

EQUAL OPPORTUNITIES COMMITTEE

Tuesday 20 May 2008

Session 3

£5.00

© Parliamentary copyright. Scottish Parliamentary Corporate Body 2008.

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 20 May 2008

	Col.
DECISIONS ON TAKING BUSINESS IN PRIVATE	477
EQUALITY AND HUMAN RIGHTS COMMISSION	478
RELIGION AND BELIEF	506
BUDGET PROCESS 2009-10	507

EQUAL OPPORTUNITIES COMMITTEE

8th Meeting 2008, Session 3

CONVENER

*Margaret Mitchell (Central Scotland) (Con)

DEPUTY CONVENER

*Elaine Smith (Coatbridge and Chryston) (Lab)

COMMITTEE MEMBERS

*Richard Baker (North East Scotland) (Lab)

*Marlyn Glen (North East Scotland) (Lab)

*Bill Kidd (Glasgow) (SNP)

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

*Sandra White (Glasgow) (SNP)

*Bill Wilson (West of Scotland) (SNP)

COMMITTEE SUBSTITUTES

John Park (Mid Scotland and Fife) (Lab)

Jamie Hepburn (Central Scotland) (SNP)

Mary Scanlon (Highlands and Islands) (Con)

Jim Tolson (Dunfermline West) (LD)

*attended

THE FOLLOWING ALSO ATTENDED:

Johann Lamont (Glasgow Pollok) (Lab)

THE FOLLOWING GAVE EVIDENCE:

Ros Micklem (Equality and Human Rights Commission)

Morag Patrick (Equality and Human Rights Commission)

Muriel Robison (Equality and Human Rights Commission)

CLERK TO THE COMMITTEE

Terry Shevlin

ASSISTANT CLERK

Roy McMahon

LOCATION

Committee Room 2

Scottish Parliament

Equal Opportunities Committee

Tuesday 20 May 2008

[THE CONVENER *opened the meeting at 10:03*]

Decisions on Taking Business in Private

The Convener (Margaret Mitchell): Good morning, everyone, and welcome to the eighth meeting of the Equal Opportunities Committee in 2008. I remind all 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.

Our first agenda item is consideration of whether to take item 7, which concerns our work programme, in private. Are members agreed?

Members indicated agreement.

The Convener: Agenda item 2 is a decision on whether to consider an item on the Scots language in private at our next meeting. Are members agreed?

Members indicated agreement.

The Convener: Agenda item 3 is a decision on whether to consider in private at future meetings a draft report on the evidence that we have taken on our predecessor committee's disability inquiry report, "Removing Barriers and Creating Opportunities". Are members agreed?

Members indicated agreement.

Equality and Human Rights Commission

10:05

The Convener: Agenda item 4 is evidence from the Equality and Human Rights Commission on its approach to equality. I am pleased to welcome Ros Micklem, who is the national director for Scotland; Muriel Robison, who is the head of legal enforcement; and Morag Patrick, who is foresight team leader. I invite Ros Micklem to make a brief opening statement before we ask questions.

Ros Micklem (Equality and Human Rights Commission): Thank you very much for inviting us. Our commission has been in operation for just over seven months and we are delighted to have the opportunity to continue our dialogue with the committee about our priorities and yours, about what you hope for from us and about how we can best support each other's agendas.

Our submission outlines some of our key achievements, but it does not highlight all our productive engagement around Scotland with a range of partners and interest groups. We have found that inspiring and energising and we feel that momentum is behind creating a more equal Scotland and promoting human rights in Scotland.

We had a successful jointly organised conference in Inverness on rural issues and equality, which was followed up by effective workshops on how our agenda needs to be worked out in a rural context. We held a successful conference for legal professionals on the changing law in relation to equalities. We have had the first of a series of sessions with employers to help them to develop and share good practice on equality in the workplace.

We have started our series of round-table discussions with the interest groups that represent the new areas of equality in which we are working. We have worked with several stakeholders in the lesbian, gay, bisexual and transgender field, who came along to a productive four-hour session with us to talk about what they have been doing, how we can support that and where we could head on those issues. We have engaged with the research community on specific projects and we have worked closely with the Scottish Government's equality unit.

We feel that strong momentum for change exists and we are proud to have started our work as part of that movement. As members know, we have a massive agenda, but our organisation is quite small. We still have 25 staff in Scotland; we are working towards achieving our full complement of 40. We are aware that the agenda is huge and

that we need to take our time to understand it fully, to work out our priorities and to think through how best we can add value. We cannot do much on our own; we need to develop our key partnerships to make ourselves effective.

It is early days. That is not an apology, but members will find that we do not have fully worked-out answers to some questions. That is deliberate. Our jumping to snap decisions about what is and is not important and about exactly what line to take on every issue will not help anyone. We need to develop our thinking through research, evidence, consultation, dialogue, working with our partners and listening. We are keen to listen to the committee's thinking on how we could add value.

We will consult soon on our three-year strategic plan and on a range of issues that are specific to Scotland. We will continue a range of round-table discussions and forms of external engagement. However, we realise that it is important to be focused and to deliver something, even if we are still developing our thinking on some matters. The one-year business plan for the Equality and Human Rights Commission throughout Britain, which was published just at the end of last week, highlights 12 key delivery targets. Much of our activity will focus on those targets. You will be delighted to hear that I will not go through all 12 targets, but they include ensuring that the provisions of the Equality Act 2006 are as effective as possible when developed at Westminster. After all, the powers in that act will set the framework for much of what we need to do in Scotland.

A second key delivery target that I am sure will arise in our discussion relates to the strategic use of our legal powers. Moreover, another major theme for us is fairness at work, which covers a range of issues such as stressing the importance of leadership by employers; ensuring compliance; developing web resources to support good practice by employers; and campaigning with partners to secure better protection for workers.

We are aiming to influence the future of social care not only in Scotland but in the rest of Great Britain. However, we are aware that our profile still requires development, so in the autumn the commission will launch a GB-wide profile-raising campaign.

We will ensure that we fully reflect the Scottish dimension in our activity, which might cover, for example, Scottish legislation such as the members' bills on hate crime and parking for disabled persons; Scotland-specific issues such as the status of Gypsy Travellers; the Scottish Government's initiative on the links between poverty and inequality and on independent living; and issues such as the role that is played by violence in perpetuating and reinforcing inequality

in Scotland, which might have more of a focus for us than for our colleagues down south.

Over the next couple of months, the Scottish business plan within the GB-wide strategy will be publicised, and we hope that there will be strong interaction between the two. As we are aware that the committee is working on its own priorities, we welcome this chance to discuss not only our work, but yours.

The Convener: Thank you for that comprehensive opening statement. Although the commission has been in operation for only seven months, you have clearly hit the ground running.

Will you do some scene setting for us and outline briefly the most serious inequalities and types of discrimination that still need to be tackled in Scotland?

