in the draft budget of specific equality targets, indicators and measures.

As colleagues have said, there is a conflation of equality measures with anti-poverty and social justice—or social exclusion—measures. The Scottish women's budget group has consistently raised concerns about such an approach. The issue is not that we think that it is wrong to have anti-poverty policies—far from it—but that measures should be much better understood through clear analysis of the different experiences of poverty of women, men and other groups. Providing routes out of poverty will require different interventions to address those different experiences. That seems to have been lost.

There is almost a crisis of conviction, or of confidence, in the draft budget. At the outset, the budget document contains strong statements—which we absolutely welcome—about how the Government has no intention of discriminating and believes that investment should promote equality. However, by then giving a slightly tangled or mixed message, the document almost tries to distance itself from those statements. Without the specifics of an equality impact assessment, how do we—or the committee that has responsibility for doing so—track progress? Earlier this morning, Morag Alexander and others spoke about the importance of being able to track progress over time. Without a specific equality impact assessment—if such an analysis has been conducted, it is not reflected in the budget—it will be much more difficult to do that.

One example of how an equality impact assessment would have provided a more meaningful understanding of budget priorities—I can recall a couple of examples from memory—is the welcome focus on smoking prevention in the health and well-being spending plans. Given that previous analyses show that the majority of people who take up smoking are young women, such a spending priority is clearly a very gendered programme because there is clear evidence that smoking is a particular problem with a specific gender. Another example concerns the welcome news that the Commonwealth games will come to Glasgow. How will we encourage greater participation among groups of people who are currently less active in sport? Again, that might point to younger women.

Perhaps such an analysis has been conducted elsewhere, but it is not apparent in the budget.

Where such thinking has gone on, the absence of such an assessment does a disservice to the people involved. However, it might also underline the fact that such thinking has not gone on. An equality impact assessment should be a requirement. The Scottish women's budget group believes that the current equality impact assessment tools could benefit from being considerably strengthened in how they deal with the budget. At the moment, the equality impact assessment asks simply whether a programme has a budget, but it does not equality assess the direction of spend or of the anticipated outcomes. That is what we want to see.

To recap, the absence of an equality impact assessment makes it much more difficult to track progress and to identify the specifics that will meet the overarching targets and the national outcomes that are described. Because the outcomes are described in such high-level terms, we have real concerns about monitoring, evaluation and—to return to the point that colleagues made earlier this morning—audit and inspection of programmes.

The national performance framework that is proposed and the single outcome agreements for local authorities rang alarm bells for me. Where are the best-value duty to promote equality and the range of activities to ensure that equality is part of best value? The public sector duties are referred to in the budget document but are given pretty scant treatment. What actions will be taken to underpin pursuit of those duties? The absence of any specifics around those actions and the absence of any budget lines to support them undermine the apparent commitment to equality in the budget.

12:30

Calum Guthrie: For me, the issue is about the kind of message that the budget sends out across the public sector. There is an issue about people's understanding of the mainstreaming processes with regard to equalities. I think that the budget approaches equalities in the same way a lot of organisations do, in that there is a headline policy and a degree of commitment from the people who have power, but the way in which that policy is to be implemented is something of a mystery.

Unless clearer signals are sent out to people in the public sector or organisations that are recipients of public funding about their roles and responsibilities in relation to equalities, it will be difficult to measure any progress. People in lots of different sorts of organisations do not understand what mainstreaming is. Given that the budget process drives the way in which the public sector delivers on Government priorities, it is unfortunate that there is not more detail about that, which

would give people a better understanding of their roles and responsibilities and increase their accountability, which is missing at the moment.

The short answer to your original question is yes.

Morag Gillespie: I would not like to give the impression that the previous budgets were wonderful equality-proofed documents. I cannot remember coming to Parliament before and being totally kind about them. However, we were making what I would describe as faltering progress—I am not known for being overgenerous about such things. I firmly believe that scrutiny on the basis of equality mainstreaming is an informative process that will assist decision making in government and help the Government to make policy. The fact that it will contribute to good decisions is what makes people's frustration and disappointment boil over.

