

EQUAL OPPORTUNITIES COMMITTEE

Tuesday 8 September 2009

Session 3

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EQUAL OPPORTUNITIES COMMITTEE **12th Meeting 2009, Session 3**

CONVENER

*Margaret Mitchell (Central Scotland) (Con)

DEPUTY CONVENER

*Marlyn Glen (North East Scotland) (Lab)

COMMITTEE MEMBERS

*Malcolm Chisholm (Edinburgh North and Leith) (Lab)

*Willie Coffey (Kilmarnock and Loudon) (SNP)

*Bill Kidd (Glasgow) (SNP)

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

*Elaine Smith (Coatbridge and Chryston) (Lab)

*Bill Wilson (West of Scotland) (SNP)

COMMITTEE SUBSTITUTES

Jackie Baillie (Dumbarton) (Lab)

Mary Scanlon (Highlands and Islands) (Con)

Margaret Smith (Edinburgh West) (LD)

Shirley-Anne Somerville (Lothians) (SNP)

*attended

THE FOLLOWING GAVE EVIDENCE:

Alistair Brown (Scottish Government Finance Directorate)

Ros Micklem (Equality and Human Rights Commission)

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

Euan Page (Equality and Human Rights Commission)

Yvonne Strachan (Scottish Government Equalities, Social Inclusion and Sport Directorate)

Lynn Welsh (Equality and Human Rights Commission)

CLERK TO THE COMMITTEE

Terry Shevlin

ASSISTANT CLERK

Rebecca Lamb

LOCATION

Committee Room 2

Scottish Parliament

Equal Opportunities Committee

Tuesday 8 September 2009

[THE CONVENER *opened the meeting at 10:00*]

Equality and Human Rights Commission

The Convener (Margaret Mitchell): Good morning and welcome to the 12th meeting in 2009 of the Equal Opportunities Committee. This is our first meeting since the end of the summer recess. I remind all those present, including members, that mobile phones and Blackberrys should be switched off completely, because they interfere with the sound system even when they are switched to silent mode.

Our first agenda item is a general evidence-taking session with witnesses from the Equality and Human Rights Commission. Members might recall that the commission first gave evidence to the committee on 20 May 2008, and it has now been in operation for nearly two years. Today's session gives members the opportunity to ask the commission questions about its progress.

Without further ado, I welcome our panel of Equality and Human Rights Commission witnesses: Ros Micklem, the national director for Scotland; Lynn Welsh, head of strategic litigation; and Euan Page, parliamentary and Government affairs minister. [*Laughter.*] Sorry—Euan Page is the parliamentary and Government affairs manager. I promoted you by mistake.

Euan Page (Equality and Human Rights Commission): I will try to live up to the title.

The Convener: I bet it is a relief that you are a manager and not a minister today.

Witnesses will be aware, as are the public, of the high-profile resignations from the Equality and Human Rights Commission. Are they due to the difficulties of the merged equality groups struggling to find common ground or are they more to do with the leadership style and approach of Trevor Phillips? I invite Ros Micklem to comment.

Ros Micklem (Equality and Human Rights Commission): We are, of course, very sad that four out of 16 commissioners have resigned. It is probably worth mentioning that in any case the commission was due to be reconstituted and reduced in size at the end of the year, at the end of the current members' terms of office. Given that people were going to have to reapply for appointment to the commission, and that the

original commission had completed the set-up job and was moving on to a more focused size, there was a view that perhaps people had made their contribution and that it was time to move on.

It is obvious that there have been disagreements—we are not pretending otherwise—but that is natural in an organisation that involves people who are passionate about their causes. The commission brings together a lot of different traditions and points of view, and people feel strongly about them, so it is not a surprise that there are differences of view.

It is unfortunate that some people have chosen to go, but we still have 12 effective and committed commissioners, and we are confident that they are still focused on delivering what we exist to do. We will continue to seek to be judged on what we deliver rather than on what the media chooses to make a bit of a storm about. A lot of connections were made between the resignations and other things—it was unfortunate that those things happened at around the same time—but many of those connections were not relevant to the resignations. There has been a combination of unfortunate circumstances, but that is not a symptom of an organisation that is in deep trouble, and it has not undermined our ability to deliver what we were set up to do.

Hugh O'Donnell (Central Scotland) (LD): In a similar context, I understand that Trevor Phillips has been appointed for a second three-year term and that several senior employees formerly of the Commission for Racial Equality were re-engaged. Who was responsible for those appointments? Was there an open recruitment process with equal opportunities, similar to the one that we have in Scotland for public appointments?

Ros Micklem: The person responsible for reappointing Trevor Phillips as chair, and Margaret Prosser as deputy chair, was the Minister for Women and Equality, Harriet Harman. She decided to give them a second term. There was an open competition when the posts were first filled, but there was no competition for the reappointment. There will be a competition for the remaining commissioner posts, given that the size of the commission is to be reduced. It is not unusual practice for people who have been appointed through open competition to have a second term of office without having to go through the same process.

The re-engagement of a small number of members of staff from legacy commissions—mainly but not exclusively the Commission for Racial Equality—was a feature of the transition to the new commission. In the very early days, there was a problem of significant gaps in the new organisation, which affected its capacity to set up and start delivering. It took a while to get the

proper recruitment processes under way. In the short term, there was a need to bring in people who had all the right skills to do the job.

The decision to appoint those particular people as consultants to support the commission was made by the chief executive, Nicola Brewer. In good faith, she thought that she had gone through the right procedures to allow that to happen. Unfortunately, as the National Audit Office has reported, it turns out that the commission did not go through all the right procedures or get all the right permissions. We have now put in place processes to ensure that that cannot happen again. Those people were not appointed to established posts; they were appointed on short-term consultancy contracts, which is why the posts were not advertised fully. We now go through a proper recruitment process for all posts but, at that time, we brought in people for the short term to ensure that we could operate.

Hugh O'Donnell: Given what you have said, it might be worth your seeking advice from the Office of the Commissioner for Public Appointments in Scotland on how the public appointments process should be engaged with. It is a little ironic that we have an equalities commission that, broadly speaking, appears not to have followed equalities recruitment practices, certainly in the case of the appointment of Trevor Phillips and others. It would be interesting to have a conversation with Karen Carlton of OCPAS to find better ways forward.

Ros Micklem: I assure you that we are working closely with OCPAS on an interesting project that you might have heard about. We have written to all members of the Scottish Parliament asking you to complete a survey to help with our project to get more people into public life in Scotland. Unfortunately, I cannot answer on the minister's reasons for making her decision.

The Convener: I think that Hugh O'Donnell's point was that equalities principles should be applied in the commission.

The fact that the commission's accounts were qualified is obviously an indication of poor internal relations and weak management. In your opinion, was the role and status of the commission damaged by that?

Ros Micklem: It was damaging that the commission's accounts were qualified. However, we are not the only body whose accounts have been qualified: I gather that a couple of Government departments are in a similar position. The accounts concerned were the ones for our first year of operation—the year that ended in March 2008. I hope that the qualification reflects not how we operate now but the pressures of the set-up phase, when the commission was moving

to become fully operational. I do not think that the qualification is indicative of wider or longer term incompetence. An unfortunate mistake happened in the very early days of bringing the three organisations together, and big gaps in the skills base of the staff led to some perhaps slightly hasty decisions.

The Convener: More specifically, what impact have those events had on the work of the commission in Scotland?

Ros Micklem: We have tried to keep firmly focused on what we are delivering and to reassure everyone who works with us and all our stakeholders that we are still operating, that we are still clear about our priorities and that we are still delivering for Scotland. We have had a lot of support from our stakeholders, who have said that they do not recognise in our work some of the assertions that have been made in inflammatory language in the press down south.

Although it has been hard at times for our staff and for the Scotland committee not to feel that the commission is under attack, it has not distracted us from what we do or significantly damaged our reputation or our ability to work with stakeholders. One thing that has come out of the experience for the commission more widely is a determination to focus on building the relationships between the commission and all the equality stakeholder groups. We have already done quite a lot in that direction in Scotland, but there is going to be an even greater focus on that work throughout the commission, which can only strengthen us.

The Convener: That is encouraging.

Malcolm Chisholm (Edinburgh North and Leith) (Lab): I will ask about the high-level aspirations that are laid out in the commission's strategic plan, before we move on to discuss more specific matters. Your strategic plan mentions your work to

"Create a fairer Britain, with equal life chances ... Build a society without prejudice ... ensure everyone is treated with dignity and respect ... create a society where people can live their lives to the full ... and foster a vibrant equality and human rights culture".