Ros Micklem: Because there is no hierarchy of inequalities in Scotland, I cannot give a simple answer to your question. We are trying to develop an effective framework that does not measure inequality in strands—it does not look at, for example, whether disability is more of a problem than gender, or whether gender is more of a problem than sexual orientation—but examines where people end up in their lives; the people who are unable to participate fully in society or fulfil their potential; and the barriers that people face.

Because people often have to deal with multiple barriers and because the combination of inequalities and circumstances can restrict their life chances, we are working on a framework for measuring the impact of the different factors that affect such chances. Such an approach might sound academic, but we believe that it is important to have evidence that we can use to target our efforts and to be able to measure whether we have made a difference. We are developing that evidence and ensuring that we can measure where inequalities are persisting and, indeed, getting worse.

We can give you a gut reaction to health outcomes, for example, but we are reluctant to set long-term priorities based on what we know now. Instead of setting out a hierarchy of inequality at this stage, we need to know more, have more discussions and hear more from our stakeholders. As I mentioned, we will target certain current issues this year, such as independent living and hate crime, which are very much on the agenda, and to which we feel that we can add value. However, we have still to identify other important areas through research and further thinking.

10:15

Sandra White (Glasgow) (SNP): You mentioned serious inequalities, and you said that

the Scottish dimension would be at the forefront in feeding into the commission's work. You mentioned that you were examining the role that violence plays in inequalities in Scotland, compared with England. Will you examine that area in relation to possible greater inequality in Scotland? Do you believe that there is more violence in Scotland, and therefore that there are fewer opportunities for people here who face discrimination?

Ros Micklem: We think that the discrimination that some people—such as women, ethnic minority people or people with different faiths and religions—experience might play out in a more violent way in Scotland, or might involve violence of a different kind from that which is involved in gang warfare in London, for example. Different ways of looking at violence are being developed in Scotland; I am not an expert on that issue, but some interesting thinking on violence as a public health issue is being developed by the police and others in Scotland, which could help us to consider the links between violence and discrimination.

Sandra White: The link between violence and inequalities was a theme that I had not come across before. It is very interesting. Will you conduct research to compare the differences between Scotland and the other areas that the commission covers—England, Wales and Northern Ireland—on that issue? You suggested in your opening remarks that there is perhaps more violence in Scotland than there is elsewhere. Has any research been done on that? Will a research paper be produced to feed into the commission's work as a whole?

Ros Micklem: I do not know whether there is more violence in Scotland, but there are different patterns and a geographical aspect; for example, the west of Scotland has its own patterns. We would like to do more research on that, and on ways of analysing the patterns so that we can take appropriate action. I am being a bit vague, because there are one or two areas in which we are still waiting for agreement on what our priorities in Scotland should be, but we have proposed that issue as a priority for this year's plan.

The Convener: That partly answers my follow-up question. Can you be a bit more precise about how the framework will operate in terms of measurement and prioritisation? Will it consider the prevalence of discrimination or of a particular inequality, or the severity? How do we measure that?

Morag Patrick (Equality and Human Rights Commission): The measurement framework that we are developing is based on the framework that was outlined in "Fairness and Freedom: The Final Report of the Equalities Review", with which some

of you might be familiar. We are examining 10 dimensions—health, housing and education, for example—for each of which we want to develop three measures. As well as being able to measure people's equality of outcome in each dimension, we want to be able to measure equality of opportunity in that dimension; for example, we want to know the extent to which people are discriminated against and the extent to which they have real opportunities in terms of their health.

The third element that we want to measure, which touches on the point about violence and how we make comparisons between countries, is what we call autonomy. By that, we mean the extent to which somebody has choice and control in their life, and the extent to which someone's choice and control may be limited through either overt violence or the threat of violence, or through the more subtle use of power. We are seeking to develop those three measures across each of the 10 dimensions, and that will give us a better picture of where we will prioritise our resources.

Hugh O'Donnell (Central Scotland) (LD): You seemed to indicate that it is necessary to agree with someone with regard to your priorities. Can you clarify the process a little? Who sets the priorities for Scotland? Whose agreement do you need in order to take them forward?

Ros Micklem: The United Kingdom commission sets the overarching priorities and the criteria for allocating funding, and the Scotland committee, which has a statutory duty to ensure that Scottish interests are taken into account, feeds into that process. A debate is still going on at senior management and commissioner level in London about how funding will be allocated across the various projects that have been put forward for this year. The Scotland committee has its own small budget, and once we know what is being funded centrally, we will be able to work with the Scotland committee to use that budget to fill in any gaps.

Hugh O'Donnell: Does that mean that the priorities that are set in the Scottish context could be subsumed or overtaken by wider UK prioritisation?

Ros Micklem: The Scotland committee has a statutory right to influence those priorities.

Hugh O'Donnell: That does not answer my question. Just to be clear, are you saying that the targeting priorities that are set either by you or by the Scotland committee could subsequently be overtaken by decisions that are made at UK level?

Ros Micklem: The Scotland commissioner is part of the commission; I am part of the senior management team. It is a joint process. However, the overarching decisions are made on a Great Britain basis. The Scotland committee influences that, but does not control it.

Marlyn Glen (North East Scotland) (Lab): I am interested in the link that you are making between inequality and violence. That seems to chime with Engender's chicken and egg campaign, which says that women's inequality is a cause and a consequence of violence. I am glad to hear that you are following that up.

Sandra White: I am interested in the dimensions and the priorities. As you said, the priorities are set by the commission, at a UK level, and Scotland has only a small budget. If the Scottish dimension is not accepted—which could well happen, given that we have only one person and one vote on the board—would that mean that you would get only enough money to enable you to follow the priorities that are set at UK level and that, if you did not follow those priorities, you would not get a budget?

It might be better to pursue the issue in writing.

The Convener: Our witnesses might not be in a position to answer that question yet—there is theory and then there is practice.

Ros Micklem: It would be useful to pursue the issue in writing, but I would add one point on how the commission works. Every bit of policy and every bit of paper that goes to the board includes, as one of the required sections, a section that asks whether the issue could have a different impact in Scotland. Therefore, the relevance to Scotland of every policy decision must be examined, and it must be confirmed that Scotland's input has been sought and considered. No decision can be made without those questions being asked. Therefore, safeguards are built into the system, which help to ensure that we are not marginalised as decisions are taken. Moreover, the law states that the commission must provide the Scotland committee with enough resources to enable it to perform its duties in ensuring that Scottish priorities are observed—Muriel Robison may want to say more about that. If it was thought that such resources were not forthcoming, we could turn to the statutory requirement.

Muriel Robison (Equality and Human Rights Commission): The statutory obligation to fund sufficiently the projects that the Scotland committee deems to be priorities for Scotland is important. Such an obligation is set down in stone.

Elaine Smith (Coatbridge and Chryston) (Lab): I thank the witnesses for coming and for their written submission.

In her opening statement, Ros Micklem talked about the commission developing its thinking in this period. Your written submission states:

"the EHRC has commissioned a project to understand in what ways the Scottish Parliament has used its powers in the area of equal opportunities and what impact this has had."