Equality is not only about big headline issues—I will give the committee an example from an area that I have recently been researching. A lot of advice services are funded directly or indirectly by the Scottish Executive or local authorities. Advice services would aim to have good equal opportunities principles and policies in place and they will probably ensure that their accommodation is as accessible as possible for people with physical impairments. However, they might not answer the phone when their public office is busy, which does not help people who cannot get out of their homes because they are carers, or people who do not have the confidence to go to the service's office. Further, if a service cannot afford interpreters—as one told me recently—how does someone whose first language is not English get advice from that service?

Unless there is some leading by example about the ways in which equality and mainstreaming issues go all the way through those processes, how can we ask the front-line service providers to prove that they are meeting people's needs, which vary greatly? For example, are premises accessible for people with sight impairment? In most cases, they are not. People tend to think of certain principles as being important ones to follow. For example, an appointment slot of 10 minutes might not be enough for someone with learning disabilities or mental health problems. That person may need any advice to be reinforced and may need information to be written down. Services that have to meet such needs will have to think about them in advance. We should be leading by example, but there has been a real loss of momentum.

I apologise—that was supposed to be a brief answer.

The Convener: We will try to be briefer with the others, but it was important to get those points on the record.

Marlyn Glen: Angela O'Hagan referred to the pilots on sports participation and smoking cessation. I remember saying during the previous session that, although those pilots seemed to be very important, they attracted low-level spend. The spend was tiny, and I remember being a bit upset about that.

If we fail to follow up on pilots, does it not raise questions about the future role of EPBPAG? How do you see the future role and function of EPBPAG? Should we ask the minister that question? Obviously, we should.

Angela O'Hagan: I think that EPBPAG should continue, if it is valued as an active advisory body—by which I mean that its advice is acted upon and can be seen to be acted upon.

Questions also arise to do with representation from officials and to do with the departments from which they are drawn. There should be opportunities to build on that. Following the restructuring of the Government, there are clearly opportunities to draw from the office of the chief economic adviser, in addition to having representation from finance officials.

I had not intended to refer to the pilots, but I realised later that I had done so by default. It was just coincidence that, off the top of my head, I thought of smoking cessation and participation in sport. However, they are valid examples because, so far, they are the only examples for which we have budget analyses. There will be a collective memory among members of how far that work was able to proceed and of the disappointment.

Marlyn Glen's question raises wider concerns about the budget. The smoking cessation and participation in sport pilots were previously small-spend budgets. When there is a financial squeeze such as the present one, the Scottish women's budget group has considerable concerns about spend on equalities—that is, spend that targets the promotion of equalities and eradication of inequalities. Such spend is often marginal. Calum Guthrie might be better placed to comment on how the programmes of voluntary sector organisations can be effective in that. When there is a squeeze, spend at the margins will be squeezed. That is a core concern.

When a budget proposes 2 per cent cash-releasing efficiencies across the board, and when there is no specific equality spend, it is easy to do the equations and work out the importance that will be attached to different types of spend, and to work out the direction that will be given to spending bodies such as local authorities on how to meet their obligations to promote equalities

and—as we heard this morning—to address previous failures to promote equalities. When efficiency savings are sought in a budget, will there be scope for public authorities, especially local authorities, to meet their obligations in equal pay disputes, present or future? We are concerned that equal pay issues and job evaluation issues are stacking up. How will equal pay obligations be met? If there is no apparent focus on equality, how will such obligations be factored in? How will we know, and how will Parliament know, the extent to which they have been factored in to the actions and performance of public bodies, if those issues are not covered in the national performance framework and if the audit inspection bodies are not picking up on the requirements that are already in place under the Local Government in Scotland Act 2003 and the best-value regime?

The Convener: We will move on because we have some more specific questions to ask.

Hugh O'Donnell: I certainly get the sense that some of the questions that we had intended to ask are being answered well ahead of their being asked—perhaps the witnesses have a crystal ball.

Do the spending allocations that are contained in the spending review reflect stated policy priorities that have an equality focus? I will use the example of action to tackle occupational segregation. What are we doing to avoid stereotyping in the modern apprenticeship scheme? The next part of my question might be for Angela O'Hagan. Do you get any sense that the women's budget group is less highly regarded than it used to be?

The Convener: Who is the first part of your question for?

Hugh O'Donnell: Morag Gillespie, preferably.

