

# **EDUCATION COMMITTEE**

Wednesday 31 May 2006

Session 2

£5.00

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## EDUCATION COMMITTEE

### 14<sup>th</sup> Meeting 2006, Session 2

#### CONVENER

\*Iain Smith (North East Fife) (LD)

#### DEPUTY CONVENER

\*Lord James Douglas-Hamilton (Lothians) (Con)

#### COMMITTEE MEMBERS

Ms Wendy Alexander (Paisley North) (Lab)

\*Ms Rosemary Byrne (South of Scotland) (SSP)

\*Fiona Hyslop (Lothians) (SNP)

\*Mr Adam Ingram (South of Scotland) (SNP)

Mr Kenneth Macintosh (Eastwood) (Lab)

\*Mr Frank McAveety (Glasgow Shettleston) (Lab)

\*Dr Elaine Murray (Dumfries) (Lab)

#### COMMITTEE SUBSTITUTES

Richard Baker (North East Scotland) (Lab)

Rosie Kane (Glasgow) (SSP)

Mr Jamie McGrigor (Highlands and Islands) (Con)

Mr Jamie Stone (Caithness, Sutherland and Easter Ross) (LD)

Mr Andrew Welsh (Angus) (SNP)

\*attended

#### THE FOLLOWING GAVE EVIDENCE:

Ewan Jeffrey (Gay Dads Scotland)

Nico Juetten (LGBT Youth Scotland)

Fergus McMillan (LGBT Youth Scotland)

Michael Mesarowicz (St Margaret's Children and Family Care Society)

Rebekah Pratt (Rainbow Families)

Sue Robertson (Lesbian Mothers Scotland)

Stephen Small (St Andrew's Children's Society)

#### CLERK TO THE COMMITTEE

Eugene Windsor

#### SENIOR ASSISTANT CLERK

Mark Roberts

#### ASSISTANT CLERK

Ian Cowan

#### LOCATION

Committee Room 2



## Scottish Parliament

### Education Committee

Wednesday 31 May 2006

[THE CONVENER opened the meeting at 10:07]

**The Convener (Iain Smith):** I welcome colleagues to the 14<sup>th</sup> meeting in 2006 of the Education Committee. As we are still waiting for some witnesses to arrive, I suggest that we change the order of business and take agenda item 2 first. Do members agree that we do that?

**Members indicated agreement.**

**The Convener:** In that case, I am afraid that I have to tell those who are just arriving that we are now going to move into private session. We are waiting for some witnesses to arrive, so we have decided to take the second item on the agenda first. I apologise for the confusion. *[Interruption.]* I have learned that one of the witnesses for the first panel is here and that we have not heard from the other witness who was due to be on that panel. Do members wish to commence with the witness who is present?

**Members indicated agreement.**

## Adoption and Children (Scotland) Bill: Stage 1

10:08

**The Convener:** We will move on to agenda item 1, which is our fourth day of oral evidence on the general principles of the Adoption and Children (Scotland) Bill. Unfortunately, Cathy Dewar from the Scottish Adoption Association, who was to be a member of the first panel, is unable to be with us due to illness. However, Stephen Small from the St Andrew's Children's Society is here, and we also expect Michael Mesarowicz from the St Margaret's Children and Family Care Society to join us. He is not here yet, but when he turns up he can join the panel.

I invite Stephen Small to make a brief opening statement before members ask questions.

**Stephen Small (St Andrew's Children's Society):** We value this opportunity to give our viewpoint on the change in legislation—I think that I can speak for my colleagues who are not here when I say that—because between us we have more than 200 years of experience in adoption and provision in Scotland, so we feel that we have a place in the adoption world in Scotland.

There are only three placing voluntary adoption agencies in Scotland, but last year between us we placed between 70 and 80 children, out of a total of 200 children placed from the care system. We believe that we have a significant role to play in the placing of children for adoption in Scotland. We welcome the bill as it stands and the opportunity that it gives to children in Scotland to live in caring families.

**The Convener:** I am pleased to say that Michael Mesarowicz has made it. I am sure that he had the usual transport difficulties in getting here, from which we all suffer at times. Welcome to the meeting, which has just started. After you have made some brief opening remarks, we will move to questions from members.

**Michael Mesarowicz (St Margaret's Children and Family Care Society):** Like Stephen Small, St Margaret's Children and Family Care Society generally welcomes the bill, which we think will be a good contribution to adoption legislation for the country.

**Lord James Douglas-Hamilton (Lothians) (Con):** Can Michael Mesarowicz expand on the comments in the St Margaret's Children and Family Care Society submission on the financial arrangements for post-adoption support when a voluntary organisation makes a placement on behalf of a local authority?

**Michael Mesarowicz:** Generally, the arrangement is that when St Margaret's Children and Family Care Society or any voluntary organisation makes a placement, it relies on a placement fee from the local authority. The fee should not be a barrier to any placement. We believe that local authorities should make placements based on children's needs, rather than on placement fees. The post-adoption element of the fee can continue until the individual reaches adulthood. A large number of people come back to us in an attempt to trace their origins. At the moment, we regard that service as part of our charitable work and do not receive a fee for it. It can be a considerable service and we anticipate that it is likely to be an on-going piece of work for us.

**Lord James Douglas-Hamilton:** I have a question for St Andrew's Children's Society. Can you clarify exactly what you mean when you say:

"We would welcome a national scheme for the payment of adoption allowances"?

Do you mean that, as the Scottish Adoption Association suggests, there should be national criteria for eligibility and a national minimum level of allowance, with local discretion as to the sums paid?

**Stephen Small:** At present, the system is quite inequitable, as it depends on how generous each local authority's adoption allowance scheme is. I will provide a quick example. We were about to place a sibling group of four children who were referred to us. You can imagine the huge impact that taking on four children, the oldest of whom was nine and the youngest of whom was four, would have on a couple's financial circumstances. The local authority means-tested the adoption allowance and offered the couple less than £100 a week, which totalled less than £5,000 a year. The allowance was supposed to compensate the female member of the couple for giving up her work and to pay for an extension to the couple's house. In the end, the couple had to pull out of the match, because they could not afford it. Despite our pleas to the local authority, it was very rigid about the fact that the couple did not meet the criteria. There is an issue of fairness around adoption allowances.

You asked St Margaret's Children and Family Care Society about adoption fees. One problem in Scotland is that local authorities generally do not like to pay placement fees for adoption. They will do so only as a last resort, which is fine, because they need to consider the public purse. However, because English local authorities are much more prepared to pay placement fees, last year 60 per cent of the children we placed with families were from England. Although some Scottish local authorities pay placement fees, most balk at the

idea. We are keen that local authorities should have a much better sense of the real costs of adoption and of what it means for children. Paying less than £20,000 per child now, compared with potentially £30,000 or £40,000 a year for foster care, is a good financial saving.

10:15

**Lord James Douglas-Hamilton:** I have a final question. Do you find that there is some discontent among elderly couples who believe that it is harder for them than for younger people to adopt? Is that an issue?

**Michael Mesarowicz:** It can be. We do not get many applicants over the age of 40, and they tend to want older rather than younger children, which is appropriate. Sometimes, age can be an issue when couples are competing against other couples for children.

**Stephen Small:** The law does not allow agencies to discriminate against people because of their age; however, when we are considering what is best for children, people need to prove to us that they have the energy, stamina and ability to care for children in the longer term. Most couples who come to us or to St Margaret's Children and Family Care Society are assessed on that basis, not on what age they are. That is a false way of looking at it.