Will that project also focus on the work that has been done by the previous Scottish Executive and the current Scottish Government?

Ros Micklem: I think that Morag Patrick is best placed to answer that question.

Morag Patrick: Yes. The research that we have commissioned is a very short study that is intended to inform us whether we should do a longer and more in-depth study. For that reason, we decided to consider only the Scottish Parliament's use of its equal opportunities powers and their impact. If we take the research further, we will want to broaden its scope and consider Scottish Executive and Scottish Government work and the extent to which the wider infrastructure supports the use of equal opportunities powers.

Elaine Smith: Right. The initial research will focus on the Parliament.

According to your submission, one of the project's early conclusions is that

"there seems to be a perception that"

equal opportunities powers

"are limited to the elimination and prevention of discrimination."

Is that because the Scotland Act 1998's provisions on equal opportunities refer specifically to

"the prevention, elimination or regulation of discrimination between persons"?

Morag Patrick: It seems clear that people are confused about what the powers mean in practice; indeed, unless a person has legal expertise, it can be difficult to unpack what they mean. As you say, there is a definition of equal opportunities that is framed around

"the prevention, elimination or regulation of discrimination",

and that definition seems to be creating a mindset that believes that achieving equal opportunities is about preventing or eliminating discrimination and nothing else. It would be fair to say that that has been borne out by our work in considering the equality impact assessments that have been conducted on policies, from which it seems clear that policy makers have had one question in their mind: could the policy be discriminatory? However, that is only one aspect that they need to consider when they do impact assessments; they also need to think about how a policy can promote equality of opportunity and good relations. Those positive aspects seem to have been lost. As I said, the early findings from the research seem to be borne out by our experience and evidence from considering equality impact assessments.

Elaine Smith: Colleagues will perhaps talk about equality impact assessments in more detail, but you are basically saying—I am putting words

in your mouth—that the Scotland Act 1998's definition of equal opportunities is somewhat outdated and that we must now focus as much on promoting equality as on challenging discrimination.

Morag Patrick: It would be hasty to say that the definition is outdated. The project has been very short, and as I said, it was specifically designed to inform our thinking on whether we should do a more in-depth piece of work.

There clearly seems to be confusion about what the powers mean in practice. Further study is certainly merited, and easily accessible and understandable guidance about what the powers mean in practice would be a first step before we think about whether the definition is outdated.

10:30

Elaine Smith: Your provisional findings indicate that there is a

“poor understanding of equality issues.”

The final report of the equalities review that was chaired by Trevor Phillips stated:

“we need a new definition of equality”.

It also said:

“we do not have a consistent and clear understanding of the causes of inequality and what to do about it.”

Has the new definition that was outlined in the review helped to shape UK and Scottish Government thinking?

Morag Patrick: It is important to be clear that the definition that was proposed in the equalities review is not legally bounded—it is aspirational—whereas the definition in the Scotland Act 1998 is legally bounded. It is important to make the distinction.

Elaine Smith: Might we be in a better position if we had a legally binding definition? You are suggesting that it would be too hasty to consider whether the definition needs to be changed legally. You are saying that, if we take into account the definition in the equalities review to inform us, we might be in a better position.

Morag Patrick: That would be fair, yes.

Elaine Smith: We look forward to seeing the outcome of the review and to finding out whether you wish to take it further.

Hugh O'Donnell: Your research project examined the Parliament. Given that, in most instances, the prime mover of legislative programmes is the Government, why did you consider the Parliament first, rather than the actions of the Government and of the previous two Executives?

Morag Patrick: We considered the Scottish Parliament's powers, how they have been used and where equal opportunities duties have been written into legislation. In a sense, we were examining the work of the Scottish Government and policy-making procedures. We considered the extent to which equal opportunities duties were being written into legislation and the impact of that.

To restrict the scope of the research, which had to be done over a short period, we framed it tightly so that we examined the scope of the Scottish Parliament's powers and the extent to which people understood what they meant. In particular, we considered the extent to which people understood what constituted a use of those powers. For example, there was confusion over the question whether a committee inquiry constitutes a use of the Parliament's powers.

Hugh O'Donnell: Thank you for that clarification.

The Convener: I want to press the witnesses on the difference between a committee such as this one considering issues of fairness and equality of opportunity and the positive duties on public authorities to consider equality of outcome. Could you comment further on that? The committee is clear about being here to ensure that there is equality of opportunity; equality of outcome is a slightly different matter.

Morag Patrick: The first thing to clarify is that there is no duty on public authorities to promote equality of outcome. They have a duty to promote equality of opportunity. I return to the point about the distinction between the definition of equal opportunities that is legally bounded and the equalities review's aspirational definition of equality. We are developing the equality measurement framework from the equalities review, so the framework contains an aspirational definition of equality. That is where the outcomes feature, rather than in the legally enforceable aspect of our remit.

The Convener: Your written submission says:

“Since then, positive duties on public authorities to promote race, disability and gender equality have been introduced, and in 2007 the Equalities Review offered a definition of equality that incorporates the idea of non discrimination and encompasses equality of outcome and life chances.”

Morag Patrick: That is correct, but there is a distinction between a definition that is legally binding and enforceable, and one that is aspirational.

The Convener: It is helpful to have that clarification.

Bill Kidd (Glasgow) (SNP): The report of the equalities review stated that equalities are

“too frequently regarded as code for ‘political correctness’” and that some people

“think that pursuing equality means advancing some groups above others”.

How do you think that such public perceptions have arisen? In what ways and to what extent do they make the advancement of equalities more difficult?

Morag Patrick: That is a good question. We are aware that we need to understand more about how those perceptions have arisen. At the moment, we have a good insight into public attitudes to prejudice and discrimination and into what people do not want, but we have a much less clear insight into the positive vision of an equal society that people want and, importantly, what steps they are prepared to support in order to achieve that society.

Through the Scottish social attitudes survey and its discrimination module, for example, we understand why people hold such attitudes and which people in society are more likely to hold them. However, we do not have the other side of the picture—a better understanding of public attitudes to equality and that positive vision of a fairer, more equal society to which people aspire.

We have commissioned a short, preliminary piece of work with a view to commissioning a longer one that will enable us to measure attitudes to equality in Scotland, how they are changing over time, how we could build a shared understanding of what equality means and what steps we need to take to make further progress.

Bill Kidd: Is the problem that the results of the attitudes survey are generational or belief-based, or is it that prejudice is widespread across society?

Ros Micklem: There is some evidence that younger people are less likely to hold some prejudices, which is encouraging if we assume that they will carry on with those beliefs as they go through life. The EHRC needs to do a lot of work to get those prejudices out into the open and get people talking about the issues so that they are not scared of saying the wrong thing. That is one of the approaches that we are going to take to try to break away from the idea that we are telling people what is, and what is not, okay. We want to bring people together to have the discussion, whether that is through the schools debating competition that we have been supporting, work with rock against racism and YouTube, or the digital strategy. In all that work, we are engaging young people and trying to build on that more open-minded approach that some of them have. We are not telling people what to think; we are encouraging them to work through what they think,

perhaps play to their better instincts and recognise the contradictions in their thinking.