Morag Gillespie: The modern apprenticeship scheme is a good example. For some years, it has been a favourite of mine as a subject that needs to be looked at more closely. People have already talked about occupational segregation and I do not want to repeat what was said earlier. For some years, we had an Executive that was concerned to close the pay gap between women and men, while it ran a modern apprenticeship scheme that was not subject to much scrutiny. When some colleagues and I examined the scheme, we found that it reflected and positively reinforced occupational segregation in the wider labour market. That is why equalities concerns need to go right through processes. It is one thing to have a high-level commitment to equalities, but it must be seen through in all the different stages.

I do not for a second suggest that that is an easy nut to crack, because there is segregation at every stage. The exams that young people sit are gender differentiated along predictable lines—

more boys do technology studies and structural engineering, while all the take-up in retail and travel, and almost all take-up in textile technology, is by girls. Girls and boys then make different choices about where they continue their education. It is disappointing to note that the number of women who take on modern apprenticeships, which had been steadily increasing over the years, has started to reduce again in the past few years.

If one examines the modern apprenticeships that young people are choosing, one finds that gender segregation is still a strong element in the different strands. There have been minor improvements in some of the main traditionally male apprenticeships, such as construction and plumbing. There are now 42, rather than 21, young women doing apprenticeships in construction out of a total of several thousand—I do not have the actual number to hand. At least we have some women in plumbing, which is more than could be said a few years ago, when there were none. However, progress is minuscule.

That is where the strategic objective of having young people who are successful learners, confident individuals, effective contributors and responsible citizens comes in, which immediately makes one think that young people are not a homogenous group. Young people from black and minority ethnic groups and disabled young people are also underrepresented in flagship schemes such as the modern apprenticeship scheme. Much more could be done to ensure that such programmes lead the field rather than follow behind the heavily institutionalised discrimination that exists in the wider economy. As flagship schemes, they should lead the way in equalities.

Even when young women—who are more likely than young men to go on to higher education—graduate, they end up earning less than their male counterparts and working below the level of their qualifications. It is believed that that often happens because the flexible working arrangements that they might need because of their responsibilities as carers of children or older people are not available. There are so many examples—that is one simple example—that need to be taken forward, but modern apprenticeships could do much more to change approaches.

12:45

The Convener: I am going to move on now because we are fighting against the clock.

Hugh O'Donnell: We did not get an answer from Angela O'Hagan on the value of the women's budget group.

Angela O'Hagan: I hope that I can give a quick, modest answer on how we are regarded—positively, I hope. I do not think that we are any

less well regarded than in the past. There is clear recognition that the Scottish women's budget group has had an important influencing role in bringing the approach of gender-responsive budgeting and gender budget analysis to support the process of mainstreaming to which the Parliament and the committee are committed. The cabinet secretary, John Swinney, has agreed to support a Scottish women's budget group event in the Parliament in the new year, and we have heard nothing to suggest that we have somehow or other fallen from grace or favour.

I do not have a crystal ball, although sometimes I would like to have one. I am fired up by my colleagues' earlier comments about audit and inspection. Those who know me know that I am fond of that particular anorak. However, I am also fired up because we are still talking about the scandal of unequal pay across the public sector and the widening of the pay gap, to which Morag Alexander referred. That cannot but arrest one's attention.

Sandra White: I wanted to ask about the drop-out rate for modern apprenticeships, but perhaps I will write to Morag Gillespie about that. I know that time is short, convener, so I will not raise the issue at the moment.

The voluntary, or third, sector has been mentioned. As you are aware, the budget outlines a significant redirection of resources from local government to the third sector. Can any of the panel members comment on the equality impact that that significant shift may have for both providers and users of services? I presume that Calum Guthrie will answer that question.

Calum Guthrie: Several issues are involved, and I have lots of questions rather than answers. That is, perhaps, indicative of the budget document generally—particularly in relation to equalities issues.

Although we welcome increased investment in the third sector, it is unclear from the budget document what that will mean in practice. What kind of organisations are we talking about? Is it a build on existing spend, or is all the existing spend being bundled up into the one thing? It would be good to find out a bit more detail about what the increased investment means in practical terms.

