

EQUAL OPPORTUNITIES COMMITTEE

Tuesday 2 December 2008

Session 3

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EQUAL OPPORTUNITIES COMMITTEE

17th Meeting 2008, Session 3

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Margaret Smith (Edinburgh West) (LD)

*attended

THE FOLLOWING GAVE EVIDENCE:

Vera Baird (Solicitor General)

Damian Carnell

Ann Henderson (Scottish Trades Union Congress)

Ed Mayo (Consumer Focus)

Dr Agnes Nairn

Tom Narducci (National Society for the Prevention of Cruelty to Children)

Janice Shersby (Government Equalities Office)

CLERK TO THE COMMITTEE

Terry Shevlin

ASSISTANT CLERK

Joanne Clinton

LOCATION

Committee Room 1

Scottish Parliament

Equal Opportunities Committee

Tuesday 2 December 2008

[THE CONVENER *opened the meeting at 09:39*]

Decisions on Taking Business in Private

The Convener (Margaret Mitchell): Good morning, everyone. Welcome to the 17th meeting in 2008 of the Equal Opportunities Committee. I remind all those present that mobile phones and BlackBerrys should be switched off completely, as they interfere with the sound system even when they are switched to silent.

Does the committee agree to consider mainstreaming guidance in private at a future meeting?

Members indicated agreement.

The Convener: Does the committee agree to consider its approach to an inquiry into female offenders in the criminal justice system in private at a future meeting?

Members indicated agreement.

The Convener: Immediately following our discussion, the details of the proposed inquiry will be available on the committee's website.

Sexual Imagery in Goods Aimed at Children

09:40

The Convener: The next item on the agenda is a round-table evidence session on sexual imagery in goods aimed at children. The subject lends itself to the round-table format, which will allow us to discuss openly issues that grab a lot of media attention and are matters of public concern. When, at a previous meeting, the committee was forming its views on the subject, it considered a paper that provided details of goods that contain sexualised images and appear to be aimed at children. The paper referred to studies that show the negative impact that sexualisation may have on teenage girls in particular.

Today's round-table discussion will be an informal, relaxed session to enable us to understand the issues in a little more detail and to identify any relevant follow-up work that the committee could do. We are pleased to have with us the guests who will take part in the session. We will start with introductions. I am Margaret Mitchell, the convener of the Equal Opportunities Committee.

Hugh O'Donnell (Central Scotland) (LD): Good morning. I am a member of the committee, representing Central Scotland.

Ed Mayo (Consumer Focus): Good morning. I am the chief executive of Consumer Focus.

Dr Agnes Nairn: I am a professor of marketing at EMLYON Business School and Rotterdam business school.

Marlyn Glen (North East Scotland) (Lab): I am an MSP and a member of the committee.

Tom Narducci (National Society for the Prevention of Cruelty to Children): I am a senior consultant with the National Society for the Prevention of Cruelty to Children.

Sandra White (Glasgow) (SNP): I am an MSP for Glasgow and a member of the committee.

Ann Henderson (Scottish Trades Union Congress): I am the assistant secretary of the Scottish Trades Union Congress.

Bill Wilson (West of Scotland) (SNP): I am an MSP and a member of the committee.

Damian Carnell: I work for the Nottinghamshire Domestic Violence Forum and am a trainer and consultant on domestic violence issues.

The Convener: Thank you. I should have mentioned at the outset that we have received apologies from Elaine Smith. Johann Lamont,

Malcolm Chisholm and Bill Kidd have indicated that they will join us later.

We will start with the issue of increased prevalence of sexual imagery in goods aimed at children. We have received written evidence from Dr Agnes Nairn, Playboy Enterprises International and the Scottish Retail Consortium that suggests that there is some dubiety about whether the prevalence of such imagery has increased.

Dr Nairn: This is a really important issue. Because it is so important, we need to ensure that the definitions that we use are clear. We may want to broaden the definition of sexual imagery in goods, as there is imagery in goods, the advertising of those goods and the media, which is the backdrop to everything that children see. It is useful to look at each of those areas.

There is sexual imagery in goods such as pole-dancing kits for kids. On Saturday, I saw the slogan "bitch magnet" on a baby's romper suit in British Homes Stores. Recently Coca-Cola had to withdraw an advert because it included sexual imagery, although the product is not sexual. We must also consider the role of MTV and music videos.

You asked whether sexual imagery has become more prevalent. To find out whether it has, we would need to consider the three areas I mentioned—goods, advertising and the media backdrop. I am not aware of any empirical research to examine what happened in the past and what is happening now, but that does not mean that the prevalence has not increased; it means that the evidence is not present. One of the first things that the committee might like to consider is starting some research.

09:45

The Convener: So we are saying that we are all aware of an increase in the prevalence but that it has not been proven because there is no formal way in which to gather and collate the information—we are relying more or less on hearsay?

Dr Nairn: Yes.

Damian Carnell: I support Agnes Nairn's point about the need for research. In the past seven years, I have done a lot of work with young people in primary and comprehensive schools, young offenders, youth inclusion programmes and home-educated children. I have worked with a broad spectrum of young people. I can speak about what I have observed in the attitudes of boys and young men, but it is not research proven. Over the seven years, I have noticed the increasing ease with which young men use hostile and derogatory language about women and girls, and an increase

in jokes about sexual violence against women and girls. The situation is more open now and more hostile—at least, it could become hostile.

The Convener: How do you relate that specifically to the use of sexual imagery in goods that are targeted at children?

Damian Carnell: When we consider targeting at children, we need first to consider the age at which we think childhood ends. I am talking about 12 to 16-year-old boys using imagery on their mobile phones as a way of sexually bullying girls and teachers. Only two years ago, Playboy products started being discussed in my work in schools on healthy relationships. Girls aged nine talked about which Playboy products they had and about their understanding of pornography. We had to bring that into our work with the children—we did not go in wanting to talk about pornography; they raised the issues with us. I expect Miss Bimbo, a new website game for girls, to come up in discussions soon. In the game, you own a bimbo and then buy things for them to make them appealing.

The Convener: Who has access to that website?

Damian Carnell: Any child can access it; there is no age restriction.

The Convener: So there is an issue about policing the internet and websites?

Damian Carnell: Definitely.

Tom Narducci: The NSPCC has considered whether the use of sexual imagery has increased, and found that it seems to be spreading. Originally, we had stuff such as clothing or T-shirts with sexual comments on them, but companies now produce make-up, perfumes and scents for young girls, including pre-10s, so that they can make themselves up and put on perfume just like their mummy or older sisters. A similar thing has happened with toys. We are concerned that some toys are highly sexual in their presentation. For example, Bratz dolls are famous for having small waists, large busts, miniskirts and fishnet stockings—that sort of appearance.

Music has been mentioned. Some music has become more sexual, but it is also now put on television channels such as MTV that come right into the home. It is not unusual for young children to watch music programmes or for young girls to mimic the female dancers.

One of the worrying trends is beauty treatment centres offering beauty parties for children. Instead of someone having a birthday party for their little girl, they take her and her friends to the beauty parlour, where they are made up and have their hair and nails done. Those parties are being aimed at five-year-olds. One beauty parlour that I

saw almost made me laugh: it does hair, make-up and nails, but it also has a dressing-up box.

I agree that more research is needed, but what we are finding—I appreciate that it is anecdotal—is that the use of sexual imagery is now more pervasive. Instead of being used for just one or two things, it is used for a range of things and—I agree with Damian Carnell's comments—it gives a disturbing perspective of girls and young women. Everything is about improving image and appearance, to be more attractive to men. For boys and men, the issue is that they see those girls and young women as sexual objects because that is what they are being trained to become.

The Convener: That is a useful contribution. From what we have heard so far, it is clear that there is real concern that children are not being allowed to be children any more, but are being targeted as adults.

Hugh O'Donnell: I will play the devil's advocate a little. I agree entirely about the need for empirical evidence. The evidence that we have—including that which we have heard today—is substantially anecdotal. There is a critical need for empirical evidence. However, I wonder to what extent—if at all—adults are back-referencing these products in terms of their own perceptions of sexual material. Has anyone done any research or investigation into how the products are perceived by the children, rather than into adult perceptions of what constitutes sexually related goods?

Dr Nairn: That is a crucial question. Most of the research that has been done has been conducted by adults on adults' perceptions. There is a lack of research on kids' perceptions.

If you ask a four or five-year-old what they think of a Bratz doll, they will not say that it is sexy, because that is not in their vocabulary. They do not see it as sexy in that way. Also, if they dance provocatively to an MTV show, they do not understand what they are doing. However, by not understanding what they are doing, they lay themselves open to exploitation by paedophiles and so on. As I discussed with Marlyn Glen before the meeting, that is a real risk.

I am an academic, so I would always say that we need more research, but there is a lack of research into children's perceptions—especially those of younger children. There is an American report, which a lot of you will have seen, that deals with young women looking back at their teen years, but not a lot of work is done with teenagers, and even less is done with younger children because that would cause a problem. How could one, ethically, start talking to a six-year-old about sex? That would not necessarily be appropriate. Such research would therefore face quite a lot of challenges, although they might be overcome—I

am sure that there are research techniques that could be used. Some thought needs to be given to it. You raise a really important point.

Ann Henderson: I echo the comments that have been made about the possible need to develop some research. The discussions that we have had in the trade union movement—certainly in the teaching sector and echoing comments around youth work—have focused on anecdotal evidence of the greater prevalence of sexual imagery, the pressure it puts on girls and young women around body image and the consequences of that for self-esteem.

There is a contradiction between the prevalence of sexual imagery and the curriculum for excellence and promotion work in schools that is aimed at encouraging young people to become confident individuals who respect basic values and equality. We will come later to the discussion about which images are bad, but I would say from conversations in the trade union movement that there is a concern that sexual imagery is becoming a greater problem.

Lots of trade unionists also bring experience from working in the shops that stock the goods, bringing up families and having discussions with their own children. The prevalence of sexual imagery undoubtedly affects self-esteem, which links to a conversation that we can have later about job prospects and opportunities and gender segregation in the labour market being reinforced—different issues that we would all agree need to be tackled.

I agree that there are some issues around empirical evidence. I do not have the figures in front of me, but it is probably worth referring to the work done by the Zero Tolerance Charitable Trust that led to the introduction of the respect campaign in primary schools. It evidenced attitudes among young men and boys, particularly about acceptable language and treatment of girls. As the committee will know, the trust was supported by the Scottish Government to promote work in primary schools. There is some evidence in Scotland on the possible consequences of sexual imagery.

The Convener: We are still discussing the prevalence of sexual imagery; we will widen out the discussion later.

Damian Carnell: I will start by talking about adults and then move on to children.

My experience of working with men who are violent against women is that although they are from different backgrounds and have different experiences, the common link is their belief in their right to control and dominate their partner. Their behaviour is directly linked to beliefs and attitudes. The question is where they get those attitudes

from. Where do they learn those beliefs, and what do they see around them?

We can do a big piece of work with such men on their sexual beliefs about women and then they step out of the room and see a billboard poster across the road of a woman saying, "Think my clothes off." To them, all that we have done is then a load of rubbish as they take from the advert a certain idea of what women want.