Bill Kidd: Such contradictions might be contributed to by an overly politically correct attitude that does not allow the issues to be discussed in order to widen out the argument.

Ros Micklem: It is a difficult balance because some things are offensive to people. If things are said in a particular way and cause offence, we would say, “Well, we’d rather that an approach that puts somebody down or makes them feel that they are being labelled or belittled wasn’t taken.” We want the debates to open out rather than close down, including debates about how people think about the world and what equality means to them, what they would and would not be prepared to do for a more equal society, and what language is and is not okay,

Bill Kidd: Thank you for those useful answers.

The Convener: Johann Lamont informed us that she wanted to come to our meeting today. I believe that she has a follow-up question.

Johann Lamont (Glasgow Pollok) (Lab): Thank you for allowing me to come along, convener.

I am interested in the notion of public perception. It is partly about a feeling that things are closed down, but it is also about other things. In my experience, people understand equalities issues. They understand that where they are born might define their life chances and they have a notion of what poverty does in communities, but they are hostile to the human rights agenda. That is a challenge. For example, someone might put up a closed-circuit television camera because they are having a terrible time in their community, with people harassing them and so on. They want to protect their property and their children as they come and go, but they are told that putting up a camera would be against the human rights of the people who would be filmed.

That is a characterisation of the arguments that are made around human rights. How can you challenge that? Legal cases often involve human rights issues, but they might focus on the rights of somebody who is deemed unworthy to have a case pursued for them. How will we get to a position where the priority for your commission is patterns of inequality and discrimination rather than individual cases in which people are having a bad time? The human rights agenda is often perceived as the latter.

Ros Micklem: We would all agree that perceptions of human rights will be a big challenge for us and our sister Scottish commission for human rights. We need to work hard to get people to see examples of cases in which human rights

thinking has been used in practice to improve services and make a difference for a range of people. It is not just about individuals using their rights to defend what they want to do, although that is important, too.

How we change people's thinking is a big debate. We could spend all day discussing how we influence what people think, but it is important to find examples in which good practice has made a difference and to get people together to discuss how to apply that good practice in other places. It is also important to get media interest in such examples. Some such work has been done. For example, the British Institute of Human Rights has worked with community groups and voluntary organisations to encourage people in care settings to think about how they can use human rights language to improve the service that is given to them. That involves their using the thinking to get service providers to see them differently. We should put our energy into that sort of work.

We do not have a lot of power in relation to legal cases that involve human rights, but if you want an answer on that, Muriel Robison is the expert.

Muriel Robison: The commission is unable to fund individual cases in relation to human rights, so in a sense we are spared that difficulty.

In relation to equality, we have an enforcement strategy and we pursue claims under the equality legislation. We certainly target patterns of inequality and the persistent inequalities and discrimination that we have discussed. Our work to try to identify those will feed into our enforcement strategy, which will focus on what is beneficial not just for the individual but for the bigger picture in relation to promoting equality. Instead of an individual focus, we focus on the greater good, particularly in our enforcement strategy.

The Convener: That is helpful, and it leads on to the performance of the Scottish Government and local authorities on equalities. A number of members have questions on that.

Sandra White: Muriel Robison referred to EHRC interventions and not having certain legal powers, but the submission also referred to legal interventions that the EHRC has made in specific cases. I am interested in how such interventions were made.

Do you want me to go straight on to the next question, convener?

The Convener: Yes, that would be good.

10:45

Sandra White: I was moving along slightly, anyway. The convener intervened earlier on the

question of measuring outcomes. The Government has established a national performance framework, which includes the following national outcome statement:

"We have tackled the significant inequalities in Scottish society."

Are you convinced that that outcome is sufficiently well defined—that is important—so that all parties who are responsible for delivering it know exactly what they have to do? Will you play a role in ensuring that progress on the outcome can be measured and delivered? You have said that you are meeting council leaders and that you will have the right to make submissions and organise training. Can you elaborate on those points?

Ros Micklem: It is fair to say that we have concerns about how clearly the national outcome is defined, although we recognise that the framework is in its first year of development and that further work on it continues. We will certainly try to engage in discussion to influence that further work and to ensure that specific equality outcomes are built into the measurement framework. However, we must also get across to local authorities that their other duties have not gone away—they still have their public sector duties, which define clearly what they must deliver. That requirement is still there, and the new framework has not changed it, or overtaken it.

We will remain interested in how local authorities implement and measure the impact of their public sector duties, and in how they develop their action plans and involve their service users in their equality schemes. We will monitor that closely, and emphasise to local authorities that their public sector duties still exist. We will collect examples of good practice to show the impact that those duties can make in practice. We will use our enforcement powers to pick up strategic examples of where that does not happen and where equality impact assessments have not been done. For example, if there are judicial reviews on an issue, we will assess whether we can intervene. We will look for cases and interventions in which we can reinforce the message that, as well as delivering on the important, high-level performance measure, there is an awful lot underneath that, which must be seen to be delivered.

The Convener: Richard Baker has a question on that specific point.

Richard Baker (North East Scotland) (Lab): It is clear that, as Ros Micklem outlined, there are concerns that some local authorities are in breach of their statutory duties, particularly Aberdeen City Council. Glencraft in Aberdeen is concerned about that, because facilities for disabled people have been withdrawn without the appropriate statutory consultation. What is your role in such cases? Can

you support a legal or other intervention involving a local authority?

Ros Micklem: We are monitoring the Aberdeen situation closely and working with everybody concerned. We could become involved in various ways, but much depends on how cases are taken forward—there are various steps to take. Many what-if questions must be addressed before I can definitively say what we will do. Muriel Robison may want to comment on that.

Muriel Robison: Obviously, the commission has the power to seek judicial review of a failure to comply with public sector duties. However, a preferred alternative would be to intervene where appropriate so that the focus is on, for example, whether a council has properly undertaken the equality impact assessment that its public sector duties oblige it to do.

The power to intervene, which Sandra White mentioned, is an important one for us when we are interested in the general outcome of any court decision, as opposed to focusing on a particular example, such as the Aberdeen one that you mention. We would be more likely to intervene than take steps towards judicial review.

Richard Baker: What would such intervention involve?

Muriel Robison: The commission's intervention would be to give an input on best practice and the legal requirements under the public sector duty obligations. We would be experts on what a council's obligations are, and we would assist the court to determine whether the correct steps had been taken to fulfil the council's obligations under the public sector duty concerned.

Sandra White: You mentioned meeting local authority leaders to see whether under their statutory duties they are following through on monitoring and impact assessments. I presume that such meetings will be held regularly—perhaps you could give us more information on that. Will you be proactive in that work? From your answer to Richard Baker's question, it seemed that you would be reactive—if something goes to court, you will react to that—but will you be proactive in your meetings with council leaders? I want to be sure about monitoring and impact assessments under the statutory duties.

