



OFFICIAL REPORT
AITHISG OIFIGEIL

Equalities, Human Rights and Civil Justice Committee

Tuesday 4 March 2025

Session 6



The Scottish Parliament
Pàrlamaid na h-Alba

Tuesday 4 March 2025

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EQUALITIES, HUMAN RIGHTS AND CIVIL JUSTICE COMMITTEE
6th Meeting 2025, Session 6

CONVENER

*Karen Adam (Banffshire and Buchan Coast) (SNP)

DEPUTY CONVENER

*Maggie Chapman (North East Scotland) (Green)

COMMITTEE MEMBERS

*Pam Gosal (West Scotland) (Con)

*Marie McNair (Clydebank and Milngavie) (SNP)

*Paul O'Kane (West Scotland) (Lab)

*Evelyn Tweed (Stirling) (SNP)

*Tess White (North East Scotland) (Con)

*attended

THE FOLLOWING ALSO PARTICIPATED:

John Dawson (Public Health Scotland)

Andrew Groundwater (Orkney Islands Council)

Martin Ingram (Aberdeenshire Council)

Jillian Matthew (Audit Scotland)

Nicky Page (Police Scotland)

Nareen Turnbull (City of Edinburgh Council)

Alyia Zaheed (East Ayrshire Council)

CLERK TO THE COMMITTEE

Euan Donald

LOCATION

The James Clerk Maxwell Room (CR4)

Scottish Parliament

Equalities, Human Rights and Civil Justice Committee

Tuesday 4 March 2025

[The Convener opened the meeting at 09:38]

Decision on Taking Business in Private

The Convener (Karen Adam): Good morning, and welcome to the sixth meeting in 2025 of the Equalities, Human Rights and Civil Justice Committee. We have no apologies today. Our first agenda item is a decision whether to take in private item 4, which is consideration of a report by the Scottish Human Rights Commission, in private. Do we agree to take that item in private?

Members indicated agreement.

Public Sector Equality Duty

09:38

The Convener: Our second agenda item is evidence on the operation of the public sector equality duty in Scotland. The PSED is a legal requirement for public authorities in Scotland, which, under the duty, must consider equality when carrying out their functions. The Scottish Government is making reforms to the duty, and this inquiry will be an opportunity to explore those reforms and consider how they might improve the delivery of the duty.

We will hear from two panels this morning. I welcome our first panel: Andrew Groundwater, head of human resources and organisational development at Orkney Islands Council; Martin Ingram, principal solicitor at Aberdeenshire Council; Nareen Turnbull, service director, human resources, at the City of Edinburgh Council; and Alyia Zaheed, corporate officer, equality and diversity, at East Ayrshire Council. You are all very welcome; thank you for attending.

I refer members to papers 1 and 2. Before we begin, I remind all members that rule 7.5.1 of the Parliament's standing orders prevents members from referring to any matter in relation to which legal proceedings are active, except to the extent that is permitted by the Presiding Officer. I advise members that Sandie Peggie's employment tribunal case against NHS Fife is considered active for the purposes of the sub judice rule and contempt of court. I have sought and received permission from the Presiding Officer on the extent to which we can explore matters related to the case today and throughout the course of our public sector equality duty inquiry. On the basis of that permission, questions on issues connected with the case are admissible, but questions on its specifics are not.

We move to questions. I will start. To what extent do you, as listed public authorities, understand the terms and aims of the public sector equality duty inquiry in Scotland? I will go to Nareen Turnbull first, please.

Nareen Turnbull (City of Edinburgh Council): Good morning, everyone. Thank you for inviting me along today to talk about this really important subject.

From our perspective in the City of Edinburgh Council, we understand the objectives of the duty, which I would say are in line with our vision and our agenda—particularly the ambition to embed systemic change in how we deliver our core services. We have had quite a lot of engagement with local equalities and human rights

stakeholders who I think share that vision. We are clear on, and probably align with, those objectives.

The Convener: Thank you. I bring in Alyia Zaheed.

Alyia Zaheed (East Ayrshire Council): I would also like to say thank you for inviting me along today.

I agree with Nareen Turnbull that the PSED's objectives are aligned with our core objectives as a local authority. Across the council, we have a good relationship with our community planning partners and with our communities, and I can safely say that all those groups have a good understanding of the duty. We have a lot of partnership ethos across the three Ayrshire councils as well—I think that we are among the very few authorities that have a good partnership with the community planning partners across their regions. I absolutely agree with Nareen and I reiterate what she has said.

The Convener: Martin Ingram, would you like to come in, please?

Martin Ingram (Aberdeenshire Council): Thank you, convener. From a personal perspective, it is good to see you again.

From Aberdeenshire Council's perspective, I agree that listed public authorities in general have a good understanding of the public sector equality duty and what is involved. You may recall from your time with us, convener, that when the equality duty was first implemented through the legislation that came out of the Equality Act 2010, we worked very hard to ensure that everything that we were doing in the council had equalities running through it. We had something of a motif—the analogy of a stick of rock with the word equality running through it. We thought that that was a nice example of the ethos that we were trying to encourage, which was to ensure that the public sector equality duty was undertaken in relation to everything that the local authority was doing.

To this day, at the beginning of any meeting at full council or committee level where matters are being considered, one thing that we are looking for elected members to reinforce is that they will take equality implications into account when they are making decisions. That is very much key to what we do.

The Convener: Thank you, Martin. I appreciate that, and you can see that your advice has stood me in good stead.

I will now bring in Andrew Groundwater.

Andrew Groundwater (Orkney Islands Council): Good morning. I do not want to repeat what previous respondents have said, but I would say that there is a good level of understanding of

the duty in our authority. That will vary across different areas—I think that, generally, people who are involved in decision making and are in more senior roles probably have a higher level of understanding of the aims than people throughout the organisation have.

What is interesting from an islands perspective is that there are areas that might be classed as being equalities issues but are more likely to be picked up as being island proofing issues. They sit outside the provisions of the Equality Act 2010, but are still matters of concern for decision makers in our authority.

09:45

The Convener: We move to questions from Maggie Chapman.

Maggie Chapman (North East Scotland) (Green): Thank you, convener, and good morning, everyone. Thank you for joining us and for your comments so far.

You have all said in different ways that you think that you and your colleagues have a good understanding of what is required of you under the public sector equality duty. One of the reasons why we are undertaking this piece of work is that, in the absence of the Scottish Government's human rights bill and the opportunity to talk about rights realisation through that, it has become very clear that there is a need to ensure that local authorities and public bodies are attuned to their duties under the Equality Act 2010 and, in particular, to the PSED, especially given that inequalities are rising in certain sectors between certain groups and also within certain protected characteristics.

To what extent do you think that the PSED, as it stands, is delivering for the people of Scotland, bearing in mind that there are still many significant inequalities issues across the different protected characteristic groups, between them and in communities as a whole?

Andrew Groundwater: Thank you for that question, which is a very interesting one at the moment. It has been recognised by the Scottish Government that there is still a heavy focus on compliance and process around the PSED. I am concerned that, at times, that takes precedence over achieving the outcomes, both nationally and at local level.

There is clearly still quite a way to go in a number of areas to evidence that the PSED is leading to improved outcomes. Locally, we have seen progress in areas such as gender equality, but, in other areas, evidence of progress is harder to find.

Maggie Chapman: It is interesting that there are explicit requirements in relation to gender, such as the publication of gender pay gap reports. Do you think that that has helped to nudge progress on gender? Would similar equivalent metrics that make the public sector do certain things for certain protected characteristics help in other areas in which there are widening inequalities?

Andrew Groundwater: Specifically with regard to the gender pay gap and, perhaps, occupational segregation, there have been benefits from that approach, and there might be benefits from it in other areas. However, coming back to our local context, I note that it would be more difficult for us to take that approach with some groups because of the size of our community and the size of the groups that we might be looking at under the different protected characteristics banners. There could be challenges around delving into data, due to the very low numbers that we might be working with; obviously, such challenges do not present in the same way when looking at gender-related data. That would be my only concern from a small island community perspective.

Maggie Chapman: Thank you—that is useful. It is great that we have this range of witnesses today, because that is exactly the kind of variation that we must understand. One size will not fit all across Scotland, and we must ensure that we understand what will and will not work in different places.

Nareen Turnbull: Similarly to Andrew Groundwater, I would say that, locally, we can now start to evidence where we are having positive outcomes. I absolutely hear what Andrew Groundwater is saying about how data on other groups may or may not be effective, given its scale and scope. However, our view is that having a national data set could help us to work together to drive a national priority and drive and evidence some national outcomes, and to achieve a scale of efficiency that would allow us to come together and work on the national priorities.

There would have to be lots of caveats about who could collect the data and how much data they would have access to—depending on the numbers. Given that, under the current regulations, we are collecting different reports, including pay gap reports, in different ways, the issue is how we might use the data and how public bodies can collectively use it to drive wider priorities and to find organisations that we might be able to align with so that we can get more bang for our buck.

Maggie Chapman: We see widening inequality and we see equality regressing in so many different areas. As Andrew Groundwater said, if a lot of the focus has been on compliance and

process, how do we make the shift if we still need standardisation or comparability of data collection? If we are still not doing that, after however many years the policy has been in place, how are we using the equality duty to make things better for people on the ground? We might have a good process, but how do you see it translating to positive outcomes?

Nareen Turnbull: I think that is the point. Locally, we are all doing that. What is the power of bringing the duty? Is there a national picture?

It is a matter of breaking down some of the perceived bureaucracy where there are crossovers in legislation. There are undoubtedly crossovers in the fairer Scotland duty. We have different resource reporting on different things, with regulatory considerations around different pieces of legislation, whereas a lot of the outcomes are the same. By not combining them, we are not really feeding into the wider inequality agenda, because we are so focused on the regulatory aspects. If there was a way to bring those things together, that would make a huge difference.

Maggie Chapman: that is really helpful, Nareen—thank you.

Alyia, I saw you nodding as Nareen Turnbull was speaking. Do you want to come in on this point, too?

Alyia Zaheed: Yes. There are elements that I agree with, but the bigger picture is that our reporting time framework needs to be in synch with our local outcome improvement plans—LOIPs—or with our community planning framework to help better understand the issues in relation to equality. We are very comfortable across the piece—including in the Scottish Government—talking about inequality, but when it comes to equality, I sometimes think that there is a slight disconnect. If we could align some of the reporting time frameworks, that would help improve outcomes for our local communities, tackling equality and inequality at the same time.

Maggie Chapman: You have spoken about dealing with the disconnect. In your experience, if there is good work happening in your local authority, and if there are different projects that are tackling inequalities, what are the barriers to using the duty as a tool to address inequality and actually change things for people, so that it is not just about the process or collecting the data, but is about making individuals' lives and communities' lives better?

Alyia Zaheed: Sometimes the layers of legislation are a barrier. There are the British Sign Language (Scotland) Act 2015, the Equality Act 2010 and the national outcomes: we need to start harmonising all that so that we can effectively

improve people's lives. That is the end goal: to reduce inequality.

Maggie Chapman: Thanks, Alyia.

Martin, I come to you with the same initial question. If we are using the PSED, which is a measure that is supposed to help us target resources and work, why are inequalities still widening?