The same applies to children and what they see around them. To the question, what do children understand about the products available to them that we as adults see as sexually objectifying and exploitative, I would say that although they might not understand the product from an adult's perspective, they will get their own ideas about it. If, for example, a child wants to grow up to be a pole dancer because she thinks it is a valid profession because a pole-dancing game was bought for her from Tesco, does that mean it is okay? If a child sees that some women make lots of money out of prostitution, does that make it okay?

In my work when talking about domestic violence, children as young as nine have a lot to say about respectful and abusive relationships. It is wonderful to engage with young people on respectful behaviour and attitudes, but in doing so we have to break through a lot of negative beliefs—certainly of boys, who seem to have deep-rooted beliefs of being superior to girls. My three-year-old daughter went to a little exercise class called Notts tots. Three boys of the age of three or four came straight up to her and said, "We don't like girls." Where do they get that attitude from?

My seven-year-old daughter went to a gym class where all the screens showed MTV videos. Sexual imagery is not just in the home; it is spread throughout children's environments. What magazines are on the racks for pupils in comprehensive schools? *Empire* is a film magazine, but what does it advertise in the back and what does that say about credible professions for girls?

The Convener: So, effectively, they are accessing subliminal messages?

Damian Carnell: Yes.

10:00

Ed Mayo: I will offer a counter-perspective, starting with prevalence. You could knock me over with a Bratz feather boa if sexual imagery among children is not now more prevalent. That is also the case among adults. That is the key backdrop. A lot of what children are exposed to is a spillover

from sexualised adulthood rather than a sexualised childhood.

A piece of research from the United States, which may or may not be relevant here in Scotland, considered the number of women in magazine and billboard advertisements who are partly dressed or undressed and the extent to which that has changed over the past 20 years. It found that women were partly dressed or undressed in half of the adverts and that that proportion is twice what it was 20 years ago. There is a sense across the Atlantic that that tendency is on the rise, which does not surprise me at all.

We are a new consumer organisation—we started last month—and the research that I have carried out on children as consumers shows that, by and large, they enjoy their life and their opportunities and experience as consumers. They enjoy the toys, and they lap up the T-shirts, but there is a sense of concern in some areas. For example, one boy aged 12 said, "I've seen things that I really don't want to see." In their messages to companies, children have said, "Don't sell us things that are bad for us."

Agnes Nairn used the words "sexy" and "sex". Many products are marketed as being "sexy". I think that it is an act of grammatical cowardice, but companies will draw a distinction between "sexy" and "sex". The T-shirts that we heard about earlier might say, "I'm cute. I'm hot. I'm everything you're not" or, "I'm cool. I'm hip. I'm your biggest treat" or, "So many boys. Too little time." They are marketed as being empowering for children and as being sexy rather than about sex. It is very easy to slip across that boundary.

This all connects with what Ann Henderson said about self-esteem. My understanding of early sexualisation is that it means finding value from seeing oneself with sexual attitudes or sexual behaviour. That comes down to a sense of self. It is deeply ensconced in the notion of beauty and how we understand it, as well as in gender. We know that the better adolescents feel about their own body, the better they feel about themselves. According to international research done by Dove, adolescents in the UK find it harder than those anywhere else in the world to think of themselves as, and feel, beautiful because of the images of perfection that surround them, which sell their anxieties back to them.

The Convener: I should mention that Consumer Focus is a new organisation and has come from the merger of the old National Consumer Council, energywatch and Postwatch. We are pleased to have you here with us today.

Sandra White: I agree with everything Ann Henderson said. We will explore the issues around

the sexualisation of girls in particular more fully later. It could perhaps be thought of as grooming from an early age.

We have been discussing sexual imagery. It is more prevalent now, as I notice when I go to the shops—although it might be more subtle than it has ever been. Are we more aware now that it is wrong to display such images to children? Ten years ago, it was all right to buy a little girl some bikini-type underwear, but we would just not buy that now, and we do not see it in the shops so much. Is that because adults are becoming more aware of the fact that such imagery is aimed at children as young as six months, a year or two years old? They do not know what sex is, but adults do. Are adults becoming more aware and raising the issues?

Playboy has been mentioned. That company sent a letter to the committee saying that one pencil case—to speak about a playboy item—should not be displayed in the vicinity of goods aimed at children, but that begs the question what 18-year-old would be going about with a pink pencil case with Playboy bunnies on it. We must consider the subtlety of the marketing as well. Are adults becoming more aware of what is wrong and that we need to protect children, because they certainly do not know?

The Convener: It was good to get assurances in writing from Playboy that it takes seriously the way in which goods are displayed and the appropriateness of its logo appearing on some goods. The problem seemed to be with the licensees and how much power and clout Playboy has to rein them in if they overstep the mark.

Sandra White: I was just using that as an example; I was not attacking Playboy. The question I was posing is whether adults are more conscious of the problem. It is good if we are.

The Convener: Do any of the witnesses have a view on that from the shopkeepers' perspective?

Dr Nairn: I think that we might be more sensitised to what is going on, which is possibly a good thing.

I have been thinking about whether we have empirical evidence for an increase in sexual imagery aimed at children and whether Ed Mayo will be knocked down with a feather boa. I interpret "increasing" as meaning increasing over time, so that there is more such imagery now than there used to be. How would we measure that? If we take the internet, there is no question but that everything is more prevalent because kids can access more or less whatever they want whenever they want. Between 70 and 80 per cent of kids—even young kids—now have multichannel television sets in their bedroom and the figure goes up year on year. About 30-odd per cent of

kids have internet access in their bedroom. It would be nice to do an empirical study on the prevalence of sexual imagery but, given the ubiquity of the internet and the media in children's private spheres, there is probably little question but that it has increased.

The Convener: So technology has a huge part to play in the increase in prevalence?

Dr Nairn: Yes, exactly. It is a major factor. All kids have mobile phones. In a few years' time, they will all have internet-enabled mobile phones and will be able to Bluetooth pornographic pictures round the classroom in two seconds flat.

Ed Mayo: The issue is not only that the new technology is changing the world and that kids are the pioneers, but that its use is unmediated by parents. Before, parents had greater control over what their children could access, but they have less power now even if they are more alert to the issues.

The Convener: Shop workers have worked in shops for many years. Do you have a feel for whether they think things are changing?

Ann Henderson: It is not possible to put a figure on it. I am not sure that I agree with the comments that have been made about increased awareness among adults. We must consider who is marketing skimpy little toddler T-shirts with slogans on and why. If people were not buying such goods, nobody would make them. The anecdotal evidence from the shop floor is that an increasing number of people are buying them. Therefore, for us, the questions are more why the increase is happening and who benefits from it. We would certainly argue that their sale is not beneficial to society or to the equality that we seek to achieve.

All the trade unions, including the shop workers unions, were represented at the annual Scottish Trades Union Congress women's conference two weeks ago. At that conference, there was unanimous support again for strong policy positions on tackling violence against women and for doing everything we can, at whatever level and wherever we can to tackle it.

The figures and evidence show, as members know, that we are not making an impact on violence against women such as rape and assault. At the conference, all the trade unions made contributions, and we heard some powerful contributions—as happens every year—from women speaking about their and fellow workers' experiences of sexualised violence in the workplace.

That is the context—we do not have the figures, but we would be happy to explore the issue further with the committee. If a survey or some research

is pulled together, we will be happy to take it back to the Union of Shop, Distributive and Allied Workers and the other unions that have expressed strong views.

Damian Carnell: Products such as bikinis for girls are still around, and there are now more varieties to choose from. High-heeled slipper shoes for baby girls who cannot even walk are now available. If something is marketed and it is out there, children learn that it must be okay. In a sense we, as parents and as a community, promote ideas. We might promote positive ideas, but when things that we might not view as positive are promoted, children might still view those as being okay.

The Convener: That is very helpful. We will move on.

Hugh O'Donnell: As far as I understand it—this might be rather naive—we are looking at a triangle, in which there is a consumer, a supplier and a retailer. I am quite disappointed that we do not have any retailers at the table, because that means that there is a gap in the discussion. The retailers were invited, so it is disappointing that they have failed to appear, although we have received some written evidence from them.

I have two questions. To what extent does each of the three sides of the triangle bear responsibility? I think Ann Henderson and others have touched on that. Is it the parent who has to—to quote a phrase that was used in another context—just say no, with all the pester pressure that parents get? Is it manufacturers who create the demand in the first place, or are they simply supplying goods? Do retailers ultimately have to take responsibility by saying that they will not stock certain products? I am interested in where panel members think responsibility lies.

The Convener: It might be useful to advise everyone about the organisations that we invited to the discussion, some of which were unable, or declined, to attend. They include Playboy Enterprises Inc, which provided a written submission; Asda, which declined the invitation; the Scottish Grocers Federation, which felt that it does not have input to make and could not contribute much; and USDAW, which also declined.

The Scottish Retail Consortium provided a written submission, but feels that the issue is nothing to do with it—although from reading the written submission, I would certainly say that the SRC has something to say on the subject. The parenting across Scotland group was unable to attend, as was Sue Palmer, although she kindly suggested Dr Agnes Nairn, who is with us today. That is the background—we tried to get a balance

of views, but some elements are not represented as well as we had hoped.

Bill Kidd (Glasgow) (SNP): I apologise for arriving late. My question might have been answered already. It might be best addressed to Dr Nairn.

Imagery is not exclusively marketed on a sexual or a gendered basis, and it is obvious that women are as influenced by it as men. It is almost always women who buy the type of inappropriate clothing for children that was described earlier by Sandra White, so it is clear that they are influenced by the imagery as well. It does not make much sense to buy such clothes unless you are trying to inculcate in your children that they might be sex objects later in life. Is an education process required here? Should society as a whole be educated in order to get people away from the idea that they should be buying such goods for their children, which might in turn influence the children to buy such clothes for themselves later on?

10:15

The Convener: We will come to that, but we want to explore Hugh O'Donnell's question first. I probably threw everyone off by telling you who had been invited to give evidence. I ask Tom Narducci to respond, followed by Agnes Nairn.

Tom Narducci: There were a couple of interesting points there, one of which was about checking with children. If we were discussing sexual abuse, we would be using the concept of informed consent—a child cannot consent to something that he or she does not fully understand. One of the problems with investigating children's attitudes to sexual imagery, clothing and behaviours is that you are in effect asking them to express views on something whose implications they cannot fully understand. If this was a court, we would not accept that: we would be saying that children do not understand the implications and are therefore not in a position to say yes or no. We should keep informed consent as a baseline when we are working with children. We should not ask them to have views about things that we believe they do not understand.

The other issue that was raised for me partly relates to the written submission from Playboy. As we all know, we are living in an increasingly sexual environment. Someone mentioned the internet and the wide variety of television channels. If we examine that, we can see an increase in sexual imagery for children. What is equally disturbing is that there is a sort of blurring of the sexual and sexy images of women and children. There is also the move towards size zero models in fashion. Some of the people who promote adult styles in

fashions have virtually no bust. Very young girls are being used—girls with no adult female shape. To some extent those models are looking increasingly like children. They are being put in highly sexualised outfits on the catwalks. That may or may not be appropriate for women—there are people here who know much more about the position of women in society than I would claim to—but it causes a blurring between sexual and sexy in relation to the crossover from children to adults. That is a matter of concern.