It might be difficult to achieve those strategic priorities. Do you have milestones on the road to doing that? Will all your current work help to achieve those high-level aspirations?

Ros Micklem: Yes. I do not think that we will get there in the first year, anyway, but we have a number of programmes and projects that underpin those high-level, strategic priorities. We worked out the specific priorities and what we are going to deliver through extensive consultation in Scotland and in Britain as a whole, and also by looking at the evidence of where the significant problems are

and what people are telling us needs to be tackled.

We have labelled that “a regulatory approach”. Some of us had difficulties with that concept at first, but we now have a fairly systematic way of looking at the evidence, deciding what the significant issues are, looking at the range of tools that are at our disposal to address them, and then trying to match the right tool with each issue. There is a cycle in our business planning to review that work.

I will give you an example of how that is working in practice. Under our priority to create a fairer Britain, we identified two big programmes—one on fair access to public services and civic participation and the other on employment and fairness in the workplace. Once they were identified at Great Britain level, we put our heads together with the Scotland committee, examined all the feedback that we were getting about public services and where the challenges were, and thought about where our intervention could make a difference by improving the available evidence or focusing people's minds on what they need to do.

10:15

One matter on which we have focused is the possible impact on local government spending decisions of the changed relationship between local and central Government. We have negotiated with our GB counterparts a fairly substantial budget within the fairer access to public services programme so that we can initiate studies of how local authorities make some of their spending decisions and how those reflect the race equality duty, the disability equality duty and the gender equality duty. There will be a group of local authorities for each duty and the studies will give us evidence to help us to focus our guidance and enforcement activity on ensuring that spending decisions are in line with the duties.

That work arose partly from all the discussions that we had with local authorities throughout Scotland, the calls that were made to the helpline and the complaints that we received about possible breaches of the duties. We assessed all those and decided that the studies were the best intervention that we could make on those issues at the moment.

On the fairness in the workplace programme, we are part of the big GB campaigns for more flexible working practices and equal pay, but in Scotland we have some specific anomalies. In addition, the study on the pay and status of classroom assistants is now reaching the enforcement stage with Glasgow City Council. We have agreed with our GB counterparts that that will be a high priority

in Scotland as one of our contributions to the wider strategic priority of a fairer Britain.

We could go through that process with all the priorities. At the GB level, they are broken down into programmes. In Scotland, we consider the significant issues within the priorities, the evidence that is available on them and the partnerships that are available. For example, on the generation without prejudice, there are different partners to work with here. We then come up with our own programme and draw down from the GB level our own budgets to implement it. Everything that we do should contribute to one of the strategic priorities. If it does not, we will be at fault and will need to review the situation to ensure that we align our activity with the priorities.

Malcolm Chisholm: That was helpful. Some of what you said, particularly with reference to local authorities, will be picked up later. However, I have a couple of specific questions about your submission, which shows that more than half the calls to your helpline concern disability. Why is the volume of calls for that equality strand so high relative to the other strands?

Lynn Welsh (Equality and Human Rights Commission): We think that it is a legacy issue in that the Disability Rights Commission had a well-used helpline and people who phone the old number get through to our new commission. The other strands provided slightly less of a service previously, so the situation is simply a follow-on from the number of people who phoned the previous commissions' helplines.

Malcolm Chisholm: On page 4 of your submission, you take up the situation of looked-after children in relation to decisions of the Additional Support Needs Tribunals for Scotland. That is a valid issue, but I will ask a related question that has come up for me recently. It appears that parents who exercise their right to appeal tribunal decisions have costs awarded against them if they do not succeed in their appeal. Are you aware of that and are you concerned about it?

Lynn Welsh: It has not been brought to our attention so far, but we would be very interested in the matter. It would be great if you passed further information to us.

Bill Wilson (West of Scotland) (SNP): In response to Malcolm Chisholm's question, you said that the fact that the disability strand accounted for so many of the calls to the helpline was a legacy issue. However, that prompts the question why, in the past, the disability strand accounted for a higher number of calls than did the other strands. What was the reason for the extra effectiveness of the disability strand?

Lynn Welsh: I think it was simply to do with the fact that the DRC was a newer organisation. At its inception, the DRC set up a well-advertised helpline. The other two legacy commissions had slightly lesser helpline services. The issue simply relates to the way in which the commissions were originally set up and the kind of services that they offered.

Bill Wilson: Does that imply that the helpline needs to be advertised more heavily in relation to the other strands so that it is used more heavily?

Lynn Welsh: Yes. We have planned substantial advertising of our helpline, which has been rejigged slightly and will be formally relaunched soon.

In Scotland, we are doing a lot of work, such as running roadshows, to highlight the services that we provide, including the helpline. Every time we conduct such exercises the use of the helpline increases across all strands. We will continue with that work and relaunch the helpline service.

Elaine Smith (Coatbridge and Chryston) (Lab): Your submission shows that you got quite a lot of calls for “no strand”. Does that mean that the calls were not relevant or that they involved cross-cutting issues, or does it mean something else?

Lynn Welsh: It mainly means that the calls were not relevant, such as calls from people about benefits rather than discrimination or equality issues. We have always had that problem.

Elaine Smith: Does that show that people fail to understand what the helpline is about? Does that need to be addressed?

Lynn Welsh: The legacy commissions had the same problem. We do our best to explain the difference between discrimination and human rights issues, and the kind of services that we provide, but we continue to get calls that are not relevant.

Ros Micklem: We hope that the revamped helpline will enable us to break down the calls and analyse what is behind them a bit more thoroughly, which will enable us to understand better the no strand category and see whether other issues are hidden in it.

Bill Kidd (Glasgow) (SNP): I have spoken to a number of constituents who have had difficulties with various Scottish and Westminster Government departments. I imagine that many people often do not get a satisfactory answer from Government departments. Do people in that situation come to the EHRC to ask whether you can solve the problem that they have encountered? It seems that many people imagine that they have rights that they do not actually have—the truth is that you do not always get what you want.

Lynn Welsh: We do not have official statistical breakdowns of all the calls that we receive but, having spoken to helpline colleagues, I feel that some of the calls that they receive are based on the belief that the area of human rights extends slightly further than it does. Our helpline offers advice on human rights both for the EHRC and for the Scottish Human Rights Commission, so it covers devolved and reserved areas. We cannot be of assistance to every caller, but I hope that we can help lots of them.

Bill Kidd: I know that you do not want to take on unnecessary work, but do you refer issues back to the departments that people wrongly call you up to complain about? Do you let those departments know that someone has contacted you with an issue that is their responsibility, not yours? That would ensure that people who wrongly contacted you were not left hanging with no hope.

Lynn Welsh: We always try to find someone to whom we can refer people. For example, the Scottish Public Services Ombudsman might be more useful than we can be.

Ros Micklem: We tend to ask people to make contact themselves. We have to draw the line there. The helpline does not contact departments on people's behalf; we try to give people the tools to do the job for themselves.

Marlyn Glen (North East Scotland) (Lab): The commission's submission refers to the on-going pressure on public finances. During the recession, have you seen a decline in public and private sector organisations' focus on equal opportunity issues?

Ros Micklem: On the whole, not yet, although there have been enough danger signs for us to issue guidance—which we know has been used by the public sector—on taking difficult financial decisions while taking account of the equality duties, considering the impact of decisions and ensuring that they are based on clear evidence. However, I am afraid that the worst is yet to come, which is why we are preparing by gaining firm evidence about how decisions are taken and by working with others to ensure that robust equality duties mechanisms are put in place so that people who are more vulnerable do not suffer disproportionately.

Marlyn Glen: That is all the more crucial in difficult times.

Ros Micklem: Exactly.

Marlyn Glen: In the next evidence session we will talk to the renamed equality and the budget group. You have spoken already about guidance for public authorities in respect of public sector duties and financial decisions. When developing proposals and making policy decisions, including

those about finance and service provision, public authorities must comply with their statutory equality duties. What is the commission's expectations of the work of the equality and the budget group in the next period?

Ros Micklem: We see its work as making a great contribution to the wider mainstreaming agenda. Looking at budgets in isolation can be a bit of a dead end, but looking at budgets in a way that makes connections between the financial decisions and the policy decisions is really helpful. That is the approach that has to be taken. I believe that that is the approach that the group is taking.