There are other questions that are of interest to SCVO. What will the process be for managing the spend? Will it be a competitive bidding process? If so, how will that be balanced out in terms of equality impact? How does the new funding—if it is new funding—link to delivering on an overall strategy across other portfolios? That links to the points about mainstreaming that we all spoke about earlier.

There are issues to do with full cost recovery. Efficiency savings are mentioned throughout the

budget document. I do not know whether there is a relationship between efficiency savings and contracting out to voluntary sector organisations, and whether the requirement for those efficiency savings would be transferred on to voluntary sector organisations. That is an area of great concern that we will want to examine closely over the coming months and years.

With regard to the third sector development fund and the Scottish investment fund, what is the relationship with the explicit equalities spend and the third sector team spend? Are they co-ordinated and integrated, or are they standalone funds? More widely, how does the proposed increase in investment link with other forms of direct and indirect funding for voluntary sector organisations across the public sector in its broadest sense? Although there is an increase in explicit equalities spend, through the equality unit there is a focus on health inequalities because the equality unit sits within the health and welfare agenda. Obviously, equalities is a much broader subject than health inequalities.

There are also issues relating to the structures that drive the equality unit, given that responsibilities are split between two ministerial teams, which could have a knock-on effect on the administration of grants. Perhaps we could explore that matter later in more detail.

Overall, the issue is how the Government will ensure that the investment delivers equalities outcomes. There are issues to do with the services that local voluntary organisations provide—particularly with regard to disability and access panels—that relate to the duties of public authorities and local authorities specifically. The budget in general and the Government's manifesto commitments aim in the same direction that social policy has taken over the past few years: the issue is streaming more resources through local structures—local authorities in particular—and giving those structures greater autonomy within a broad framework. There are issues to do with how that framework is regulated and ensuring that spend is accurately tracked and measured that have implications for voluntary sector organisations.

Those are broad remarks. I do not know whether you want to drill down on the details.

Sandra White: There are indeed more questions than answers in what you have said. I will write down those questions and perhaps ask the cabinet secretary to respond to them.

You mentioned how efficiency savings will affect front-line services and where they will go. Other panel members may want to say something about the transfer of front-line services and how that will impact on tackling poverty and social exclusion.

We have talked about equality impact assessments, and it has been said that more money will go from local government to the voluntary sector. Should the voluntary sector look to have equality impact assessments of the money that it spends?

Calum Guthrie: There is ambiguity around public sector funding and duties of compliance with various pieces of legislation. All public organisations that receive public funds have duties to perform, but what equalities compliance means for voluntary sector organisations is ambiguous. There are issues to do with whether things are done in the voluntary sector or whether they should be built into procurement processes. Some work has been done on equality factors in procurement processes; in particular, prior to the creation of the EHRC, Committed2Equality did work on race and procurement processes in local authorities. I think that around 88 per cent of local authorities in England had no processes in place for considering how their procurement processes delivered on certain duties, so there are issues in that respect.

More broadly, there will be concern about adequate funding for adequate services in a full-cost recovery model. Obviously, the SCVO would welcome investment in, and an increased local role for, the voluntary sector, but that costs money. The issues are where that money should come from, how it should be managed and tracked, how it should contribute to wider outcomes, and whether it should be part of service level agreements or part of a funding package from other funders. The co-ordination and integration of different funding streams is an issue. Again, there are probably more questions than answers at this stage.

Morag Gillespie: A cynical view of the budget could be taken. One might run down its components and circle the voluntary sector bits, which could be viewed as coming second after equality duties or as being on a par with them as a route towards saving money. That is my big worry and why I said that the sector needs to be treated with care. The voluntary sector does not mean cheap services—it still means professional services and that people will be employed. However, there is a positive side. In the research that I have done on services such as advice and employability services, I have found that people who use those services are keen on, and in the main prefer, independent services. They may not always distinguish well between local authority and voluntary sector services, but in an employability setting they often distinguish between independent services and United Kingdom Government services such as Jobcentre Plus.

The research that I have done suggests that service users are likely to view voluntary sector provision as a plus. However, the sector must not be exploited, and proper recognition must be given to the added value that it brings to delivery of appropriate services—we should not seek to do things on the cheap or on the back of people working excessive hours. The disappearance of organisations such as One Plus indicates that, if the voluntary sector is to play a role, it must have more financial security than it has had until now. The sector cannot operate in a complete funding lottery—it cannot deliver essential services to large numbers of people when it does not know whether it will have money in March. In that situation, people spend more time on finances than on delivering services.