I read the submission from Playboy and saw no reference to the direct selling of the Playboy image. The company said that it is careful to ensure that its magazines are put on the top shelf and that they are not next to magazines that are aimed at children. That is fine. I acknowledge and appreciate the thought that Playboy gives to that. What the submission did not address—I certainly did not see it—was how, if we take the logo for an organisation that was founded in the early 1950s and is based on the sexualisation of women, and impose it on children, there will be no implications. I was quite disappointed. Before coming to the committee, I did some research. The front cover of the current issue of *Playboy* shows a young model with her hair in bunches, wearing only white schoolgirl socks and holding a teddy bear. There is that blurring between what is sexy and sexual for women, and children. The logo of the company is now being promoted to children—it is interesting that the company chose not to comment on that.

Dr Nairn: I want to pick up on Hugh O'Donnell's question about whether the manufacturers or the retailers should be responsible, or whether it should be up to parents to say no. Obviously, all of them have to be responsible. They should all get into one room and talk to one another, so it is a real shame that they are not in this room now, having this conversation.

In its submission, Playboy went to great lengths to stress that it forbids its retailers to place any Playboy merchandise next to any kids' brands—the submission mentioned Hello Kitty specifically. I was in Bath on Saturday and took a picture of Playboy stuff right next to Hello Kitty stuff, on the same shelf.

The Convener: The way in which guidelines are implemented seems to be an issue.

Dr Nairn: There is obviously a breakdown of communication. Playboy has strong guidelines—which it underlines and puts in bold font—but retailers are saying that it is not their problem. The products are clearly being targeted at children; there is no other way you can put it. They are placed on the shelves beside children's products.

The Convener: Are you therefore saying that responsibility lies with the manufacturers, or with the licensees?

Dr Nairn: Whose responsibility should it be? Things should be more joined up. The manufacturer says that it has guidelines, but if it does they are not being put into practice in WH Smith.

Should everyone be educated? Well, yes. In the obesity debate, manufacturers always say that it is up to parents to just say no. However, when those manufacturers are spending millions and millions of pounds on advertising to get the kids to say yes, it becomes an uneven contest. Where is the balance of power? The power is not just spending power but information power. Do parents have enough power to know that buying a toddler's jacket that says "bitch magnet" is unacceptable? However, retailers and manufacturers should not be selling such things in the first place.

The Convener: Yes. The phrase "community of interest" has been used. It is a good phrase.

Dr Nairn: Yes.

Damian Carnell: The Scottish Retail Consortium says that its members advertise directly to parents, and that toys in particular are advertised to adults to buy for their children. I want to understand what makes them think that they are advertising to parents and not to children. There is room for discussion and, if people's aim is to advertise to parents, they could be supported to do it in a better way.

If you go into WH Smith's today and consider how magazines are set out on the shelves, you will see that the idea of the top shelf is a farce, because it is still visible to children. On the bottom shelf, *CBeebies* magazine is next to *Barbie* which is next to *Bliss*; but a little further along there are newspapers such as the *Sunday Sport* and *The Daily Star*. The images on the front pages of those newspapers are at ground level. On the second shelf you will find *Loaded* and *Zoo*, with their sexualised imagery; on the third shelf you will find more of the lads mags; and on the top shelf you will find *Playboy*. It is all connected.

Children will look around. What do boys take from seeing all that sexualised imagery of women? What do girls take from it? Children look at society—they see their parents, the shops, the leisure centre and TV as all being parts of society—and if we put all this imagery in front of children, they think, "Well, it must be okay, because they're the adults and they're telling us what is right and what is wrong. If it's there it must be right."

I work with boys between 12 and 16 and we ask them about the magazines that they read. They

talk about the lads mags, and we ask about what is in them and what sort of language is used. They say that there is nothing else for them, although we have told them that these magazines objectify women and they can see that. They ask, "What else is there for us?" I say, "That's a good question." What was around for me? I remember that there was *Roy of the Rovers*, and *Shoot* magazine. Clearly, they contained some attitudes about male supremacy over women, but they did not overtly sexualise women.

As a child, I did not have available to me a dartboard that showed the torso of a woman, but that product is now available for boys to play on. It has two targets to hit with darts. What does that encourage? It does not encourage respectful behaviour towards women. Responsible retailing, marketing and products should be about encouraging respectful attitudes and behaviour. If that was the case, we would not have the problems that we have today, such as the increase in teenage pregnancy and what seems to be a never-ending high level of violence against women and girls. Many efforts have been made to tackle that, but they do not make a difference. What is that about? Is it because—

The Convener: So it is important to consider both the content of goods and the way in which they are displayed.

Damian Carnell: Yes.

Marlyn Glen: This is a fascinating discussion and there are many directions that we could take. I think there is consensus that the cultural shift that we are discussing is not good for society, but it would be sad if we regarded our society as powerless. I do not want to be seen as powerless or naive about the matter.

There is consensus among everyone we have been in touch with, including Playboy, that protection of children is important. We should put it on the record that Tesco did withdraw the pole-dancing kits. When complaints are made, there are changes. People can also be powerful and work individually. For example, someone removed the Playboy stuff from one branch of WH Smith.

In its submission, Playboy states clearly that it only targets over-18s. However, we have to be realistic. The film "House Bunny" is for a 12A audience—that is how it was badged, although that is not Playboy's responsibility. Also on sale were spectacles for little girls with the Playboy bunny logo on them. Those were not targeted at anyone else because they would not fit anyone else.

To return to what Bill Kidd said, we must be realistic about the power of the pornography industry. We cannot skirt around that. We talk about the increasing use of technology, but the

money for the improvements and the increasing use of technology came from the pornography industry. If we do not recognise that, we will not make any difference. We must be realistic about how powerful, profitable and global the pornography industry is, but we must also not feel powerless about it.

I am interested in what was said about the Playboy logo. Everybody knows about pester power, which arises when kids ask for something. Should we make a connection between pester power and sexual grooming? Is that what we are seeing throughout our society?

Bill Wilson: I cannot think of a single organisation that does not have guidelines. All organisations have them, including drinks manufacturers that have dead trade unionists on their factory floors and pornography organisations that sell pornographic material. They all say that they will do X, Y and Z.

The question that I wanted to put to Playboy—I cannot do that, but I will put it on the record anyway—was to ask how many enforcers it has to ensure that its guidelines are met. How many organisations or companies has it told, "We will no longer supply you because you are breaking our guidelines"? If the company cannot show that it does those things, its guidelines are valueless. I would have liked representatives of Playboy to be here to answer those questions. They are not here, but I still want my questions to be on the record.

The Convener: That strays into the measures that can be taken. From what we have heard this morning, there is a lot to be said about that, but I think we should stay with the impact.

Marlyn Glen: What is the impact of such imagery on children? What are its negative effects on not just little girls, but boys? We are talking about increasingly sexualised imagery.

10:30

Sandra White: Like Bill Wilson, I am disappointed that the Scottish Retail Consortium is not present, because the matter comes down to individual shops, too. The SRC says in its submission that it

"does not believe that ... the Committee's focus is relevant to the retail sector",

which is ridiculous. The consortium refers to the committee making a statement and says that the issue is up to parents—it absolves retailers. That is wrong. I am disappointed by the SRC's attitude that the matter is nothing to do with it. Retailers stock the products, which they say are bought by parents, but that is the result of pester power.

I will throw open a couple of other matters. Damian Carnell talked about boys and the effect of the imagery on children. As I said, I agree with Ann Henderson. Through such imagery, we groom children from an early age to conform to stereotypes. As we have heard, girls starve themselves to attain a certain image and women do not receive equal pay, while boys might become violent and might not treat women as we would like them to be treated in a decent and equal society. I will leave it there, because others want to speak.

Hugh O'Donnell: I take Damian Carnell's point about the availability of alternative entertainment, but I am cautious about citing *Eagle* and *The Hotspur*, given that racism prevailed in them.

We have spoken all around the issue. What ages are children and when do they stop being children? That is it.

Tom Narducci: The impact of the imagery and of the more sexualised environment—the cultural norm of overt sexualisation—involves several risks. The first is dissatisfaction among girls with their self-image, which has been mentioned: they try to live up to an impossible ideal. It is interesting that much of the content in question-and-answer sections in young girls' magazines is sexual. Much of that content is responsible, and clear and precise answers are given, but it is countered by the rest of the magazine, which contains idealised images of what good appearance is, what a beautiful girl is and what is attractive. There is no point in giving good advice about having a healthy self-image in a magazine that is full of images that cannot be achieved. That almost sets people up to fail.

Somebody touched on questions about female development and self-identity and the impact on women's ability to have healthy relationships with the opposite sex, if that is their choice. Those issues are out there.

Much more worrying from a child protection and safeguarding perspective is the fact that people who sexually offend against young girls almost always try to blame the girls, and to justify what they did by saying that the girl consented in some way. A risk lies in telling girls that the ideal is to look sexy and be attractive and compliant and that they should strive to become attractive to men. We then sell them push-up bras and knickers with crude sayings on them—the worst that I have come across was a pair of girls' knickers that said, "Who needs credit cards?" which is a fairly blunt message. That gives paedophiles a greater ability to justify their abuse of girls. In effect, they say that the girl was sexualised and claim that, because she dressed and acted the part, she was a willing partner. As with domestic violence, the victim gets

the blame; the girl's sexualisation becomes the justification for abusing her.

Of course, that takes us into more worrying and serious areas such as child prostitution and child trafficking. If we accept that children—young girls, in particular—can be seen as sexual objects, we might well start to talk about the ability to have sexual relationships with them and to make a marketable commodity out of that. I do not want anyone to underplay the importance of ensuring that young girls are safe and that they do not get drawn into something that might hold untold dangers for them.

The Convener: You have raised some very serious and worthwhile points. We have to remember that these are somebody's daughters or sisters.

Ed Mayo: I imagine that Dr Nairn, in particular, will have something to say about this but, in response to Hugh O'Donnell and others, I point out that the age at which a child is still legally a child—and the accompanying legal framework—varies incredibly throughout Europe. I believe that Estonia has the highest age limit, at 21 or 22.

As far as industry codes of conduct are concerned, we are trying to delineate what is and what is not responsible. Many industry codes focus on children under 16; indeed, some of the food companies that in previous years had received significant criticism have started to do the right thing by those children. Pepsi-Cola, for example, has started to do some quite good stuff online.

It is important to recognise that the concerns about impact are serious and are backed up by evidence. Damian Carnell mentioned teenage pregnancy, and the committee will be aware of figures for early sexual activity. In her book "The Story of Childhood: Growing Up in Modern Britain", Libby Brooks says that although this younger generation is supposedly the most sexually self-confident and sexually active ever, a third of girls say that they have been coerced into sex and many more have expressed regret at starting their sexual lives so early. It is a knife-edge issue.

Moreover, the American Psychological Association report that Dr Agnes Nairn refers to in her submission is a very powerful review of the evidence of the impact of early sexualisation on girls, in particular, but also on boys. The results that the association recorded include emotional distress, anxiety, low self-esteem, eating disorders and depression. School work can be affected, with girls dropping out of subjects such as higher level mathematics.