**Ms Rosemary Byrne (South of Scotland) (SSP):** The view has been expressed that contact with birth families should be supported and monitored, but that there should be a means of terminating that contact, if necessary. What involvement would you like to have in drafting the guidance for that? Why is that so important and what sort of guidance would you like there to be? I realise that that is a big question; we may ask you to give us something in writing on that later.

**Stephen Small:** Contact in adoption has grown over the past 10 years. For most children in adoption, it is probably normal that there will be some degree of contact. The vast majority of that contact will be information exchange through a third party; it is not about birth families having direct contact with their children. There are a growing number of those arrangements, and the vast majority of them are right and proper for the child. The issue is whether a child needs that kind of contact to maintain a good sense of their identity as they grow up.

For children who need that, that is fine; however, we feel that the practice has run away ahead of people's understanding of some of the effects of contact on children. At the moment, there is no system for reviewing contact arrangements. Often, a child is placed who is to have twice-yearly face-to-face contact with their birth mother or birth

grandmother; however, no one is given the role of organising that contact, monitoring it and reviewing it to see whether it is still meeting the child's needs. Often, it is left to the adoptive parents to say that they do not want their child to experience that any more because they think that it is detrimental.

We do not think that it is fair or right that adoptive parents should be the ones having to make those decisions. That can lead to resentment in the future if the child blames the adoptive parents for stopping them seeing their birth parents. Therefore, in some of the arrangements with which we are involved, we set up a system and say that, prior to a meeting, the child, the adoptive parents and the birth family will meet someone who will ask them what they are hoping to get from the contact. Afterwards, they will meet that person again, who will ask them whether the contact achieved what they had hoped that it would achieve and, if not, what happened. Specifically, the person will ask them how the child has been affected by the contact and whether the contact should continue. I could give you more detail on those arrangements in writing.

**Ms Byrne:** Thank you. That would be helpful.

**Michael Mesarowicz:** At the beginning of a placement, contact can be a hurdle for prospective adoptive parents. There may be the expectation of contact or some established contact, and the thought of that contact continuing indefinitely throughout the child's life could be an obstacle to some adoptive parents until they start to tease that out. As Stephen Small says, the responsibility for contact is often left with adoptive parents, who perhaps have to make such decisions without the support and guidance of other people.

**Ms Byrne:** So, support and guidance are the key. Obviously, the child's needs will be at the top of the agenda. Do you envisage that when a child reaches an age at which they can ask for more or for less contact, that would be listened to as part of providing the guidance that we are talking about?

**Stephen Small:** That would be best practice. It is easy to say that as a professional who works in adoption, but that might be more of a challenge for an adoptive parent, because that could happen at the point in a child's life when things were becoming more difficult. In adolescence, a child might start to use that as a way of getting back at their adoptive parents. However, that is a reality and would happen anyway, so it is better to manage it.

**Mr Frank McAveety (Glasgow Shettleston) (Lab):** You have both given the committee extensive submissions on improving and

increasing the pool of potential adopters, but your submissions have caveats about the range of adopters. Will you expand on why you arrived at your views and on how credible they are in relation to the evidence that the committee has received?

**Stephen Small:** We are in a kind of difficult situation, as we need to take into account the interests of a variety of stakeholders. The practice of my agency and of Michael Mesarowicz's agency has developed differently. There are probably some inconsistencies in us as an agency approving unmarried heterosexual couples and not same-sex couples. We really want to keep children's interests central to the debate. We feel that society has changed a lot since the existing adoption legislation was introduced and that we have tried to move with changes and trends. We have approved unmarried heterosexual couples, because to be brought up by such couples is more and more the norm for many children in our communities and reflects where they are coming from.

We still have an issue with the effects on children—especially those from the looked-after system, who have probably experienced major disadvantage and discrimination—of being placed in what we regard as an untested family situation. We would like more evidence about children's experiences of being brought up in same-sex adoption situations before we involve ourselves in that. Adoption is about children, not adults. We want to hold to that.

**Michael Mesarowicz:** I echo some of what Stephen Small said. Our view is not a reflection on individuals or homosexuality per se. We recognise that society has changed and is changing. Our aim is to place children who have had to be removed from their family of origin, and who may well have been disadvantaged, in the best option for them. My submission says that placing children with a same-sex couple is likely to present additional dilemmas for them that they are probably not best placed to deal with at the point of placement. Children have a vested interest in securing a placement and might not be as mature as they will be in years to come, so we must make decisions for them. Placing a child with a same-sex couple presents additional dilemmas that do not arise with a heterosexual couple. Our view is simply that the best placement is with a heterosexual couple rather than a same-sex couple.

**Mr McAveety:** Of the couples who have sought to adopt with your agencies, what percentage are unmarried heterosexual couples and what percentage same-sex couples?

**Michael Mesarowicz:** I am not aware that many unmarried couples apply to St Margaret's. We have some single applicants, who we assess. I am

not aware that any same-sex couples have applied to us.

**Stephen Small:** A tiny minority of our applicants are heterosexual unmarried couples. In the past four years, we have approved about 80 families, of which perhaps two involved unmarried heterosexual couples.

In my time with the agency, which is more than 10 years, we have had about three inquiries from same-sex couples. We tell them that the current legislation does not allow us to approve them for adoption as a couple and we refer them to agencies that are in a better position to meet their needs. Recently, I had conversations over a period of about three weeks with a same-sex couple about the difficulties that they were having, ironically, with a local authority approving them for adoption. The authority was not facing up to the issues, so the couple felt that they were being delayed and that their application was not progressing. If an agency takes on an application, it must be taken seriously and progressed. I tried to give the couple assistance and advice about who they might contact to try to move on their application.

The issue is difficult, because we are talking about children's needs. We do not know how children will feel growing up in what is still regarded as an unconventional family situation.

**Fiona Hyslop (Lothians) (SNP):** The committee has heard from looked-after children about the stigma that they feel as a result of being looked after. We know about the life chances that they do not have because of poor educational attainment, homelessness and other problems. Do you suggest that a child is better off in institutional care than they would be in a stable same-sex family, provided that the couple had gone through a rigorous assessment process? If we do not accept that we should open up opportunities for looked-after children, we will condemn many of them to stay in what is an intolerable situation.

**Stephen Small:** That is the crux of the matter. Clearly, the best chance for every child comes from being in a home in which they are loved and cared for by adults. If that cannot be with their birth family, it should be with a substitute family that can provide that. A person's gender or sexuality does not determine how loving they will be to a child. I accept that that is an issue. However, we have an opportunity to learn from the experience in other countries, such as our neighbours south of the border. In a short period, we could readily get a sense of how the measures are panning out and get feedback from children. At that point, we might be able to make a better decision for children.

**Michael Mesarowicz:** That is the crux of the issue. We do not want children to underachieve.

An issue arises about whether someone's sexuality diminishes their parenting skills. I do not think that that is the case, but we are considering the best option for children at present.

**Fiona Hyslop:** I detect that you do not want us to make a decision and that you would much rather that the research was done elsewhere and that we waited to see what followed. How on earth will we get an evidence base to provide proof if we do not provide an opportunity to have that evidence? Should we wash our hands in Scotland and say that we will leave it to England? Should we not take responsibility for our children in Scotland?