Hugh O'Donnell: Does the opaque nature of procurement make it more likely that councils will run what I call reverse or Dutch auctions and buy services on a price basis? There are already indications that some local authorities are beginning to invite bids from a starting level. If organisations want to bid, they must bid below that level. Is there a danger that the voluntary sector will be scooped into that process and will be seen as the provider of choice on the basis of cost, rather than of the quality of the service?

Calum Guthrie: I am a glass-half-empty person. The history of procurement processes in local authorities runs from compulsory competitive tendering through to the best-value framework. The aspirations of the best-value framework, which was set up by the Local Government in Scotland Act 2003, are fairly clear, but its implementation could be slightly ambiguous. In a tighter public sector funding environment, there is an emphasis on cost saving. It is important that scrutiny bodies such as the Equal Opportunities Committee, other committees of the Parliament and Audit Scotland are mindful of how decisions are taken and of the extent to which outcomes ensure quality and compliance with legislation. That is a slightly political answer, but there is a danger that the voluntary sector will be perceived as a cheap option.

Social economy models and public-social partnerships may be positive approaches for the voluntary sector to take. There are many interesting examples of approaches that work well. However, there is a tension in procurement processes between European legislation, Westminster legislation and Scottish legislation.

The Convener: The issue of procurement is interesting, but it takes us away from our core questioning and into other areas.

Elaine Smith: Procurement is an interesting topic, and I am concerned about the semi-privatisation of services. We need only consider

the evolution of Glasgow Housing Association, which took over public sector housing in Glasgow. However, that is an issue for another day, as we are short of time.

I turn to the issue of equal pay, which Angela O'Hagan mentioned. It was suggested that the committee should focus on one policy area. The gender pay gap is an issue on which we could concentrate, and I would like to explore it further.

I will start with a question for Muriel Robison. In the earlier session, Morag Alexander said that the latest figures indicate an increase in the gender pay gap. Angela O'Hagan also mentioned that. What is the progress to date on promoting equal pay in Scotland? There are costs in meeting our equal pay obligations. Do you have information on that to hand?

13:00

Muriel Robison: We talked earlier about the fact that the pay gap in Scotland has increased over the past couple of years. We do not really know why that has happened, except to say that there seems to have been an unexpected dip of 12 per cent—if dip is the right word to use. Perhaps the fact that the dip was 12 per cent was more unexpected than the fact that the figure is now sitting at 15 per cent, which is more akin to the figure for the UK. For part-time workers, we have a stubborn pay gap of 35 per cent. Clearly, although a number of measures, such as close the gap, have been taken to address the pay gap in Scotland, we have not done enough thus far to shift the gap as we might have liked.

We have a large public sector in Scotland. Local government, in particular, employs a great number of women. In terms of closing the pay gap—or moving towards a narrowing of the gap—local government must be a focus. Obviously, we know of the real issues for women workers in local government in terms of pay inequalities. Indeed, in the previous session of the Parliament, the Finance Committee investigated some of the concerns around pay inequalities and compensation for women workers in local government.

I understand that about £500 million has been paid out to address those past inequalities. Our real concern is that what concerned the previous Finance Committee has, in a sense, come to pass. Despite all the work that local government is doing, women are still not receiving equal pay. The Equal Opportunities Commission undertook an investigation into the role and status of classroom assistants. The EHRC is particularly concerned about the outcome of the job evaluations that local government is undertaking, which is that classroom assistants are seeing their

pay go down and not up. That is contrary to our expectation and to the expectation of local government, which has paid out on what it sees as past inequalities in the expectation that the jobs that women do would rise up the occupational hierarchy.

I cannot answer the question on the costs of meeting the equal pay obligations. However, it is inevitable that there will be costs—at least indirect costs—in the many claims that individual women are pursuing in employment tribunals. As the previous witnesses touched on, we know that 20,000 women who are employed in local government are pursuing such claims, and it is inevitable that local authorities will incur costs as a result. Costs are also involved in the delay in achieving equal pay, in the continuation of the persistent pay gap, and in women not receiving their dues.