It appears that, in the United States at least, some girls are more resilient; for example, girls

from black and minority ethnic groups might be more resistant to the images of white beauty that surround them. Some boys, on the other hand, can end up with the idea of girls as sexual objects, which might jeopardise their ability to form and maintain intimate relationships in the future. On top of the various psychological scars, girls can also lose out with regard to their own sexual self-image—which, ironically, can mean that they have less chance of a happy and healthy sex life in the future.

The issue raises wider questions about young people's mental health to which, I have to say, we do not have the answers that we might want. That said, in a scrapbook of evidence that I have been collecting about how children use adverts, what they have been exposed to and the results of qualitative and quantitative surveys, I have some direct quotes about children's discomfort with some of the images of beauty and sexuality that they see around them. There are solutions to the problem, but I hope to discuss them later.

The Convener: Talking of later, I ask the next couple of speakers to be concise so that we can move on to the last section, which will be important as a conclusion to the discussion.

Ann Henderson: I want to talk about what I think are contradictions in public policy that arise as a consequence of the matters that we have discussed. At one level, those matters completely reinforce heterosexuality and a particular image, which causes difficulty for other cultural groups in our society. That situation runs alongside public policy aspirations, which the trade union movement supports, for achieving and promoting equality and not promoting images of, for example, heterosexuality that cause difficulties for young gay people at an early age. There is a further contradiction around the development of an effective sexual health strategy. We are aware of that issue because of the difficulties that health workers and social workers face in delivering the service that they want to deliver, which is one that involves confidence, self-esteem and advice rather than objectification. The issues that we have been discussing contradict all that.

As a society and broader community, we have clear policies. However, the matters that we have discussed and their negative effects cut across the ability to deliver policy outcomes and are bad for health, as Ed Mayo's comments demonstrated. For instance, work on encouraging girls to be more involved in sport runs parallel with our knowledge that the body image that they are being sold cuts across any encouragement that they get to run about a muddy field or whatever. We are investing in trying to get women and girls more involved in sport at the same time as allowing the development of images that make them much

more self-conscious about participating in sport. The trade union movement has been doing work on encouraging women to pursue careers in different fields, such as science, but the matters that we have discussed are undoing a lot of that work at the same time as we are trying to promote it. I would be interested in working with people to explore that aspect further.

Damian Carnell: I have some research statistics from the NSPCC and *Sugar* magazine. Forty-five per cent of teenage girls have had their bottom or breast groped against their wishes; 56 per cent of unwanted early sexual experiences occurred for the first time when the girls were under 14; and 44 per cent of girls were made to feel guilty for initially saying no. Girls talked about being bribed with money, being threatened with rumours being spread about them and being forcibly intoxicated, which led them into unwanted sexual experiences.

The Zero Tolerance Charitable Trust states that one in two—

The Convener: Can you trace that information back to what we have been discussing? We have been trying hard to concentrate on the issue of sexual imagery that is aimed at children.

Damian Carnell: Okay. I will comment on what boys believe. One in two young men believes that, in certain circumstances, they can force young women to have sex. They believe that girls and women dress or behave in a way that means they are asking for it. Where do young men get that kind of understanding from? I asked boys aged 12 to 16 with whom I have worked what the qualities of being male are, and they said, "Being strong, dominant and thinking-outside-the-box tough." When I asked them what the qualities of being female are, they said, "Being loving, caring and gentle." My question then was whether men cannot be loving, caring and gentle. Again, where do they get those messages from? We should ask what we want our younger generation to grow up believing and thinking, and then consider what we produce to support that.

The Convener: Sandra White will introduce the last section.

Sandra White: My question is for all the witnesses. We have heard a lot of good evidence and have talked about policing the internet. However, what can be done to ensure that the kind of goods that we have talked about are not targeted at children?

10:45

Ed Mayo: I have three or four possible solutions. I will pick out the first; I can go through

the others, too, if the committee would find that useful.

In the middle of the triangle that Hugh O'Donnell drew for us is a range of creative and marketing agencies that do much of the work that informs product design and promotion by way of advertising and the like. I have a simple suggestion to make: the Scottish Government spends many millions of pounds on public advertising. It could remove from its roster for Government work any creative agencies that have transgressed in their wider work by promoting sexual imagery to children. The suggestion is not only simple but practical. If the Government were to do that, it would take a lead across Britain on the subject and send a powerful message to the industry.

Dr Nairn: I return to Hugh O'Donnell's question on the age at which childhood ends. When we talk about the sexualisation of children, we mean the age at which children become sexually mature—puberty. We are therefore talking about 12 for girls and 14 for boys. That is important to remember, irrespective of legislation around advertising or any other area in which all sorts of ages are involved in the definition of a child. In this discussion, we are talking about the age at which children are ready to have sex.

In previous generations, children got married at 12. In those days, being sexually active at the age of 12 was completely sanctioned. Given that some children are sexually active at 12 or 13, the action that needs to be taken for them should involve educational initiatives. Once a child is sexually active, one cannot ban them from seeing pornography or anything else. It is pointless to try to do that.

That said, a respect agenda needs to be rolled out in schools, and parents also need to give out that message. We could reach parents through a public awareness campaign that the central office of information, for example, could co-ordinate. Other parties, such as magazines, need to be encouraged to become involved by including respect articles, for example. I am aware that I should have looked at the website that Playboy set up for parents, but I have not yet done so.

I understand that the Advertising Standards Authority, which is a UK body, has received 700 complaints from members of the public about sexual issues in advertising for children. The ASA realises how big the issue is. It could be used to put on more pressure. The issue involves the agencies that create the adverts, the manufacturers and the retailers.

Tom Narducci: I will reinforce that point. Whatever work the committee decides to take forward, it is important that you acknowledge the

difference in children's ages. What is appropriate for the over-10s is inappropriate for the under-10s—we should treat them almost as separate groups. The answer to the question "What is a child?" is that children are a multitude of groups and have different understandings and different access to things.

Responsibility is an important issue that arose earlier. We discussed what has become the cultural norm that manufacturers, producers, retailers, publishers and so on have created, but the people who go out and buy the products are usually the parents. If we were to consider education, one question that should be aimed at parents is, "When you buy something like high-heeled shoes for babies or a push-up bra and knickers from Asda for your 8-year-old, what message are you giving your daughter?" We should be asking them not just to think, "That's cute," or, "That's a bit of fun," but to think about the implicit message behind the product.

I recognise the strength of pester power, but we would not say that it was okay for children to ask their parents to buy them a line of cocaine; we would say that that was wrong, that a line of cocaine is harmful, and that parents cannot buy it for them, even if their children pester them all day long. Parents should be empowered in some way to be just as strong with other things that we recognise as wrong and harmful for children and to say that they will not buy them. In extreme cases, there should be supporting legal sanctions that show the lines that cannot be crossed. I am not suggesting that there should be a criminal offence, but it would be wrong to take aim at retailers, manufacturers and children and not have a strong input with the parents and adults who buy the stuff.

The Convener: Before I ask everyone, as I generally do at the end of round-table discussions, briefly to sum up the main points that they have taken from the discussion, do Ann Henderson and Damian Carnell want to answer Sandra White's question?

Ann Henderson: I am interested in further exploring how procurement guidance could be used. We in the trade union movement are considering that matter a lot with regard to equality duties and their overlap with good practice in the workplace. We would definitely be interested in exploring that issue further.

I am mindful that one reason why a trade union representative was invited to the meeting was to incorporate the perspective of shop workers into the discussion. I would be interested in asking the Scottish Retail Consortium to be more precise. It has said that it has a mechanism through which shop workers can raise issues about what they find difficult on the shop floor. The experience of

many people who are not managers is probably that it is quite difficult to change what is sold on the shelves in their shops. We could explore that issue.

The wider impact on many trade union members, such as nurses, social services workers and teachers, is also an issue for us. That fits into the context of the continuum of violence against women and other equality issues. We must consider a wider sector of workers and their experience of such things manifesting themselves as problems in their work.

The Convener: In its submission, the Scottish Retail Consortium says that

“communication is key in the retail sector”,

and it highlights the fact that inappropriate goods are often identified, and changes made, as a result of communication. It is therefore appropriate to ask about that.

Damian Carnell: As a parent, the choice of products out there to buy for children is an issue. When one of my daughters was three, she asked me whether girls are allowed to play football. I said to her that that was an interesting question. She said, “When we go to the park, we see men and boys playing football.” That made me think that I must put extra effort into finding where girls and women play football so that she could see them doing so. She has also asked for a book about women footballers. I went on to the internet last night, but could not find such a book; I found programmes, but no books about women footballers. What is not being offered to children is an issue.

Obviously, I believe that there should be tougher guidelines for retailers and producers. We talk about educating parents about the consequences of messages that they might give to children by buying certain products, but what education do producers and retailers need? We should ask the person who came up the idea of designing high-heeled shoes for baby girls why they did so. What education do they need?

The Convener: I invite everyone around the table to make any final brief points that they want to make.

Hugh O'Donnell: I thank all the external participants and, of course, my committee colleagues. We have identified the fact that there are huge gaps in our knowledge and understanding, and that anomalies in how society is structured exist. We cannot blame children for that; we must blame the adults who created that society. Perhaps we need to look to ourselves for remedies, but I would hate to return to a Victorian age in which such issues are hidden and not

discussed. In that context, the discussion has been valuable.

Ed Mayo: I will conclude by mentioning one or two solutions. First, I have written to the Advertising Association, which sits behind the Advertising Standards Authority, to ask that children's websites, which are covered with advertisements, some of which are for dating sites and adult activities such as gambling, be treated as though they were advertising. If that were to happen, children's websites would come within the remit of the ASA, which could then insist that adverts were labelled as adverts and that the appropriate responsibility guidelines were applied. That is a small but creative suggestion, which I think would make a difference.

Secondly, I commend to the committee Consumer Focus Scotland's work with the Scottish Government on guidelines for public sector bodies—including schools—that work with commercial partners. An intelligent set of rules was launched during the past few weeks, which aims to guide public sector workers about where responsibility lies on issues that arise when companies are brought into the public space.

Thirdly, on education, I caution against stigmatisation of parents and finger-wagging exercises, which do not work, whether or not we believe in what we are saying. We have to start from where parents are. In Scotland we have a beacon of excellence in the work of Professor Gerard Hastings and others on social marketing. The social marketing toolkit provides a good approach to considering practical behaviour change and quality interventions in that regard. Much of what passes for education is not a particularly effective use of money.

Finally, companies sell high-heeled shoes to babies because doing so gets them news coverage and sales. We are in an open, liberal market and we have to be careful that we do not act in a way that promotes the commercial agenda of minor companies. We do not need moral panic; we need a reasoned programme of action.

The Convener: We have just heard that Vera Baird's plane was delayed. She is on her way here in a taxi, but we will not have to end this part of the meeting at 11 o'clock on the dot, as I had intended us to do, so the witnesses can make fuller closing comments.

Dr Nairn: That is fine. I will take an hour.

On my way to the meeting I read some of the literature that says that children are completely on top of the sexualised content that we have been considering, because they are using it ironically and in an empowered way. I have heard no support for that view from other witnesses. Although it is a valid view, concern for children is

much greater than the celebration of children's empowerment in the sexual sphere. That is the first point that we should take away from the meeting.