**Stephen Small:** That is an argument. As far as I am aware, three countries in the European Union have approved same-sex couples to adopt, so we would not be waiting to see what happened just in England. I accept your point that we can never get evidence that something is good for children until we try it. However, in some respects, that is risky for the children who have to be at the forefront.

**Mr McAveety:** Even if overwhelmingly positive evidence existed, your organisations probably have philosophical and theological views on the proposal that would make it difficult for you to agree to it. I acknowledge your caveat about the evidence to which the adoption policy review group referred. The body of evidence is not heavy, but most of the evidence that we have been given in informal groups and formal meetings has been strongly that, on balance, allowing same-sex couples to adopt is the right decision. Your submission is not necessarily consistent with those views. Is that a philosophical view that you will hold, even if the evidence suggests otherwise?

10:30

**Stephen Small:** One of the problems we have that other agencies do not is that we have a wider stakeholder group whose needs we must meet. One of the stakeholders is the Catholic church, which has been vocal about what it believes is the right and proper family unit that children should be brought up in.

The consultation has at least backed up the fact that, for most children, the best place to be brought up is within a loving and caring married family situation. That is still regarded as the most solid base for families in our society. It has been quite hard to have an open debate about this issue as there are strong feelings about it. However, unless you can air your views, how can you arrive at the right decision? Agencies that wanted to debate the right solution from the children's point of view have found that a bit difficult to do. About 87 per cent of people who responded to the consultation had a problem with same-sex couples



adopting. There is an issue about public perception that needs to be taken into account.

The Catholic church is very much part of our identity, as our organisation was started by the Catholic church. However, the cardinal, who is still our president, has never interfered with what we thought of as the best social work adoption practices for children and we would not expect him to. We will live within what the law tells us that we need to do. However, I would point out that the English Catholic adoption agencies and other faith-based adoption agencies, such as Jewish adoption agencies, have been given a faith opt-out.

**Michael Mesarowicz:** My organisation's background is similar to that of the St Andrew's Children's Society. We were founded by the Catholic church, which means that, in effect, it is our stakeholder. Like the St Andrew's Children's Society, we are a professional social work agency and operate according to the legislation. This is our chance to express a view about the sort of placements that we are discussing. As Stephen Small said in relation to his organisation, our organisation is bound by the legislation and will continue to be so. That will be an issue for us to live with.

**Mr McAveety:** If the bill is passed, will its provisions cause you any practical difficulties?

**Michael Mesarowicz:** We would have to go back to our board of managers and look at how we operate. Obviously, however, if the legislation told us not to discriminate, we would not do so.

**Stephen Small:** Many of the faith-based agencies in England would have closed if they had been forced to place children with same-sex couples because the church would have said that that was not acceptable. I do not know whether we are in that position. Time will tell. We will deal with that when we come to it.

It would be a pity if Scotland lost some of its variety of placements. The options that the voluntary sector offers with regard to adoption are quite important. Generally, we have more experienced adoption staff and a good level of staff retention. It would be a shame to lose that.

**Dr Elaine Murray (Dumfries) (Lab):** On the issue of faith-based organisations being allowed to opt out, what exactly is in the English legislation that is not in the bill that we are discussing? In which section is that provision located?

**Stephen Small:** I understand that the opt-out that allows agencies of a faith-based nature to opt out of the requirement to provide adoption services for same-sex couples is in the regulations rather than in the primary legislation. Most of the English agencies that are trying to operate in that

system are examining their procedures and trying to decide how they will respond to inquiries from same-sex couples. There are about three lines in the regulations that state that agencies with a faith-based background that gives them difficulty with placing children with same-sex couples can opt out.

**Dr Murray:** So the provision is not in primary legislation and it would not be impossible for ministers to do the same thing here if they were so minded. There is nothing in the bill that would force you to place children with same-sex couples, is there?

**Stephen Small:** If we did not do that, we would be accused of discriminating—probably rightly so, because the law says that we should have an open-to-everyone policy.

**Dr Murray:** But that is not about the bill, is it? The Equality Act 2006 is the problem, as far as the issue of faith-based organisations is concerned.

**Stephen Small:** Well, yes, that is on the go; I think that the submissions for that are just finishing. We made a submission to that, as well. Anecdotally, people are positive that the opt-out in the adoption legislation in England will be replicated in Scotland, but who knows?

**Dr Murray:** So that is something to press ministers on.

**Stephen Small:** Yes.

**Dr Murray:** Finally, do you agree that children should be placed where it is in the best interests of the child rather than the best interests of adoptive or prospective adoptive parents, and therefore that no adoption agency should place a child with any couple—same-sex, unmarried or married—unless it is in the best interests of the child to do so?

**Stephen Small:** Of course. Yes.

**The Convener:** Elaine Murray asked about the practical operation of the legislation. The present legislation permits adoption by a homosexual person—male or female—but not by a couple. What is the practical difference between permitting a same-sex couple to adopt and permitting a single homosexual person to adopt?

**Stephen Small:** In the end, it is about recognition of the partnership. That is the difference. From our point of view, the Catholic church views such a relationship in a significantly different way from how it views a single person. As you probably know, the church has lines on homosexuality. For me, that is the difference. That is the pressure on us, I suppose.

**Michael Mesarowicz:** In essence, we are assessing two different kinds of placements. We are not assessing the person's sexuality. We are assessing the suitability of the couple or the

individual person. We would be looking at a placement with a same-sex couple and, as we said in our submission, we do not regard that as part of the mainstream of society at large at the moment.

**Mr Adam Ingram (South of Scotland) (SNP):** Elaine Murray referred to the best interests of the child. Adoption UK told the committee that, for some children, placement with same-sex couples is more appropriate because the child has suffered abuse from an adult of a particular sex. Will you comment on that reflection from Adoption UK?

**Stephen Small:** Every child's situation is different, but I do not necessarily subscribe to the view that, if a child has been abused by a male, they should therefore not be helped to repair the damage by recreating a relationship with another male. For some children, that might be the case, but how will a child ever come to terms with what happened to them, understand that and move on if we cannot repair the damage to their trust in male or female persons?

The other thing is that single parents, who may adopt under the current legislation, generally wait much longer for placements. That is not about the legislation. It is about what practice is still saying most children need. The national adoption register in England and Wales has published its statistics, which reveal that single parents wait much longer for adoption placements. Rightly or wrongly, the perception still exists that single parents are less suitable to be adoptive parents. We cannot address that through legislation; we need to change people's views of single parents and to argue that, for some children, adoption by a single parent will be the right thing.

**Michael Mesarowicz:** I appreciate that some people may well have such a view about how individual children can be helped to come to terms with the sexual abuse that they have suffered, but adoption is not necessarily the main vehicle for repairing that damage. Other therapeutic interventions may be available to help such children to come to terms with the abuse that they have suffered.

**Mr Ingram:** We have been told many times that there is a shortage of therapeutic services.

**Dr Murray:** You have a problem with recognising gay couples' suitability to adopt, but if you received an application from a single person who turned out to be in a gay relationship, would you turn down that person as an adoptive parent?

**Stephen Small:** I suppose that it would depend on the stage at which the information became known. If someone deliberately concealed the fact that they were in a gay relationship to get through the process, that would be an issue for us, because honesty and openness are important.

**Dr Murray:** Under the current legislation, if a single person who wanted to adopt was honest about the fact that they lived with a same-sex partner, would that count against them? Would you be unable to place a child with that person?