For example, there are women who are reaching retirement age whose final salary pension will not be based on a full or true value of the job that they have done. That will lead to women being in poverty in old age. Many women who are single parents are not receiving the true value of their contribution, which obviously has a knock-on effect on child poverty.

I cannot specify the direct costs, but there will be many indirect costs as the result of the failure to tackle the pay gap in Scotland. Local government has a real opportunity to tackle it, but we are concerned that the budget nowhere identifies how that significant spend is going to be addressed. That is one of the budget's failings—there is no recognition of the big spend that we anticipate.

Bill Kidd: Equal pay is a long-term issue, and we will have to address with ministers and cabinet secretaries the ways in which it can be taken up, because the local authorities, in trying to catch up on equal pay—which they failed to deliver over many years—are now having to cut back in other areas. That is what has led to situations such as classroom assistants' pay going down. It is women, in general, who are losing money because of the need to catch up on equal pay for other women. That seems a most ridiculous situation, and it will have to be addressed through central Government rather than through local authorities—whether that is the Westminster Government or the Scottish Government is an issue that will have to be sorted out. Do you agree?

The Convener: Bill Wilson can come in, and then Muriel Robison can answer the two questions together.

Bill Wilson: My question is on an issue similar to that of the classroom assistants. Muriel Robison said that wages have dropped due to job

evaluation—that presumably suggests that something is fundamentally wrong with the way in which we evaluate jobs. On the one hand we are paying compensation because we think that women's jobs—such as those of classroom assistants—are undervalued; on the other hand, we evaluate the jobs and contrive to come up with the opposite solution. How can we get things so wrong?

Muriel Robison: I agree that there is a fundamental problem. To answer both questions, there is a failure to carry out equality impact assessments. If local authorities could undertake full, proper equality impact assessments of their job evaluation schemes and the outcomes, the problems might be addressed at local government level without having to go through tribunals and so on—at least with regard to women being properly valued for their contribution. The way in which the job evaluation schemes are being implemented does not properly recognise the value of the contribution that women are making in relation to skills and the demands of their jobs.

That links back to the earlier discussion about women being worth less and their contribution being undervalued because of a failure to address historical disadvantage. At one time, it was not against the law to pay women less—how much jobs were worth was decided according to whether a man or a woman was doing it. We are not there any more. Jobs should be properly and objectively evaluated, and the fact that mothers—as in the case of classroom assistants—do them should not mean that they can be paid less.

Elaine Smith: I will bring Angela O'Hagan and Morag Gillespie into the equal pay discussion, on the question of the Government's overarching purpose of increasing sustainable economic growth. Will you comment on how gender-based pay inequalities impact on the pursuit of sustainable economic growth and add anything else that you want on the gender pay gap?

Angela O'Hagan: Just a small question, then.

The Convener: Two minutes should do it.

Angela O'Hagan: I will defer to Morag Gillespie on this. Equality is not an inhibiting factor to economic efficiency. We must build an economy that—this phrase has been used many times this morning—allows everyone to contribute to their full potential. That must involve recognising the discriminatory forces that are at work in the labour market, in the training market and in how we construct regeneration and economic development policy. Those discriminatory forces lead to an occupational segregation that has characterised and classified Scotland as a low-wage economy and to a situation in which low-paid workers continue to subsidise company profits or public

authority yield. We ask who pays for that, and the answer lies in the indirect costs to which Muriel Robison referred: child poverty, family poverty, poverty in old age and the maintenance of families on low incomes.

I am not making a party-political point—that is not my business. As someone who has worked in development agencies and other organisations that look at poverty in Scotland and the UK, I know that in recent years there has been a rise in in-work poverty and households of in-work parents have been becoming poorer. The purpose and focus of a Government economic strategy must surely be to build an economy that does not rely on perpetuating inequality based on gender discrimination and the pay gap, women having access to only parts of the labour market, and families bearing the cost of economic development.

My apologies—I had more to say on that than I thought.

Morag Gillespie: Angela O'Hagan is right. My earlier point about women graduates going into jobs below their capability reinforces the fact that it is inefficient to have the occupational segregation that persists in the labour market. Discrimination and occupational segregation are positively not good for business. We are not using people's skills and we are not directing or helping people to choose the paths that are best suited to their interests, skills and abilities. From a very young age, people are being strongly directed and having their gender views reinforced on the routes that they should take.