The second point that we should take away is the great need to get all the parties round the table. It is very sad that retailers and manufacturers did not attend the meeting. I have been doing quite a lot of work recently to get advertisers and non-governmental organisations together to consider advertising to and the commercialisation of children. If industry is to be brought to the table, we must, first, be pragmatic and not approach the issue from a standpoint of moral panic and finger-wagging, which will frighten industry off. Secondly, we must offer a business case.

In relation to Damian Carnell's comments, boys and girls will always be different, so to say that they do different things will not work for industry—there are some lines that we cannot take. What would work with business would be to say that the social responsibility agenda is important and powerful. If businesses can be shown to be leaders in that regard, that will earn them a great deal of credence, including with young people, who want above all to be respected, as Ed Mayo and I have found in our work. If companies can show that they are responsible they will get respect from the next generation of consumers.

The other thing that will bring businesses to the table is empirical evidence. If businesses think that a pragmatic debate is taking place and that they will be viewed as responsible, and if they see that there is an evidence base rather than moral panic behind what is being said, there is a good chance that we can bring everyone together, which is hugely important.

11:00

Marlyn Glen: We are not creating moral panic in recognising that there is misogyny throughout society—we are acknowledging reality, as our evidence session on pornography showed. Rather than being liberal with manufacturers and retailers who sell things that damage our young people, we should be considering doing a lot more than finger waving—perhaps we should consider legislating. I am concerned that a laissez-faire attitude will let the issue drift.

The reality of the power of the big industries that push pornography cannot be ignored. I do not mean to create moral panic—I am talking about violence against women, and about little girls who might not have a future because of that. We have to make something work, but there is a sense of urgency. I pass that one on to Tom Narducci.

Tom Narducci: I—and the NSPCC—would be concerned if the debate was hijacked, in the sense of people thinking that Children 1st and the NSPCC were just trying to take the moral high ground. I do not think for a moment that that is what I or either of the two safeguarding organisations want to do.

It is important to remember that the debate is about the health, wellbeing and safety of children—that is the bottom line. If people get upset by being challenged about things, so be it—I do not have a problem with that. That does not mean that I do not seek to engage with retailers and manufacturers, but we should not allow a situation to develop in which the issue is viewed as people interfering in the free market or imposing their values and morals on others. I want the safety and wellbeing of children to be the bottom line. As an organisation, the NSPCC would be happy to be involved in or make a contribution to any future work that the committee felt was necessary.

Sandra White: I am sorry that we do not have longer to discuss the issue, because it is really important. We started off by talking about kiddies' high heels—that was absolutely terrible. The issue affects the whole of society—it is not just about girls' prospects, but about the way in which men view girls' prospects.

There are a couple of practical issues. We could consider contracts, although I do not know how that would work. We should certainly consider legislation in relation to the internet, and not only for advertising, but for things such as the Miss Bimbo website.

I have been struck by the educational aspect—we should perhaps call it a public awareness campaign. That relates to the point I made at the beginning of the discussion. We all go to Christmas concerts at this time of year, and 10, or even five, years ago I would not have been as aware as I am now of young girls being so sexually provocative on the stage at two and three years old. I would have accepted it, but I am much more aware now. I say to parents, "This kid is gyrating in front of you and singing the words of a provocative song—they're only three." Parents do not think of it in that way, so perhaps they are not aware, and they are not to blame. They are not aware of the fact that that could affect their kid's life for the next 20 or 30 years. Perhaps we need a public awareness campaign to address that.

I am certainly becoming much more aware of what is being sold in shops and how kids are reacting, even in school plays. When we tell the general public that, they say, "It's only a play", but if we point out the reality to them, they realise that their kids are learning new words and gyrating provocatively on a stage when performing a song.

According to some, it is innocent fun, but it affects children throughout their lives. I hope that we can take a public awareness campaign out of this discussion.

The Convener: As Malcolm Chisholm has just joined us, I assume that he does not want to contribute in the summing up. Is that correct?

Malcolm Chisholm (Edinburgh North and Leith) (Lab): I apologise; I was speaking as part of a delegation at the City of Edinburgh Council, which I had to visit this morning. I apologise for not being present, but I shall read the *Official Report* with great interest. This is an important subject, which I take seriously.

Bill Kidd: I reiterate Sandra White's point about a public awareness campaign, which should be directed towards maintaining and giving strength to parents' responsibilities. Most parents are responsible, and we should not berate them. However, they are under pressure because manufacturers, retailers, advertisers and the media exist for a reason. They do not spend billions of pounds to advertise products for the good of their health. We have to combat some of the ill effects of that expenditure and the vacuousness of celebrity that they promote. That celebrity is based on imagery, and advertisers are always quick to latch on to that and use it. We must raise public awareness so that parents consider what they are encouraging their children to be part of. Today's debate is a good basis from which to kick off.

Ann Henderson: The STUC would like to thank the committee for the opportunity to participate, and we look forward to continuing to work on some of the issues that have been raised. The debate on sexual imagery has crucial consequences for the workforce and society of the future. The discussion has been about the impact on children, but we should consider the context as the consequences for equality and for women's lives in the future.

Let me touch on the question of the business case for bringing people to the table as an example. Much of our work in promoting equality in the workplace and the dialogue between trade unions and employers on productive workplaces can be linked back to some of the issues that women face, including being on the receiving end of sexual harassment and abusive behaviour and the impact that domestic violence has on attendance at work. If the issues of sexual imagery are not addressed in that context, they will continue to affect people's working lives and businesses. There are many ways in which the conversation can be addressed, including consideration of the workforce of the future.

We need to value women and bring up our children and young people to understand that women should be respected and valued and that they have a full contribution to make to society. I agree that how we treat our children is important, but we must remember the context in which that happens.

We should not underestimate the difference that is made when politicians speak up. I am hearing calls for a public awareness campaign. When politicians speak up, that gives a voice to other people, who may not previously have felt empowered to say that something was a problem or that they felt bad when they saw a certain billboard outside their shop window or house.

When Clare Short did some work on page 3 and degrading images of women as available sex objects, including introducing a bill in the Westminster Parliament, she was subjected to a serious vilification campaign by *The Sun* and the pornography industry. However, she has said that, as soon as she went public with her intention to introduce a bill in the House of Commons, she was inundated with supportive letters from women and men, saying that it would make a difference and that it struck a chord with what they felt. Politicians who take the available opportunities will make a space for people to realise that it is legitimate for them to feel uncomfortable about such issues.

I look forward to continuing to work with the committee.

Bill Wilson: I reiterate that I am very cynical about the written evidence that was submitted by the organisations that refused to attend the meeting to answer questions. I wish that sweet reason would work with industry, but I regret that it does not do so. I can think of a major drinks conglomerate that is perfectly aware that trade unionists have been killed and that it is turning areas into desert. However, that knowledge does not make it stop that behaviour; it makes it look for a social responsibility clause that will cover up its activities. If we want to tackle the issues that we have been talking about, legislation will probably be required.

Other European companies do not allow advertising that is aimed at children under a certain age. Why do we allow such advertising?

Damian Carnell: I thank the committee for inviting me to give evidence. I will briefly share my experience during the past four weeks. I have been working with a year 5 class of nine and 10-year-olds. In my first session with them, the children completed a questionnaire in which they were asked whether various behaviours justify any type of domestic violence. Only 5 per cent of the class ticked the box that said violence would never

be justified. There is an attitude according to which domestic violence is sometimes justifiable. Some boys came out with comments such as, "Men don't do the cleaning and the cooking. Those are women's jobs."

In the fourth and final session, pupils completed the same questionnaire and 95 per cent said that domestic violence was never justified. The boys who had talked about women's jobs in session 1 wrote a very rhythmic song entitled, "Respect", which they performed. They sang about how respect means that men are involved in cooking, cleaning and caring for children. I thought that that was a great achievement. Education is important, but it needs to be backed up by much more in society, because its effects will be whittled away if they are not supported.

Johann Lamont (Glasgow Pollok) (Lab): I apologise for my late arrival. My street had turned into the north face of the Eiger this morning. I do not want to tell you how dreadful my journey was.

What I have heard of the discussion has been fascinating. A problem that people might have talked about is that we can come across as a bit po-faced and humourless when we discuss such matters. I think that parents wrestle with the problem—Ann Henderson talked about parents. The issue might seem to belong at the margins of politics but I think that people want it to be discussed. Parents are constantly asking themselves whether something is appropriate for their children.

I am the mother of a son and a daughter and I worry that they are crushed by the expectations that are placed on boys and girls by inappropriate imagery and goals. Marlyn Glen talked about how serious it is that girls of 13 or 14 should feel forced into behaving in ways that they have not actively chosen, which can lead to a great many problems. Boys, too, are struggling with expectations. The issue can be trivialised—I always had a dilemma about Barbie dolls and the colour pink and so on—but parents are genuinely looking for support.

Tom Narducci talked about how inappropriate sexualisation becomes a justification for abuse. That is frightening, and it goes to the heart of the issue. I hope that the committee will take the matter further and I hope that when people reflect on what the committee and our expert witnesses have said they will acknowledge that the issue is serious and should not be dismissed as marginal to our lives. Many families worry a great deal about it.

The Convener: I thank everyone for their comments. We have had a fascinating discussion. I think that we have established that there is a prevalence of sexual imagery in goods aimed at children, although more research is needed to

back up that statement. The issue is complex and numerous parties are involved—unwittingly or wittingly—in promoting such imagery. We need education and awareness and I hope that our session has contributed in that regard.

I will take away from the discussion the Australian Parliament's comment that the issue is a community responsibility. I am pleased that representatives of the media are in the public seats and I hope that they will reflect on the discussion, which has been constructive. Often when such issues—and some of their darker sides—are discussed, more heat than light is generated. Today we managed to generate more light than heat and I sincerely hope that the issue, which is important for many young people and their parents and relatives, will be reported in a way that makes a difference. I thank everyone for their contributions.

11:16

Meeting suspended.

11:25

On resuming—

Equality Bill

The Convener: Agenda item 4 is evidence on the United Kingdom Government's proposed equality bill, which will be a major piece of legislation that aims to strengthen existing equality law. I am pleased to welcome to the committee Vera Baird QC MP, who is the Solicitor General. She is accompanied by Janice Shersby, who is the director of policy and deputy head of the Government Equalities Office—we did not know that you were coming, too, but we are very pleased that both of you are here. I hope that your journey was not too horrendous; I understand that your flight was late.

After you have made an opening statement, we will put to you some of the questions that we asked stakeholders to submit—they certainly did not hold back. If there are any issues that are not covered in your opening statement or in the questions, could they be dealt with at a later stage if we submit them to you?

The Solicitor General (Vera Baird): Yes, of course.

The Convener: That would be terrific.

The Solicitor General: Thank you very much and good morning. I am sorry for my late arrival—we had a bit of a hiccup with aviation, but we rectified it. We flew here by Air France, slightly oddly, but we did not have to come—

Bill Wilson: Via Paris?

The Solicitor General: No more stealing my jokes, thank you.

Thanks for the invitation to come and talk to you. The UK Government takes its equalities responsibilities extremely seriously. We are committed to creating a fair society, with fair chances and fair rules for everyone. In order for society to be fair, we must tackle inequality and root out discrimination.