**Stephen Small:** We would probably suggest that they go to another agency that could deal with their application more sympathetically.

**Ms Byrne:** Do you believe that the bill's proposals on permanence orders will achieve the desired policy aim of providing increased stability for children?

**Stephen Small:** For an important group of children in the looked-after system, they will. Usually, the children who are harder to place are those who are a bit older—children from the age of six or seven upwards—and who have had significant experience of abuse and neglect. Because it is hard to predict that adoption will be successful for those children, it is difficult to obtain a resource for them, although in some cases we do.

As an agency, about five years ago we started a fostering service that aimed to provide long-term, permanent fostering for children who needed it. At the moment, the problem is that children in such a position, who for whatever reason cannot be adopted, end up in an invidious legal situation in which social workers visit them every six months to conduct statutory reviews. The parents who provide their care have to check whether they can get certain medical procedures done and whether they can take them on holiday, for example. I think that permanence orders will make a big difference for that small but significant number of children who have specific needs, because the orders will vest in their foster carers much more control over their lives and will remove the state as much as is right. For me, that is the key thing about permanence orders.

In addition, the preparation of children for adoption orders will be much more manageable than it is in the current system.

**Ms Byrne:** You made a point about that in your submission. In what way do you think that permanence orders will help? You seem to be saying that children remain in the system for far too long and do not have stability. How will permanence orders improve the preparation of children for adoption?

**Stephen Small:** From the planning point of view, permanence orders will create a different standard of proof that children need to not be with their families. At the moment, people are clear that the use of the legal tool of freeing orders is like using a heavy mallet to crack a nut. Permanence orders will make it possible to have a much more open dialogue with the birth parents about what

their child needs and the law will reflect such debate more effectively. Permanence orders will allow preparation for adoption to be much better managed.

10:45

**Ms Byrne:** I presume that that would include any other services and support that the child required for a smoother transition.

**Stephen Small:** Yes.

**Ms Byrne:** Would Michael Mesarowicz like to comment?

**Michael Mesarowicz:** As Stephen Small said, for us it is about the preparation of children so that they are in a position to move forward easily. We assess couples in preparation for placement. There are fewer obstacles when children are ready and prepared for placement. The couples are legally in a much better position to pursue adoption.

**The Convener:** You might not have the answers to my questions at your fingertips, in which case you can give us the information in writing.

What percentage of those who come to you to apply to become adopters do you reject? Secondly, what percentage of the adoption placements that you make break down?

**Stephen Small:** The breakdown rate is significantly lower in the voluntary sector throughout the UK. Our disruption rate as an agency last year was 3.4 per cent, compared with a national rate of almost 20 per cent. When the work is done by small agencies that only do family placement, that makes a difference because it means that all the staff are focused on the placements. Local authorities have many other balls to keep in the air and adoption does not always get priority, because for local authorities the pressure is in relation to children coming in the front door of the care system. As we do not have that pressure, we can concentrate our resources on the needs of adopted children.

Despite what members might think in the light of today's discussion, we have a very open policy. Most of the people who come to us have probably gone somewhere else first. Usually they have been to local authorities, which might have told them that they would have to wait 18 months before anyone could visit them or that they might get on a preparation group but they cannot tell them when.

When I first started with the agency, we had to work much harder to get prospective adopters. We had to be out there advertising much more than we do now and we had to find a place in the market around adoption. Many people did not

know about the voluntary agencies. That has probably changed to some extent in the past 10 years, but it meant that we had to be more open in our response to people. We have timescales for when we will visit people. We visit people in their homes rather than invite them to big meetings in the office. Once we have conducted an initial assessment of what they have to offer, we tell them when they could be on preparation groups and when they would expect their home study, and we give them all the other information that people need. Couples go down a long road to get to the point at which they consider adoption, so what they do not need is for the road to be extended unnecessarily once they have decided that that is what they want to do.

Your first question was about how many of the people who come to us we knock back. We have decided not to proceed with three couples in the past six months. In those cases, the decision has been made because of a medical condition—having sought medical views on the condition, we decided that it was not compatible with adoption—and as a result of criminal record checks that have come up with stuff that we regard as not compatible with adoption. Other than those concerns, we do not have any line on turning people down.

**The Convener:** I did not intend to suggest anything accusatory. I just wanted information for the committee on the percentage of successful applications.

**Stephen Small:** I suppose I am trying to say that we are not picky about it. The issue is what people can offer. We do not know what people can offer until we work with them and engage in a process with them. The problem for many prospective adopters is that they never get to the point of being engaged with. We think that that is wrong.

**Michael Mesarowicz:** I echo Stephen Small's comments. A number of applicants who come to us may well have been with the local authority but have become frustrated at the length of time that the process is taking. We have an inquiry at the moment from someone who has gone through the process, but who is finding that there is a long wait for placement and believes that they may have a better chance of success with St Margaret's because we will extend the areas for which they can be considered.

The disruption rate is pretty low. I do not have a percentage figure for you, but it is low. In the past year, I think that there have been one or two disruptions. Similarly to St Andrew's, we have a pool of staff whose main focus is on adoption and who are not pulled out of position to deal with other issues. As an agency, we do not get pulled into other areas, which aids our success.

**Stephen Small:** The advantage that we have over local authorities is that our primary concern is not the needs of children in one geographical area. Local authorities have to recognise the needs of the people who live within their boundaries.

For example, we approved a single woman who was black and lived in a rural area. She was slightly out of our catchment area, but she had gone to her local authority, which had told her that it did not have any black children and therefore would not assess her. Anyone who knows anything about adoption knows that black children throughout the UK are hugely disadvantaged when it comes to finding adoptive placements. If that local authority had been a bit more open minded, not only would it have found a place for a child who needed one, but it would have been able to charge a fee and generate some income for the council. Rather than being a loss maker, the case could have made that local authority some money.

**The Convener:** I am interested in the huge disparity between the breakdown rates for your societies and the national average. Is that to do with the fact that the voluntary sector has a better post-adoption service? If that is the case, do we need to strengthen the bill's provisions on post-adoption services?

**Stephen Small:** Yes—but I would say that. As I said, we have had many years of placing for adoption children who are not straightforward, young-baby adoption placements. We have been placing older children from the care system since the late 1970s, so we have built up expertise and have a better sense of what we think works in supporting families.

For local authorities, the issue is not a lack of skill or a lack of will to ensure that adoptions work, but the other pressures that local authority social work departments face. Adoption is a tiny part of their overall children's services and they would struggle to allocate what we would consider to be appropriate funding to adoption support, whereas that is all we do. We concentrate on adoption and fostering, but mostly adoption.

**Fiona Hyslop:** Where do your funding streams come from and what is the make-up of your funding? What proportions are from local authorities, generated income and charitable donations?

**Michael Mesarowicz:** St Margaret's receives a small amount of core funding from the Catholic church. We serve the four dioceses of Glasgow, Paisley, Motherwell and Galloway and get a small amount of core funding from them. However, the main part of our funding comes from placement fees. We get some charitable donations, but they are pretty small.

**Fiona Hyslop:** Is that similar for St Andrew's?

**Stephen Small:** We are slightly different in that we have no funding from the Catholic church. We have significant links with the church, but they do not result in any cash. Our income comes through placement fees, but we also have service-level agreements with three local authorities in Scotland; they come to us because we provide the service for a cheaper fee than the interagency adoption fee and because we have built up a good working relationship with them. I chair an adoption panel for a local authority, which has someone on our panel. For us, the relationship with the local authorities is positive. The agreement means that slightly less money comes out of their coffers for adoption, but it also means that we have a guarantee that they will come to us first. Before, money would have stopped them doing that.