I hope that the group will look at the links between equality, planning and spending decisions, and develop mechanisms for looking at the impact of spending decisions in the light of equality. I hope that the group will line up that work with our guidance. That could complement the work that we are doing with local authorities on the consequences of losing ring-fenced funding. Financial decisions will be the big focus for us all. In looking at how that plays out at Scottish budget level, the group is a key part of the jigsaw.

Marlyn Glen: Do you have plans to work alongside the group or to feed into its work?

Ros Micklem: Yes. I think that we are represented on the group at the moment. As things develop, we will review the level and nature of that involvement.

Marlyn Glen: Thank you. That is really important.

Hugh O'Donnell: The Scottish Government's national performance framework includes, among others, the national outcome:

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

I apologise for using this football analogy. We see lots of tackles, but sometimes they do not get the ball. How are you ensuring that there is an evidential base for such a statement from the Scottish Government? How are you monitoring its progress?

Ros Micklem: That is a big question. The outcome focus is a real strength. It provides a way of linking equality activity at all levels of government and public services. The outcome focus is really good and helpful.

The challenge is in defining what we mean by "significant inequalities" and having something specific to measure. Our main contribution to that at the moment is the development of the equality measurement framework, which is a huge and quite daunting piece of work. Increasingly, as I get my head around it, I think that it is central to developing ways of clearly defining equality,

defining the "significant inequalities" and measuring whether progress on them is being made.

The conceptual framework of the equality measurement framework has now been published. The next stage is to populate it with data. Once it is populated, it will start to make a lot more sense, because there will be a web tool that allows us to play with the data under the different headings and look at what they tell us about inequalities. That will happen in time for the publication of our first triennial review. The committee will know that, under the Equality Act 2006, we have to publish a report on the nation's progress on equality issues every three years. The first one is due about this time next year, and we will work on that over the next year.

10:30

We are very keen that the equality measurement framework should tie up as closely as possible with the Scottish Government's performance framework. We have had lots of discussions with the equality unit and analysts about any difficulties that there might be in marrying the two. There is a commitment on both sides to ensuring that that marriage takes place, and the analysts are working away at it at the moment. I hope that the committee will continue to pursue that. We have spoken to the minister about it, and he expects to be in a position to say something about it by the time that he gives evidence to the committee. It is vital that the two frameworks tie up. That will give us all an extremely robust way of defining what we mean when we talk about tackling significant inequalities, which could otherwise be just pious words. There are some indicators in place, but we think that there is some way to go.

In addition, we are working with local government on the development of local indicators in the context of the measurement framework because, although the framework will provide a broad-brush picture, people at local level will need to develop more flexible indicators that are customised to their own circumstances. Some projects are under way with the Convention of Scottish Local Authorities and the Improvement Service, and we are in dialogue with them about how we can ensure that all those different developments tie up in the best possible way.

Hugh O'Donnell: Thank you; that was very helpful. It would not be for me to comment on the issue of pious words from Governments, regardless of their shade.

A number of points occur to me. If memory serves me right, Scotland is exempt from the social equality criteria in the Equality Bill. Have you had any discussions with the Government

about including Scotland under that aspect of equality?

My second point is not entirely related. Has progress been made on the equalities agenda in the second round of single outcome agreements? Taking cognisance of what you have just said, do we have any substantive evidence of that?

Ros Micklem: You are right about the socioeconomic duty. At the moment, the Equality Bill includes a socioeconomic duty that will apply only in England and Wales. Our commission's view is that it is desirable to have such a duty embedded in law, and we are extremely pleased that the Scottish Government has decided to consult on whether, under the bill, that duty should cover Scotland as well. That consultation is under way.

Although circumstances are different in Scotland and an argument could be made that public policy in Scotland already takes socioeconomic inequalities into account to a greater degree than happens at UK Government level, we would like such a duty to be embedded in law, which is not currently the case. We would also like there to be some accountability and for scrutiny to be possible of whether people take socioeconomic inequality into account when they make their strategic decisions. The way in which the duty is framed at the moment means that there will be very little accountability and scrutiny of whether anything is done, so we are talking to the Scottish Government about whether other measures could go alongside the duty. As part of the reform of scrutiny under the Public Services Reform (Scotland) Bill, measures could be taken that might complement the duty and ensure that someone checks that it is met in practice.

Hugh O'Donnell: What about progress on equalities in local authorities' SOAs?

Ros Micklem: We are still analysing the new round of single outcome agreements, so I cannot say much on that at the moment. We might need to come back to you with a written answer, unless Euan Page can say something on it.

Euan Page: Community planning partnerships now have a much more formal role in single outcome agreements, so we will undertake a programme of face-to-face engagements with all 32 CPPs in Scotland. We will sit down with local authorities and other key agencies that deliver services to communities around the country, and talk at a practical level about the issues. For example, we will discuss how we will develop the equality measurement framework work and what that will mean at a practical level for the delivery and design of services, particularly in the context of having to make increasingly difficult decisions about how we spend finite resources.

On a practical level in the context of single outcome agreements, we will therefore carry on with last year's work, which was aimed specifically at senior elected officials and officers in local authorities, and take a more holistic approach with community planning partnerships.

Lynn Welsh: I suppose the budget project to which Ros Micklem referred earlier will also provide concrete information for us about how local authorities are carrying through the single outcome agreements and how much they consider their equality duties when they make spending decisions under the single outcome agreements.

The Convener: The committee would be keen to see any additional information that you have on that.

Elaine Smith: My question carries on from one that Malcolm Chisholm asked earlier. The commission announced that it would carry out an assessment of the extent to which the Scottish Government is meeting the public sector equality duties in the development and implementation of its policies and practices, with particular focus on equality impact assessments. The commission is doing that assessment with the co-operation of the Scottish Government, and it focusing on three areas: the guidance on local housing strategies, the national drugs strategy and the development of the "better together" improvement programme. I understand that the commission hopes to produce its findings by spring next year. Why is the commission focusing on those three areas in particular?

Ros Micklem: We wanted to address a range of areas, each of which gives us a different flavour. We wanted areas in which there is a lot of delegation and areas that are mainly about central policy making. We also wanted areas in which there is a reasonable degree of confidence in the process and areas in which the Scottish Government feels that there is a bit further to go. We therefore negotiated with the Government for a reasonable cross-section of different policy areas to give us a representative view of how the process works across Government. We would have loved to look at more areas, but there is a limit to the capacity to do the work thoroughly, so we had to choose three areas. Lynn Welsh may be able to comment a bit more on that.

Lynn Welsh: We had evidence from research that the previous commissions undertook on housing difficulties for minority ethnic communities and disabled people. They found that minority ethnic people tend not to use social housing while disabled people tend to be stuck in it. We therefore knew that there are difficulties in that area, and we wanted to see how the Government looks at them when it considers its strategy. There was also anecdotal evidence on the drugs strategy

and how services are made available across different, perhaps harder-to-reach groups. Those aspects were part of the reason why we chose the three assessment areas.

Elaine Smith: I am not clear about what you said at the beginning about people being stuck in social housing. What did you mean?

Lynn Welsh: There is a difficulty for some physically disabled people with regard to what housing is available and accessible to them. There is a lack of disabled housing in public, social housing and a severe lack outside that sector, simply for accessibility reasons. We wanted to see how that issue would be tackled through the work that the Government is doing.

Elaine Smith: In the social housing sphere?

Lynn Welsh: Yes.

Elaine Smith: Local housing strategy guidance is developed and published jointly by the Scottish Government and COSLA. Will the commission's assessment be based just on the Scottish Government's performance, or will you also consider COSLA's performance?

Lynn Welsh: It is not as much about performance as about the system that is being used, where and how equality assessments are being carried out and the outcome of assessments. It is about looking for good practice, if there is any, and making recommendations. Of course, in practice our recommendations could also benefit COSLA's work.

Elaine Smith: Will you be looking specifically at the Scottish Government?

Lynn Welsh: Yes, because the Government is covered by the equality duties, whereas COSLA, as an organisation, is not.

Elaine Smith: If you find that the Scottish Government has failed to meet any of the public sector duties, what action can you take?

Lynn Welsh: We hope that the Government would be keen to take on any recommendations that we made to it. If we find that the system is not working properly, we will firmly recommend what we think is required to improve practice. If the Government simply ignored what we came out with, we could take enforcement action. We can serve a compliance notice if we think that the equality duties are not being formally carried out, which we can enforce in court if required.