There is no doubt at all that the current legislation, which has been on our books for a long time, has done much to drive a culture of equalities, but there is undoubtedly a lot still to do. We intend that the flagship equality bill will kick-start our renewed efforts to promote equality. Equality benefits individuals. It should not matter who someone is, where they come from, what they look like or what they believe—everyone should have the same fair chances in life. In addition, a diverse workforce is a stronger workforce, and a more equal society is more at ease with itself.

We have committed to introducing the equality bill, which will do three things. First, it will strengthen and extend the law, when that is necessary to tackle discrimination that still exists. For example, it provides for an expanded public sector duty that will tackle discrimination against people because of their sexual orientation, age, religion or belief, or because they are going through gender reassignment.

Secondly, the bill will streamline the law by reducing the number of pieces of legislation on the issue—there are nine of them—which have all been passed at various stages in the history of equalities and so are quite differently founded. The bill will merge them into a single act. You might think that that is particularly important in the current climate, when resources are stretched. Employer and employee alike will benefit from a simpler, clearer legal framework for equality.

Thirdly, the bill will support our wider work to help people and businesses through tough times and emerge stronger. We will work with businesses, trade unions and delivery partners such as our Equality and Human Rights Commission to provide practical guidance and day-to-day advice to help make equality a reality.

I am very aware of the important role that this committee and Scottish ministers play in promoting and monitoring the observance of equal opportunities requirements in Scotland, and I am glad to have the opportunity of meeting the committee today to share our ideas and experiences in this important field.

11:30

For an example of the problems that we still have, we can consider the gender pay gap. A comparison of the average hourly earnings of full-time men and women shows a gap of 17.1 per cent for the United Kingdom and 13.5 per cent for Scotland. The gap between full-time men and part-time women is 21 per cent in the UK and 16.7 per cent in Scotland. We have made significant progress, and Scotland is leading on that, but it must be confessed that neither of us is doing particularly brilliantly. Much more needs to be done.

I know that the committee is interested in our proposals on the public sector duty. I am keen to make progress in strengthening equality in the public sector—bringing together the three current duties on race, gender and disability, but without weakening any of them. That is a key part of the new bill. We will retain the existing structure of a general duty in primary legislation, but the general duty will be backed up by specific duties. We will preserve the power of Scottish ministers to set specific duties for Scottish bodies.

We regard the equality bill as a flagship piece of legislation, essential to our objective of creating a fairer society. I very much welcome the opportunity to discuss equality of opportunity further with you today.

The Convener: Thank you for those introductory remarks. I invite Marlyn Glen to open our questioning.

Marlyn Glen: Thank you for your opening comments—especially the reassurance that there will be no weakening of the general duties.

Will the bill cover all activities inside and outside the workplace, in both the public and private sectors? I presume that it will not. Will it offer the same protection to all the equalities strands?

The Solicitor General: As you rightly suggest, the coverage of the public and private sectors will not be comprehensive. However, the bill will cover all the existing strands and the existing areas of liability—save, I think, harassment outside of employment for sexual orientation and religion and belief. Janice Shersby will correct me if I am wrong.

Janice Shersby (Government Equalities Office): No, that was correct.

Bill Wilson: You talk about covering all strands, but lesbian, gay, bisexual and transgender groups and sexual orientation groups are concerned that transgender individuals are not covered by antidiscrimination legislation for school education. That, according to the Government's evidence, is because there are very few transgender school pupils—which, I accept, is true. However, if the aim is to cover all strands equally, surely transgender groups should be covered in schools just as the sexual orientation groups are.

The Solicitor General: You have just put your finger on a point that we stress: the welfare and care of school pupils are extensively covered by education legislation, and they are also covered by the Human Rights Act 1998. For the tiny number of children who are undergoing gender reassignment or are intending to undergo it, we think that the existing provisions are sufficient, allowing for a flexible, discreet and sensitive approach.

Bill Wilson: I understand that other legislation allows you to help transgender pupils, but those pupils might think it unfair that they are not being included with the others. They are not getting the extra protection.

The Solicitor General: I am not sure that they would get anything significantly more than is already offered. It is important to handle young people with discretion and sensitivity, and our education system has adequate resources to do that. There is also adequate legislative backing.

We have no real fear that anyone is going to suffer. If we had such a fear, we would of course reconsider. However, we considered the issue in depth before reaching our conclusions.

Hugh O'Donnell: Trevor Phillips, the chair of the Equality and Human Rights Commission, recently said that he wanted positive action for the people hardest hit by the current economic downturn—in particular, for white, working-class people who may feel threatened. That is stated on the commission's website, where Mr Phillips is quoted as saying that

"in some parts of the country, it is clear that what defines disadvantage won't be black or brown, it will be white. And we will have to take positive action to help some white groups".

Do those comments suggest that special measures that were previously targeted at ethnic minorities have failed in relation to other disadvantaged groups? Is that an underlying flaw in taking a multistrand approach?

The Solicitor General: I understand—and I was discussing with Trevor Phillips last week—the issues around socioeconomic wellbeing and socioeconomic disadvantage. He carried out the blue-sky thinking equalities review, and he thinks about the topic in very broad terms. We have a situation in which there is still a disadvantage in being a member of those strands, irrespective of educational attainment. For example, there is only one black minority ethnic High Court judge; there are relatively few women in FTSE 100 businesses; only 8 per cent of university vice-chancellors are women; and there is not one Asian member of Parliament. It is clear that discrimination—deliberate or inadvertent, however you regard it—is still at large, and that there remains a job to do across all those strands.

This certainly is not the time to abandon our duties to rectify such imbalances. An important aspect of our determination to continue to do that is the proposed right to use positive action when selecting people for employment, which will be a very useful tool. It is entirely voluntary, but it will allow a public or a private employer who is seeking to select somebody for a job to choose someone deliberately from an unrepresented sector if the candidates are of equal merit.

That could benefit women in relation to jobs that are currently mainly or wholly the preserve of men, but equally—in answer to your concerns about white males—it could help men. I am quite troubled, for example, by the area of primary school education, in which almost all teachers are women. When an employer is seeking someone new for a primary school role, the norm would be to look for a woman, because it is instinctive to follow what has been done already—to go with the flow and appoint somebody "like us".

The bill will offer the opportunity, when a man and a woman are equally well qualified for a post, for the employer to choose the man deliberately in order to give young boys a role model and to address the imbalance in their current workforce. That then indirectly affects the imbalance in employment in society.

As I am sure you know, it is still much harder for someone to get work if they are black or if they are disabled, and they are likely to earn less money. We have already mentioned the issue of equal pay in relation to women. All those strands remain overwhelmingly important. I do not think that Trevor Phillips was suggesting that there is another strand of discrimination that relates to white working-class people. He is addressing the broader issue of socioeconomic deprivation and the steps that need to be taken in the context of the economic downturn to ensure that we can protect the weakest right now.

Hugh O'Donnell: You have specifically mentioned education and positive discrimination. Will the bill have an impact on the discrimination that exists within denominational schools with regard to promoted posts and opportunities? Will job opportunities be extended to those who are potentially discriminated against by the Act of Settlement 1701?

The Solicitor General: The Act of Settlement is certainly an issue that is under consideration, although not immediately within the context of the bill. We are talking about positive action, not positive discrimination. Although there are rights involving positive discrimination, in that disability discrimination requires positive discrimination for disabled people, it implies discrimination in favour of a group just because of membership of that group. Positive action involves putting merit first, and after that is measured as equal, giving employers the ability to favour an underrepresented group. There is a difference.

There are pretty limited exceptions to the equality legislation for religious schools. They are entitled to recruit teachers to teach religious education, and a very limited range of other teachers whose ability, capacity and will to promote the religious development of the school is necessary. Beyond that, there is no right to discriminate against any pupil or against any person in an employment opportunity. The exceptions are fairly limited right now, and that will not change.

Hugh O'Donnell: That means that discrimination—if I may use the term—would continue.

The Solicitor General: I do not entirely regard it as discrimination. Our faith schools have their own internal integrity. They have an interest in ensuring

that their religion permeates their education and that their ethics remain strong. Some very good schools are religious schools—I am sure that you have excellent religious schools in Scotland. There is a brilliant Catholic school in my constituency, which of course takes in non-Catholic children. The school regards itself as capable of being a strong and good influence on social cohesion, because it can hold on to its religious ethics. The ability to select—in that case—teachers who are Catholics, so that there should be no weakening of the school's religious ethic, does not seem unreasonable.

The Convener: The committee has taken an interest in and had two round-table discussions on unpaid carers. In advance of the Queen's speech, is there a case for providing in the bill for carers of people who are elderly or have a degenerative disease? There are 660,000 unpaid carers in Scotland and the issue can affect anyone.

The Solicitor General: We have a strong commitment to carers. The community of carers has been identified during the past decade. Prior to that, it was not really identified as a community. People just assumed that they had a job to do if someone in their family or in their close remit was disabled and needed support, and they sought no rights for themselves. That has changed dramatically during the past decade, with the advent of carers allowance and opportunities for respite care and for carers to go forward in their own interests and undertake training and so on. We regard the issue as a completely separate tranche of legislation favouring carers, as and when—and in what way—we can help them optimally.

I imagine that many members will know about the case of *Coleman v Attridge Law*, in which a solicitor's clerk in London was not given appropriate flexibility to enable her to look after her disabled child. The European Court of Justice recently found that that was discrimination against her, by association with the disabled child. There is therefore now a line of discrimination, which is discrimination by association with a disabled person, and we intend to honour that in the bill. That will be immensely important for some carers.

We are considering how widely we should take forward such an approach. *Coleman's* rule is relevant only to people who are associated with someone who is disabled, but we think that such cases are likely not to be significantly different from those of someone who is associated with a person who needs extra support because they are older. Should we take the matter outside work horizons or leave it in employment, which is where *Coleman* is? We are considering carefully what to do in that regard, but members can see that there are good seeds for supporting carers.

The Convener: The definition seems quite narrow and I would have thought that there is room to extend it.

Perhaps balancing the implications of Coleman with those of the current economic climate, will you comment on newspaper reports that some ministers want to retract commitments to extend flexible working hours and positive action?

The Solicitor General: I do not think that that was fairly and fully reported. I think that the minister in question said that at this time, when business is under extra pressure, we need to consider all pending regulation on business, to ascertain whether it is necessary to bring in regulation straight away or whether regulation will create a further encumbrance to which business must immediately attend, at a time when it wants to attend to its business.

There is no doubt at all that flexible working is going forward exactly as it has always been intended to do.

The Convener: So, for the avoidance of doubt, there is a firm commitment to include flexible working in the forthcoming equality bill.

The Solicitor General *indicated agreement.*

11:45

Sandra White: You have already answered much of the question that I was about to ask about positive action, but I want further to explore two aspects. You said that positive action was voluntary for employers and therefore not enforceable. Could you expand on that? Also, are employers able to refer to underrepresentation only in their own workforce, or may they refer to wider, societal underrepresentation?

The Solicitor General: I cannot readily see how the positive action that is proposed could be enforced. It is a matter for the judgment of the interviewing panel, following a properly open selection process that results in two people each being a reasonable match for the job. It would be a matter of choosing to take a step to increase the representation of an underrepresented sector. It would be very difficult to enforce that in any real way.

The intention is that the provisions should apply to underrepresentation in the workforce in question, but one expects that it would be likely for that to move on into underrepresentation generally. I would think that it would be quite unusual for a workforce to be wholly unrepresentative of the imbalances in society generally.