**The Convener:** There are no further questions, so I thank Michael Mesarowicz and Stephen Small for coming along and for their useful evidence. I am sure that it has given the committee food for thought.

We will take a short pause while we change the panel of witnesses.

10:55

*Meeting suspended.*

10:58

*On resuming—*

**The Convener:** We shall now hear from our second panel. Representing the Equality Network we have Fergus McMillan and Nico Juetten from LGBT Youth Scotland; Ewan Jeffrey from Gay Dads Scotland; Sue Robertson from Lesbian Mothers Scotland; and Rebekah Pratt from Rainbow Families, who will make the opening statement.

**Rebekah Pratt (Rainbow Families):** We are pleased to be here today to offer our collective experience to the committee. As you have heard, we speak on behalf of a variety of organisations representing the interests of lesbian, gay, bisexual and transgender parents, as well as a range of youth and children-centred organisations. Between us we offer a range of personal experiences around parenting, and collectively we speak on behalf of the thousands of lesbian, gay, bisexual and transgender families who will be affected by the changes proposed in the bill.

We would like to say, on behalf of all our groups, that we welcome the proposed changes to adoption in Scotland. We represent a diverse range of families, including same-sex couples who are seeking to adopt with equal legal protection for

adoptive children, families that have evolved over time through new step-parent relationships and same-sex couples who have children by assisted conception. Regardless of how our families have come to be, we are united in our commitment to do what is in the best interests of our children, and we strongly believe that being able to provide legal protection through adoption is in their best interests.

11:00

Different parts of society have supported our wish to offer our children full legal protection. Those allies have included representatives from different professional bodies, religious organisations and adoption groups, in Scotland and beyond. For example, in 2002, the American Academy of Pediatrics stated:

"Children deserve to know that their relationships with both of their parents are stable and legally recognized. This applies to all children, whether their parents are of the same or opposite sex. The American Academy of Pediatrics recognizes that a considerable body of professional literature provides evidence that children with parents who are homosexual can have the same ... development as can children whose parents are heterosexual. When 2 adults participate in parenting a child, they and the child deserve the serenity that comes with legal recognition."

We have long been encouraged by national and international recognition from such bodies—supported by more than 20 years of research—that LGBT parents provide tried and tested, loving, secure and nurturing homes that meet the needs of our children. However, we are much more delighted by the prospect of our need to offer our children the best legal protection being realised in Scotland. We will be happy to answer any questions based on our individual experience or collectively on behalf of the members whom we represent.

**Mr McAveety:** Moving on from the questions that were asked of the other witnesses, I would like to hear your views on increasing the pool of adopters. When people with strong convictions feel troubled by that, how do you respond to try to reassure them and to answer their concerns about the reality of the relationships that could be formed either with unmarried couples or with same-sex couples?

**Rebekah Pratt:** When the first panel of witnesses spoke this morning, I was reminded of stories from two members of our group. I know of at least two families who have removed themselves from the adoption and fostering system and have created children by visiting fertility clinics. I was struck by the fact that that means that two children have been left in the care system, which we all agree clearly is not in the best interests of children. It is difficult to offer

reassurance when matters of religious principle are brought into play, because there is clearly an overwhelming body of evidence that supports the claim that LGBT parents provide homes that are at least as good for children as other homes are.

**Fergus McMillan (LGBT Youth Scotland):** If we are discussing the best interests of children, we must also think about the adult debate that we are having and about the interests of other stakeholders, which divert slightly from the interests of children. We know that there are lots of potential adoptive parents who might provide loving homes but who are put off the system of adoption and fostering at the moment. They could be loving, nurturing parents who provide homes for children and young people. We know that the alternative—being in the care of the local authority—is not acceptable.

**Sue Robertson (Lesbian Mothers Scotland):** We should also recognise that there are lesbian and gay families among existing families, and that their children are brought up with diverse religious beliefs. Many lesbian families choose to send their children to Catholic schools, and they convey exactly the same sort of beliefs to their children as heterosexual families do. We represent a diversity of families in all senses, and it is confusing that the hierarchies of churches have one view while the day-to-day reality is that children are being brought up with a variety of beliefs in all those families.

**Ewan Jeffrey (Gay Dads Scotland):** I cannot understand why it is okay for a single homosexual person to adopt a child but there is opposition if that person is in a couple. That sends a message to the child that in law they can rely on one half of their parenting group but not the other. If there were an illness or a car accident and the child was in hospital, the other de facto parent would have to prove their identity in order to get into the ward to see their child who was desperate to see them. I cannot understand how that could be in the interests of the child.

**Fiona Hyslop:** Paragraph 39 of the policy memorandum states:

"Adoption serves two needs: first and most importantly the need that some children have to be looked after outside the parental home, and second, the desire for a parental experience on the part of those people who for whatever reason are unable to produce children naturally."

I notice that your collective written submission is very much about the needs of the child. Is there space, either in the bill or in this agenda, for mention of the need that potential parents may have for a parental experience? Do you feel strongly about that, or should the bill focus on the needs of the child?

**Rebekah Pratt:** I believe that we are united in the view that making the needs of children the priority in the bill is the most important thing. Of course, we also agree that people want to have the experience of being parents. That is an important factor. However, we are united in our desire to ensure that the interests of children are met. That is why we particularly hope that children will receive full legal protection through adoption, and—

**Nico Juetten (LGBT Youth Scotland):** May I just add something? The two issues that Fiona Hyslop raises are clearly connected. If potential adopters do not have a strong desire to be parents, they might not be suitable to adopt a vulnerable child into their family. It is difficult to separate the two issues.

**Fiona Hyslop:** The argument has been made that you support adoption by same-sex couples to promote the LGBT rights agenda rather than the welfare of children. How do you respond to that?

**Rebekah Pratt:** In this situation, there is no easy way to extract the rights of LGBT people from the rights of children. Clearly, protecting the rights of children is connected to addressing the discrimination in the adoption and fostering system against people on the basis of their sexuality. However, I have no sense of any collective agenda that overrides our desire to be able to protect our children. That is certainly our primary objective.

**Sue Robertson:** The equality agenda for lesbian and gay families is about existing families and existing children, and it is important for all children in lesbian and gay families. Civil partnership is an important step forward, as is the bill, in respect of public recognition of the validity of such family structures. That will benefit all children who are being raised in lesbian and gay families. It is not as if our rights as adults somehow override the rights of children. It is a child's right that their family situation should be publicly recognised and supported.

**Fiona Hyslop:** In page 3 of your submission, you refer to section 9 and to how the bill provides for the child's wishes to be considered. You say:

"The child's birth parents and other relatives must also be consulted".

You argue that that is a good thing, but the birth parents might say that they do not want their child to go to a same-sex couple. At the same time, you say that you are opposed to adoption services having exemptions and the discretion to say that they do not want to be involved. Is that not an inconsistency? You seem comfortable with birth parents having that discretion, but uncomfortable with adoption services having that discretion.

**Rebekah Pratt:** We had extensive conversations in our community and organisation about that, and members feel differently about it. Overall, we reached a consensus that, despite the fact that it might jar personally, given the changing nature of adoption and the increased contact with birth families it would be in the best interests of children if birth parents' views were taken into account, even when those views might be ones with which we would not agree. When we put the best interests of children first, it guides us through those difficulties.