Martin Ingram: To start at the beginning of your question, certainly in Aberdeenshire—although, again, this will echo what other people have said about all listed authorities—there is a greater awareness of the requirements of the PSED. From our perspective, there is evidence of improved equality outcomes and worked, documented examples of where the PSED has been effective through our mainstreaming reporting.

We appreciate that the legislation has been in place for the best part of 15 years now, but we must acknowledge that it remains a journey and that further challenges need to be faced due to a number of external influences. It is not unknown to anybody that there is an overriding elephant in the room, which is the question of how you continue to achieve effective resolutions for people with protected characteristics when the listed authorities' budget is facing more and more challenges. How best to use that resource will always be a challenge.

I echo what speakers referred to earlier, which is that there is still work to be done in relation to the resourcing and collection of the data that enables local authorities to make evidence-based and informed decisions. I also echo that further work to centralise the resources where we can get that information would be helpful, but it is key that we work on data locally as well. A challenge for many local authorities—I am sure that it will be the case for some of the more remote locations—is how to ensure that we are reaching the right people in our consultations and processes, so that we get meaningful data that we can transpose into the outcomes that we are looking for on the ground.

The challenges of particular listed authorities—in this context, local authorities—can be very different from one location to another. Aberdeenshire's range is a bit broader than others. Geographically, we are quite a large local authority area, but we also have quite a distinct variance in relation to things such as socioeconomic barriers. The Braemars and Ballaters of the area are considered fairly affluent in comparison to some of the other areas that we have, so it is very difficult to try to get a balance. What is the one correct Aberdeenshire approach that takes into account the—in some cases, extreme—variance in impact on people with

protected characteristics at particular locations? Having more of that place focus has been a real emphasis in Aberdeenshire in recent times. It is about how things impact on particular locations in Aberdeenshire and the specific protected characteristic groups within them.

Maggie Chapman: Three MSPs on the committee cover Aberdeenshire, so we will try to not pick on you, Martin.

We know that the Scottish Government is in the process of reforming the equality duty, and you have all mentioned, in slightly different ways, crossovers, the regulatory landscape and the need to reconnect some of the pieces—I think that Nareen used the word “harmonising” when talking about the regulatory landscape earlier. Do you think that some of that work is under way as part of the Scottish Government's proposed reforms of the PSED, or do you think that those reforms do not go far enough? Do you see that harmonising in those reforms, or is there still work to do? I will come to you, Nareen, and then go around the table.

Nareen Turnbull: If I am being honest, I do not think that that harmonisation is evident—it is not coming through as a strong ambition of that reform. However, that is the one thing that would have quite a significant impact, which is probably why we all want to see it.

Maggie Chapman: Thanks—that is helpful. Alyia, do you want to come in on that?

10:00

Alyia Zaheed: I agree that we need to ensure that the public sector equality duty is not seen as an add-on or an additional piece of work. It is about how we bring that flow. We can evidence pockets of areas where there has been improvement, but we can do much more. We need more solidified reform of the public sector equality duty.

Andrew Groundwater: I agree with the two previous respondents. With regard to reform, we spoke about harmonisation in response to an earlier question, and we obviously have the duty around mainstreaming, but after seeing the PSED very clearly in our overarching strategic plans, I think we still have a journey to go there. It would be useful if the proposals took action around that, as it would help listed authorities.

Martin Ingram: I echo the sentiments that you have heard in that regard. I am very conscious that although we are talking about the impacts of the public sector equality duty, the situation will be the same for other listed authorities as time has progressed and further legislation has come in. Things such as the fairer Scotland duty, which

focuses on socioeconomic justice and, more recently, incorporating the United Nations Convention on the Rights of the Child, are all very good progress, but although we are required to integrate that into what we do at our level, there is a desire across the board to look at how that could be streamlined and focused at the central or national level.

Much of the time, resources get taken up in considering how we incorporate those additional responsibilities and duties from legislation into what we are already doing. If that issue was taken up more centrally in the first instance, by Government or by the Equality and Human Rights Commission or whatever, that would be helpful, because it would allow us to focus on mainstreaming those aspects and delivering on those outcomes, rather than having to devote a lot of our resource and attention to how we integrate all those aspects to make sure that we are providing a harmonised response in the first place. I hope that that makes sense.

Maggie Chapman: It does. Thanks, all—that is helpful. We are keen to use these evidence sessions to give the Scottish Government some pointers as to how its reforms can be more effective. I will leave it there for now.

Paul O’Kane (West Scotland) (Lab): Good morning. I am particularly interested in the Scottish Government’s revised approach to inclusive communication and the embedding of inclusive communication within the listed public authorities. As an opening generic question, what are witnesses’ views of the duty, the revised focus on it and how it is progressing?

Nareen Turnbull: We absolutely agree with the Scottish Government on the need for communications. That has been a focus of our action plans for some time, but the discussion about whether it should be a public duty is a different matter. It will differ from organisation to organisation. The important thing is that it is up front and centre and that we are doing it. It would be difficult to regulate, because it requires local decision making on what is necessary for each organisation. We cannot argue with the overall aim of the duty—we have had it for a long time—but, as part of data sharing, it would be helpful if good practice and information about where it is working well and what others are doing was shared.

There is then the question of whether there are national communication campaigns that we can work on collectively, so that we are not all doing the same work separately. If we had a national profile, we could pull together, as well as doing our local work.

Paul O’Kane: Would anyone who is appearing online like to add to that and talk about the experience of their own council?

Martin Ingram: We welcome the direction of travel on inclusive communication. The idea of that being implemented to provide a toolkit for public authorities and the move towards providing guidance—more of a central steer and drive—are also very welcome. That ties in with some of the comments that I have already provided. It would be helpful if we got that national, central steer and involvement to assist with more all-encompassing communication between public authorities. It would also enable us to undertake more inclusive communication.

Paul O’Kane: Martin, is it your sense that it would be useful to have more detail on what is expected of local authorities in terms of what they offer currently? One of the challenges in my work is that easy-read communication is not offered as standard across many agencies. If somebody walked into Aberdeenshire Council, would they be able to get that quickly, or would it take some time? Are those the areas that you have identified where we need a bit more standardisation?

Martin Ingram: Yes. Perhaps I can give an example. Another hat that I wear in my local authority is that of the elections co-ordinator in Aberdeenshire, and one of the areas that was looked at as a consequence of legislative change through the Elections Act 2022 was how accessibility provisions could be improved. Again, that is a UK-wide issue as opposed to a Scottish Government one.

An avenue that was looked at as part of that was having the Electoral Commission as a central body with responsibility for effectively setting out guidelines. It would be given a statutory responsibility for the guidelines on how accessibility should be incorporated by local authorities. That was not followed by a legislative duty for individual public authorities or electoral administrators, but it provided a clear framework and clear guidance and examples. It was also supported by a lot of resource and input through the Electoral Commission.

My personal perspective is that that model would be very beneficial and helpful. Perhaps it could be combined with some form of on-going communication through regular bodies. For example, our electoral management board facilitates an accessibility sub-group, which has involvement from the likes of the Scottish Government, the Electoral Commission and particular public authorities, and there is on-going dialogue and communication in relation to what is happening across all the various areas and organisations. That has been really helpful, too.

Paul O’Kane: That was helpful. Andrew, do you want to come in?

Andrew Groundwater: Martin has somewhat stolen my thunder about how useful the additional guidance and toolkits that have been mentioned are. We look forward to receiving those.

On accessibility, we have done quite a lot of work around our web and online presence, and we are keen to understand exactly how far inclusive communication goes and whether there is an agreed definition of that—obviously, not one that is focused only on protected characteristics.

My last point is about proportionality. Again, without wishing to sound like a broken record, I note that we have some very interesting census results. For instance, over 99 per cent of our community have English as their first language, and fewer than 10 people have British Sign Language as their main language. Such figures are a factor for us in deciding on proportionality around those issues.

Paul O’Kane: Does anyone else want to come in on that point before I ask a final question?

Alyia Zaheed: I agree with what has been said, but I want to add that guidance, robust information and materials to support that across the piece would be really helpful, keeping in mind the fact that producing easy-read documents can be costly at times—although that should not be a reason not to do so. The proportionality of it should also come into how we deliver alternative formats and documents. I can understand that, if we deliver an easy-read document, that can reach quite a number of people, but we should be mindful that there is national guidance and materials that we can all use, should this go forward.

Paul O’Kane: Thank you. That has helpfully touched on my final point. The East Renfrewshire Council submission spoke about

“capacity, resourcing, timing, practicality, and limited ... data about the range of ... requirements”

for people. The Scottish Women’s Convention said that public bodies will need to be properly resourced to do a lot of this work. I can see folk nodding. I get the sense that, alongside guidance, there will probably need to be a degree of increased resource. I am taking the nodding as meaning that that was a fair comment.

The Convener: We move to questions from Evelyn Tweed.

Evelyn Tweed (Stirling) (SNP): Thanks, convener, and good morning, everyone. Thank you for all your answers so far. How effective is the Equality and Human Rights Commission at regulating public authorities’ performance against the public sector equality duty? I will perhaps pick

on Nareen Turnbull first, seeing as you are in the room.

Nareen Turnbull: That is the joy of being in the room. *[Laughter.]* I will catch up with my colleagues online later.

The Equality and Human Rights Commission does a grand job with what it has. The support that it provides nationally through collaboration—joint events, joint guidance and joint publications—is great. Where it is a bit trickier is in the EHRC working one to one, when we might be looking for a bit more insight into how we drive our local equality outcomes. I think that that is based purely on the resource that is available to it.

I feel like I am repeating myself, but it comes back to the point about the consistent recording of data. We all submit our gender pay gap reports in different ways—there is no toolkit template for how to do it. We include a lot of information in ours, and we could use that data to help inform the EHRC about the key priorities across Scotland that we can get into with it, feeding in about the stuff that we might not be delivering on that we need to get underneath.

There is a big focus on getting our reports in, which is part of the regulation element. However, what we do not get from that is anyone saying what we should be thinking about, what everyone should be thinking about nationally and how the EHRC can use that information to help us. In part, it is really helpful, but, due to how the data is collated without that clear framework, that probably makes it much more difficult for the EHRC to then say, “This is what you can do with that.”

Evelyn Tweed: Thank you. Does anyone want to add to what Nareen Turnbull has said? Andrew Groundwater?

Andrew Groundwater: No, I do not have anything to add to what Nareen said. That was a very full answer.

The Convener: We move to questions from Marie McNair.

10:15

Marie McNair (Clydebank and Milngavie) (SNP): Good morning, panel. I will not pick on Nareen Turnbull, who is in the room. I will go straight to Martin Ingram.

The reform of the public sector equality duty started in 2018. As you know, the process was interrupted by Covid. How has the delay affected your council’s ability to fulfil the public sector equality duty?

Martin Ingram: I am not sure of the extent to which the delay in the process has affected things.

Obviously, the interruption as a result of Covid had a significant impact on how we dealt with matters. That was an incredibly challenging process. All listed public authorities had similar issues in reacting to that particular challenge, especially given the physical means by which we implement the duty. For example, as part of our consultation processes, we would normally instigate things like face-to-face meetings to have discussions with people. However, for several periods of time, simply getting access to people was literally not possible. I remember having to do things like arrange a socially distant election count for Scottish parliamentary elections—I am sure that members will all have fond memories of that themselves.