Elaine Smith: You have the teeth, but you would prefer not to have to use them.

Lynn Welsh: Yes. It would be preferable to work in partnership.

Bill Wilson: In July, the EHRC launched the equality measurement framework, which aims to provide information for Government and public bodies. In evidence to the House of Commons Scottish Affairs Committee, the EHRC said that there are gaps in data on Scottish equality issues, the most significant of which relate to sexual orientation, ethnicity and religion and belief. What work, if any, are you doing with the Scottish Government to standardise data collection and close those gaps?

Ros Micklem: The discussions that we have started with the analysts about marrying up our equality measurement framework and the indicators in the national performance framework are partly about that, as the analysts are considering whether they could populate our framework with data over time.

We are undertaking a significant piece of research—I think that it has just gone out to tender—to consider the significant inequalities in Scottish society. I am sure that part of that work's conclusion will be that there are things about which we do not yet know enough. We will consider how far we can reach conclusions on the basis of data that are already available on the 48 indicators in the equality measurement framework. I think that a report is due to come out next spring.

We also work with the census, the Scottish household surveys and so on to try to ensure that questions tie up. Discussions have to happen on various fronts, but we are conscious that without the data, evidence-based policy making will always be unsatisfactory. We have systematically considered where the gaps are, and we are working with everyone with whom we can work to ensure that they are filled.

Bill Wilson: What impact might those data gaps have had on the commission's work in Scotland?

10:45

Ros Micklem: It is probably a combination of data gaps and the fact that the equality duties apply to only three of the equality areas for which we are responsible.

This is a personal view. I think that our work has tended to be weighted towards gender, race and disability, partly because we have more data on those areas through the work of the legacy commissions, and partly because the public sector equality duties apply to those areas. That has tended to shape our agenda. We have made conscious efforts to engage with other agendas, and the work that we are doing as a result of the report of the lesbian, gay, bisexual and transgender hearts and minds agenda group and the dialogue that we and the Scottish Government have been facilitating between LGBT groups and

religious groups has been part of a conscious effort to balance that out. We are doing quite a lot of work this year with young people and in partnership with Young Scot.

We are, however, probably still lacking in data on those other strand areas. That has contributed to the fact that it has taken us a bit of time to engage as thoroughly with those strands.

Bill Wilson: You say that your work has been weighted towards the other strands because that is where you have had better data. Can you give me some examples of what you might like to do with the strands that your work has not been weighted towards and that you are not currently addressing because of the slight lack of data?

Ros Micklem: We have some evidence—it is partly anecdotal—that access to some public services for lesbian, gay, bisexual and transgender people is not as good as it should be and is not equal. We would like to know a lot more about that and take action on it, and the new equality duty, which will cover all the equality mandates, gives us a great opportunity to get more teeth so that we can do something about that. There are areas that we are keen to tackle but that, in my view, we are not yet in a position to address. Others may want to add to that.

Lynn Welsh: Although that is true at a policy and strategic level, we provide casework services to all the strands. We have handled cases involving lesbian couples, cases of gay people being harassed at work and age cases. We are providing services firmly across all the strands, although the strategic-level work may be slightly behind that.

Bill Wilson: The framework does not seek to act as a performance measurement for the local authorities or the Scottish Government. How will the commission measure the success of those bodies' performance?

Ros Micklem: We would encourage those bodies to measure their own success; I do not think that it is for us to do that. It is for us to provide tools and encouragement, persuasion, guidance and, potentially, enforcement if they do not comply with their duties. It is up to public bodies and Governments to decide how to measure their performance on equality. We are in dialogue with them at every level to inform their thinking about how to do that, and we are keen to work with the project to develop local indicators. We are in constant dialogue with community planning partnerships, as Euan Page has said, on how they address equalities. However, we do not dictate the way in which people should measure performance; we provide them with the tools to do that themselves. The framework can be used as part of a performance measurement framework as

well as a progress measurement framework, but it is not for us to tell people to use it in that way.

Bill Wilson: Does that mean that we could have 32 local authorities with quite different ways of measuring or assessing their equality situation?

Ros Micklem: Potentially, but I do not think that they would want that. Everything that we have heard from the local authorities suggests that they are keen to have tools that will enable them to compare themselves with others. They are keen to have ways of measuring that will enable them to demonstrate that they are meeting their duties. It is a process of dialogue rather than people going off and doing their own thing.

Potentially, it could happen. We are not in a position to impose a specific set of measures on public authorities.

Bill Wilson: If that were to happen, would you regard it as a problem? I am sorry—Euan Page wanted to say something.

Euan Page: I was just going to add that the other vehicle is the work that is being undertaken as part of the Public Services Reform (Scotland) Bill, on reviewing and reshaping the scrutiny system in Scotland. In our written evidence to the Finance Committee on that bill, we indicated that with the advent of the new specific duties on public authorities that will be introduced by the Equality Bill, which will be consulted on and shaped and delivered in Scotland by Scottish ministers with the approval of the Parliament, an enormous opportunity exists to ensure that the new duties, particularly those around user focus in part 6 of the bill, are aligned with the new scrutiny arrangements in Scotland. On scrutiny and transparency, there is a direct link at local level with the work that can be done by devolved scrutiny bodies in Scotland.

Ros Micklem: I think that the Government would have something to say about it if all the bodies were to go off in their own direction. Given that there is a national performance framework and an expectation that all public authorities should make a contribution towards the meeting of the national outcomes, I would expect there to be concern if that contribution was measured in different ways. As Euan Page said, the scrutiny bodies have a view on how equality standards should be built into scrutiny. Government should have a view on how equality fits into the national outcomes. We have a view on how to demonstrate people's compliance with equality duties and their promotion of greater equality. However, I do not think that any one of those is about one body saying that there is a single way of measuring equality. If the tool is good enough, I hope that people will choose to use it.

Willie Coffey (Kilmarnock and Loudoun) (SNP): Will you clarify why the analysts are working like mad—as I think you described it—to match up the equality measurement framework, which your submission said was launched in July, with the Scottish Government's national performance framework? Should it not have been ensured at an earlier stage that the framework was sympathetic to the Scottish Government's outcomes framework? Does the fact that such work is being done now not suggest that there should have been a Scottish framework that was applicable and suitable to Scottish needs?

Ros Micklem: There is scope to adapt and tweak the framework and make it suitable for Scottish needs, and that has been part of the dialogue that we have been having for more than two years. I am sorry if I gave the impression that there was a last-minute mad rush to complete that work. The discussion has been going on for a considerable time. We would have liked the work to have been concluded before the framework was published in July. Unfortunately, that did not happen, but at least the work is continuing and we hope that it will have a happy conclusion before too long.

Willie Coffey: In effect, will there be a United Kingdom framework and a Scottish one?

Ros Micklem: No, I do not think so. I think that we will end up with one framework that is flexible enough to be adapted when Scottish or Welsh circumstances make that desirable.

Willie Coffey: My next question develops the theme of the one that I have just asked, which was about how policy and initiatives develop. Let us take the example of migration, on which one can see a divergence of thinking in policy development between the UK and Scotland. How does that impact on your organisation in Scotland? Can you develop initiatives in Scotland separately from initiatives that might be pursued at UK level?

Ros Micklem: The way in which the process works is that we have some consistent areas of strategic focus across all three countries. In the migration debate, our consistent focus is on good relations. Our mandate is to support and promote and foster good relations between groups in society. The commission as a whole wants that to work in practice in ways that fit local circumstances and policy approaches, and the priorities of the three different Governments. Although our focus is still on good relations, our discussions about what that means in practice will be different in Scotland because of the different thinking and population needs, and so on.

The Scotland committee is empowered to advise the commission as a whole on how that policy should be taken forward in Scotland. In our

experience, that works quite well: the Scotland committee says, "If we are going to do some work in this area, this is the form that it needs to take in Scotland, which is a bit different from the way that it might play out in London." The commission is happy to support that, and we held an interesting joint meeting of the commission board and the Scotland committee to talk about those issues and learn from the different contexts. There is no issue with regard to being told from London that we cannot do it in a different way from that which works for Scotland.

Willie Coffey: On reserved matters, do you still consider that your organisation can play an influential role in developing policy and local solutions for Scotland?