In relation to agencies making those same choices, I cannot see how it is in the best interests of children for agencies to decide not to provide a service to same-sex couples. As Sue Robertson mentioned, we have a number of Catholic families in our organisation who would like to be able to use the services of Catholic adoption agencies. Bearing in mind that some people may choose to opt out of the adoption and fostering system because of negative experiences of those agencies, the best interests of some children are overlooked entirely if they are left in the care system.

**Nico Juetten:** I do not think that there is an inconsistency in that respect. The bill does two things. It stipulates—more so than the existing legislation—that the views of birth parents and other relatives have to be taken into consideration but, at the same time, it seems to make it much easier to override birth parents' objections to a placement. That is a slight inconsistency in the bill, although I can see why that is the case.

On your example, if birth parents or other relatives say, "We don't want our child to be placed with a gay couple," it will be down to the adoption panel and, ultimately, the court to decide whether such a placement is in the best interests of the child. We are clear that the paramount consideration is the best interests of the child, which leads me on to the issue of exemptions.

As we heard about half an hour ago, the Catholic adoption agencies' wish to be granted an exemption is based mainly on theological and philosophical considerations. We see the difficulties for faith-based organisations on contentious issues around the family, but I completely fail to understand—it might just be me—how narrowing down the already quite small pool of potential adopters by some criterion that, as the evidence suggests, has nothing to do with the best interests of the child can ever be in the best interests of the child. That is why we oppose exemptions. The pool of potential adopters is already fairly small, which is one reason to include same-sex and unmarried mixed-sex couples. Narrowing it down by criteria that are not in any way connected to the love and care that an

adopted child can receive in a new surrogate family is irresponsible and should not be part of the bill.

**Fiona Hyslop:** We heard previously that, as the bill stands, some adoption services might go out of business. Would that be in the best interests of the child, or should we find some way forward to ensure that adoption services can continue? Clearly, adoption agencies are providing an important, viable service, which it might not be possible to replace if they go out of business.

**Rebekah Pratt:** When I was listening to the earlier evidence and thinking about how great the witnesses' rate of successful adoptions is, I thought what a terrible shame it is that same-sex couples are not also able to access good-quality adoptions. I was sceptical about the statement that those organisations would go out of business. If I remember correctly, it was indicated that their counterparts in England found that not to be the case. The claim is definitely in the realms of speculation. I agree that it would be a terrible shame for agencies to go out of business, but I am not convinced that they provided the evidence to make their case.

11:15

**Nico Juetten:** I was positively surprised by the earlier evidence this morning. The opposition that was voiced by the Catholic agencies to the proposals in section 31 was not as vigorous as I thought it would be. They seem to be thoroughly engaged with and to have a long history of being in the business of adoption, and I cannot see them going out of business.

**Dr Murray:** In the earlier evidence session, I asked Stephen Small what his organisation would do under the current legislation if a gay person came to it wanting to adopt as a single person but in the course of the discussions revealed that they were involved in a same-sex relationship and had a partner living with them. He said that at that point his organisation would refer the person on to a different agency. If the faith agencies got a three-line exemption in the guidance—it would not be on the face of the bill—that enabled them to continue to do that, would that not be preferable to accepting a couple on to their books but never placing a child with them because of the prejudice within the organisation against placing a child with a gay couple? Would it not be more honest for those agencies to say that they do not do that type of adoption and that the couple would be better going to their local authority or another voluntary sector organisation that is better placed to help?

**Ewan Jeffrey:** The earlier witnesses said that the other organisations are not better placed to help.

**Dr Murray:** They said that local authorities are not, but other voluntary sector adoption agencies might be better placed.

**Ewan Jeffrey:** The Catholic agencies are both professionally run organisations and I was impressed by their evidence. Apart from their selectivity, the quality of the adoption service that they offer looks to be of a standard that local authorities should be seeking to attain. However, it would not be right to say that they should be allowed an opt-out on the basis that if they do not have one, they will somehow twiddle their thumbs and not apply the relevant part of the legislation. Those organisations seem to be far too professional to do that. If it were the law, they would not discriminate.

**Fergus McMillan:** Perhaps this is an appropriate time to remind ourselves of the general equality and diversity agenda and of the fact that the organisations that are represented here today would oppose discrimination on the grounds of any of the main strands of equality. Someone referred to the fact that the law does not allow for discrimination on the basis of the age of potential adoptive parents. We believe that the law should not allow potential discrimination on the ground of sexual orientation either. We have already said that potential adoptive parents might come from a variety of backgrounds in relation to sexual orientation, religion, culture and so on. They might include lesbian and gay Catholics and, if they want to approach the Catholic adoption agencies because they believe that they are more appropriate to their circumstances, they should be allowed to do so.

**Sue Robertson:** There is an interesting parallel in the counselling world. Scottish Marriage Care, which is one of the counselling agencies that is not explicitly Catholic but has links to the Catholic church, offers a service to the whole community in recognition of the fact that families are diverse. All agencies have to recognise the diversity of families. That legal obligation should be placed on them.

**Dr Murray:** The earlier witnesses mentioned the guidance in England. Although the legislation is fairly new in England, are you aware of the particular measure that allows for such an exemption and has it caused problems south of the border?

**Rebekah Pratt:** I do not think we have anything to offer on that, but we would be happy to find out and come back to the committee.

**Mr McAveety:** I am probably in favour of moderate Catholicism. Given my family background, that makes reasonable sense to me. In the submissions that we have received, including from our witnesses today, people have

begun to cut through the nuances of the debate and to get to the core issues. People say that placing children who are already vulnerable with a couple in a same-sex relationship makes them even more vulnerable. In saying that, I sense that the current of opinion is moving away from making that comment about unmarried couples. How do you respond to those concerns? How can they be overcome?

**Rebekah Pratt:** First, my review of the research evidence shows that children who are adopted into same-sex families do just as well at fitting into their schools and integrating into their communities as do children who are placed in mixed-sex families. Findings such as mine show that those children integrate well into family life and society, and they do so in a way that is equivalent to children who are adopted into mixed-sex families. In some sense, there is little research that substantiates the claim that adoption into same-sex families continues to make vulnerable children more vulnerable.

Our members' experience is positive. They tell us that, when they interact with schools or people who are external to their family, they get a lot of positive responses. They seem to get little negativity of the sort that can make a family feel more vulnerable. Based on our experience and the research, it is hard to see how the claim that vulnerable children are made more vulnerable stacks up. Those children are put into loving and nurturing family homes. As the findings show, they have the same outcomes as children who are put into loving and nurturing mixed-sex family homes.

**Mr McAveety:** Is that echoed in the experience of Lesbian Mothers Scotland?

**Sue Robertson:** Yes. We must also acknowledge that factors that can cause vulnerability may stem from bad relationships with men. If there have been abusive men in a child's family, it might be more beneficial for the child to be placed with a same-sex female couple. I am not saying that the child should be cut off from contact with men, but there are ways in which lesbian families might be able specifically to address the issues that those children bring. Our experience of being a discriminated community also explains in part our sensitivity to the issues that those children might have as a result of abuse, disability or a variety of other issues. We have positive aspects to offer children who are vulnerable.