Muriel Robison: I do not know whether Ros Micklem wants to comment, but I would say that we will have both a proactive strategy and a strategy that allows us to react appropriately when cases, such as the Aberdeen case, are pursued. For our proactive approach, we are developing a monitoring and enforcement strategy. We will highlight and prioritise sectors or themes that we feel should be focused on in achieving the different public sector duties. Therefore, the answer to your question is "both".

Ros Micklem may want to add something about the meetings that we are having.

Ros Micklem: We will go round all the different local authorities and have initial one-off meetings with each of them to reinforce the message about their obligations and to find out what they are doing and how that is working through in community planning partnerships. We will do that to get a sense of the state of play, and the meetings will be about getting our message across rather than a formal monitoring process.

Monitoring will involve a mixture of approaches. What we will not do—because we simply do not have the capacity and it would not be appropriate—is call in and trawl through every equalities scheme from every public body and then give feedback on what is good enough and what is not. It would not be realistic for us to do that. Instead, we will carry out spot checks on issues that emerge as priority areas for our work. That will include priority concerns that are highlighted through helpline calls, and we will also trawl through the outcomes of tribunal cases to look for evidence of areas that need further inquiry.

We will use what stakeholders say to us, too. One current idea is to have stakeholder groups feeding back to us, because they will have their ears to the ground. For example, we could have a group of organisations with an interest in race equality, part of whose job would be to have their ear to the ground about what was going on in public bodies and to feed back to us areas that we should examine.

We will use a range of evidence sources to take a proactive approach, as well as responding to complaints and concerns.

The Convener: I will bring Richard Baker in again on that, because I know the question that he specifically wanted to ask about the meeting outcomes.

Richard Baker: You will have meetings and discussions with local authority leaders. Will you elaborate on the specific outcomes that you hope to get from those meetings? Do you have any concern that some of the services that we are discussing are being withdrawn prior to single outcome agreements being reached?

Ros Micklem: We would be concerned if those decisions were taken without proper impact assessments being carried out. If there is evidence that that is happening we will take a view on the matter and discuss with the people who are involved the best way to address the situation.

Sandra White: It seems that there will be a lot of monitoring and impact assessment in local authorities. Is the Government being similarly

monitored? I asked about the Government's national outcome. Will there be as much scrutiny of Government policy as there will be of what local government does?

Ros Micklem: That is an interesting question. Our current focus is on ministerial duties in relation to gender and disability. The Government will produce a report on its disability duty and it will identify priorities on gender. We will take a close interest in that and in the development of performance measurement for Government, so that we have something a bit more concrete to talk about. We certainly have an interest in the Government's performance, but I cannot say that consideration of how we monitor outcomes in that regard has been our main focus up to now.

Hugh O'Donnell: Perhaps a reassessment of your focus on Government performance would be beneficial.

Where does equal pay sit in your framework of meetings with local authorities? As you know, a considerable number of issues need to be dealt with.

Ros Micklem: They certainly do, and equal pay is part of our agenda. Muriel Robison might want to talk about that.

Muriel Robison: When we consider a local authority's track record on meeting its public sector duty on gender we have regard to a specific obligation in relation to equal pay: public bodies that have more than 150 employees must produce an equal pay statement. Therefore, when we meet local authorities it is inevitable that we discuss their performance on equal pay and the extent to which they are meeting their obligations under the gender equality duty.

Hugh O'Donnell: Can you take enforcement action if an authority has not produced or implemented its equal pay statement? I am thinking about the timeframe for implementation, because equal pay legislation has been on the books for heaven knows how long and many people are still waiting.

Muriel Robison: Yes. We take different approaches, which can be proactive or reactive. We consider the extent to which a public body has complied with its obligations and we might prioritise failures in relation to equal pay. At the same time, as part of our legal strategy, we consider general issues around the implementation of equal pay, so we might make reference to failures in relation to the public sector duty as a by-product of other enforcement action that we are taking.

The Convener: Before Richard Baker asks our final questions on local authority performance, will the witnesses comment on the current debate on

free personal care? You said that care is an issue and you mentioned the Sutherland review in your submission. It appears that eight out of 32 local authorities are still charging for food preparation, so it could be argued that people in those eight local authority areas are facing discrimination, given that people in the other 24 areas are not required to pay for food preparation. Would you intervene in such cases? How would you approach the issue?

Ros Micklem: My first reaction is that the matter is not in our remit, unless the issue has to do with the implementation of Scottish legislation. Under our remit, a difference between one authority and another is not discriminatory, but discrimination between people of different ages or different sexes would be. Does Muriel Robison have thoughts on that?

11:00

The Convener: I will set the scene for you. The legal advice on the legislation is that it should be adhered to and therefore, in counsel's opinion, the local authority should pay for food preparation. However, some local authorities are still holding out.

Muriel Robison: As Ros Micklem said, discrimination at that level of detail between people in different local authorities is not something on which we would focus. Free personal care and the care of older people in general is a general concern for us, but we would not be able to examine specifics in relation to discrimination across local authorities unless, as Ros Micklem said, it sits within our remit because there is discrimination against people of different ethnic origins or whatever.

Richard Baker: You mentioned equality impact assessments, and you have monitored their success in shaping policies that are developed by the Scottish Government. To what extent are you concerned that policy interventions that may be justified by an equality impact assessment could be overturned as a result of party politics?

Ros Micklem: A range of factors comes into play in decision making. Equality impact assessments must be applied regardless of the other interests that are playing out. We stand back from party politics and focus on the impact on the people whom we are here to support. We try not to let anything get in the way of that.

Richard Baker: Does the Scottish Government have a role in ensuring that the local overturning of policy interventions does not happen?

Ros Micklem: The Scottish Government cannot decide what processes will be adopted and in what order, but it has a role in ensuring that

people fulfil their duties under the public sector duty legislation and other equality legislation. That is also where the ministerial duties kick in. The Government will report on how well those duties are being taken forward by all public bodies in Scotland. There is an obligation to ensure that that agenda is pursued. The Government probably would not intervene in situations that arise from local party politics. I do not know whether you have particular issues in mind that I do not know about. Muriel, do you have anything to add?

Muriel Robison: I agree with Ros Micklem.

Johann Lamont: Can you confirm that you were not formally consulted in the development of either the concordat approach or the single outcome agreement approach?

Ros Micklem: That is right.

Johann Lamont: And ahead of the single outcome agreements being published, you are not engaged in giving guidance on what they should look like?

Ros Micklem: No.

Johann Lamont: You said that you would examine the evidence once it all played out. Would it not be simpler to ensure that an equality impact assessment is conducted on every single outcome agreement, as the agreements are the shared responsibility of local and central Government? Single outcome agreements are not only about local government; they are agreements between the Scottish Government and local government about how they will do business. Would it not be simpler to say that, in your view, an equality impact assessment should be carried out on every single outcome agreement ahead of its agreement by local government and the Scottish Government?