From my perspective, the challenges related far more to practical matters, and a lot of them are still on-going. There are aspects, of which you have some personal experience, in relation to how we react to the additional challenges to do with protected characteristics. For example, where do the likes of long Covid sufferers fall within the bracket of protected characteristics, and what data are we gathering in order to find out what the impacts are for people who have been affected post-Covid? That whole area of work still requires a considerably larger amount of research and resource to be put into it.

Other than the fact that any delay is not necessarily welcome, I do not think that Covid has had a major impact on how public authorities have continued to look to deliver on the public sector equality duty. However, as I said, it continues to be a journey for everybody and we are looking at ways to improve matters going forward.

Marie McNair: Thank you, Martin. Nareen Turnbull, is the experience similar in your council?

Nareen Turnbull: I echo Martin's point. The only obvious impact is on momentum: when you are trying to think about what your outcomes will be in terms of resource, decision making and budget, that loss of momentum can sometimes mean that you shift to a different priority and focus. We need to rebuild that momentum and get the work moving on.

I would say that there has been less impact on outcomes; it is just that the duty must be at the forefront of the thought processes behind your strategic plans.

Marie McNair: Thank you. Does anyone else online want to comment on the subject, or have those two covered it?

How have the updates on the public sector equality duty been communicated to your councils? I put that question to Andrew Groundwater.

Andrew Groundwater: The discussions here have primarily taken place at officer level. We had a process for seeking and inviting views in response to the proposals and for feeding those views back. We also have a regular opportunity, through committee processes and through an extensive seminar approach, to keep our elected members briefed on developments on things such as this, and we have highlighted such things to them in the past few months.

Marie McNair: Thank you. Does anyone else want to comment before I hand back to the convener?

Martin Ingram: I had asked to comment, but you have now heard from Andrew Groundwater, who has pretty much covered what I probably would have spoken to. We have the consultation processes that I mentioned. In relation to the equalities team, there are members and officers who prepare the documentation that goes forward on a regular basis. There are annual updates to policy committees and to the full council on how the public sector equality duty is developing, so the process is fairly robust.

Marie McNair: Thank you.

Nareen Turnbull: I just want to add that we have established a member-officer working group to look at all aspects of that. That is still in place and is working really well.

Alvia Zaheed: We have a corporate equalities strategy group that meets quarterly and is chaired by our chief exec, so all our updates go there and then go from there to elected members in a process similar to that which Andrew Groundwater described. We try to keep equalities at the forefront of what we do. If we miss a quarterly meeting, we go straight to our corporate management team, so that all the information is given to it. We also have structures in place. We are equality champions, so we try to disseminate as much information as we can and gather views from within our operational side and our strategic side. We then have sessions with our elected members as required.

The Convener: I would like to come in on another question; I have been pondering the budget aspect. I recognise that it is an exceptionally tough time for Governments across the board and that hard decisions have to be made, but there is a perception that people with protected characteristics are often viewed as low-hanging fruit. They are the last in and first out in terms of consideration for equalities. Oftentimes, specific cuts in budgets are looked at in silos in each department.

You might be aware that the committee has focused on human rights budgeting in a few evidence sessions. Could the lens be shifted from

a siloed fiscal approach towards a whole-budget approach that looks at public sector equality duties through a human rights lens? Would that be achievable? If so, would it make a difference in delivery of the public sector equality duty?

Nareen Turnbull: I am happy to kick off. The City of Edinburgh Council spent a huge amount of time on the budget process this year. We set up a joint working group of officers and members with the Scottish Women's Budget Group and we had a real focus on gender-based budgeting. I am conscious that that is only one area, but it was a starter for us. We had that focus throughout the budget process until the full council meeting last month.

More widely, there are ambitions to take that further. We had a number of integrated impact assessments. Collectively, we looked at gender throughout the budget as a collaborative process. That approach was much more intensive and a lot more resources were needed. Widening that out to other characteristics would be absolutely the right thing to do, but it would inevitably come with a much more resource-intensive process.

We are starting now to look at our budget process for next year, having just signed off the current budget, because we have ambitions to make the process as inclusive as it can be. There is an absolute ambition to widen the approach to all the characteristics, but we are just starting that journey. We need to be realistic about how much we can do within the period of time.

Martin Ingram: I was invited to participate in the work that was undertaken and led by the Scottish Government on the national task force for human rights leadership. A lot of information was shared by contributors there about a willingness and an enthusiasm for such an approach to be incorporated and taken forward. I note that the work on a potential human rights bill is not being taken forward in this parliamentary session, but there may well be opportunities to incorporate that as part of this process and through the PSED work.

As for how we deal with meeting budgetary requirements, that will always be a challenge, regardless of the format. A certain amount of work has to be undertaken, at least at the beginning of the process, on a service-by-service basis. We then do work to bring proposals together in a central forum. We look at them and see how they might have an impact. It is important to ensure that that does not happen in silos, to use the convener's word, and that each public authority takes some form of co-ordinated approach, with an awareness of what is going on across the range of everything that is happening.

To echo some words that were said earlier, the main aspect from our local authority's perspective—I presume that it will be the same for other public authorities—is how we achieve a proportional response to the challenges that are being faced in providing for everybody in the community, and particularly the most vulnerable people, within budget constraints.

Given the mechanisms and how things work, it is sometimes challenging that the final, resolved budget that will be allocated by the Scottish Government is not known until quite a late stage. A lot of the time, much of the work has been undertaken at service level and has been brought together in the context of our not necessarily being sure what the end budget that we are aiming for is. I am not sure whether there is an easy resolution to that; in many respects, that is just the nature of the financial cycle.

I agree with what was said before. We have needed to take an earlier look at the process to ensure that we are aligning our responses with the budgetary constraints that we end up knowing that we have to work with.

Maggie Chapman: I will shift the focus a bit. We have talked quite a lot about the process and the mechanics of the duty and about issues around how the duty is used to identify and deal with inequality and discrimination. The third need in the public sector equality duty, which I think is often overlooked or ignored, is the need to foster good relations. I am interested in the views from each of you on how that need is understood and interpreted. Do you have examples of how that need is used as a tool or mechanism for good practice for fostering good relations? I will start with Alyia Zaheed.

Alyia Zaheed: I do not know whether that need is understood sometimes. From my experience at a local level, I think that we do foster good relations. We try to bring our communities together and to break down barriers. The situation may be different for each local authority, as the demographics will be different. Where we see issues, we seek solutions and aim to bring communities together. At a local level, I have not seen that being ignored as one of the general duties.

Maggie Chapman: Can you give specific examples? You say that you bring communities together. How? What do you mean by that? What does that look like for East Ayrshire?

10:30

Alyia Zaheed: We have done events where we have brought our refugee communities together with our local communities; we have used Robert Burns day, for example, to achieve that fusion. At

times, that is like going back to multiculturalism in bringing communities together and fostering good relations.

However, we have had issues. We have two local Islamic centres in Kilmarnock, which is a small town in East Ayrshire, and there was some backlash when they were first discussed, so we brought communities together to tease out the issues. We encouraged an open-door policy at the centres, so that people could come in and the myths could be dispelled. That was about fostering relations between communities, and we have not really had those issues locally since.

We also use the local statistics on hate crime, and we look at how we can collectively tackle those issues, but we have not really had that kind of issue locally. The position will be different for each area.

Maggie Chapman: That is helpful. In some ways, it is good to hear you say that you do not see the issue as being sidelined or forgotten. That might vary across the country, but that is helpful. I ask Andrew Groundwater the same question.

Andrew Groundwater: I have limited evidence to provide on the question. The point that you made at the outset is fair—of the three areas, this is the one that is often forgotten about. I do not necessarily think that there are huge areas of division in our community where relations need to be focused on and further fostered. Other attendees might have fuller responses than me on that question.

Maggie Chapman: That is fine—thanks, Andrew.

Martin Ingram: How to best foster good relations is always a challenge. That comes back to some of the previous comments. It is about identifying the protected characteristic groups that you need to get in contact with and have outreach to. We have examples of good work that we have done and examples of positive and proactive work that we have done.

A good example is that our refugee and resettlement team has done a lot of work over the past few years with Syrian new Scots who have come into the area. I do not want to cry back too much to the election-related work, but there was good and well-publicised work to get people integrated and registered to vote and to facilitate that in a way that allowed them to contribute.

We have worked previously with Gypsy Traveller communities who have come into the area. We looked at how we could support their needs, including things such as additional support needs and a teacher being specifically allocated to look at what issues might need to be addressed for that group.

We try to foster good relations and we work on that, but that comes back to the previous comments. Taking that positive work forward requires a good awareness of the community group that you are looking to work with in order to understand the challenges and how to do that work to provide better outcomes for communities.

Maggie Chapman: It is interesting that one of your examples is work with Gypsy Traveller communities. In the work that you have done with those communities, other service providers or other communities, did you get the sense that people understood that that work was happening under the banner of fostering good relations, or did they think that it was happening because it was the right thing to do?

Martin Ingram: That is a good question. The answer perhaps comes back to something that Andrew Groundwater spoke about. There is probably awareness among people who are involved with the equalities team or involved with communications on aspects of work that we want to do, but I am perhaps trying to assume where you want to go with your question. Officers on the ground and individuals who are involved might automatically link work to the council looking to foster good relations, but it may be worth a little further consultation by us to see whether they understand where that work evolves from.

At the corporate level, there is a good understanding among those of us who are involved in equalities that this is the direction of travel that we want, but another aspect is whether everybody in the organisation has the same awareness, which probably remains a challenge.

Nareen Turnbull: The most recent example at the City of Edinburgh Council comes from when we were looking at reviewing our equality outcomes. On good relations, we were very thoughtful about how we could make sure that the process felt genuine and meaningful when we were getting views on what the outcomes might look like. Before even fixing on an approach to engaging with the community, we engaged with 47 individual community stakeholders—professionals who represented a lot of the community groups—to help us shape the approach and make sure that we would ask the right questions and get to the individuals we needed to reach.

Our work with those 47 stakeholders shaped what we will ask in a questionnaire that will go to our communities in the spring. We brought those groups in at the outset to ask, “What is the best way to do this? What is your insight? What’s your professional view on how we get to these hard-to-reach communities? How do we get the message out about the outcomes we’re trying to deliver?” We got a really cohesive process and built relationships so that we could say, “Right—this is

what it's going to look like. This is how we're going to send the questionnaire out. This is how we're going to engage." We used those key stakeholders to help us do that.

That work will kick off in the spring, and we will see whether it brings better results than the norm. We often get very similar results, so this is an attempt to do things differently by using that expertise.

Maggie Chapman: That is an interesting approach. In those initial discussions, did any surprising potential touch points—"conflicts" is not the right word—emerge, not necessarily between communities but between public agencies that might be interacting with and supporting communities? Will the questions that you ask in your questionnaire unpick some of that? For a range of reasons, certain communities might not want to approach certain public agencies for support or services. I see addressing that as being embedded and bound up in the fostering good relations element of PSED. Do you think that you will tease some of that out?

Nareen Turnbull: We will tease some of that out. Our biggest challenge is managing expectations, because when we go out and say, "We genuinely want to hear from you," stakeholders have their own priorities and expectations of what that will translate into. We have to be really clear about the need to manage expectations across the piece. If we had national priorities, the process would feed into and help drive some of the national agenda with community organisations. We hope to draw some of that out, but the big piece is about managing expectations about what we can achieve.

Maggie Chapman: To pick up on your last point, if we had national outcomes, would they help different agencies to work together better?