Janice Shersby: The positive action provisions in the forthcoming bill are intended to allow

positive action in the UK within the limits that are allowed under European law. In European law, organisations are not allowed systematically to take positive action in every case to favour a man or a woman in a work setting. Each case must be considered on its merits.

I do not think that it would be possible under European law to tell an employer that, as a matter of policy, they should—for example—always select a man for a primary school teacher post in every single case. That would not be permitted. The question of enforcement falls, in a sense.

Sandra White: I completely understand when you say positive action, rather than positive discrimination, but if we are working towards equality—I note your example of men working in primary schools—then perhaps stronger measures ought to be taken to enforce equality, although they might not appear in the forthcoming bill. If you were to enforce positive action, would that leave it open to people to go to an employment tribunal to claim discrimination? I am talking about favouring one person over another because of what is in the bill. Are the proposed provisions voluntary because there could be further problems if, under equality law, someone took the employer to a tribunal?

The Solicitor General: No, I do not think so. Once a right is in place, so that there is an entitlement to take positive action, the positive action is legitimised and it would not be actionable as an act of discrimination. One cannot rule out somebody trying but, ultimately, it would depend on a proper analysis of the situation as simply being an exercise of the entitlement. That is part of the point of enacting such a provision: it is so that there is a protection and so that people can feel free to redress imbalances. That is pretty important.

You make a powerful point about the need to enforce but, with amorphous and differently sized entities such as businesses, public sector authorities and schools, what is enforceable and what it is better simply to encourage is always quite a difficult point.

Sandra White: And it is a question of carrot and stick.

The Solicitor General: Yes—carrot and stick. We spend a lot of time arguing about that. To make the provision any kind of reality, we would have to publicise its availability strongly and make its virtues clear to those who make appointments—in particular the point that diverse workforces are stronger workforces. That is what we are principally relying on in that regard.

Bill Wilson: Could you clarify whether, given your earlier answer, a non-religious school could

deny a promoted post to those who practise their religious faith?

The Solicitor General: Far be it from me to give you legal advice on a case, particularly as I am a criminal lawyer and not an employment lawyer. If you ever do a murder, give me a ring.

Bill Wilson: I will bear that in mind and get your number afterwards.

The Solicitor General: The specific exemptions are for religious schools, for the very purpose that I set out. It goes no further than that.

Sandra White: I will ask about gender and equal pay, which you mentioned in your opening statement. Decades have passed and yet women still do not have equal pay. You mentioned various figures. Given the persistence of the gender pay gap and the fact that the statutory code of practice on equal pay recommends equal pay audits as

“the most appropriate method of ensuring that a pay system delivers pay free from sex bias”,

why does the UK Government not include a requirement for all employers to conduct equal pay audits in the bill? If it does not do that, we will still have a long way to go to closing the pay gap.

The Solicitor General: I will set out our approach to the problem, or issue. Complex pay audits have been undertaken in some places and have indeed borne fruit in terms of equality of pay, but others have not. In the latter case, the fairly lengthy process of job evaluation did not in itself make a significant difference to equal pay. We are in the process of putting in place a piece of work to try to evaluate, in a pointed way, whether equal pay audits do or do not work. If they are a mixed blessing—which, at present they seem to be—it would be onerous to impose a compulsory provision that may turn out not to be that fruitful on businesses of all shapes and sizes, from top to bottom, even if we were to set a lowish limit.

The fairly powerful view in the Government Equalities Office is that equal pay audits are not that fruitful. There are probably better ways of trying to do things. For instance, we think that it is possible to encourage progress by making the pay gap transparent, which at the moment it is not. If businesses had to declare their pay gap, that would make it visible and they would have to cope with the consequences of it being known.

Sandra White: A name-and-shame exercise.

The Solicitor General: I was just the tiniest bit misquoted in *The Sunday Times* last weekend on the subject of the pay gap. The Treasury has a 29 per cent pay gap whereas we in GEO—and when I say “we”, it is Janice Shersby’s department, but I am half in it for the purposes of leading on the bill, while remaining Solicitor General—has no pay

gap. *The Sunday Times* put over what I said in slightly strong terms by having me say, “Which intelligent woman in her right mind would go and work at the Treasury when she could come and work for us?” That is correct, however, is it not?

Sandra White: Absolutely.

The Solicitor General: We are moving into an era—indeed, we have moved into it—where evaluating which company one wants to work for, invest in or do business or contract with is not simply based on value for money or business connections but on whether the company is environmentally sound, how it treats disabled people, how many BME people are on its staff and what its pay gap is. We can make the public sector post—to use a slogan—pay gap information on websites. In that way, we can make it clear what the gaps are. Of course, saying that implies that we have some way of encompassing in a simple way what the pay gap is. That is not in itself an easy task, but we are working on it, and if we can create something fairly simple and require the gap to be posted, there will clearly be pressure for change. For instance, if, of two businesses side by side, one has a sizeable pay gap and the other has none, there will obviously be pressure on the former to try to run its sizeable pay gap down.

Sandra White: That would just be the public sector. In the public sector in Scotland, something like 50,000 equal pay cases have been lodged, which is causing consternation in local councils. As you said in your opening remarks, Scotland is slightly ahead of the rest of the country, but the pay gap in the public sector seems to constitute systematic discrimination against women, who get lower pay for doing jobs of equal worth. I am worried about the Government’s views on that because it has not introduced any measures to tackle it in the bill.

The Solicitor General: Particularly in the north-east of England, we have similar problems on public sector pay following the single status agreements. There have been attempts to do proper job evaluations and no-win, no-fee lawyers have come in to claim back pay. I dare say that it is a similar pattern to yours in Scotland. My constituency, Redcar, has been at the forefront of the issue. There are several High Court cases that have cost the ratepayers of Redcar a large amount of money because we tried quickly and honourably to do what we should, but it did not entirely work out.

We have the same difficulty as you, and questions arise about what we should do about tribunal processes. However, we hope to be able to use public procurement to address the difference between the public and private sectors. Something like a third of businesses in the UK bid for public contracts. They can be asked to disclose

information about their pay gaps—and other desirable equalities information—as part of the public procurement process. We are still determining exactly what the level of leverage can be in that situation and how firm it can be, but we intend to use that tool if we possibly can.

We are also toying with asking private businesses to post their pay gaps—we can certainly ask, anyway. Somewhere deep in legislation there is a provision about disclosing information that applies to companies that are obliged to make annual returns to Companies House. It is not impossible that we could add extra powers to the equality bill to direct companies to disclose information about equality.

We are thinking of using public procurement leverage and, at the same time, exposing the pay gap. Harriet Harman, who leads on the bill, has made it clear that, if the pay gap does not begin to reduce as a result of those measures, we will reconsider whether some compulsion would be necessary, but we need to give business a fair crack at the whip first.

Malcolm Chisholm: We have taken a particular interest in local authorities over the past few weeks. Does the UK Government consider itself to have a proactive role with reference to equal pay in the public sector beyond Whitehall—in particular, local authorities—or does it regard that as a matter for local government and one on which it cannot, or does not choose to, intervene or take action?

The Solicitor General: We intend to be proactive, at least in propagating what we expect public authorities to do and making the position clear. We have to lead with our chins.

On the specific question that you raise about local authority pay, we are keen that the local authorities that have not done their equal pay audits yet should get on with them. About 58 per cent of local authorities in England have done their audits but 42 per cent have not, and we are anxious that they should proceed. To encourage them, we have introduced some ability to capitalise the debts that some local authorities have had to confront in rectifying ancient pay gaps.

Malcolm Chisholm: What action could or would the UK Government take if there was inadequate progress towards equal pay in local authorities?

12:00

The Solicitor General: We would expect the EHRC, which has the primary policing, implementation, monitoring, auditing and enforcement duties and powers, to take strong action. It has rights to issue various kinds of

notice, which, if they are not adhered to, can be enforced through the courts.

Janice Shersby: The EHRC has said that it will undertake two investigations using its current powers. It has not announced the parameters of those investigations, but we understand that it intends to look at the financial services sector, which has quite a large gender pay gap, and the construction industry. The EHRC has powers to examine what is going on in particular sectors if there are seen to be systemic issues.

Marlyn Glen: Can you give us any idea of the timescale of what you are talking about? You said that the EHRC has the power to monitor those matters. We are keen on the use of equality impact assessments on policies before, rather than after the fact. I understand the importance of outcomes, but it is important to avoid putting in place a policy that will make those outcomes worse, so the timing of the monitoring is significant.

The Solicitor General: Equality impact assessment timing?

Janice Shersby: I am sorry. Was the question about the EHRC's investigations?

Marlyn Glen: In particular.

Janice Shersby: The EHRC has not announced the specific timing, but I understand that it may make something public on that shortly.

Marlyn Glen: There is a certain degree of impatience because the EHRC is the policing power, so we are sitting waiting for it to do everything. Meanwhile, many things are happening. We received evidence that some single status pay agreements will not solve the problem but make it worse in the long term, so there is concern that the outcomes that we are waiting to see will be disappointing.

The Solicitor General: It is interesting that even those public sector compulsory pay orders that have been extensively gone through, as it were, are not necessarily working as we would have expected them to do.

The EHRC will shoulder its burdens; it has obviously taken a while to settle in to its new role. Those are the first major investigations that it has announced since it took on the role. It will have rights over the public and the private sectors, but those are limited. There will obviously still be scope for discrimination actions to be brought by individuals. There is also the open question whether there should be representative actions to speed up the process of rectifying problems.

Marlyn Glen: Is there not an argument that we should increase the commission's capacity to do something more extensive and more quickly?

Should we give it more backing, more powers and more money?

The Solicitor General: It has a sizeable budget and a sizeable staff, which it has to some extent recruited from the previous commissions so it has a strong and experienced staff complement. Trevor Phillips clearly gives a very powerful lead. We must give it the opportunity to get started. It has been wanting this tool of a single equality bill under its belt to get going and it is now seeing the bill's possibilities and starting to move. We must give it an opportunity to show what it can do and see what difference it can make. I would not, however, underestimate the role that individual actions through the tribunal will continue to have.

Johann Lamont: What discussion has there been with the Scottish Government and the other devolved bodies throughout the United Kingdom on their potential role in monitoring the Equality Act 2006 and equality duties? For example, in local government, a local authority currently develops a single outcome agreement in which its priorities are defined—they will be determined by the resources that come from the Scottish Government. My understanding is that there ought to be an EqIA on those agreements, because they will shape the priorities of local government. The minister will say that responsibility lies with local government and local government will say that this is a strategic report and therefore does not need a quality impact assessment. You can see that it will take for ever for the commission to go around all 32 local authorities.

Do you think that the Scottish Government should ask for evidence that an equality impact assessment has been done and block the proposal if one has not been done? I appreciate that there are technicalities that would be involved in doing that, but do you think that the Government should play such a role in ensuring that the duties are enforced?

The Solicitor General: I know that there has been pretty close working with the Scottish Government and the National Assembly for Wales at every stage. I believe that Harriet Harman had an informal meeting with the relevant people in Scotland some time ago and I am seeing a lot of stakeholders this afternoon, but I am not sure about the ways in which equality impact assessments might proactively be implemented through other Government agencies.