Ros Micklem: Yes. We have been sending the message that all the agreements should be impact assessed. We have regular discussions with Yvonne Strachan in the equality unit about how that will work out in practice.

Johann Lamont: My concern is that you would rather wait for the evidence that the agreements have not been assessed than send out guidance that you expect every local authority and the Government to show that every single outcome agreement has been equality impact assessed, which you consider to be not just good practice but necessary. It is important for you to do that to reassure equalities groups.

Given that the word "disability" does not appear anywhere in the concordat, you can understand why disability groups are anxious. Rather than wait to see how things turn out, would it not be reasonable for you to tell local authorities that you know that most of them are signed up to

addressing equalities in the single outcome agreements, but that they have to prove it before those agreements can be signed off?

Ros Micklem: That is a really useful suggestion. Can we get back to you about it in writing?

The Convener: We would welcome that.

Johann Lamont: May I ask a quick follow-up question?

The Convener: It will have to be brief.

Johann Lamont: It has been put to me that if the voluntary sector is charged with delivering a service locally, it also has the equality responsibility for providing that service in a non-discriminatory way. However, the specification and financing of contracts for delivering such services are sometimes so tight that it is difficult to meet the equality responsibility. That responsibility remains with the service provider, rather than with the local authority. Should such contracts be equality impact assessed, to ascertain whether service providers can meet the equality responsibilities? Do you understand what I mean?

Ros Micklem: Yes. The issue is whether an equality impact assessment would tell you whether the resources were adequate. We would need to consider what would be the right tool to answer that question. The impact assessment might not approach the issues from the right angle to measure whether the resources were adequate to deliver the outcomes. We certainly need to consider that part of the process. If work was contracted out and advantage was taken to displace responsibility for the duties, we would take an interest in how we could stop that happening.

Sandra White: It would be absolutely fantastic if equality impact assessments were written into legislation and mainstreaming. It is a pity that equality impact assessments were not written into the Scotland Act 1998 at the beginning. Perhaps we would be even further ahead if that had happened.

This committee often asks other committees to mainstream equalities in their work and to subject it to equality impact assessment. Unfortunately, the Conveners Group has not always agreed with us about that. Have you been approached by committees or the Conveners Group to examine mainstreaming equalities in committees' work or to subject their work to equality impact assessment? That would be beneficial for not just this committee but the Parliament as a whole.

I seek clarification. Hugh O'Donnell asked what your project was focused on, and Morag Patrick replied that you were looking at the Parliament. Perhaps I picked this up wrongly, but I think that you said that you were conducting equality impact

assessments in relation to the Parliament's powers under the Scotland Act 1998.

Morag Patrick: The research that we have undertaken examines specifically the Scottish Parliament's powers under the Scotland Act 1998 to promote and encourage equality of opportunity.

Sandra White: I just wanted to clarify that point. Thank you. However, you did not answer my other questions.

Ros Micklem: We are keen to engage across the board in ensuring that all policy areas are impact assessed. We have tried to get involved in the impact assessment of budget decisions. Our real focus has been to try to get an impact assessment of the budget. We are part of a group that is working on that. We have not done impact assessments of other specific areas of Government work. We are keen to start with the budget, which is key.

Bill Wilson (West of Scotland) (SNP): I know that yours is a new body, but have you examined how the Scottish Executive used equality impact assessments to determine expenditure? That would give an indication of how they might be used in the future?

Ros Micklem: Yes. Most of the people in our team were involved in that work. They used their experience and the good practice that they have developed to inform their present work. We are building on existing work rather than trying to reinvent wheels.

Bill Wilson: Can you give us an indication of how equality impact assessments were used by the previous Executive in determining expenditure?

Ros Micklem: I cannot. Perhaps that is another issue on which we can respond in writing.

The Convener: That would be extremely helpful.

Sandra White: As the committee's reporter on age, I seek advice on age-related topics on which the committee could hold inquiries. You say that you would welcome

"an examination of the potential costs for the Scottish economy of the continued and widespread discrimination faced by older workers."

Can you put into context the extent of the discrimination that older workers face? How could it be tackled other than through legislation?

Ros Micklem: That is another area on which the commission is keen to do further work. One of the priorities for the current year's business plan is to examine the workplace experiences and expectations of workers who are over 50, how they see work fitting into their lives, how

employers treat them and what forms of discrimination they might face. Given Scotland's demographics, it is extremely important to make workplaces friendly for older people—people over 50, of whom I am one—and to ensure that work continues to be satisfying for people as they go through all the stages of life. We need to find out about the problems that the labour market is creating for people in that position, as we do not have enough information.

We welcome all the committee's ideas, but the committee's focusing on that area as a priority would be complementary to work that we want to develop. We would find further evidence on that subject extremely useful to our thinking.

Sandra White: I had intended to follow up on that, but if we are to do further work on age, rather than take up more of our time, perhaps the commission could return to give us further evidence on the issue.

The Convener: On the possibility of our holding an inquiry on unpaid carers, you state:

"the legal status of carers is another policy area the Committee may be interested in exploring."

Will you elaborate on that? Are you suggesting that there is a need for legislation to state specifically that carers are a group that should not be discriminated against?

Ros Micklem: The Equal Opportunities Commission considered that, and Muriel Robison can say more about it.

Muriel Robison: We certainly proposed such a requirement through the discrimination law review, which examined the consolidation of the different pieces of equality legislation. We considered experiences in the south of Ireland and in Northern Ireland. In the south of Ireland, denying a carer leave is a ground for discrimination. In the north of Ireland, there is an obligation on public bodies to promote equality between people who have dependents and those who do not, so there has been a focus on the issue in both parts of Ireland.

The EOC took the view that discrimination against carers would be one of the most important additional strands of discrimination to be added to any new single equality act. I understand that the Government has not accepted that proposal but believes that the legislation on family-friendly and flexible working, for example, is sufficient to protect carers. Recently, there have been announcements at Westminster about extending the laws in that regard.

In determining whether there is a need for an additional equality strand to protect carers, it would be valuable to have further evidence of the discrimination that carers suffer. Any work that the committee does on that would complement work

that the commission is doing. As Ros Micklem mentioned in her opening statement, our business plan prioritises social care issues at the GB level, and we will therefore do complementary work on that in Scotland. Any work that the committee did on the issue would complement work that we have prioritised.

11:15

Elaine Smith: Your written submission comments on female offenders, in which I have a particular interest. I do not want to go into specific questions about that because, as Sandra White said, if we are to do further work on the issue, we will want to ask more specific questions then. Issues arise about male offenders, too—for example, we might find a high incidence of learning difficulties and disabilities—but I want to talk specifically about female offenders.

Your submission states:

“There are two distinct sets of questions relating to female offenders that must be addressed.”