Nareen Turnbull: Yes—that would give them something that they could point to and say, "Here's what the national priorities say," which would back up our work to drive some of those priorities.

Maggie Chapman: Thank you—that is really helpful.

The Convener: We will move on to questions from Pam Gosal.

Pam Gosal (West Scotland) (Con): Good morning. I thank the witnesses for the information that they have supplied so far. Last week, the committee received a submission from Sandie Peggie's lawyers. As you might know, Sandie Peggie is a nurse who was suspended from NHS Fife for refusing to use a changing room with a biologically male colleague. In the submission, Sandie Peggie's lawyers wrote:

"Unfortunately, the PSED has zero prospects of delivering on its aims to improve outcomes for people with protected characteristics if listed authorities adopt the same cavalier approach to PSED compliance as FHB has."

The submission clearly shows that the rights of trans-identifying males were put above the rights of women. No woman should ever be treated this way.

What are your local authorities doing to ensure that women and girls are not treated the same way as Sandie Peggie was treated? For example, are the rights of women and girls respected in council-run facilities such as single-sex toilets and changing rooms? Can you guarantee that you are complying with the Equality Act 2010? Do you believe that self-identification is trumping the Equality Act 2010 and is above women and girls' rights?

I will go to Nareen Turnbull first.

Nareen Turnbull: There is a lot in your questions, and a lot that I probably would not want to comment on, given that an employment tribunal is on-going. All I can say about our local authority's compliance with the duty is that we show that through our equalities outcomes, the way in which we are regulated, and our returns for all aspects that we are asked to provide information on.

For us as an organisation, the big thing is that we have a culture in which our workforce feels safe to speak up. We have lots of ways to allow people to do that and routes for them to feed in their needs and their individual asks. Particularly if they are uncomfortable, they should feel safe to say that they are.

That is all that we can do to promote the equality duty among our workforce, and we will continue to do that.

Pam Gosal: Thank you for saying that, Nareen. I ran that question by our clerks before I asked you, because I do not want to break any rules.

Nareen Turnbull: Not at all.

Pam Gosal: I will probe more into the facilities side. Do the toilets and the changing rooms comply with the Equality Act 2010? When you write your policies and guidance, how do you prescribe them? Do you go back to the Equality Act 2010 and look at the rights for women and girls?

Nareen Turnbull: I do not know the specifics about that part of the authority. I would need to get more information on the specifics of that service. I am more focused on our workforce side, so I could not give you an accurate answer on that.

Pam Gosal: That is fine. If you could pass on the information, I would be really grateful.

Martin Ingram, what is your answer to that question?

Martin Ingram: I am aware that the matter has come up for Aberdeenshire Council recently, specifically in relation to provision within schools. One aspect that was looked at last year was setting up a member-officer working group to look at that in further detail. Although I cannot necessarily give a definitive position on behalf of Aberdeenshire Council on that, I emphasise that it is being considered.

I know that you have heard about the perspective of council workforces in that regard and I agree that that is important. We endeavour to make sure that every working environment in the council is a safe space and has provisions for members of staff to raise issues if they feel uncomfortable. However, we also provide facilities to the general public and it is equally important that we make sure that council facilities that are used by members of the public are safe areas and that people feel comfortable using the council's resources and facilities.

Pam Gosal: Thank you for that, Martin. You said you have set up a member and officer group. How long has that group been running? Has anything come out of that that you can share with us?

Martin Ingram: That has been running since last year. I am not sure that I can share anything that has come out of it directly or any definitive conclusions. However, I can certainly confirm that the issue is being looked at.

We are considering the matter and we will take cognisance of any judicial rulings and outcomes going forward, but in the meantime the position is that we endeavour to ensure that our public sector equality duties are considered in everything that we do, and that we take those aspects into consideration in our planning and resources.

Pam Gosal: It is one of the big issues that I am dealing with right now, in the West of Scotland region. Parents are complaining to me and saying that, especially in relation to the single-sex toilets in every school, there seem to be different sets of guidance and policies, even though the policies are set from Holyrood. The difficulty comes from how the schools interpret the policies and guidance and pass them on. Have you heard of that?

10:45

Martin Ingram: What you provide along with the provision of new schools might be different from what you are already dealing with in your existing property estate. That has to be considered. Part of the reason why a member-officer working group

was constituted to look at that is to ensure that there is a consistently applied approach in providing safe spaces for people in the places where we deliver services.

Pam Gosal: Thank you, Martin. I look forward to the outcomes of the group.

Alyia Zaheed: I echo what has been said. We want to ensure that we provide safe places for our communities and our members of staff. We have undertaken a very short review of some of our council buildings, whereby we ensure that we have single-sex facilities, as well as gender-neutral facilities where possible. We want to ensure that we have full engagement with our communities and our employees, so that, when we make a change, we have received information as part of a consultation process. That is all that I can add just now: where we have gender-neutral spaces, we have also incorporated single-sex spaces.

Pam Gosal: Thank you, Alyia. It is really pleasing to hear that you are ahead of the curve and providing space for different people—not just single-sex spaces but gender-neutral spaces. That is really good.

Andrew Groundwater: We have had no practical on-the-ground experience of issues on this particular topic thus far. Obviously, we are very aware of matters that are in the public eye at the moment.

Slightly related to that, in schools, we have had parent groups express quite strong gender critical beliefs. We have always sought to balance that and to find a way to ensure that everyone feels comfortable, regardless of the circumstances. However, on physical single-sex spaces, we have not had any practical on-the-ground issues as yet.

Pam Gosal: Thank you, Andrew. It is great to hear that you are providing for everybody and that you are ahead of the curve.

You said that you have not come across any issues. I want to ask whether anyone has anything to say on this: we have found that a lot of girls do not go to shared toilets because they feel scared, and some do not go to the toilet all day until they go home. Will you share whether that or anything like that has come up in any of your schools?

Andrew Groundwater: That has not come up, as far as I am aware.

The Convener: We move to questions from Tess White.

Tess White (North East Scotland) (Con): Thank you, convener. I declare an interest as a fellow of the Chartered Institute of Personnel and Development. I will focus this morning on the workforce. I will start with Edinburgh, which is the

second-largest council in Scotland. You have about 19,000 employees in the council, Nareen Turnbull. In workplace settings, how many of the protected characteristics have you done risk or impact assessments for?

Nareen Turnbull: Probably most of them. When we develop our workforce strategy, we spend a lot of time on impact assessments. We started afresh on our workforce strategy a few years ago and, coming from that, we have had various plans. The biggest piece of work that we are doing now is the refresh of the workforce plan, which is giving us a lot more data and insight into the make-up of the workforce.

Tess White: I am not interested in the workforce plan; the focus of my question is risk and impact assessments. I ask you a direct question: how many protected characteristics are there?

Nareen Turnbull: In terms of the organisation?

Tess White: No, in terms of risk assessments. You are doing impact assessments for some of them, but how many? There are nine protected characteristics. My question is, which of those nine protected characteristics have you done impact assessments for? Have you done them for all nine, or just one or two of them?

Nareen Turnbull: Specifically, we would have done them for probably most of them as part of our gender pay gap reporting, because we extended the characteristics—

Tess White: Sorry, but the gender pay gap relates to one of the nine characteristics. Like you, I was a human resources professional and I had to look at the list of characteristics this morning. They are: age; gender reassignment; being married or in a civil partnership; pregnant or on maternity leave; race, including colour and ethnic or national origin; religion or belief; sex; sexual orientation; and disability. Of those nine, which have you or your team done impact or risk assessments on?

Nareen Turnbull: I was just about to finish—I would say most of them. We extended our gender pay gap reporting to include interconnectivity; we brought all the protected characteristics into that reporting framework, so all of them are in there.

The strength and quality of data under all of them is probably not as strong for some as it is for others, but we now have a baseline for our annual report, which will help us to shape priorities. We need to do more work on the data. We have a baseline of all characteristics but we need to work on strengthening the response.

Tess White: Thank you, that is really helpful.

Organisations find it quite difficult to collect data on disability and people with disability

characteristics. Has your council started to do risk and impact assessments on that?

Nareen Turnbull: Yes, absolutely. Disability has probably been one of our longer-term focuses. We had some challenge in relation to the “prefer not to answer” category; we have done a lot of work to try to understand why people did not want to declare disability and it is a work in progress.

On the impact of that on our workforce strategy and actions, particularly our equality action plan, that characteristic is now a dedicated theme because there is strong data coming out on it. Some of the data—in relation to estate and so on—is more challenging but we have at least been able to categorise the characteristic as a theme, with really strong actions underneath it.

Tess White: I realise that it is a lot of work to look at all nine characteristics. You say that you are covering most of them, but looking at prioritising and focus areas, roughly 60 per cent of your workforce are women and 40 per cent are men, so are you doing impact assessments of the policies that you introduce in relation to, let us say, men and women and the other protected characteristics?

Nareen Turnbull: Yes. We do integrated impact assessments for every single HR policy that we put in and we spend a lot of time looking at the impact on all those protected characteristics. We evidence that online, which adds time to the process, but I think that our elected members like it—they see that a good thread runs through all our HR policies in relation not only to consultation and engagement but also to what the priorities might be.

It goes back to that point about national data. If we had more national data and we could work with others and consider whether they have the same priorities as we do, we could then combine our resource and consider what we might be able to do together to try to unpick some of the challenges in that area, which are not just an Edinburgh focus—we all share them.

Tess White: Of the nine protected characteristics, are there any that you have not focused on yet and that you will be looking at at some point?

Nareen Turnbull: We probably have less data, and we need to get more robust information, on the ones that are more focused on marriage and so on. We would need to think about what the impact of that is. We see it when we link it to things such as types of work contracts and hours and so on, but we want to take it further than that.

Tess White: I want to look at the requirements for all employers—my interest comes from my own HR background. Have you looked at the adverse

impact against any of those protected characteristics?

Nareen Turnbull: We probably did not go as far as that. We pick up on it in our IIAs, but we have not delved right into the adverse aspect as opposed to the positive aspect.

Tess White: If you have not looked at adverse impacts, are you taking any steps to address those? I suppose that the next stage would be to identify any risks. Have you done that yet, or looked at any individuals who have any of the nine characteristics and are at a disadvantage?

Nareen Turnbull: We have absolutely done that through the development of our equalities action plan. We have put more resource into the equalities team in order to spend a lot more time understanding equalities impacts, and we have set out what the themes and actions might be.

We have done the work on it, but when you are so broad across all the characteristics and trying to achieve aims on all of them, you have to consider, "What are the ones that we need to prioritise and focus on the most?"

Tess White: If you have staff who are across each of the nine characteristics, which ones have you focused on first? Have you taken a Pareto approach in which you look at a critical few, or have you looked at all of them equally, and is there balance across all nine?

Nareen Turnbull: That is the struggle—getting the balance is challenging—and it is probably the equalities action plan's theme, because we have actions against each of the characteristics. Some have more actions against them than others, but we are working across the piece rather than focusing on one particular area.

Tess White: Has anybody at the council identified any concerns or warnings to you as head of HR about any of those areas?

Nareen Turnbull: From an equalities outcomes impact, no. The challenge of what our longer-term workforce demographics will bring us has been raised. You mentioned our workforce's gender split, and turning that around in order to get away from stereotypes, get different people in different roles and solve longer-term recruitment and retention problems are real challenges to address. We know about those things and are talking about them. They will be raised when we take our workforce data to committee, and we will consider what we are doing about the stuff that is very stark.