My other comment relates to a point that Mary Senior made earlier about power relationships. That issue always concerns me. As money gets tighter in the public sector, the people who will feel the squeeze most are those at the bottom. With all due respect, it will not be senior civil servants and well-paid officials in local authorities. However gifted they are, they do not feel the squeeze—it is the people at the bottom who feel it.

I was trying to think through the squeeze in public funding, so I looked at the hourly rate of employees in the public sector. The figures are for the UK, but the situation is not very different in Scotland. For full-time men workers, the rate is £8.19 an hour. For full-time women workers, it is £7.49, which is an almost respectable gap, but for part-time women workers it is £5.91 an hour. That is not about the hours that they work but about their hourly rate of pay. To me, that highlights the fact that there is a problem for the future with the public sector squeeze. Particular groups will have to pay for that, and they will be in jobs such as classroom assistant, delivering child care or doing other care services that are the core functions of local government.

I am amazed that a national review of child care with the aim of improving retention, training and skills in the sector could have been carried out without covering pay and conditions. Do they not matter to women? Let us face it: 97 per cent of people who work in the child care sector are women. Do pay and conditions in child care not matter because the workers are women? I am gobsmacked that such a review was carried out. The people participating in the review made the same point—it is on the record in the Scottish Executive publication.

Some underlying assumptions go right through the institutions that are making decisions: the Scottish Parliament, the Scottish Government and local authorities. The people at the top are loaded with assumptions. If they were truly carrying out the equality impact assessments that Muriel Robison and Angela O'Hagan talked about, they would stop and think before the things that I have mentioned followed through and caused damage for people.

Sandra White: Muriel Robison might have answered the question that I was going to ask, which was whether the Parliament could somehow make it a rule that local government should undertake equality impact assessment before carrying out job evaluation. I think that the witnesses would agree that such an approach would be much fairer. We have just come from a meeting with local government workers who are being downgraded as a result of job evaluation. Would it be helpful if the Equal Opportunities Committee suggested that equality impact assessment should be carried out before evaluation?

13:15

Muriel Robison: It would be helpful, although there might already be obligations on local authorities to do that. Failure to follow through on public sector duties is a problem. There is an equality element in best value. Equality impact assessment is a central element and local authorities should be undertaking such assessment, to meet their equality obligations. A route might currently exist in that regard.

That brings us back to the fact that audit bodies do not focus on the fourth element of the best-value obligations. We might be able to do more, and I would not discourage the committee from pressing the issue.

Sandra White: Thank you. Sorry for raising that issue, convener.

The Convener: Your comments were useful.

Marlyn Glen: What positive measures should the Government take to promote equal pay across

the public sector? What impact would such an approach have on pay in the private sector?

Muriel Robison: I talked about the need for greater awareness of and follow-through on current obligations and duties on local authorities and the public sector, such as the requirements to consider pay objectives in gender equality plans and to produce equal pay statements. If possible, we should ensure that local authorities are called to account, through Audit Scotland and other inspectorates, who should pay much more attention to ensuring that the public sector carries out its duties on equality—the audit bodies are also under an obligation to ensure that equality is mainstreamed into their work. In the first instance, we must ensure that the public sector follows through on its obligations. That would be a positive way forward.

On the pay gap, sorting out equal pay in the public sector will have an inevitable, positive knock-on effect on the private sector. Calum Guthrie mentioned CCT. Moves to the private or the voluntary sector are often about cost savings, but if we can set the right example in the public sector in relation to setting pay, we hope that women will not be undervalued in either the private or the public sector.

The Convener: It is important to show the positive economic effects of such an approach. That is the way forward. We heard evidence this morning that the private sector is picking up on the issue, which was emphasised at the conference that I attended.

Bill Kidd: Our focus is the scrutiny of the Government's spending plans. Will Muriel Robison or Angela O'Hagan comment on the role of the audit process in holding government to account in meeting its statutory duties to deliver on equality? It is all very nice to say that government should deliver on equality, but can the audit process force it to do so?

Muriel Robison: It certainly has a role. The EHRC is concerned—as its predecessor commissions were—that the inspectorate bodies are not paying as much attention to equality issues as they ought to be. For example, local government has paid out £500 million in equal pay compensation, but none of the inspectorate bodies picked that up at all. It was completely unplanned expenditure, but it ought to have been addressed a long time ago.