The first set relates to the gender equality duty and how systems and practices in the justice system could be altered. You give as an example an issue that my colleague Johann Lamont has raised in the Parliament about a pregnant prisoner being handcuffed. The other set, which covers a much wider area, is about

“why so many young women are in prison in the first place; and what steps must be taken to break this cycle of inequality and incarceration.”

You say that we need a wider policy debate that involves more than simply the justice sector. Will you comment on female offenders and give your views on what has been and could be done?

Ros Micklem: If the committee wants a lot of factual background for a more detailed discussion, we would need to pull it together. In our submission, we say that what happens to people when they fall foul of the criminal justice system is important, but that what gets them into it in the first place may be a symptom of all sorts of other ways in which inequality impacts on life chances. We need to examine the reasons for that, too. When people go into the criminal justice system, that is clearly a symptom of other things going wrong, and those things might fall within our remit, because they are to do with experience of inequality and exclusion.

Elaine Smith: You say that they might fall within your remit. Does that mean that work has not been done to assess that?

Ros Micklem: As far as I am aware, not much specific work has been done on the reasons why women end up in the criminal justice system. We have seen in the news recently that violence is on

the increase among young women. We have not done a lot of work on the issue. It is another area on which we would be interested in working with the committee, if it chooses to go down that road. Although the issue does not feature highly in our present strategic priorities, we are interested in and concerned about it.

The Convener: We still have several questions, so I ask members to be concise in their questions and the panel to be concise in their responses, which might allow us to get through them.

Hugh O'Donnell: I will ask all my questions together, so that the witnesses can give all the answers at once. First, what discussions and meetings have you had with Professor Alan Miller? Secondly, given that, thus far, most telephone calls to you appear to be about disability discrimination issues, are you concerned about the disappearance of the Disability Rights Commission or, for that matter, any of the other commissions? Finally, how do you raise awareness of the new strands—age, religion and belief, and sexual orientation—both internally, within the organisation, and externally, in the wider public?

Ros Micklem: We have had many discussions, both formal and informal, with Alan Miller. We have now agreed that the Scottish commission for human rights will co-locate with us in our Glasgow office. We are still working on co-location of the two organisations in Edinburgh, but we are working side by side. We have a draft memorandum of understanding with the Scottish commission for human rights that is with the Scotland committee and the other SHRC commissioners for consideration, before it goes through the formal approval process. The memorandum sets out more formally how the organisations will relate to each other. We have identified a number of areas in which we want to work together and other areas in which we need to define clearly our distinctive roles. The relationship is going well and we are encouraged by how it is developing. It could be confusing, but in practice it is working out well.

You asked about the impact of the disappearance of the Disability Rights Commission and the other commissions. People with an interest in disability issues should be reassured by the fact that there is a statutory disability committee that is making sure in no uncertain terms that we do not sideline that agenda. Because we have such a wide range of interests, there will always be interest groups that think that they are not getting enough of our attention. We have to live with that, to juggle our priorities and to ensure that our relationships are strong enough to cope with the fact that in one year we may spend more time on gender and

sexual orientation issues, whereas in another we may focus on different areas. All the groups concerned are key to our agenda.

We are developing relationships with new-strand organisations. I mentioned that we have already held a round-table session with people with an interest in LGBT issues. We are planning similar round-table sessions, to take place before the summer, with religious and belief groups, including groups with non-religious beliefs, and with groups dealing with age issues, representing younger as well as older people. We want to ensure that people with an interest in those areas are able to engage with us and help to shape our agenda.

Raising awareness of equalities issues more widely is not a matter only for us, although we need to play a part in the process. Our grant programme has made a point of funding some organisations that work in the new areas, to help them to raise awareness in local communities and partner bodies in the public sector. We are helping to empower those groups, as well as listening to what they have to say about our role in raising awareness.

Marlyn Glen: You have been advising Patrick Harvie MSP on the proposed sentencing of offences aggravated by prejudice (Scotland) bill. Would you like the protection that the bill may offer to disabled and LGBT people to be extended to all equality groups? Have you identified a need for any other anti-discrimination legislation?

Ros Micklem: There is an important debate to be had about the role that the law can play in combating violence against women. Previous work has suggested that statutory aggravations are not the best legislative approach to dealing with violence against women. We are sure that they are not the only measure that is necessary to help us to make inroads into the problem. We intend to organise a debate on the issue with Engender and other interested groups, to consider the range of ways in which we can tackle violence against women and what part statutory aggravations or other legislation might play. We need to have a debate on the matter—at the moment we do not have a firm view on whether the legislation should be extended to other areas.

Marlyn Glen: Do you have a timetable for that? It is happening quite soon.

Ros Micklem: It is, yes. I think that it will be in the next few weeks. We are trying to get a date for that set up now.

On the other legislation that we think should change, I will bat that one across to Muriel Robison.

Muriel Robison: Oh dear.

The Convener: We will move on to other issues then.

Muriel Robison: I think that you should.

The Convener: We will be happy to receive that information.

Muriel Robison: We have given it lots of thought and we will tell you all about it.

The Convener: And you will commit it to paper at a future date.

Sandra White: In some countries, there is legislation on hate crimes against older people. I have papers on that, if anyone wants to see them.

The Convener: Even more food for thought.

Bill Wilson: As you are probably aware, there has been debate about the questions that are to be included in the forthcoming census. Of particular interest to me is the fact that for the first time the census may include a question on the Scots language, thereby ending discrimination against some 500,000 Scots speakers. There is also debate over whether to include questions on sexual orientation. Are there questions that you think should be included in the census? Are there any that should not be included?

Morag Patrick: The inclusion of a sexual orientation question in the census is a priority for us. We will be writing to the General Register Office for Scotland and talking to the analysts at the Scottish Government, both in recognition of the good work that has already been done to test different options for a sexual orientation question, and to urge them to presume in favour of including a question on sexual orientation, and explicitly to seek views on that question when the GRO's policy paper for the Scottish Parliament is published. That links to issues in today's discussion about how we can map trends in equality over time and thereby better target our efforts. There is such a dearth of data on sexual orientation that it is difficult for us to set priorities for specific areas.

Elaine Smith: Do you have any input on what company will be awarded the contract for the census? Can you comment on the company's trading practices for example?

Morag Patrick: No. We do not have any insight into the contract, but as far as I am aware there have not been any particular issues in relation to that contract. Do you have concerns?

Elaine Smith: Concerns have been raised with me and with other members, but we do not have time to go into them today, which is why I asked you the question.

The Convener: On the sexual orientation question in the census, we have been told that it is difficult to ensure anonymity. When you consider the matter, perhaps you will look into how to overcome that issue.

Bill Kidd: In a society such as this, in which there are entrenched inequalities, what are the potential dangers of proactive challenges to those inequalities by Government bodies and organisations such as the EHRC? I know that that is a strange question, but people who are being challenged for having attitudes that reflect inequality will not necessarily just sit back and accept change. How should we challenge that?