Tess White: My final question is to Noreen, who I have picked on because the City of Edinburgh Council is the second-largest council, and we do not have Highland Council here.

When you have done your risk assessments, do you look at privacy and dignity for each of the individuals who are in protected characteristic categories?

Nareen Turnbull: Absolutely. We have established really strong colleague networks, which include colleagues across pretty much all the protected characteristics. The independent networks feed in and help us to shape our approach and actions, which are colleague-driven, and we provide support to them. We use their personal views and insights a lot, along with those of colleagues more widely who may not want to speak to officers, through policy consultations and so on. We have other means of hearing colleague's voices, which we get with a view to feeding them into the pieces of work that we might not do day to day.

Tess White: As head of HR, do you personally monitor and oversee whether the rights of people with one of the nine protected characteristics are balanced across the piece?

Nareen Turnbull: My role as head of HR is to make sure that equality of accessibility, fair processes and clear policies are in place and accessible to everyone. It is important that that is my role. There is also a mechanism for people to say, for example, that, "This doesn't feel right," or that, "This is what we need," or that, "This is where we need support," which comes back to the point on speaking up. My role is to make sure that all those frameworks are in place so that people can speak up and feed into them, and that we have healthy consultation and engagement processes, such as our networks, trade unions or wider officer groups. My role is to make sure that the whole framework is in place to allow everyone to feed in at the right time.

The Convener: That brings our panel to a close. I thank the witnesses for coming along and participating. We will briefly suspend while we change over our witness panels.

11:00

Meeting suspended.

11:06

On resuming—

The Convener: I welcome to the meeting our second panel of witnesses: John Dawson, head of strategy and transformation, Public Health Scotland; Jillian Matthew, senior manager, Audit Scotland; and Nicky Page, head of human resources, Police Scotland. Thank you for joining us; you are all very welcome.

For the benefit of those who were not here at the beginning of the meeting, I remind all members that rule 7.5.1 of the Parliament's standing orders prevents members from referring to any matter in relation to which legal proceedings are active, except to the extent permitted by the Presiding Officer. I advise members that Sandie Peggie's employment tribunal case against NHS Fife is active for the purposes of the sub judice rule and contempt of court.

I have sought and received permission from the Presiding Officer on the extent to which we can explore matters related to the case today and throughout the course of our public sector equality duty inquiry. On the basis of that permission, questions on issues connected with the case are admissible, but questions on its specifics are not.

I will kick off our questions. To what extent do you, as listed public authorities, understand the terms and aims of the public sector equality duty in Scotland? I will start with Jillian Matthew.

Jillian Matthew (Audit Scotland): I should point out, first, that Audit Scotland is subject to the PSED not just as an employer but as a scrutiny body, which means that we also look at how public bodies across Scotland apply it.

Audit Scotland has a really good understanding of the duty, partly because we scrutinise it. Obviously, we do not examine the legal aspects as the EHRC does, but we do look at it more widely and examine, for example, how public bodies are delivering their services and outcomes with regard to equalities and human rights.

Our own organisation has been investing in this for the past five years, and we have quite a cross-organisational approach to it. I should say, as a disclaimer, that I am not an HR person—I lead our audit work on equalities and human rights—but I do work closely with Audit Scotland colleagues on the matter. Our equalities and human rights strategic group meets quarterly to look at everything related to equalities and human rights, including any PSED issues. I also work closely with colleagues in our corporate services and HR, and there is a strong drive from our senior management on equalities and human rights.

Audit Scotland also has various staff diversity network groups on various protected characteristics and related aspects such as menopause, neurodiversity, carers and—I am going to forget some—disability. There are a few others—LGBT, for example. It is an issue that we discuss a lot across our organisation, and staff have a lot of communication on it. I should add that, as a scrutiny body, we have been developing guidance for auditors on how to consider the

matter externally. That should give you a bit of a flavour of what we are doing.

John Dawson (Public Health Scotland): Thank you for having me here.

I am quite pleased to say that not only do we understand the duty, but it connects to our core purpose really sweetly. We understand both the general and the specific duties; indeed, we are, internally, about to launch our equality, diversity and inclusion plan, which very specifically addresses the nine protected characteristics.

Externally, part of our function is our core missions, one of which is to tackle health inequality. As we know, health inequality has a socioeconomic context; however, it also has specific links with the nine protected characteristics, many of which embrace certain aspects of it.

Therefore, the duty relates to our internal purpose, on which we are doing a lot of positive work—we welcome the reporting that comes with the extra component of the specific duties—and it also links to what we do externally, given our key focus of prevention, or early intervention, as it might have been known in the past. That is a key component for us, and it links to health inequality.

In short, we understand the duty well and we are doing a lot of work on it both internally and externally.

Nicky Page (Police Scotland): I can say with some confidence that the duty runs root and branch through policing. It starts with our values of integrity, fairness, respect and the protection of human rights, and it goes right down to our probationer training.

We were the first service to have a code of ethics for policing. Our chief constable came out and said openly that systemic issues in Scottish society inevitably come into the service when we recruit from our communities and try to represent them in our workforce. We are absolutely committed, through the chief's vision, to having safer communities, and those communities have inequalities that we must understand if we are to make them safer.

We also have a victim focus, and, as we all know from work on women and girls, women are particularly subject to certain types of crime. We have to be aware of that and confident in our understanding of it.

Obviously, the duty also relates to our vision of a thriving workforce, as they will be able to thrive and do their job well only if they understand equality, diversity and inclusion and ensure that those aspects run through everything that they do in trying to get fairness for our communities. There is probably no area of policing in which this is not

an important issue and in which we have not found that it is something that we have to get right—although we do accept that there is still a lot of work to do.

The Convener: Thank you all. Maggie Chapman will ask the next questions.

Maggie Chapman: Good morning, and thank you for joining us.

I think that you were all present during the previous panel, when I suggested that one of the drivers for the work on the public sector equality duty is that it is a tool that is available to us in the absence of additional human rights legislation and in the absence of all the discussions that would happen around that, including conversations on duties and responsibilities. I am very pleased that the committee is doing this work, because I think that the duty has some key drivers that we can use to make things better for people. Indeed, you have all spoken about outcomes in different ways.

Perhaps I can start with Jillian Matthew. We have had the PSED for a long time now, but what, in your view, is the barrier to ensuring that we deliver on the outcomes that we all want? Why is it taking us so long to understand what needs to change and to deliver that change?

Jillian Matthew: The Scottish Government's consultation document on the PSED and the proposals that it puts forward recognises a lot of the challenges, as do we through our audit work. There is a high-level understanding of the duty across the public sector, but implementation varies a lot, and the question is whether different public bodies have that really good understanding of how to put the duty into practice effectively by using it to drive change and linking it to outcomes, as well how to report on that. The previous witnesses mentioned that reporting can be perceived as a bit of a burden and there are different reporting timescales and different aspects for types of reporting. We welcome the proposals to streamline reporting, both for ourselves and for the public sector.

11:15

The duty can be difficult for small organisations, given the proportionality of it and their limited resource for that activity. Sometimes, the duty is the responsibility of only one or two people in an organisation, as opposed to being embedded in the organisation through its values. That comes from the top down when there is strong leadership. The PSED on its own obviously cannot deliver everything, but the Scottish Government has been consulting on a new mainstreaming strategy for equalities and human rights and it has identified six drivers for change, which are very common. One of those is leadership; others are culture

change and capacity. There are a few different things in there, but we would recognise them all as themes in our work. The duty has to be embedded across the organisation and staff have to be taken along. Having a diverse workforce helps to deliver a good service for people with different protected characteristics and to ensure that the organisation meets everyone's needs. There is still a lot to do on that.

The EHRC guidance is clear about a lot of that, but sometimes it is about having more case studies, good practice examples and toolkits for various things. Those have been mentioned, but they are not in place yet. That is the kind of thing that we try to do through our audit work. We highlight where there is good practice and try to share that, whether it is what we are doing internally or from across the public sector. We have the advantage of being able to look across and pick up some of the themes in places where it is working well. The issue is that everyone is often working in silos and more could be done at the national level. Someone on the previous panel mentioned sharing information and making efficiencies around that.

Maggie Chapman: Thanks for that. You were clear in what you said about being able to share good practice and in what you said about departmental silos. There are organisational silos and institutional silos, and you have the opportunity to blur some of those boundaries. That could be very effective.

Do the proposed reforms of PSED go far enough? Would you like to see them go further or do more—or give you more opportunity to do more—to ensure that we achieve the outcomes that we want to achieve through PSED?

Jillian Matthew: There is a fine balance to how far we can comment without getting into policy, but we welcome a lot of the proposals. We highlighted a few things, such as further clarity around definitions, guidance on some of the new proposals and proportionality—whether there are ways to join some of those things up and streamline them.

Given that there are increasing financial pressures on public sector reform and transformation, there need to be ways of looking at it more effectively and efficiently. That is becoming much more important, because as finances tighten, the most vulnerable people are more affected. Inequalities are widening.

As I said earlier, it is not just about the PSED, but about some of the wider issues with leadership and culture, as well as about linking it to national performance framework outcomes. It is also about budgeting. The PSED needs to be tied in with

budgeting, priorities, where the inequalities are and targeting resources in those areas.

Maggie Chapman: John, I ask you the same question. Given some of the significant challenges with the public sector completely missing equalities targets and outcomes, what are the challenges with the PSED as it stands? You spoke about a focus on prevention. The committee has heard about the inadequate support that has been provided for the range of services that groups such as disabled people should expect to receive.

John Dawson: First, there are some benefits to the PSED: it has placed an additional duty and requirement on public bodies and has strengthened what was already there. That has helped. Once we have and understand the data, we can start to respond to it. Internally, Public Health Scotland has been able to use that strongly. Secondly—I am looking at Jillian Matthew—it has brought the audit and scrutiny bodies closer to us, which has enabled us to hold people to account.

A lot of that could relate, internally, to siloed components in relation to the specific duties. Internally, the PSED has helped us to look at our performance framework, including our indicators and risk components. However, we advocate for the duty to be more strongly integrated with other components, such as the national performance framework, the national outcomes, the fairer Scotland duty and the pending wellbeing and sustainable development member's bill. Getting the breadth that would allow us to bring things to the fore is a challenge.

Public Health Scotland will look at the duty through a prevention lens. Ultimately, we are looking at how we can achieve an outcome internally with our staff, but we need to consider whether that is helping us to achieve our core objective of reducing health inequalities. On their own, the specific duties do not necessarily create accountability for performance around whether anyone from the nine protected characteristics is living a longer, healthier and happier life, and I do not know whether that is encouraging us and our partners to collaborate on prevention duties. There are many good things for us to respond to, including this, but the challenge lies around policy coherence. I think that other witnesses will also mention that.

The data is being used for accountability, but we need to consider whether we can also use it to enable the adoption of a future focus for particular groups—that is the policy coherence and the data component. We want to see there being a bit of local ownership. Ultimately, Public Health Scotland would say, "Could we find a way that this and other legislation allows us to have a health equality lens?" As we consider things from an

equality perspective, are we also operating in a preventative manner, and are people living longer and healthier lives because of the changes that we are making?