Euan Page: There is no distinction. The House of Commons Scottish Affairs Committee's report of our meeting with it at the start of the year seemed to imply that we work to some kind of distinction between reserved and devolved matters, but we do not make such a distinction. If we feel that a policy area, whether reserved or devolved, is relevant and falls within our strategic priorities and our mandate, we address it. That is why we are examining migration in Scotland.

Marlyn Glen: During its round-table discussion on the Scottish Government's race statement, the committee took evidence from the Scottish Gypsy and Traveller law reform coalition. The coalition was very critical of the commission and felt that it had not been supportive in a case that related to the Gypsy Traveller education and information project. What are your views on that evidence?

Ros Micklem: We cannot comment on a specific case. We have had many discussions with the Gypsy and Traveller law reform coalition, which have not all been happy ones, and we know that the coalition is very critical of our approach. However, we have been doing a great deal of work and thinking about how to take forward work to support the rights of Gypsy Travellers. We agree with them that they experience some of the worst discrimination and outcomes of any group in Scotland. We are already commissioning research on how accommodation is provided, and we are developing a number of strands of thinking around work with them, which includes legal strategy.

Lynn Welsh: We are considering the development of a cross-directorate strategy in Scotland that is specifically aimed at Scottish Gypsy Travellers and their needs. It will examine their human rights as much as discrimination and equality issues, because there are a lot of human rights issues in relation to areas such as land, housing and accommodation.

We have made substantial efforts to support legal cases where it is appropriate that we do so,

and we have given explanations of the type of cases that might be suitable for us to take on. We have provided specific information about our helpline services, and we have actively sought to get Scottish Gypsy Travellers to contact our helpline so we can pursue their cases as far as we are able to. We very much recognise the needs of Scottish Gypsy Travellers, and we are making substantial efforts to meet some of those needs in various ways.

Ros Micklem: We are keen to point out that two reports from, I believe, this committee's predecessor committees set out valid recommendations on what should be done to support Gypsy Travellers. Our policy approach very much involves trying to work with the Scottish Government to do something about those recommendations. I am sad to say that most of them have sat there, as recommendations, for far too long. We all have a responsibility to move those issues forward.

11:00

The Convener: That completes our lines of questioning. Do you have anything to add?

Ros Micklem: We have not said much about the Equality Bill and the power that Scottish ministers will have to decide on the specific public sector duties that will support the general duty under the bill. It is important that we use that opportunity to create effective, rigorous and user-friendly duties that will move us substantially closer to getting real outcomes on equality and getting people away from being bogged down in process, which is a complaint that people have about the equality duties. I believe that the consultation is due to be launched by the end of this month. We are thinking along similar lines to the Scottish Government about what those new duties might look like. This is a great opportunity for us all to get something that works for Scotland, and we look forward to continuing discussions about what that might look like.

The Convener: The session has been interesting, and I thank you all for appearing before the committee.

11:02

Meeting suspended.

Budget Process 2010-11

11:07

On resuming—

The Convener: Our second panel consists of representatives of the Government's equality and the budget advisory group, EBAG—it has been renamed. The committee is focusing its scrutiny on the Scottish Government's draft Scottish budget 2010-11, and on equal pay in the national health service. We will hold a round-table discussion on that issue at our next meeting on 22 September. In advance of that, today's session provides us with the opportunity for a more general overview of the Scottish Government's work on equality proofing its draft budget.

It is my pleasure to welcome our panel of witnesses, who are all members of the equality and the budget advisory group: Alistair Brown is deputy director of finance at the Scottish Government; Yvonne Strachan is head of the equality unit at the Scottish Government; and Angela O'Hagan is the convener of the Scottish women's budget group. I welcome, too, our new budget advisor, Rona Fitzgerald.

The committee notes that the group has a new name—I am not sure whether it is more straightforward than the old one, although it is intended to be—and remit. Has there been an evaluation of the previous work? If so, what has been learned from that evaluation?

Yvonne Strachan (Scottish Government Equalities, Social Inclusion and Sport Directorate): We have not carried out a formal evaluation, but the purpose of our group is to consider where we have been and where we need to be. The fact that we even considered changing the name and the remit is evidence of that, not only because the name was a bit unwieldy but because what it described probably did not capture the focus of the group.

In particular, with regard to equality proofing, there has been concern in this committee and abroad that the notion is that we consider something after the fact; proofing implies that you examine something that has been done and consider its impact. The intention behind the group has been to do something different, which is to influence spend and ensure that equality is part of that process. That is certainly more in line with how it is intended policy will be developed. In other words, it should be part of the process and not something that is done at the end of the process.

In view of that, the group has decided to change its name to the equality and the budget advisory group to better reflect the fact that policy is

important and sits underneath everything. I hope that the name change and our expanded remit demonstrate that we have been reflecting on what we do and where we need to go.

I am sure that we will explore this in questioning, but an issue that emerged strongly in last year's discussions was the extent to which the advisory group was engaged in thinking about where it needed to go with the budget and in finding an appropriate mechanism to carry out greater scrutiny. We had a good year this year, in which we held a very useful workshop with EBAG's members on what we should be doing and how we might approach matters in the future. When we met last week, we agreed a tight and challenging programme of work that will, I hope, not only leave us better equipped for dealing with the post-2011 budget process and better informed about its context, but give us a mechanism for engaging with stakeholders and reporting to ministers. It should also ensure that we engage with ministers early in the process, which I believe was another concern that the committee flagged up.

I realise that that was rather a long-winded answer on how we evaluated where we have been. We are certainly looking at where we have been and where we need to be and, as a result, have adjusted our name, remit and programme of work for the next 12 months.

The Convener: When was the workshop held?

Yvonne Strachan: The workshop was held in May.

The Convener: You said that you also met last week. Is that not quite tight, given that the draft budget will be published soon? How do you reconcile that with the suggestion in the new remit that, with regard to policy, you are going to be more hands-on, try to influence matters and be in the driving seat rather than in the back seat?

Yvonne Strachan: We met in April, and in May we held the workshop, part of the thinking behind which was to examine how the group might advise Government in its consideration of equality. A result of those discussions is that we have ensured that any budget material that is commissioned will contain information and advice on equality, and that there will be equality input at budget seminars and internal briefings to finance and business managers.

The Convener: Angela—the intention sounds good, but did it all work out that way? Are there still any gaps or reservations?

Angela O'Hagan (Scottish Women's Budget Group): First, let me say that I am pleased to be here not only with my Scottish women's budget group hat on but as part of EBAG. One reason for our good year, as Yvonne Strachan called it, has

been the committee's tenacious interest in equality in the budget; indeed, it was the committee flagging up its interest in progress on this issue and in the group's outcomes this time last year that kick-started and re-energised the whole process. The Scottish women's budget group has been very pleased to see the renewed energy and focus this year but, as I say, it is important to acknowledge the committee's focus on equality in the budget, which, as recommendations from the Finance Committee and the Local Government and Communities Committee's report on equal pay in local government have shown, has ensured further parliamentary scrutiny of the issue.

As for EBAG, it is still very early days. We met last October and in April and made many decisions about the processes on which we might wish to embark. As we are only now beginning to flesh out those processes, it is still too early to say what will happen. Nevertheless, the Scottish women's budget group lives in hope; indeed, if we did not, we would not still be here after 10 years. The new name, the new remit and the new people and new organisations that we hope will come on board give a new sense of energy and purpose.

11:15

As the comments of the EHRC suggested, we have managed to re-activate realisation that the budget process is imperative in making progress on equality issues. Examination of the budget—which is a key expression of Government policy and resource allocation—is not an isolated exercise. That is the methodology that the women's budget group has always wanted to see being adopted. As Yvonne Strachan said, a post hoc proofing exercise was never going to deliver that, so we have lost a lot of time and ground in going round that particular loop, but we have a commitment from the Government members of EBAG to produce a new methodology and to work across Government directorates and with external agencies, as well as with the women's budget group, to do that. That commitment was discussed only last Friday, so it is very fresh, but it gives the committee an indication of a renewed commitment and a new strand of work that I hope you will be involved in and will want to monitor over the coming months.

The Convener: How will the revised remit of and the commitment to EBAG be resourced?

Yvonne Strachan: Do you mean in terms of staffing?

The Convener: Yes.

Yvonne Strachan: The staffing will remain the same. The secretariat is supported by the equality unit, and that will continue to be the case. The group is assisted with its delivery because, as

Angela O'Hagan indicated and as the committee was keen to ensure, the group's membership has been strengthened and participation in its discussions by particular parts of the Government is stronger. We receive both analytical and financial support that will help us in providing the information and the context that are necessary to deliver our extremely tight and challenging work programme.