11:30

Ros Micklem: That relates to the earlier question about PC, and about people being seen to have a big stick wielded at them to tell them what to think and what not to think. The question is how we go about that. It is not a matter of whether we should challenge those attitudes, but of how we should challenge them. We have described our roles as enabler, persuader and enforcer. We enable people who know they have obligations to work out how to carry them out, and we enable people who have rights to claim those rights. There is a two-pronged attack. When people are claiming their rights but not getting them, we need to work out how to improve support for them.

When the enabling does not go far enough, we must persuade people to change their practice. We need to do that in every way that we can as effectively as possible, through evidence and through encouraging people to see that that is in their best interests. We are convinced that the business case for equality—which we have not talked about today—is a powerful argument.

Enforcement starts where persuasion finishes. We do not want to start with enforcement and make people think that we are the thought police. Nevertheless, we need people to know that the law exists to protect people who are not being treated equally, and that it will be used. In the first instance, however, we would prefer people to realise that it is in all our interests to have a more equal society.

Bill Kidd: I want to ask you a political question. To what extent are your attempts to promote equality on the grounds of the six strands of equality made more difficult by the major wealth and income inequalities in society?

Ros Micklem: We are having an interesting discussion at the moment around the Government's poverty and inequality discussion paper. We think that there is a close link between financial and resource poverty and poverty of other kinds, such as poverty of opportunity. We will respond to that discussion paper along those lines. Morag Patrick has been leading on that, and the matter is on the agenda for the meeting of the Equality and Human Rights Commission's full board that will take place in Scotland this week.

The board is doing the rounds, so we have the privilege of its joining us this week. We have put the matter on the agenda for a Scotland-focused debate about the links between poverty and inequality and other aspects of our remit. We think the links are very strong, although they are still to be worked through in terms of the framework.

Morag Patrick: The issue illustrates the interrelation between equality of outcomes and equality of opportunity. There is no doubt in my mind that, if a large number of people in Scotland are still living in poverty, it affects their opportunities in, for example, health and education. It is a reminder to us not to try to separate out equality of outcome from equality of opportunity as if they can be treated and resolved separately. We must understand their interrelation and develop strategies to tackle both.

Bill Kidd: Thank you. I look forward to your findings.

The Convener: There is time for a final question from Marlyn Glen.

Marlyn Glen: Recent reports have suggested that the European Commission will scale down its plans for an anti-discrimination directive, with the new draft offering protection only against discrimination on the ground of disability. To what extent do you seek to influence the development of European Union anti-discrimination policy? Is that within your remit?

Ros Micklem: Yes, it is. We hope to influence legislation at every level, although we have still to develop fully the mechanisms for influencing European legislation, particularly in Scotland. That is something on which we need to work with our colleagues in England and Wales. It is an area in which we have an interest and want to make our thoughts known.

Muriel Robison: Colleagues down south, who lead on issues at Europe level, take every opportunity to enable us feed into the discussions about concerns over the scaling down of the directive. In Britain, we are at an advantage because we already have legislation on discrimination relating to sexual orientation, religion and belief—but not to age—in respect of goods, facilities and services. The directive is, therefore, perhaps of less significance to Britain, although we are taking every opportunity to feed in our concerns about it.

The Convener: That brings us to the end of our questioning. I thank the panel for a stimulating evidence session. We look forward to receiving additional evidence on various issues. Thank you all for appearing before us.

I suspend the meeting briefly to allow the witnesses to leave the table.

11:35

Meeting suspended.

11:40

On resuming—

Religion and Belief

The Convener: Agenda item 5 is consideration of our approach to our proposed taking-stock exercise on religion and belief. At the end of the paper are two recommended actions based on the fact that the Government has already undertaken a similar exercise. One option is to defer action until the Scottish Government has developed its strategic framework, and the other is to invite the Minister for Community Safety to brief the committee on the Government's work.

I suggest that we get the minister in, so that we can explore the Scottish Government's decision to pre-empt, as it were, something that was laid out in this committee's work programme by undertaking a similar exercise. In the light of that evidence, we can then decide whether it is appropriate to defer what we had originally intended to do.

Does the committee agree to that suggestion?

Members *indicated agreement.*

Budget Process 2009-10

11:42

The Convener: Under agenda item 6, we must discuss whether we wish to appoint an adviser to assist us in our scrutiny of the Scottish Government's draft budget for 2009-10. Do we agree so to do?

Members indicated agreement.

The Convener: Does the committee agree with the specification for the adviser, which is laid out in annex B of paper EO.S3.08.08.04?

Elaine Smith: I have a procedural question. If we decide to appoint an adviser this year, will we have to go through the process of appointing an adviser every year, or can the committee appoint an adviser who will advise us for the rest of this parliamentary session?

Terry Shevlin (Clerk): Until now, any committee, apart from the Finance Committee, that has appointed an adviser for the budget process has appointed one on an annual basis, rather than have a standing adviser. The Finance Committee has someone who is informally described as a standing adviser, but I think that special arrangements have been made for that. The committee would need to be certain about whether it needs someone in that longer-term capacity, or whether it is content to appoint someone for this year and then to consider the matter again when the next draft budget is produced.

Elaine Smith: I would like to go ahead with the specification that is before us. However, although I do not know whether the committee would always want to appoint an adviser—that would be up to members of the committee at the time—it might be helpful to have a named adviser, rather than have to produce a specification and advertise the post every time. Is that a possibility?

Hugh O'Donnell: What Elaine Smith has said is helpful. It would be useful if, for the remainder of the session, we had an adviser in a cupboard—metaphorically speaking—who we could bring out as and when necessary. That approach might be to the advantage of the committee's budget consideration. The fee structure could be negotiated in such a way as to set out the person's rate if we do not use them while they are effectively on stand-by or on call, and to specify the working rate if we bring them in at any stage of any budget process. I say that to elicit clarification, but I can see the possibility of doing things that way.

11:45

The Convener: We will certainly seek clarification on the matter. I can understand the arrangements of the Finance Committee. We may well be happy with an adviser whom we have already used, and we might wish to consider a longer-term appointment, but there are issues of openness and accountability. We should be seen to ensure that whomever we appoint at a given time is the best person for the job. I take the points that Elaine Smith and Hugh O'Donnell have brought up about the efficiency of such appointments. We will get back to members on the matter. In the meantime, can we approve the specification that is before us?

Sandra White: I would approve the specification as it is. Regarding Hugh O'Donnell's suggestion, we would need to decide how long we wanted an advisor to be on so-called stand-by. We would need to ensure that the arrangements met the legal requirements and statutory duties under equalities legislation. I would hate to think of the Equal Opportunities Committee appointing an advisor for five years if that was against the law. We must consider that aspect—we should ensure that our backs are covered.

The Convener: We will get advice and report back to members on that specific point. Are we happy with the specification as it stands?

Members indicated agreement.

The Convener: We will seek clarification on the points that have been raised.

We have completed all our agenda items in public session. I remind broadcasting and official report staff that we are now moving into private session to discuss items 7 and 8.

11:46

Meeting continued in private until 12:44.

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:

Tuesday 27 May 2008

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