Internally, we are launching our new equality, diversity and inclusion strategy in April, which will make a difference. Externally, I would want to see policy coherence—that is the challenge—so that the activities that we are undertaking are making a difference on a daily basis. We have done that in relation to prevention in other areas and it will be a key component for us.

Maggie Chapman: That is really helpful. You spoke about the need to take a more coherent view, which chimes with the earlier panel's remarks about harmonising things. Do you think that the Scottish Government's proposed changes go far enough? Is there enough in them to deliver the kind of transformation that you would like to see, or give you what you need in order to deliver the outcomes that you want?

John Dawson: The changes could reach further in integration terms and by giving us some kind of solution component. For example, could we embed and unify equality and fairness in a wider framework? Whether we are looking at the United Nations Convention on the Rights of the Child, the proposed wellbeing and sustainable development bill, the human rights component or whatever, we would have a framework on which we would be progressing. The changes that are proposed in relation to the PSED are beneficial, whether they are about communication, accessibility or whatever, but the question would be whether we could holistically bring those things together.

The same goes for reporting and accountability. Some things report on a two or four-year basis and are not aligned with local outcome improvement plans and so on. Again, consistency would strengthen cross-sector collaboration between us and other partners. Collaboration is a key value for Public Health Scotland, so that would help us to promote the prevention discussion through a health-equality lens. It would also help us in our capacity building and leadership, as we work collectively with other leaders, if we were talking the same language and talking about the same outcomes.

The proposed changes are beneficial, but stronger integration is important. I go back to the fact that some of this would not be guidance but absolute duty. The accountability framework would be the same, and leaders across different parts of the public sector could talk the same language. If we were talking the same language about all the equality components, that would help Public Health Scotland to reach into health inequality more tangibly.

Maggie Chapman: That is helpful, and quite a strong steer for us in considering how we support the changes, so thank you for that.

Nicky—I will ask you the same initial question. In what ways is the PSED not strong enough or falling down in its operation, practice and understanding, given that we are seeing increasing inequalities, both between and within protected characteristics groups in Scotland?

Nicky Page: There is a tendency to impact assess the nine protected characteristics individually. When we deep dive into the data, we quite often find that intersectionality is driving a bigger variation for a group than we find when we look at that group in isolation. However, that makes data analysis complicated. Public sector organisations have good performance frameworks, but the need for good robust data sometimes compromises our ability to do deep dives and to understand at a deeper level what the levers are. That is something that we have dug into more recently. We have done isolated deep dives to try to understand better what is not reflected in the high-level data. To do that is complex and requires a particular set of skills. It has to start from our performance matrix, and it needs—dare I say it?—data experts to say, “That’s an anomaly. It’s statistically significant for you, Nicky, so you’re going to have to look at that more closely, and look at the component parts.”

I can give you a simple example of that, which is retention rates. Women officers leave more frequently than male officers. When we took a deep dive into that, we discovered that women were leaving not after having had one child but after having had two, because that was the tipping point, financially. Is it cost-effective for them to continue to work and to try to get support with shift patterns and so on? Sometimes it is the deep dive that reveals something. On the surface, we know that women leave, but why are they leaving? We were seeing that pattern not across the whole workforce but at particular trigger points. That is only one example, but it demonstrates that it is complex to focus on the things that make a difference. We have brought in broad, family-friendly policies—childcare vouchers and so on—but that is not affecting the two-child tipping point. We need to do deeper things at that level. That intersectional complication is one of the barriers in the public sector equality duty.

We can take a good broad-brush approach, but sometimes we have to be far more focused if we are to make a real change. Every single organisation has a challenge around understanding of the data and our ability to manipulate it, because we need good data scientists to do that and we need good data to begin with.

11:30

Maggie Chapman: Thanks for that. You mention the need for skills and expertise and the need for data analysts who can identify data and provide support to organisations. However, one can be good at data analysis without necessarily knowing how to translate that into policy or action. Will the proposed reforms support you with that, or is there still something missing in the Scottish Government’s look ahead for the PSED?

Nicky Page: The reforms will likely improve things, but will have to be underpinned with resources to enable us to achieve reform. I would not fall out over anything that has been suggested, but the proof of the pudding will be in the eating. This is an area where you have to be bold: you have to have provision and a vision.

To get real change, we need collaboration and understanding. For example, we recently looked at pay in relation to not just gender but the other protected characteristics, including disability and the disability pay gap. If my board asks, “Is what we are seeing good or bad?”, I have no clue whether it is good or bad, because there is no body of evidence that allows me to say, “We are at this stage and these are the things we might want to try next.”

Without a bigger data repository across the public sector to help us to learn from one another, lean into one another and look at what is working and what is not, it will be very difficult for public sector bodies because they will be working in isolation on making those changes and on trying to understand what is happening so that they can focus their energy and their limited resources on what will make a difference. As things get tighter, as we all know they will, we will need to focus on what will make a difference. That will be the key to success.

Paul O’Kane: I am quite interested in inclusive communication and the Government’s revised approach to assisting listed public authorities with embedding inclusive communication in what they are doing. What do you think about the Government’s revised approach? How do you feel it is progressing?

Jillian Matthew: We have not had a huge amount of detail on what the approach will encompass, but early indications around trying to support public bodies to do well and to meet existing legislative requirements are quite encouraging. If inclusive communication were to be made a duty, we would need to know what that would involve. I go back to previous comments—it should not be too onerous or involve additional reporting. However, it is a supportive approach. It is about looking at how inclusive communication

can be done well and what is good practice, along with case studies and really clear guidance.

Definitions of “inclusive” and “accessible” could be clearer. We need to be really clear about the meaning of inclusive communication and what options and formats should be available. There is already UK legislation in place that all public bodies have to follow. We would not want the duty to be too different from that or too additional to that. It would be good to know how the approach will fit in with the current legislation—the Public Sector Bodies (Websites and Mobile Applications) (No 2) Accessibility Regulations 2018.

Within Audit Scotland, we have done a lot of work to make our website accessible and our reports accessible. We do easy reads—not for every report, but for a lot of our performance audit reports. Again, we try to target where we feel the need is and tailor things to the report’s audience, whether it is young people, older people or people who are not online.

For example, when we did a report on tackling digital exclusion, we had to think about how we got our message out, because we always put our reports online now. We could not do only that with the report, so we worked with various third sector organisations on how to get it to different audiences. That takes a lot of work, and it is about knowing where resources should be targeted and what is most effective. More guidance and good practice around that would be helpful.

John Dawson: Public Health Scotland is very comfortable with what has been proposed on communication, and is probably already there on the basis that a significant part of what we do in prevention is provide information. We provide it to clinicians, the public, private bodies and the third sector, and we already provide it in a large range of formats. We have templates and styles for each of those. We go further than what is proposed by having an accessible information policy that covers different characteristics and considerations, whether that is language or other things.

We have a degree of comfort with that, and I feel that we readily comply with what is proposed—for example, we produce easy read versions, parental versions, language versions and so on. We feel that that fits with our purpose. Part of what we need to do is make sure that everyone, irrespective of their particular access needs, has the information that they need and is comfortable with it.

Nicky Page: As Jillian Matthew said, there are the 2018 regulations. This is an opportunity to pull everything back together and simplify it. Proportionality will be the key challenge for public sector organisations in this space, particularly national ones. Smaller communities might be less

diverse, but when you cover the national level, you cover everything. That proportionality will be a big challenge for national public sector organisations. It will be a challenge to focus and make a difference but also be cost effective.

Paul O’Kane: In the previous evidence session, we had a discussion about whether the Government could be clearer on what best practice and expectations should be. I referenced working with people who have a learning disability, where the challenge is often the agility of a public-facing service to provide what is required. For example, in the criminal justice system, interactions with police can often be very challenging, because it is a fast-moving environment. The interaction is very different, particularly when legal matters are involved. I appreciate that there are processes in place in law, such as for appropriate adult services and that sort of thing, but how do we become more agile, so that those things can be made available as standard?

In the public health space, the pandemic probably taught us a lot about agility in relation to getting information out to as wide a group as possible and not allowing people to fall through the gaps, but many people might feel that they were missed. Could I hear reflections on that from Nicky Page and John Dawson?

John Dawson: That drives the question that I ask when I look at the issue, which is whether there should be a duty or guidance. Variability and responsiveness are required for different scenarios. There is strength in guidance, through there being trust that public bodies will respond to it appropriately, but in our case we understand the pace and the format that are required. We learned a lot about that from the pandemic.

The key is guidance, but there also needs to be a framework from an audit perspective, because there are duties. Are we being cohesive and compliant with the duties and not just using the guidance as an opportunity if we are not sufficiently resourced? I do not think that one could use that argument. By all means, there could be guidance, but an audit and performance component that allows you to check and balance is needed.

Paul O’Kane: It is important to include in an audit framework people who have lived experience of requiring such communication. I am sure that they are involved at some point in the process, but perhaps they could be involved in a more formal way to say whether something is working and why.

John Dawson: Absolutely. I should add that, on that particular purpose, our new equality policy that will come in in April refers to what we would call the human library. We are expressly ensuring

that, across all the various characteristics and beyond—in other words, beyond the general duty and the specific duties—things will be looked at from a compassionate wellbeing perspective, using a human library of people's experience of accessing products. That applies in relation to fostering good relations and to communication and ensuring that we are targeting the right people in the right way, which involves considering how our communication has been received, as opposed to how we feel it has been sent.

Paul O'Kane: Nicky, do you have a view on that?

Nicky Page: I whole-heartedly agree with what John Dawson said. Part of the challenge is to do with underpinning partner services. When it comes to advocacy services and people who represent the voice of those who cannot represent themselves, that can be quite challenging, because those groups are sometimes very small, and if every public sector organisation is pulling on them individually, that puts huge pressure on them.

Therefore, there is a role for the Government to play—this goes back to the point about guidance—in pulling those groups together and getting frameworks set up so that we do not break them, because they are the advocates who make the difference. It will be a massive challenge for us to get this right while doing it with people rather than to them.

Paul O'Kane: Some cross-cutting work has been done—for example, the committee has looked at issues around interpretation services in relation to refugee asylum seekers—but there is a wider conversation to be had about all that, and it is useful to bring that to the fore.

My final question is about resources. We cannot get away from the fact that implementing the public sector equality duty takes money, staffing and people. Reference has already been made to the challenging backdrop against which much of this work is being done. Do you agree with the assessment of many public bodies that have responded that resourcing will be a huge issue that will have to be looked at directly, along with public sector organisations, to understand what the existing capacity might be and what will be required in the future?

Jillian Matthew: Yes. I come back to the need to be clear about what is required and the need for organisations to have plenty of time to implement that. It is also a question of knowing where to target resources and knowing what the most effective ways are of engaging in inclusive communication.

In relation to the previous point, I mentioned that we did an audit on tackling digital exclusion.

During the pandemic, there was a big move to put everything online, and a lot of resource was put into that through the connected Scotland programme. A lot of support was provided for various groups of people, devices were provided and there were lots of community hubs. However, that resource is no longer there. We are still waiting for a revised strategy, although there are good examples of how that has been done and how it can be done effectively. For example, we developed principles for digital inclusion.

It is a case of remembering that things have changed. How do we keep the work that was done during the pandemic going? We still need to think about that. Many people are not accessing services, and certain groups are more likely to be excluded if services are only provided online. That aspect needs to be built into services, which involves thinking about different people's needs and doing equality impact assessments. A big issue was how much provision went online during the pandemic and how accessible information is to many groups of people.