**Fergus McMillan:** In LGBT Youth Scotland's experience, looked-after and accommodated young people are some of the most vulnerable young people in society. Their status means that they face a huge amount of bullying, stigma and discrimination. If all that we do in challenging

bullying is to avoid situations where bullying is an issue, we will never tackle it.

One of the buffers for young people is having a stable or supportive family background—whatever the family might look like. The absence of such a family background makes children and young people more vulnerable to bullying and stigma, at school or wherever it happens. In our experience, looked-after young people who do not have a supportive family background often go on to participate in a lot of harmful and self-harming behaviours. The buffer of having a supportive family environment can help those vulnerable young people to cope with life. We cannot take them away from life or from the bullying that may form part of it, but a supportive family background can help them to develop the resilience to cope with bullying as they grow up.

**Lord James Douglas-Hamilton:** Will you say a little more on your personal experience of bringing up children who are not your own in a same-sex relationship? If the question is not relevant to you, will you tell us of the personal experiences of those who have been involved? Your responses will assist our thinking on the issues.

**Rebekah Pratt:** We would be happy to do so. Does Ewan Jeffrey want to start?

**Ewan Jeffrey:** Yes, I will kick off.

I chair Gay Dads Scotland, which is a support group for fathers who have discovered that they are gay part way through their lives. Such fathers have been in a mixed-sex relationship but have then either become a single parent or entered a same-sex relationship.

The overwhelming experience is that such parents, concerned for the welfare of the children, are unsure whether to come out to their children for fear of societal discrimination. Invariably, the experience has been that if a parent comes out to their children and deals with the issue in a positive way, if they deal with the schools in a positive way and if they are honest with their child, that is quite a positive experience for the child. The parent's sexuality turns out to be fairly irrelevant, as the child's best interests are the most important thing. That is not to say that grandparents with religious beliefs might not be disappointed or shocked, but the practical, everyday reality is that parenting is parenting, regardless of whether it is mum and mum, dad and dad or mum and dad. The issues are the same.

Generally, the child is not concerned about gender or sexuality. The child is concerned about the things that children are interested in and concerned about. Bullying at school can happen to children regardless of their parental situation. The important thing is that bullying that takes place at school for whatever reason is addressed with



parental support and with the co-operation of the school. Children are concerned with knowing that their parents love them, that they are honest with them and that they will support them. They are not concerned with what the sexuality of their parents is.

Being a little older than most people here, I can remember the greater institutional discrimination of the 1970s and 1980s. I have to put that out of my head because otherwise I communicate it to my son. He responds by saying, "Nobody cares, Dad. Nobody cares. Just tell them." That is a teenager's point of view.

The experience of the children is that they want loving parents and stability.

**Sue Robertson:** I have personal experience of adopting as a heterosexual parent and then subsequently coming out and coming out of my marriage. I have continued to have a very positive relationship with my adopted daughter and, indeed, with my grandson—I seem to be involved in a two-generation adoption—and sexuality has never been an issue for them. I would echo what Ewan Jeffrey said. The support and the love that a parent gives to their child are the important thing rather than anything to do with their sexuality.

**Rebekah Pratt:** I have a daughter who is nearly two—thanks to her peanut butter fingermarks, she experienced some cross parenting today—and I am in the privileged position of having been able to have a step-parent adoption for her in a different country, where we were both legally recognised as her parents. She was created through donor insemination. One thing that I found so wonderful about being able to be recognised legally is that it has been an absolute stigma-busting tool, in that it has given us the confidence and ability to stake our claim in protecting her best interests in all sorts of settings, including in the health sector and in education.

One thing that surprised me was that my partner came with an extended and devout Catholic family, which was a slightly new experience for me. An important thing about our ability to adopt was that it allowed them to reference what our family was to them. Adoption provided a frame of reference that could be understood by those who took a little bit longer to come to terms with what it means for same-sex couples to have children. The experience of being able to adopt has been overwhelmingly positive.

I find that I have the same experience of parenting that all my counterparts have, whether they are in same-sex or mixed-sex relationships. That experience is exhausting and wonderful. Admittedly, my daughter is still very little, so we have not yet had to deal with issues to do with going to school.

11:30

I am involved in Rainbow Families, which is an organisation that we set up quite recently. We are a child-centred organisation that brings together lesbian, gay and transgender parents. We chase our variously aged children around the zoo or Gorgie City Farm or participate in other such child-centred activities every month. We have found that the children, especially the older ones, are making great friendships with one another. They provide one another with a good reference point, as Ewan Jeffrey mentioned—they think, "Yes, this is just normal and boring." In many ways, the grown-ups involved have a very similar experience.

**Lord James Douglas-Hamilton:** Thank you. It is helpful to hear that evidence, as research is obviously relatively limited because of current law. I think that I am correct in thinking that all members of the panel share the view that the test should be what is in the best interests of the child. That test is enshrined in the Children (Scotland) Act 1995. I think that what you are saying is consistent with the provisions of the act.

**Ms Byrne:** I found the joint submission interesting, especially the section that is headed "Permanence and Life Chances". We have covered many of the issues, but I want to ask whether extending the ability to adopt will also affect permanence orders. Should the bill enhance that as well as the pool of adopters? Will permanence orders improve the situation for children in the longer term, in that such orders will either lead to adoption or at least provide permanence? Will permanence orders deal with the issues that the submission highlights about looked-after and accommodated children?

**Nico Juetten:** I am not sure whether I understood the question. Are you asking whether our standpoint on the role of same-sex couples applies both to permanence orders and to adoption?

**Ms Byrne:** Is there a role for extending the pool of people to whom permanence orders are available in the way that we are extending the availability of adoption to same-sex couples? The "Permanence and Life Chances" section of the submission highlights all the facts and figures that suggest that looked-after children who are accommodated in local authority care for a long time suffer insecurity and other effects. For some children, the option of adoption may not be available, but there may be an option of a permanence order, which could lead to adoption. What view do the witnesses have on that?

**Sue Robertson:** That is probably less likely to affect us because of the discrimination in fostering. Although the proposal might affect those who fostered as a single person, in the immediate

future it is more likely to affect heterosexual couples as they will now be in a position to pursue a permanence order rather than adoption. A same-sex couple is more likely to apply for adoption, unless one of them had previously fostered as an individual. However, because of all the discrimination, that is much less likely.

**Ms Byrne:** Should the bill have dealt with that aspect of fostering alongside adoption? It seems to me a bit strange that that imbalance will continue. That does not seem consistent.

**Sue Robertson:** Absolutely. The discrimination in fostering is a major difficulty. All discrimination should be eliminated in the interests of widening the group of people who are available. We have certainly had people in our group who have talked about fostering. At the moment, if there are two adults of the same sex in a household where a child is to be fostered, even if one of the adults is a grown-up child, that is considered a problem. That is ridiculous, given that we have an equally huge shortage of families for fostering. It is vital that we eliminate the discrimination in fostering as well as in adoption in the interests of enabling a wider group of people to be involved in helping to bring up children.

**Nico Juetten:** I agree with the evidence that the Fostering Network Scotland gave to the committee. We need to consider that the number of young people who are being fostered at the moment in Scotland—I think that the figure is around 4,000—is about 20 times higher than the number of children who are placed for adoption. It is interesting to note that the bill has only one section on fostering—the section on fostering allowances—and that the rest is on adoption, which I am aware the policy review group opted to keep as the primary option because it delivers the best results.