Whether we need additional financial resources will depend on the precise mechanism that we want to adopt between now and the spring of next year in preparation for the next budget round. We have a meeting scheduled in October to consider that in more detail. Depending on what that mechanism looks like, we might need to seek additional resource, but at the moment it is not anticipated that that aspect of delivery of the programme will be resource intensive. We believe that we can resource planned activities, such as the stakeholder meetings or a conference on what have we learned 10 years on in Scotland and abroad, from within our existing budgets.

The Convener: How will the work be monitored in the next phase?

Yvonne Strachan: We have not laid that down, but monitoring is an important matter to raise. A process for evaluating the effectiveness of whatever new mechanism or approach is adopted will need to be built into the system. If that subsequently requires resource, we will need to consider that, but at the moment we do not have an evaluation process because we have not determined precisely what the mechanism will be.

The Convener: Thank you for that.

You will be aware that the committee has taken quite an interest in the continuing discussion about membership of the group. Has the group's membership changed since last year's budget scrutiny process?

Yvonne Strachan: Yes, it has. Among those who attend the group are public sector reform colleagues, colleagues from Scotland performs, our performance and strategy divisions, and colleagues from local government finance—they are internal colleagues. In addition, we requested the attendance of someone from our economy and economic performance division at the April meeting. They will not sit as a standing member—someone from that division will be invited to attend as and when the group chooses.

Another issue that the membership raised at our workshop was that it would be helpful, given the concordat and the relationship that exists between central Government and local government, for there to be local government engagement in the work of the group, and we have explored that with the Convention of Scottish Local Authorities. That

was approved at our meeting last week, so we will take that forward.

We are also discussing with Audit Scotland what it might contribute to our work. It has a different function and independent status, so there would be issues in any work that we do, but we want to consider whether Audit Scotland can contribute.

The Convener: For the avoidance of doubt, is there a senior representative on the group from the Scottish Government's finance and sustainable growth portfolio?

Alistair Brown (Scottish Government Finance Directorate): That is me, convener.

Yvonne Strachan: I am sorry—I should have said that the finance directorate is represented. I beg your pardon, convener.

The Convener: That is a welcome addition. The committee has asked for it for many years.

Marlyn Glen: It is helpful to know the details of the group's work programme in advance. You said that a meeting is scheduled for October. The group's meetings have habitually been timed for the week before the committee has taken evidence on the matter, which means that we have no chance to read the minutes of the meeting. I presume that your resources are not up to producing minutes fast enough for that. Do you need more resources so that you can do that sort of thing and so that the process is a bit more open?

Yvonne Strachan: That is an important point. There is no intention not to be open about the process. As you know, we have unfortunately had staff turnover problems. I know that I said the same when I was at the committee last year, so I am happy to say now that the issues are being resolved, which should improve the process. That is particularly important because we have such a challenging year ahead. I am keen for us to do exactly what Marlyn Glen says, which is to make information available as quickly as possible, not only to the EBAG membership, but to the committee. We understand that the committee will have an interest in what we are doing in the coming period so, if it is helpful, we can make available to the committee our draft work programme and plans. If our minutes are not on the web in time, we can ensure that the committee has that information.

Marlyn Glen: That is helpful.

Elaine Smith: I note Angela O'Hagan's kind remarks about the committee's influence on the good year that the group has had. I welcome the committee's new budget adviser, and I acknowledge the work and innovative approach of our previous adviser, Ailsa McKay.

Yvonne Strachan mentioned that the group has made progress on establishing more direct links with ministers. You said that you are considering facilities for reporting to ministers—will you give more detail on that? Will the process be more formal? What will the set-up be?

Yvonne Strachan: We discussed that issue on Friday and have yet to translate that discussion into a paper to ministers. The proposals that we discussed are about ensuring that ministers receive a report of the group's activity for the year, and that there is a mechanism for presenting the report formally to ministers, rather than on an ad hoc basis. We suggest that, when the report is given to ministers, a meeting should be held with them so that the information can be considered. The suggestion is that that should happen early enough in the process to allow the information to influence ministers or be taken on board in the context of their thinking during the summer what should happen in the budget. The report would be compiled and provided to ministers in the early part of the summer each year. That is a more formal process than one that relies on ad hoc information. It would allow the group to have dialogue with ministers ahead of their thinking on the budget. We hope that that would be important.

Another measure that we are taking and which we hope will be helpful is to ensure that the information in our analysis that provides a context—information on the pressing issues and the questions that need to be addressed—will be part of the information that goes to ministers. I hope that we will provide greater support to ministers in their decision making, as well as ensuring that the group's work and the concerns or issues that arise as a result are translated properly. Our intention is that that process should happen around June, although I do not want to set a specific date. That will depend on the process, although it would certainly be done for the summer.

Elaine Smith: The committee clearly thought that that was important. I think that I speak on behalf of everyone when I say that we are pleased to hear that you are now taking a more formal approach to the matter.

Hugh O'Donnell: At approximately this time last year, we asked about information in the budget documents relating to progress on the equality agenda. I understand that the Government will publish a carbon account assessment. Can its officials confirm that there will be significant rather than—as happened last time—passing reference to equalities across the budget documents, in order to give us some indication of progress and the direction of travel?

Yvonne Strachan: We have considered what would be the best means of doing that. As

members know, there have been discussions about the ability of the equalities information to be reflected properly in the budget, other than in headline points. I know that that has been a point of criticism by the committee. As a result, it is now the intention to publish an equality statement alongside the budget, which will allow more detail to be provided and will, we hope, enable this committee and others to see how equality is being considered as part of the process.

The Convener: That is welcome.

Marlyn Glen: Could you provide more detail on the equality statement that will appear alongside the budget? Will it be an analysis of the budget or simply a statement of spending to promote equality?

Yvonne Strachan: The statement is still in process, so I cannot describe in detail what it will look like at the end. Essentially, the intention is to highlight how the budget is contributing to the delivery of equality and what the money is driving—how the Scottish Government's spending will contribute to delivery of equality. The statement will also provide the committee with additional information on how equality is being addressed internally in the Government. It is not possible to provide such information in the headline budget document.

Marlyn Glen: So, the statement will be an analysis.

Angela O'Hagan: As we said earlier, we heard about the statement only on Friday. In principle, it is good news. The Scottish women's budget group has been asking for such a statement for a long time; it is fairly common practice for Governments elsewhere to provide equality statements. We will wait to see what the statement looks like when it appears. The positive points to note are that there is a commitment to produce a statement alongside the budget and that, hopefully, the minister will speak to that.

The Scottish women's budget group is holding fire on whether, as Marlyn Glen suggested, there will be an analysis across Government portfolios. To my mind—and to hers—the whole purpose of the process in which we are engaged is analysis of Government spending to address discrimination and to promote equality across Government functions, not the straightforward promotion of equality as an objective or in a discrete sense. It is not about how much the Government is spending on promotion of equality per se but about the extent to which the equality implications of decisions about Government spending against policy priorities, as detailed in programmes or high-level spending objectives in the budget documentation, have been subject to robust

analysis. We have long argued that we want an equality statement to detail that.

As I should have mentioned in my previous answer, EBAG has not yet had sight of the guidance that was issued to business and policy managers during the summer. It also had no input into the internal seminars that took place, which is fair enough. For that reason, I cannot comment on what direction was given to business and policy managers as they put together their budget submissions. It comes back to the comments that Yvonne Strachan made earlier. It is hoped that, as we move forward, the exercise will be one not of equality proofing, but of building in a robust analysis across Government functions of what the measures are.

11:30

Mr O'Donnell referred to the carbon budget. As you might imagine, that has fairly exercised the Scottish women's budget group and others, including the committee, who have a long-standing commitment to pursuing equality in the budget. We would be interested to know the resource allocation to the carbon budget exercise. Although we thoroughly support it, it is interesting to see the way in which resources have been made available for it. I cannot comment on the level of the resources that have been made available for it, as we do not know that, but the committee's interest or the interest of the wider public may be piqued to know what resources have been allocated. Equality is a long-standing commitment of successive Governments, but it has progressed at a considerably slower pace in budget terms. Although the methodology of the carbon budget process might not be directly transferable, we hope that the political commitment is.