John Dawson: There are two components to the digital theme. There is the one that Jillian Matthew mentioned, which relates to inclusivity. The second one gives me great comfort in the sense that, given how technology has advanced, artificial intelligence and other tools will help us to deliver in the right way many of the things that people now need or want us to deliver in relation to diversity and inclusion and our wider communication.

I am not suggesting that we are asking that people access those things digitally. On prioritisation of resources, Public Health Scotland has a digital strategy that looks at how we use and leverage such tools so that we can produce more within the resources that we have. That will be a growing focus for the public sector for decades to come.

11:45

We can see that there are other things that we can leverage to help us to produce things in better ways for individuals, while still dealing with the inclusivity component. I have confidence that, if we look towards a degree of innovation with technology for that, many of those things will be dealt with. We will need to have that in place, and PHS has recently done that through its digital strategy. That is a component of what will help us to produce our collateral, not just in terms of communication but how we produce data, how we could localise health inequality information down to localities in a better way and so on. There are so many opportunities, and I feel that, in relation to this particular matter, communication will be very helpful.

Paul O’Kane: Nicky, do you want to add anything?

Nicky Page: No, I think that I covered resources at the start, so I will stop there.

Paul O’Kane: You did, indeed. We heard that. Thank you.

The Convener: We move to questions from Evelyn Tweed.

Evelyn Tweed: Thanks, convener. Good morning, everyone. Thanks for your answers so far and for being here. How effective is the Equality and Human Rights Commission at regulating public authorities’ performance against the public sector equality duty?

Jillian Matthew: We do not audit the EHRC, which is a UK-wide organisation, but we work quite closely with it because, potentially, our work can overlap in places. We regularly discuss our respective work programmes and try to ensure that our work is complementary and does not overlap too much. We sometimes work collaboratively with it. I am sorry to keep banging on about tackling digital exclusion, but we worked with the EHRC on that. It, too, was doing some work on digital exclusion, and our work helped to inform what it should look at, so that we were not doing the same thing.

It was mentioned in the earlier evidence session that the EHRC has a very small team and limited resources; I think that there is more that it would want to do but is not able to.

The guidance that it provides on the PSED is clear and helpful, and it works closely with the Scottish Government on monitoring and supporting listed authorities in relation to the PSED. A few months ago, the Scottish Government and the EHRC, with a few different parts of the public sector, jointly hosted a series of round-table events on developing equality outcomes. Lots of public bodies are currently developing those for the next four-year period and that was a good way of supporting multiple bodies at one time and answering many questions—there was a lot of knowledge and information exchange.

There was a separate event for scrutiny bodies and regulators, and Audit Scotland had an input to share our experience, because we have developed a lot of things over the past five years around our approach. The EHRC draws on other organisations to help to deliver its messages, get the word out and share good practice on what is needed around the PSED.

John Dawson: I cannot comment on how effective the EHRC is across all public bodies, but Public Health Scotland has found that the guidance and good answers that it provides have been beneficial to us. That is as far as I can go,

because I do not have the commentary on how it is with other bodies.

Nicky Page: It is a fine small organisation with a big impact. It releases really good and helpful documentation; its document set is used by most public organisations as the indication of where we should be and what the interpretation should be. It is really helpful in areas that are quite complex.

It is more difficult to get individual help if you are dealing with something thorny or that is unique to public sector bodies. It is just not set up to do that. However, it should have a future role and receive investment to be able to do more in that space, because, in my experience, its advice and guidance is invaluable.

The Convener: Thank you. We move on to questions from Marie McNair.

Marie McNair: Good morning. I asked a similar question to the last panel, so if you were here, you will know what I am going to ask.

Reform of the public sector equality duty started back in 2018 and, as you know, the process was interrupted by Covid. Did the delay affect your organisation’s ability to fulfil the PSED? The previous witnesses said that that was not their experience; I would like to hear from you.

Nicky Page: I am pleased to say that Covid did not slow down our duties. In fact, our chief constable proactively took an opportunity during Covid to push into that space. During that time, Sir Iain gave his statement committing Police Scotland to being anti-discriminatory and anti-racist, and we created our policing together EDI strategy and our strategic oversight board. We also embedded our plans throughout the organisation. We created two equality modules and reformed our probationer training to embed them there. Covid could have been an opportunity to delay things but, through strong leadership, it did not have that impact.

Covid highlighted—very obviously in policing—the differences in communities. Our leadership team looked at that and said, “This has got to be an opportunity. We see the inequality that Covid can cause in communities, so we as an organisation have to do our best, as far as we practically can, as a public body, to make sure that that has limited impact.” The chief constable and the leaders seized that opportunity by the horns and we pushed into that space. As a consequence, we did a lot of learning in that period.

Marie McNair: It is good to hear that.

John Dawson: Internally, PHS progressed with forming different approaches: an anti-racist approach, equality approaches and now, the emerging policy.

For us, extending the thinking about the specific categories tips over into thinking about not just internal matters but health equality and prevention. Many people with the nine protected characteristics are impacted by that in some way—for example, women live longer but experience more mental health issues and such like. Even during the Covid period, with all the difficulties that that presented and PHS being a lead agency in relation to it, a lot of our underlying prevention activity continued and will have had a direct impact on those particular groups. That is how widely we think of it. The HPV—human papillomavirus—vaccine is still running through and almost 90 per cent of early components in relation to cervical cancer are being dealt with. The minimum unit pricing of alcohol has made a difference and reduced alcohol-related deaths by more than 13 per cent. The childsmile programme reduced cavities and other dental issues for children over that period. Hepatitis C is close to being removed in Scotland. All that preventive activity, which impacts directly on those groups, very much continued while we were also dealing with Covid.

The PSED has been there but it might not always have had a clear alignment. We might not always have understood that it was one of the components that was driving our work, because it is core to our business. However, I do not think that the delay in reform impacted our duties. Now that we are beyond Covid, we have the leverage to advance things at a faster pace. Public Health Scotland can now focus more widely on other health initiatives and other equality initiatives.

Marie McNair: Jillian, do you have anything to add?

Jillian Matthew: Yes. Internally, it did not hold us up; actually, it helped refocus our priorities around equalities. Through the work that we were doing externally, we saw the impact that Covid-19 was having on different groups of people and we did a series of reports focusing on the impact of Covid-19.

As John Dawson said, there was a lot of learning to be taken from Covid-19; unfortunately, not all of it is still there, but we did undertake a review of community empowerment, highlighting some of the things that worked really well during Covid, such as getting things out quickly to communities and ensuring that a lot of the bureaucracy and red tape did not get in the way. It really helped us to focus our work programme on a lot of equality issues; indeed, we are still picking up things in that respect with regard to education. In our latest report on additional support for learning, for example, we highlight the big impact of Covid-19 on people with those needs. It is certainly something that we have drawn on and

learned from, and we have been trying to share that learning across the public sector, too.

Marie McNair: That information was really helpful to our committee. I will hand back to you now, convener.

The Convener: We move on to questions from Maggie Chapman.

Maggie Chapman: I want to shift focus and look at the three needs covered in the general duty. The third need—fostering good relations—is, I think, often ignored, seen as less important or is just talked about less. It is certainly our understanding that there is a lot of focus on equality and discrimination, but the fostering of good relations can get missed out.

Perhaps I can start with you, John. How can we talk about fostering good relations in a way that makes sense to people? What work does PHS do on the third need, not only to develop good relations, but to support others in doing the same?

John Dawson: I think that the best evidence that I can give you is that, internally, it is something that we have focused on. I would refer to it as an intersectional lens, in the sense that our intention is to go beyond the general and specific duties to understanding that third component—that is, fostering good relations.

If our general approach is truly to be compassionate, part of that will be about the conversations that we have and that human aspect. What I see now—and what I see continuing—is a lot of our conversations on particular duties having that intersectional component. In other words, people with different characteristics are part of the same conversation; our staff groups congeal across those different things; and we have connections with and partnership from our staff representation component, which looks at all those particular components. Therefore, I feel that what we do internally contains a very strong essence of that.

Externally, we take a wide approach to engagement, but we are also mindful that Public Health Scotland does not always own the relationship with individuals. For example, when we engage with a local community, we will be dependent on other lenses—say, the director of public health, the local authority or the community planning partnership. I will have to come back to you if you want a specific example of how that component works for us in our external engagement, but I do see it happening internally. Moreover, in our new strategy, that intersectional component will continue to form part of how we deal with such matters.

Maggie Chapman: Your comment about who owns the relationships is interesting, because the

question is: how do we foster good relationships? How do we act and treat each other with compassion, if we are not controlling the spaces? If there is more that you can provide on that after today, I will be interested to read it. Thank you for the offer.

Nicky, you talked earlier about the challenges that Police Scotland has faced and the recognition of institutional racism by two chief constables. How does Police Scotland foster good relations, given that charge, which has been accepted by the institution that is Police Scotland?

Nicky Page: It is a multifaceted issue, and I could spend a whole day talking about it—but I will not. [*Laughter.*]

Maggie Chapman: Thanks.

Nicky Page: However, I think that it starts with the community and it probably ends with the community, too. Policing is in the front line in relation to a community and there are rubs in communities—different communities and different racial groups—and policing must get the balance in society in order to support people to be their authentic self, to live and thrive in their community and to protect their human rights.

12:00

We community impact assess, we engage with community leaders, we hear those voices and we police in accordance with what that community needs. Sometimes, we are policing groups with very different positions, as we have seen in Glasgow. We saw what happened down south with some of the race issues earlier in the year. We did not have that violence in Scotland, which I think was down to our response and the engagement with our communities, as well as the Scottish people's response to the events.

It all comes down to engaging with communities, the community impact assessment and our national decision model. We have also changed our cultural attitude. We used to use the term “hard-to-reach communities” all the time, but that puts the onus on those communities to engage—almost like it is their fault. We now speak about the “seldom heard” and we talk about hearing those communities. That is a big cultural shift for us. The emphasis is on us to reach out, to understand and to respond. That is a key cultural change.

We have had community impact assessment in Scotland for a very long time, but how we treat that now, how we liaise and what our responsibility is in that regard is very much framed in that different way. Getting it right requires a balancing act for all communities, but we are in a far better place than we have ever been because of some of

those cultural changes and the fact that we have accepted that we have got a lot of work to do.

Maggie Chapman: I want to tease that out a little bit more. I am familiar with the turnaround from using the term “hard to reach” to using the term “seldom heard”. The framing that I like is “easy to ignore”, because that makes it very clear whose responsibility it is to engage. However, even those terms can fail—that might be because of one incident or maybe decades of incidents of discrimination and prejudice by the police—because communities or individuals in communities do not want to engage with the police and might even feel threatened and intimidated by them. How do you foster good relations in those situations?

Nicky Page: Again, that happens through multiple routes. The LGBTI community is an example. Their lives and how they lived them used to be policed in a very active way, so you can understand why that community in particular does not have a lot of confidence in the police. So, it is about building confidence—how we police marches, how we liaise with the community, how we create opportunities and how we record hate crime and how we respond to that. All those things will give confidence to a community. As you rightly said, confidence is hard won but easily lost. One incident can mean that we are back to focusing on community leaders and trying to rebuild.