Janice Shersby: We are discussing the enforcement and monitoring of the new public sector duty with the commission and colleagues across government, including people in Scotland. As you say, the commission does not have the resources to consider every instance, but it tries to target its efforts in what it considers to be the key areas.

Johann Lamont: I would imagine that, if you were in receipt of a proposal on which an equality impact assessment had not been carried out, it would be reasonable for you, at a UK level, to say to whoever had submitted the proposal that you were concerned that they appeared not to have fulfilled their responsibilities and to ask them to consider the matter again. If you did not do that, you would have to wait for the commission to get around to doing something about the matter, which will take for ever.

The Solicitor General: I do not know that the situation is significantly different from the one that pertains to the implementation of the public service agreements and the local area agreements that we have in England between Government and local authorities, which involves a mixture of pressure of the carrot-and-stick variety from the regional development organisations or a Government office. Local authorities are obliged to enter into agreements to meet key performance indicators, and the driving process is iterative and on-going. I imagine that the same process would be effective if used in relation to the situation between the Scottish Government and local authorities in Scotland. Those methods are pretty tried and tested.

The Convener: It is probably useful to underline the fact that the Solicitor General is here to answer questions about the proposed UK equality bill from the UK perspective.

Johann Lamont: I appreciate that, but as the Scottish ministers have a responsibility to promote equal opportunities, I am interested in the structures that might enable the Scottish Government and the UK Government to work together to do that.

The Convener: I suppose that there will have been dialogue between the UK Government and the devolved Administrations.

The Solicitor General: There has been, yes. I am sure that the Scottish Government will suggest specific mechanisms that it feels are most appropriate and we will discuss those together. The process will continue in that way.

Hugh O'Donnell: Do you see a danger that the single equality proposals in the bill will create a hierarchy of equalities in which there will be a clash between, for example, religion and belief and gender equality? If so, how is it proposed to address any such potential conflict?

The Solicitor General: No, I do not envisage any such hierarchy of rights. Indeed, part of the purpose of the legislation is to streamline and make equal the equalities. For example, at the moment, although it is unlawful to discriminate against me with regard to the delivery of goods and services on the basis that I am a woman, it is

not unlawful to do so on the basis of my age. Currently, therefore, there is a hierarchy of equalities, but that will change. However, the religious duty and the LGBT duty coexist now, to all practical purposes, and nothing will change significantly in that regard after the bill is passed. The issue involves balancing one right against another and working out a solution either formally, informally or through the courts. It will not be any harder to do that once the bill has brought together in one place the provisions that already exist.

Bill Wilson: This question jumps sideways to an issue raised by Bòrd na Gàidhlig. It has told us that some Welsh speakers who are working in the private sector in Wales have been told not to use the Welsh language when speaking to each other or to members of the public who want to do business with them in their native language. Indeed, some native speakers have faced disciplinary action. Will you confirm that any attempt to prevent the use of a minority language such as Scots or Gaelic in the workplace would be prohibited under the single equality bill?

The Solicitor General: I do not know about those events, although there have been conversations about their having taken place. It would be for the employer to explain why such a requirement was justified and for the courts or tribunal to decide, depending on the facts of the case, whether the exclusion was reasonable. On the face of it, however, that would not be easy to justify.

Bill Wilson: Certain newspapers frequently report on equality issues with reference to political correctness, usually with bizarre and peculiar stories to highlight their point. Do you think that those newspapers' approach damages attempts to engender greater equality? If so, might the Government take corrective action? Or is it fair for newspapers to claim that questionable actions have sometimes been taken in the name of equality and that there is therefore a need for greater clarity on what actions are permitted?

The Solicitor General: I am sure that there is a need for greater clarity, which will emanate from bringing all the legislation together in one act rather than having it spread around nine acts and several thousand pages of regulations. It should be easier for the public to understand what is and is not required. Undoubtedly, certain elements of the press have made hay about equalities, rightly or wrongly, in many circumstances. I have no better idea than you how accurate they have been, and they have done the same with human rights, using the "political correctness gone mad" line of argument.

The bill has been drafted after enormous consultation with rafts of stakeholders from special interest groups and the public. One hopes that

everybody knows it is coming. It will go through the parliamentary process openly, and it will then be followed by lots and lots of guidance to ensure that it is clear. I hope that we will be able to clarify the situation so that the sting is taken out of the more fanciful allegations made by some of the press.

There have been odd uses not so much of equalities legislation but certainly of human rights legislation, which is in the same vein. In a case in my part of the country, someone alleged that having to move their wheelie bin to the front gate for it to be emptied was forced labour and therefore contrary to an article in the European convention on human rights. Of course it was taken up by the press, even though it was completely fanciful. The case of somebody who refused to come down from a roof and had to be given a Big Mac because otherwise his human rights would have been damaged was also completely fanciful. It is difficult to prevent that kind of thing from happening.

Bill Wilson: I suppose fast food is bad for you, and he was forced to eat a Big Mac.

The Solicitor General: That was not the issue, but it is a good point—was it good for his human rights to be given a Big Mac? It was a case of abuse of what people see as political correctness gone mad. Often they cannot tell political correctness from health and safety observation. Clarity will be a watchword, and we will do what we can to prevent those cases from happening again.

Malcolm Chisholm: How does the bill relate to European equality legislation? Are some provisions, for example on age discrimination in the provision of goods, facilities and services, included to comply with European legislation, or are we getting ahead of what is required by Europe?

12:15

The Solicitor General: The bill will certainly be made to comply entirely with advances in European legislation. Are we ahead of European legislation?

Janice Shersby: The draft directive covers the grounds of disability, age and religion and belief, most of which UK law covers. Of course, the forthcoming equality bill will fill in some gaps, such as age discrimination in the provision of goods, facilities and services, as the minister said. UK law covers many, but not all, of the domains that the directive will cover. The new bill will plug some of the gaps. We are examining closely how the directive maps against our legislation and we will shortly issue a consultation document in which we

will draw attention to the differences and seek views on the potential impact.

Hugh O'Donnell: What is the justification for excluding under-18s from protection under the bill?

The Solicitor General: The argument is the same as that which we have already made. An abundance of legislation and responsibility deals with the education, promotion and support of people who are under 18. The sensitive and best way forward is to leave that as it is.

Hugh O'Donnell: I understand that education and children's services will be excluded from the integrated equality duty. For that purpose, how are children's services defined?

The Solicitor General: I am afraid that I cannot define children's services at present, but they will probably encompass what would reasonably be expected. Are you worried about something being in or out?

Hugh O'Donnell: Save the Children in Scotland asked how children's services were defined. If someone from your department who is working on the bill can clarify the definition, I can convey that to Save the Children. That would help.

Janice Shersby: We are still considering the definition, but we will write to let you know the position.

Hugh O'Donnell: Having that as part of the process would help.

Marlyn Glen: We discussed with Harriet Harman trade union equality representatives, who support employers and employees and negotiate to achieve best practice on equality and diversity in the workplace. To be effective, they need a statutory basis, so why has the Government not legislated to give them statutory rights?

The Solicitor General: There is no doubt that we are big supporters of equality reps. We have put much money—about £1.25 million in the past three years—from the union transformation fund into them.

Janice Shersby: The figure is £1.5 million.

The Solicitor General: There we are—the amount is better than I said.

The process that is being followed is the same as that with union learning reps. The reps must be formally evaluated—that is realistic and that process is under way—before they can be put on a statutory basis. They look as if they are doing an extremely good job, but a formal evaluation is imperative before we move on. That is why they are not being put on a statutory basis. That is in process, but they have not been around long enough for that.

Marlyn Glen: So that is in process and such evaluation will be undertaken?

The Solicitor General: Yes. I have no doubt that that evaluation will steer what happens next with union equality reps.

The Convener: I call Bill Kidd. I apologise for not calling you earlier.

Bill Kidd: Do not worry—that is okay.

Do you plan to use public procurement as a lever to achieve equality in the private sector? We know that the Government hopes to implement as much of the bill as it can itself, but procurement provides a carrot and a stick. I do not think—and I do not believe that it is your view—that the private sector should get off the hook, so procurement might provide a way of pushing it along the line.

The Solicitor General: That chimes with the public sector duty. It is probably important for all public authorities that have such duties to ensure that they are delivered as best they can be through contracted-out services and through their contractors, for instance. We are considering what it is open to us to do. We would like to do as much as possible to use procurement as a major lever.

We are a little hamstrung by European procurement rules, which apply to contractors who are not based in the UK as well as those who are. The Office of Government Commerce is working on a guide that will help us to know what leverage is, and is not, available. That is linked to our plan to have a fairly simple template to invite businesses to post on their websites information on their pay gap, disability employment, race employment and so on.

We also have an ambition to engineer a kite mark that will indicate to private businesses that have obtained it that they are welcome to participate in public procurement. I know that a good deal of work of that kind is being done in some regions in anticipation of the bill. In my part of the north-east of England, local authorities are trying to put together common procurement demands so that small businesses are not overburdened and do not have to prepare three different kinds of bid for three adjacent local authorities. Some equalities requirements will be included in those demands, to ensure that people are guaranteed a look-in. We will do what we can with public procurement, because it is a good tool for us.

Bill Wilson: The equalities review that was chaired by Trevor Phillips stated that there should be a new definition of equality because

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

Does the bill reflect that new definition of equality?

The Solicitor General: You should ask Trevor Phillips to try to define equality.

Bill Wilson: I am giving you the opportunity to do so, almost as a treat.

The Solicitor General: That would be an interesting exercise. Like Trevor Phillips, we are seeking broader ways of speaking of equality. One fairly obvious way of doing so is to look at socio-economic deprivation, which is not really another strand of inequality but it is an issue nonetheless. If you have an act that is designed to end inequalities in all strands, socio-economic deprivation becomes the elephant in the room.

The Government will publish a white paper on social mobility and socio-economic deprivation quite soon. We will probably look at the issue separately from the bill, but there may be links to it. We are not unaware of the problem of white working-class children and underprivileged estates. My constituency of Redcar is named after Redcar town, which is literally split in two by Redcar racecourse. The area to the west of the racecourse is deprived, whereas the area to the east of it is much more affluent. The two sides of the town have very different results in education, achievement and health. We must tackle those issues and are looking at all sorts of ways of doing so—one may be to focus on place. However, socio-economic deprivation does not fall entirely within the four corners of the bill.

The Convener: That completes questioning from members. Would you like to make some final points?

The Solicitor General: The session has been fairly comprehensive—I have enjoyed it and felt pressed at times. Thank you for giving me the opportunity to make clear what our ambitions are. I hope that I have done that.

The Convener: Thank you for taking the trouble to come up here in adverse weather conditions to give us a full briefing on the UK Equality Bill. I am glad that the session has at least provided you with the opportunity to clarify on the record the comments that you were reported to have made to *The Sunday Times*.

We were due to move into private session at this point but, given that we are running a bit late, I propose that we consider our draft report to the Justice Committee on the Offences (Aggravation by Prejudice) (Scotland) Bill and our approach to the inquiry into female offenders in the criminal justice system at our next meeting on 16 December? Is that agreed?

Members indicated agreement.

The Convener: Members should pass on to the clerks any comments that they have on the draft report on the Offences (Aggravation by Prejudice) (Scotland) Bill, to expedite matters at our next meeting.

Meeting closed at 12:25.

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