Angela O'Hagan: I had not realised how much my earlier comments had pre-empted the question, so I am not sure that I have much more to say.

On compulsion, the best-value regime and the Local Government in Scotland Act 2003 already require equality to be taken into account and require equality impact assessments to be

conducted. The public sector duties not only require to be complied with to the letter of the law but, as Morag Alexander said, present a tremendous opportunity to refocus how we approach equality. The duty to promote equality understands equality in all the ways that Morag and other colleagues have talked about: quality of service, services being appropriately accessible to all members of the community and people being treated with value and respect at their employment.

There is a clear role for the audit and inspection function under existing legislation. In the round-table discussion, the committee asked whether there was a need for additional legislation. There is already a significant body of legislation that would be powerful were it to be used. It is available to the committee and other bodies in their scrutiny.

I will say something on scrutiny as opposed to audit. There is a clear role for this committee and other parliamentary committees in holding to account the audit bodies, which are accountable to the Parliament. I come back to the earlier comments on recommendations from EPBPAG and the previous Finance Committee about taking a portfolio target-based approach to scrutiny and following through the spending plans. The Scottish women's budget group would certainly encourage the committee to consider doing that. As an organisation, albeit completely unpaid—that reflects what we are talking about; I am an unpaid member of the Scottish women's budget group, as are all its members—we certainly hope to do it with the appropriate Government ministers and portfolio officials. However, I also hope to do it with my EPBPAG hat on.

The Convener: Perhaps, rather than accepting that the statutory duties have been complied with and that equality impact assessments have been undertaken, we need to dig a little bit deeper to find out what they consist of and whether they deliver where the resources go.

Calum Guthrie: I have a quick point about scrutiny. It is important to use voluntary sector organisations, given that they have direct experience of issues in local communities and the multiple components of those issues. I am sure that there are many organisations that would be keen to speak to you formally and informally if they are not already doing so.

The Convener: That point is well made and we will take it on board.

I thank all the members of the panel for attending. That has been a thorough examination of the budget and will help us when we question the minister about it.

Meeting closed at 13:23.

Members who would like a printed copy of the *Official Report* to be forwarded to them should give notice at the Document Supply Centre.

No proofs of the *Official Report* can be supplied. Members who want to suggest corrections for the archive edition should mark them clearly in the daily edition, and send it to the Official Report, Scottish Parliament, Edinburgh EH99 1SP. Suggested corrections in any other form cannot be accepted.

The deadline for corrections to this edition is:

Wednesday 5 December 2007

PRICES AND SUBSCRIPTION RATES

OFFICIAL REPORT daily editions

Single copies: £5.00

Meetings of the Parliament annual subscriptions: £350.00

The archive edition of the *Official Report* of meetings of the Parliament, written answers and public meetings of committees will be published on CD-ROM.

WRITTEN ANSWERS TO PARLIAMENTARY QUESTIONS weekly compilation

Single copies: £3.75

Annual subscriptions: £150.00

Standing orders will be accepted at Document Supply.

Published in Edinburgh by RR Donnelley and available from:

Blackwell's Bookshop

**53 South Bridge
Edinburgh EH1 1YS
0131 622 8222**

Blackwell's Bookshops:
243-244 High Holborn
London WC1 7DZ
Tel 020 7831 9501

All trade orders for Scottish Parliament documents should be placed through Blackwell's Edinburgh.

Blackwell's Scottish Parliament Documentation
Helpline may be able to assist with additional information on publications of or about the Scottish Parliament, their availability and cost:

Telephone orders and inquiries
0131 622 8283 or
0131 622 8258

Fax orders
0131 557 8149

E-mail orders
business.edinburgh@blackwell.co.uk

Subscriptions & Standing Orders
business.edinburgh@blackwell.co.uk

Scottish Parliament

RNID TYPETALK calls welcome on
18001 0131 348 5000
Textphone 0845 270 0152

sp.info@scottish.parliament.uk

All documents are available on the Scottish Parliament website at:

www.scottish.parliament.uk

Accredited Agents
(see Yellow Pages)

and through good booksellers