It is a constant journey for policing, but it is also about the workforce. As you bring people from diverse communities into policing and they see the genuine commitment to make it better and accessible for communities, and they see our active response to hate crime in their community, that makes a big difference. They then become our voices in a community. They will tell people, “That’s not how it happens.” That helps to breed confidence, but it is a constant journey and you can never take your foot off the gas.

Maggie Chapman: We could probably go on with this conversation—

Nicky Page: We could talk for a long time—

Maggie Chapman: —particularly in relation to some of the other rights that you talked about, such as marches and the right to protest. Some communities clearly feel over-policed, but that is perhaps for another day.

Jillian, given your scrutiny role across the public sector, where are the good points when it comes to fostering good relations, and where do we fall short?

Jillian Matthew: Similarly to what John said, Audit Scotland probably thinks about that aspect more internally. We will be picking it up through our work, but perhaps not thinking about it through

that lens, as such. We will set out findings in our reports and make recommendations where we see gaps and inequalities.

I am struggling to think of something specific, but the issue of stigma comes up a lot in certain areas. Recently, we produced a report on alcohol and drug services, and we found that stigma is still a big issue in relation to people who use alcohol and drugs, including, quite surprisingly, on the part of the staff who provide services to that group of people. Those sorts of preconceived ideas can get in the way of what needs to be done, as they can lead to people being treated differently or viewed as less important.

Obviously, a lot of work is going on around trauma-informed practice. That report included examples of how some areas are trying to address stigma and ensure that there is better understanding of the issues, such as the knowledge cafés—I think that that was the name—that are attended by medical students and people who have experience of substance use, which give the students a much better understanding of the reasons why people might be in that situation and enables them to view things from a completely different perspective. Such initiatives can break down the stigma and misconceptions around different aspects of inequalities and elements of protected characteristics.

Maggie Chapman: Creating the spaces for those conversations to happen is important, but it can be challenging to do that when you are dealing with two opposing groups who are potentially in conflict. Do you see public bodies as having an awareness of their duty to consider fostering good relations, or do you think that that is actually a kind of a sideline that is forgotten about and not really spoken about because there are no clear metrics and data around it? Should this committee or the Scottish Government work on that a bit more?

Jillian Matthew: I think that, of the three needs, that is the one that is not as well known—there is a focus on preventing discrimination. It is important to help public bodies to understand what fostering good relations would look like. I suppose that that work is difficult to measure and evidence, but it would be helpful to give public bodies examples of good practice around how to foster good relations.

Maggie Chapman: Thank you; that is helpful.

Pam Gosal: Good afternoon. I want to come back to the case of Sandie Peggie, which you may have heard me speak about with the earlier witnesses. At a time when our NHS is struggling to recruit and retain staff, what happened in that case is the last thing that we need. Women need to feel

safe at work, so why would they want to take a job where they are forced to strip naked in front of men? What are your organisations doing to ensure that we do not have another Sandie Peggie situation? Do you believe that you are complying with the Equality Act 2010? Do you believe that gender self-identification is trumping that act in terms of women's rights?

John Dawson: The best way to address that question is to say that PHS takes seriously public sector equality duties across the piece, and that one element does not outbalance the others. It is important to state that, and it partly answers your question.

As an NHS board, PHS takes the position that NHS Scotland has the once for Scotland workforce policy. As I understand it, NHS Scotland is reviewing that, and guidance on access to changing rooms and equivalent facilities is due out soon. We will look at that—that will be the conduit by which we approach the issue.

In a wider context, as we are dependent on that policy and I do not have facilities as part of my responsibilities, if you have any more detailed questions about how the policy operates, I would need to take those away and come back to you on them. As I said, Public Health Scotland, as a national board, will look towards that once for Scotland workforce policy and the guidance that will come out shortly.

Pam Gosal: Will that guidance be out this year?

John Dawson: Yes, I understand that it will be.

Pam Gosal: Okay. Do you know—please say if you do not—whether that guidance will be interpreted through policy or the Equality Act 2010?

John Dawson: I do not know.

Pam Gosal: That is fine—I thought that I would just ask.

Nicky Page: Similarly to what John said, we equality impact assess any provision, criteria or practice that we plan to put into place. Our estate is hugely varied. We have what I suppose you would say are single-use spaces—they are effectively single sex as soon as a person goes into them—and we have broad-use changing rooms with cubicles at the side. The estate ranges from 100-year-old to recent buildings and as we renew them, we always look to upgrade them and make sure that they are fit for a modern workforce. Are we able to do that for every single piece of our estate? No. Can I give you absolute confidence that we will have every provision in place across our estate? No. However, that is certainly an ambition of our wider estate strategy. As we reform our workspaces, we will look to ensure that provision is in place to balance all people's needs.

Jillian Matthew: Likewise, we carry out impact assessments of any of our policies. We do not have the same kind of extensive facilities—changing rooms and so on—in our organisation and it is not something that has come up so far in our audit work, so I cannot comment on the wider public sector.

Pam Gosal: Thank you. I have one more question, which might be for either Nicky or Jillian to answer. The police force in Scotland is obviously predominantly male and it is often faced with difficult situations and dangerous criminals who are also predominantly male. We have seen examples in Scotland of rapists claiming to be female just to be housed in women's prisons. Current guidance states that only men with a known history of violence against women, including sexual violence, are excluded from the female estate. That policy is not only based on gender self-identification, which is not the law of the land, but ignores the fact that most violence against women goes unreported.

I am struggling to understand why the Scottish Prison Service believes that the responsibility for affirming the identities of male criminals should fall on women prisoners. Do you believe that the Scottish Prison Service is complying with the Equality Act 2010, or is self-ID trumping the 2010 act over women's rights? I will go to Jillian Matthew first. Has any work been done on that in your area? I will then go to Nicky Page and, if John Dawson wants to comment, that is fine as well.

Jillian Matthew: Again, there is nothing in our work that has specifically covered that, so I could not comment on it. That question gets more into the legal aspects of the issue which, as you know, we are not experts in. I think that that would come more under the EHRC.

Nicky Page: It is for the Scottish Prison Service to comment on its policy and procedure and to ensure that that is impact assessed and compliant with regulations. Our chief constable made a very clear statement that, if you allegedly commit a rape, you will be recorded as a male. That is unequivocal; she put that out in a statement. We are very clear on our position.

In terms of how Police Scotland houses people with regard to sex and gender, women and men are housed separately and there is normally single-cell occupancy, which means that, if there is any doubt, there is no risk.

Pam Gosal: Thank you. Nicky, there is another area that you may not know about or that you may have read about in the media, which is how we can ensure that women are not strip-searched by men. I think that that has come up in England. Does Police Scotland have policies on that?

Nicky Page: We have provisions in place to ensure dignity while also ensuring safety. There are different ways of achieving that in different areas of the country, depending on the demographic of the workplace. Obviously, we have support in circumstances where health checks are needed. All those things are in place. I am probably not the best person to speak to it, but we have put public statements out on it.

Last week, England and Wales released the National Police Chiefs Council guidance on the issue. I do not doubt that we in Scotland will look at that and see how it influences—or otherwise—our guidance.

12:15

Pam Gosal: Thank you. That is all from me, convener.

The Convener: We now move on to questions from Tess White.

Tess White: Nicky, I will come to you first. I am going to concentrate on three of the nine protected characteristics—religion or belief, sex and gender reassignment. In the equality impact assessment that you say has been done, did Police Scotland take into account the workplace regulations and the rights in the Equality Act 2010 to single-sex spaces when devising your transitioning at work policy?

Nicky Page: Yes; we have an equality impact assessment on that and it is freely available to the public.

Tess White: You have published the results of that assessment?

Nicky Page: Yes.

Tess White: Has anybody complained about single-sex spaces and access to them?

Nicky Page: We have 0.02 per cent of our workforce who would say that they are trans and we have put arrangements in place to ensure that that small minority has suitable facilities.

Tess White: Okay. I am looking at the three protected characteristics that I mentioned—religion or belief, sex and gender reassignment. My understanding is that there is some concern at the police training college about the conflict of rights. Are you aware of that?

Nicky Page: I have not seen any formal grievance about that, but I know that we have had open dialogue at our diversity staff association discussions and we have sourced views.

The equality impact assessment that was produced for our formal procedure went through the diversity staff associations and got their views. The Christian Police Association and the Scottish

Police Muslim Association are two that covered the religious aspects, and there was also the Scottish Women's Development Forum, obviously. The issue was consulted on completely and all the views of those groups were fed back to us.

Tess White: You have not mentioned Police SEEN—the Police Sex Equality and Equity Network. Have you taken input from that group?

Nicky Page: SEEN has asked for recognition and we are still looking at its submission. SEEN is not just a policing diversity staff association, it is wider than that. The last time that I checked, it was not recognised by any police force in England and Wales, so it is not yet recognised by any police force. That is not to say that it will not be, but it is still in the process of applying to become a diversity staff association.

Tess White: As you know, we have covered this previously, and my background is in human resources. When networks are being formed to give feedback on policies and their implementation in a workplace setting, that feedback normally goes to the different groups. It is important that you look at all groups, not just the ones that are skewed in a particular direction. Bearing in mind the landscape that we are in currently, are you therefore saying that you will be taking views from Police SEEN?

Nicky Page: No, I am not saying that. I am saying that it is still being considered. The Scottish Women's Development Forum would also see itself as representing women's views and as doing that efficiently and effectively. We have provision and we have liaised with groups. We are certainly looking at that group but no decision has been made on it yet.

Tess White: If an employee or a group of employees has a concern about, let us say, the police training centre at Tulliallan, how would they raise that with you, the chief inspector or HR?

Nicky Page: There are a number of routes for raising such a concern. The diversity staff associations are one route. They can go through our normal grievance process if they want something to be addressed. There is also our confidential reporting route. There are lots of ways of reporting something like that. We also run truth to power sessions with staffing groups, which can raise members' concerns and queries at those forums. We have various ways of raising a concern or voice and getting it into the system.

Tess White: My final question is about anonymity, particularly for something as sensitive as this issue. People are concerned about their employment prospects if they raise concerns. Would they just go through the whistleblowing procedure if they wanted to remain anonymous?

Nicky Page: A confidential reporting line has been set up and people can report anything anonymously through that.

Tess White: Who reviews that?

Nicky Page: It is an independent organisation that sends stuff to our organisation.

Tess White: How often do you review that, as the head of HR?

Nicky Page: Anything that is sent in that should be for my attention would come directly to me. Professional standards owns the contract and the external organisation supports it. It comes from professional standards to relevant departments depending on the matter that has been raised. If it related to HR, it would come to me.

Tess White: To summarise, you have done equality impact assessments and risk assessments against the nine protected characteristics and you have looked at the risks that are associated with those in relation to the workplace setting. In response to my question about Police SEEN, you said that it has made a submission but you have not fully reviewed it or given that group feedback.

Nicky Page: We have looked at that group and we are yet to decide whether we will introduce more diversity staff associations or, indeed, what we are doing about wider diversity staff association resources and so on. We are reviewing that landscape.

Tess White: What is the timing on that?

Nicky Page: That is a good question.

Tess White: Will it be some time this year?

Nicky Page: It is not entirely my responsibility but it is being looked at. Wider discussion with partners is also being planned and it will inform that.

The Convener: That concludes our formal business in public. I thank you all for attending.

12:22

Meeting continued in private until 12:32.

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