The Convener: This may be a good time to bring in Alistair Brown. I know that you cannot comment in detail but, from your financial perspective, is that a fair and reasonable indication of what the content of the statement should be and of how this impacts on the equalities agenda?

Alistair Brown: Convener, can I check that you are asking about the equality statement that Yvonne Strachan talked about?

The Convener: I am.

Alistair Brown: As you acknowledge, it is difficult for us to say much about the content of the statement at this stage, but I expect it to cover the kind of ground that Angela O'Hagan described. In an attempt to manage the committee's expectations, I point out that this will be the first time that such a statement has been produced to accompany the Scottish budget and that we

regard it as a learning process. I should check that Yvonne Strachan agrees with that.

Yvonne Strachan: I think that we produced a statement to the budget in 2004, for the previous Government.

Alistair Brown: So it is not the first time.

Yvonne Strachan: It is the first time for the present Government. From where we sit, it is a learning process. The group has discussed where we need to be over the next period and we are trying to position our approach in the context of a very different budget setting—one in which, we understand, there will be pressures on the spend that is available. How we manage the process effectively with regard to equality will be incredibly important. We are concerned to ensure that we have in place a mechanism to be effective and robust about that approach. That is why we have considered the kind of work programme that we have, and are determined to work collectively to find the appropriate way in which to deliver. We want to ensure that we have that mechanism or process as well developed as it can be.

The Convener: I hope that, in the learning process on the statement, some cognisance will be taken of this discussion and what the committee feels will make a meaningful statement on equality.

Hugh O'Donnell: Given the financial constraints that the Government will be under, it is critical that we espouse the case of equality. It would be hugely ironic and very negative if a lower expenditure level were used as an excuse to push the equalities agenda to one side. We need to ensure that that does not happen, please.

Malcolm Chisholm: The minutes of the April 2009 equality proofing the budget and policy advisory group meeting mention the question of how the Scottish Government's national performance framework would link to the budget. What are your views on how the Scottish Government's national performance framework links to the budget?

Alistair Brown: The Government's stated intention is that its purpose should be served by its draft budget and by the budget bill. There has also been recognition that the Government has embarked on a journey—a direction of travel—in seeking to make more progress in linking its budget to the national performance framework, which includes the purpose, the objectives and the national outcomes. As one would expect, work is currently being done on that within the Scottish Government, particularly with a view to the next spending review, which provides the Government, as members will know, with an opportunity to look at its overall spending priorities for the next three years. The draft budget that is about to be

published will cover 2010-11, which is the last year of spending review 2007. We expect the next spending review to take place next summer or autumn, although the timing is not yet precise. The work that is being done to link the budget to outcomes and to the national performance framework will be particularly useful as an input to that spending review.

Yvonne Strachan: I should perhaps add that the reason for bringing those two things together is that our driver—the charge that all of us throughout Government are given—in thinking about how we develop our policies and use our resources is the national performance framework and the outcomes that it identifies, as well as the delivery of the overall purpose. The view is largely that if something cannot be matched to that we should not be doing it. The national performance framework sits as a kind of guide for how we should drive policy direction and where spending should go. There is a link between the performance framework and how, and for what purpose, we spend and utilise our resources.

As Alistair Brown mentioned, the national performance framework is relatively new, so as a Government we are still working through how we make all those connections and appropriately articulate them, but the connections are there. For that reason, it was important to have a discussion with the group and with representatives from those who look at the national performance framework to explore the issue and to make those connections. That is why we are keen that liaison and relationship with that division is maintained by the group over the coming period. As Alistair Brown indicated, that will be particularly important as we move to the next phase in our planning around the budget for the next period.

Malcolm Chisholm: One of the national outcomes is:

“We have tackled the significant inequalities in Scottish society.”

That outcome has 15 related national indicators of progress, such as

“60% of school children in primary 1 will have no signs of dental disease by 2010”.

Do the national indicators suggest that progress is being made on tackling the significant inequalities in Scottish society?

Yvonne Strachan: Generally, the view is that progress is being made but, to be fair to the committee, I cannot give the detail on that. It would not be appropriate for me to say what the direction of travel is on the different indicators. A report that is updated regularly is available on the Scotland performs website that provides an on-going indication of where and what progress is being made.

It might be helpful to indicate to the committee that we acknowledge that measuring the performance on equality is an area that needs further development. I do not know whether this came up in the discussion with the Equality and Human Rights Commission, but the EHRC is undertaking work on an equality measurement framework. The Scottish Government has been involved in discussions about the framework with a view to welcoming its development and to ensuring that it will fit and map on to the national performance framework. If that can be done, we would like to use the framework as an additional element to ensure that we deliver on our national outcomes.

We also need a measurement framework that acts as a more effective mechanism to measure progress in the Scottish situation. Work on that is on-going, and we have been working collaboratively with the commission to that end. Our analysts are currently carrying out a mapping exercise with the national performance framework to consider how that can be achieved. I hope that it will add another element of strong connection between the national framework and our work around equality.

Angela O'Hagan: Mr Chisholm might not be surprised to know that the same question was asked by EBAG members a while back. There has been progressive discussion on how the measurement frameworks link up across the spectrum of the decision-making processes, the measurement processes and the equality analysis processes. We are examining whether there is a thread running through that would make such analysis visible. One of the touchstones to which we consistently return in conceptualising that process is the importance of equality impact assessment and robust equality analysis at all stages.

That links to Mr O'Donnell's point about the imperative of retaining an equality focus and perspective in budget setting, particularly in times of budget cuts. Equality is—or should be—integral to all policy and programme delivery, rather than involving spending activities on the margins, which is obviously a temptation when budget cuts are imminent.

This morning's discussion reinforces the link to the budget. Are the areas of policy priority, as set out in the 15 indicators, supporting the national outcome on tackling significant inequalities? Are they visible in the spending commitments and priorities in the budget? Those are consistent questions to which the committee and EBAG must return. The Government is saying that those are the priority areas for addressing significant inequalities, but is that political commitment

matched by resource allocation in the budget? We have therefore come full circle.

The Convener: That leads nicely on to Marlyn Glen's line of questioning.

Marlyn Glen: Some of us are perhaps in danger of mixing up the EMF with EqIA, but I will concentrate on EqIA. I think that we all agree that the budget development process is a key stage in building equality into the departmental bids and ensuring compliance with equality legislation. I am interested in whether you can link EqIA with the EMF, if that is possible, but first I will ask a direct question on EqIA. What progress is being made on using and improving equality impact assessment through the current budget process, or has it been overtaken by something else? Are there plans to make the current tool more robust in relation to the budget development process?

Yvonne Strachan: Thank you for those questions, which we have been considering. I will deal with your last point first, which involves an issue that arose at the committee's previous meeting on the subject. We indicated then that we were examining the tools that are available for EqIA and seeking to improve them, particularly in relation to the issues around the budget. We have had some discussions about how we might do that and we are considering two issues. First, we need to improve the tool and the guidance that goes with it, and part of that will be informed by what we want people to do during the next period. Secondly, the tool will be influenced by what we decide to do with the specific duties and as a result of consultation, and impact assessment will be part of that process.

Although we have responsibilities to exercise now, it will be helpful, if we are making big changes to the tools and the guidance across Government, to ensure that we do so in the context of where we expect to be in relation to the public sector duty. We discussed that internally with EBAG. Obviously, we have to think about how we manage that, which is another consideration for us in developing appropriate changes to the tool.

11:45

Another issue that has arisen as a result of our consideration of how we might improve the tool is a recognition of the fact that the arrangement that we currently have is quite effective for examining individual policies, but becomes a little clunky and less helpful when you are examining more strategic questions or broader frameworks. We have been keen to determine whether we need a separate tool or mechanism for that second function that will assist policy makers more effectively to record and reflect what they have

done as part of the impact assessment process. That will be helpful, as it will enable us to frame a description of what has gone on through the budget process or the development of more strategic policies or frameworks. With the concordat, we have moved to providing frameworks and more strategic approaches rather than deciding on individual policies, so having the appropriate tools to match that direction of travel has become quite important.

That is a long-winded answer to your question. We are considering the issue. We have agreed that we need to make changes. We want to do that in the context of the changes that we may wish to make more broadly with the specific duty, and we also want to look at what additional provision or tool we might provide for policy makers that will allow us to do the more strategic and framework-related analysis.

Marlyn Glen: Can you give a few examples of how the EqIA process has influenced spending decisions?