Given that we are not active in the fostering and adoption fields, I am not entirely sure whether we need to have a view on what the Fostering Network said about whether the changes to fostering should be dealt with in primary legislation. We know that the Fostering of Children (Scotland) Regulations 1996—and regulation 12(4) in particular, which bans same-sex couples from fostering—should be overhauled. In answer to a question from Tommy Sheridan in the Parliament recently, the deputy minister seemed to say that the regulations would be changed sometime soon, possibly as soon as the bill is passed. We look forward to that.

**The Convener:** Our understanding is that the minister intends to amend the fostering regulations by way of new regulations and not primary legislation. Would it be preferable to have this aspect of the equalities issues set out in the bill rather than in regulations?

**Nico Juetten:** To be honest, that would be preferable, because the issue is a major one. I am not in a position to comment on the difference that using primary or secondary legislation would make to day-to-day practice. However, considering the scale of the issue and how it stands in relation to adoption, the changes should be made in primary legislation. Clearly, if that is agreed, our preferred piece of primary legislation is the bill that we are considering today.

**Fiona Hyslop:** Clearly, there are different types of same-sex relationships and it is important that the bill should address the responsibilities of continuing families as well as those of new families—we have taken that point on board. We have heard conflicting views on whether there is any evidence base on the experience of same-sex couples who have adopted. Some people argue that the existing research is more about the experiences of people who were birth parents before they came out later in their lives. In your submission, you talk about

“Credible and methodologically sound research”.

Does that evidence relate to the type of family to which I referred, as opposed to the sort of family that people generally think the evidence is about, which is a same-sex couple that comes cold to family life when they adopt a child? What does the research cover? We are getting conflicting evidence on the subject.

**Nico Juetten:** My understanding is that mostly the research evidence covers situations where a birth parent is involved. The research that we rely on is more about same-sex parenting than on joint adoption by same-sex couples. That is because, under the law as it stands, the latter is plainly impossible in this country and in most other countries.

**Sue Robertson:** There is a degree of discrimination in the existing system. Lesbian and gay people who adopt as single people and single people generally who adopt tend to get the children with the most difficulties. The easier children tend to go to people in what people call the more acceptable couple relationships. A small pool of evidence shows that single people and lesbian and gay people have successfully parented children who have a lot of difficulties. However, given that we are talking about very small numbers, it is not possible to get strong evidence on that.

**Fiona Hyslop:** If you could source that evidence for us, it would be helpful.

I return to something that Rebekah Pratt said—I was looking at the Weetabix stains from my toddler at the time—on having a step-parent agreement. One of the issues with the bill is the absence of such an agreement. A concern that

has been expressed about step-parent adoptions is that the position of the birth parent can start to be denied; for a variety of reasons, we would not want to deny the role of the original father or mother, no matter whether a same-sex or heterosexual couple is involved. Have your organisations discussed the importance of having a step-parent agreement in the bill? Do you have a view on that, or is that something on which you do not hold strong views?

**Rebekah Pratt:** I will speak about what I know, but I am not sure how well that will answer your question. Many of our families have a variety of arrangements. The children in some families might have been born into a heterosexual relationship and the mother came out later as a lesbian and went on to have further children with a lesbian partner. There are all sorts of configurations of children's needs and historic connections through the relationships of mothers and fathers. It seems to me that few of our members are likely to go for step-parent adoptions when there is active birth parent involvement.

**Fiona Hyslop:** I meant a step-parent agreement as opposed to adoption.

**Rebekah Pratt:** I cannot say much about such agreements, but we assume that they will be used to deal with cases in which one birth parent and another same-sex partner are involved but the other birth parent has never been around—for example, a case in which a lesbian couple chose to have a child through donor insemination. That group is not well addressed in the step-parent and adoption legislation and we would like a commitment to signpost how those families will be dealt with when the bill is enacted.

You highlighted that although we represent a diverse range of interests and families, we all want to act in the best interests of children. I appreciate how difficult it is to reflect all those interests in the bill.

Sometimes step-parent adoption is wholly appropriate, particularly if it is relevant for the family and in the best interests of the child.

**Fiona Hyslop:** I am particularly interested in step-parent agreements because people do not always want to go through with adoption, for a variety of reasons. A provision for step-parent agreements is absent from the bill. You could reflect on that and let us know later.

**Ewan Jeffrey:** My organisation represents a lot of gay dads with children who have started a relationship with another gay dad with children. People end up with a de facto or informal step-parent situation, which exists equally in heterosexual families where there has been a separation and then a new partner. The only difference with us is that it is two people of the

same sex. Society is a patchwork of hundreds of different types of extended families. The overriding concern in this situation is whether the stepdad can step in and act in the interests of all the children in certain situations. How is the child supported in such situations?

I am afraid that that was not directly relevant to your question, but I was trying to paint a broader picture of everyday reality.

**Fiona Hyslop:** We are opening further cans of worms now.

**Ewan Jeffrey:** It is a bit like when we arrived at American immigration and the woman said to my son, "Has your father approved this trip?" I said, "Yes, of course I have," but my son said, "No, my birth father abandoned me at birth." I thought, "Oh yes, so he did—eight years ago; I'd forgotten all about that."

**The Convener:** In its submission, LGBT Scotland makes reference to the courts taking into consideration

"the child's own cultural identity and religious beliefs as well as cultural and linguistic continuity."

You suggest that the courts should also take account of

"a child's or young person's identity, including their developing sexual orientation and gender identity."

Will you expand on what practical difference that would make?

11:45

**Nico Juetten:** Section 9 states that the child's circumstances should be taken into consideration when making a placement. Section 9 should work in the best interests of the child. For example, where a child comes from a strong Catholic background, the child should be placed with a same-sex or mixed-sex couple who also have a strong religious background. In the same way, other parts of the identity of a child or young person should be taken into consideration. The bigger picture of a child's needs and their requirements of an adoptive family should be considered.

I will offer a practical example. Mostly, it is not babies in the adoption system; the average age of a child who is being adopted is seven. It might be that the sexual orientation of an 11-year-old or 12-year-old child is developing. They might find out that they are gay when they question their sexual orientation. If such a child were to be placed with evangelical Christians, that might work in their best interests, but it might not.

The part of our submission to which you refer was about the broad range of factors that should be considered when placing a child.

**Fergus McMillan:** I will explain where we are coming from in more detail. Our experience of working with children who are looked after and accommodated is that often, their sexual orientation or gender identity is emerging and they might be struggling with a particular issue. We have found that it is young people's experience that the people who work in the looked-after accommodation system might—it is not exclusively the case—display homophobia and attitudes or practices that do not allow those children to be who they are, which can cause problems at that stage. If potential adoptive or foster parents have beliefs that are incompatible with the child's feelings or questions about sexual orientation or gender identity, that should be taken into account in accordance with the best interests of the child.

**The Convener:** As I understand it, in England and Wales, the court or adoption agency must take account of any of the child's characteristics that they consider relevant. Would that formulation meet your concerns?

**Rebekah Pratt:** Yes.

**Nico Juetten:** Yes.

**The Convener:** As there are no further questions, I thank Fergus McMillan, Rebekah Pratt, Nico Juetten, Ewan Jeffrey and Sue Robertson for coming along this morning to give us their valuable evidence, on which the committee will reflect. If you are able to provide any of the additional information that the committee was looking for, please feel free to send it to the clerks as soon as you can.

That completes the public part of the meeting.

11:48

*Meeting continued in private until 12:23.*

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