Yvonne Strachan: That would have to involve individual areas of spend, but I can talk about the equality unit's provision.

Most of our spend was determined some time back—our allocations are largely made for a three-year period. As such, when we were considering what we should do on, for example, our national delivery plan on children and young people who are affected by domestic abuse, and how those resources should be allocated with regard to the equality analysis of the plan, it was important to think about certain issues. Our impact assessments helped us to ensure that the way in which we allocated our spend for the delivery of that plan would be effective and would deal with some of the areas in which we have to consider equality interests.

It is difficult for me to talk about how that approach is being delivered in other areas of policy. I hope that we will be able to reflect on that in a little more detail in the equality statement.

Marlyn Glen: The budget provides funding for Scottish Government policies. Is it possible to state the proportion of Scottish Government policies that have been subject to the EqIA process?

Yvonne Strachan: I can give you a sense of the number of policies that have been published and those that have been subject to an equality impact assessment. The intention is that most of our policies should go through that process. Around 80 policies have been published—I think that that is the number, but I am happy to confirm it for you—and many others are in the process of being published. We would expect those policies in which there is considerable spend to be subject to

the assessment, but I cannot give you an indication of all the policies that have been covered. Those that are published are on our website, and I can write to you about the ones that are in draft form, in order to give you an indication of the areas that are being considered. Is there something in particular that you want to explore?

Marlyn Glen: No. I suppose that the answer that I wanted was that all Scottish Government policies are equality impact assessed. However, it seems that we are moving towards that.

Yvonne Strachan: Policy makers are expected to consider impact assessing their policies. They go through a process and, provided that there is an implication for people—which is the case for most policies—that process should be undertaken. What we have said before is that a number of the policies will be in process and that a number have been and will be published.

Willie Coffey: Could you elaborate on your thinking about the multiplicity of frameworks and assessment tools that seem to appear? I do not wish to burden you with more work, but you must throw your hands up in horror when another assessment framework appears out of the blue. For example, what will the equality measurement framework give you that you do not already have within the set of assessment tools and frameworks that you currently apply?

Yvonne Strachan: One thing that it will do is provide a framework for measuring the progress on equality—that does not exist at the moment. We are getting better at collecting data and information that will give us a view of whether progress has been made for particular groups. In Scotland, we have had considerable problems with data collection, not least because some of the surveys and tools cannot dig down deep enough to record information about areas with smaller numbers, such as minority ethnic communities.

Our analysts have been working hard for some time to try to get disaggregated data—in other words, to break down the information by age, gender, race, disability and so on. That process is improving. The framework will give us a mechanism that is shared and will allow us all to work together and see how a particular group is doing in relation to education, health or whatever the measurement might be. We will be able to pull together the information that we already have and perform the collection, dissemination and analysis that will enable us to see more readily what progress we are making.

We see the framework as a positive tool that will help us work with the data that we already collect and, perhaps, help us to see what other data it might be appropriate for us to collect. The other advantage is that, if the framework is shared, it will

be used similarly in Wales and England. That will enable us, when appropriate, to make some comparisons that show us how Scotland is doing with regard to a number of the shared outcomes and indicators.

The work that we undertake will amount to a helpful tool for measuring progress. As I said to Mr Chisholm, the work that we are doing at the moment will be complementary to the national performance framework and there will be synergies that ensure that we are not creating a separate tool that is independent from and does not contribute to the national performance framework but can instead map into and support it. We hope that will ensure that the information sets that we have available to us enable us to deliver better on quality and to deliver our outcomes more broadly.

Willie Coffey: It will probably take a wee bit of time for the equality measurement framework to yield some useful data that you can apply in the development of policy. How would you have done that in the absence of meaningful data coming out of such a framework?

Yvonne Strachan: The data collection is ongoing, and the framework is populated by the information that we already collect. One could argue that some of that information is already present.

We will continue to collect the information that we think is necessary and will assist Government and others to do their task, with regard to advancing equality. The framework enables the information to be put into a context and linked to other information, so that there is a mechanism for measuring progress. Obviously, the operation of that framework depends on our collecting the information and those data being available. The framework enables us to bring the information together in a single place, which does not happen at the moment—it is available, but it is not in a single place.

I should say that I am not the analyst. If additional information on these matters might be helpful, we would be happy to pass that to the committee at a later date.

Bill Wilson: I have the final question, which is for Angela O'Hagan. From an international perspective, is Scotland making good progress on the commitment to equality proof of the budget? The other witnesses can answer as well, obviously.

Angela O'Hagan: I can give the short answer or the longer answer—you would expect the longer answer from me.

The issue has several levels. The first is that we have fallen behind. About 10 years ago, Scotland was considered to be a pioneer in the area. We

had the newly devolved institutions and the devolution settlement, with the founding principle of equality. We had the opportunities presented by the recommendations of the consultative steering group and the financial issues advisory group and a new budget process—although whether it was new or inherited is contended. Nonetheless, we had lots of new opportunities that were responded to positively. There was a lot of space for innovation at that time and, from 1999 to 2004-05, progress was made.

Subsequently, the Scottish women's budget group raised consistent concerns about what appeared to be a conflation of narrative and political priorities, as equality became subsumed within the closing the opportunity gap framework. The distinctiveness was gradually lost, which was unfortunate given that, just as that was happening, there had been peaks—the achievement of separate equality statements in the budget and the separate equality statement on closing the opportunity gap. Since the peak in 2004-05, we have fallen away. I hope that the re-energising in the committee and EBAG that occurred last year will put us back on the field and back up the league again.

In the past 10 years, significant progress has been made on gender budgeting in European Union member states and globally. There is a lot more practice at Government level and considerably more direction at the international institutional level. The committee and the Scottish Government can draw on that practice in promoting equality budgeting and equality budget analysis in Scotland that would help us regain our international position.

On policy and quasi-legislative drivers, the Council of Europe ministerial declaration on equality, which was issued in Madrid in June, urges member state Governments to pursue gender budgeting in their budget setting processes. The Council of Europe issued a manual to assist in that process earlier this year. The European Commission has commissioned a feasibility study on integrating equality analysis in the budget-setting process at the European Commission level.

A lot is happening internationally. It is in all our interests to play our part more fully again in that international process. The Scottish women's budget group was born from international policy transfer. The members were aware of what was going on and of what the United Nations said at the time of the Beijing conference in 1995, when it exhorted member states to embark on equality analysis in budget processes. In our early steps, we learned from Canada and elsewhere; Scotland then exported expertise to the Basque Country. However, we can now learn from places such as Andalucía, where significant developments have

taken place in the past few years, such as an annual annex to the budget on equality analysis, which includes all the data steps that have been taken as well as the decision-making process.

It is very positive that EBAG is considering an international conference to examine progress in the past 10 years. I hope that that will kick-start us and put us back into the pioneer rather than the laggard category in the international arena.

Bill Wilson: You gave the example of Andalucía. Are there any other specific examples that you would recommend?

12:00

Angela O'Hagan: It is perhaps useful for us to consider what is happening at sub-state level. There are developments in Belgium, and some of the German Länder have very advanced gender budgeting and equality budgeting initiatives. The Andalucía Government is not the only regional Government in Spain that is undertaking such work. I understand that, since a new Government has come into power in the Basque Country in the past few months, it has reopened the commitment to picking up on gender budgeting. Practice is also being built up in the Balearic Islands in Spain, and there are a range of examples at regional and local government levels in Italy.

The Scottish women's budget group retains our links to several of those initiatives through an embryonic European gender budgeting network, which in the last few years has met in Vienna, Glasgow—it is not all overseas stuff; we managed to bring people here to the rain—and Bilbao, where, incidentally, it rained as much as it did in Glasgow. Bilbao city council, along with the intermediate level, the diputación, and the regional Government ran a conference on gender budgeting that involved hundreds of people from various levels of government in Spain. There is a growing wealth of practice on which we can draw.

The Convener: That completes our questions. Unless our panel members have anything to say in closing, I thank them all very much for appearing before the committee. I think that I speak on behalf of all members when I say that, although we welcome the progress that has been made, concerns remain about some initiatives, such as the change of remit and membership of EBAG and the production of the equality statement. We wait with bated breath to see the content of that statement and to find out how effective it will be.

As previously agreed, we will now consider in private our draft report on female offenders. I ask members of the public to vacate the room.

12:02

Meeting continued in private until 13:15.

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