EQUAL OPPORTUNITIES COMMITTEE

AGENDA

17th Meeting, 2002 (Session 1)

Tuesday 12 November 2002

The Committee will meet at 10.15 am in Committee Room 1, Committee Chambers, George IV Bridge, Edinburgh.

1. **Item in private**: The Committee will consider whether to take item 5 in private.

2. **Taking Stock – Sexual Orientation**: The Committee will take evidence from—
   
   Hugh Henry MSP, Deputy Minister for Social Justice.

3. **Mainstreaming Equality in the Work of Parliamentary Committees**: The Committee will consider a paper on themes arising from its consultation.

4. **Reporters**: The Committee will hear from its Reporters.

5. **Gender Inequality in Scotland**: The Committee will consider a draft report on a literature review of existing research.

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The following papers are attached:

**Agenda Item 2**

EO.01.17.01 - Taking Stock submissions

**Agenda Item 3**

EO.02.17.02 - Mainstreaming Equality - themes
EO.02.17.03 - Mainstreaming Equality – submissions
EO.02.17.04 (P) - Mainstreaming Equality – private submissions

**Agenda Item 4**
EO.02.17.05 - Gender Reporter – Report of fact-finding visit to Inverness
EO.02.17.06 - Gender Reporter – Note of meeting with SWAP
EO.02.17.06A (P) - Private briefing paper

**Agenda Item 5**

EO.02.17.07 (P) - Draft report on a literature review of existing research

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Equal Opportunities Committee

17th Meeting 2002 (Session 1), 12 November 2002

Taking Stock – Sexual Orientation

Submissions Received

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Submission from UNISON Scotland
Submission from (Name Withheld)
Submission from Glasgow Women’s Library
Submission from UNISON Fife
1. Thank you for the opportunity to respond to the above.

2. This Council has always included reference to LGBT communities within its Equality Policy. We are currently consulting on a draft LGBT Equality Scheme to be published in the autumn. This will include a review of all services and of Recruitment and Selection procedures to ensure that LGBT issues are taken into account.

3. The Council’s Harassment and Bullying Policy includes references to the potential for harassment on grounds of sexuality and includes this aspect in the training provided to Harassment Support Officers from departments. These officers are trained to support those subjected to harassment and to help resolve issues using either an informal or formal approach.

4. Training in LGBT awareness has been provided for staff in the Personnel Department as part of an initial programme which will be extended as and where appropriate. Youth workers have also attended LGBT awareness sessions.

5. Recognising the importance of support for young LGBT people, our Neighbourhood Resources & Development Department has for some time provided a sessional youth worker to the This Way Out Youth Group (attached to Switchboard) in Dundee. This provides a safe place for LGBT young people to meet and discuss issues of importance to them.

6. The main issues identified locally so far relate to the legacy of the prohibition on the “promotion of Homosexuality”. This has led to a degree of caution on the part of service providers, especially relating to grant and other aid to voluntary groups. This may still be affecting LGBT groups, especially those working with young people.

7. The other main area where this has had a significant impact is in schools. The LGBT life style issue is rarely raised overtly but will be dealt with in response to a direct pupil enquiry within the context of personal and social development education. Individual pupil concerns will be responded to by guidance teachers or educational psychologists, as deemed appropriate.

8. Another key issue relates to the official recognition of same sex partnerships. To accord these equal status with heterosexual marriages would solve many problems experienced by gay couples e.g. status as next of kin when consulting on medical or legal matters, nomination for pension, tenancy and other benefits and immigration status where one partner wishes to move to the UK to be with the other.
9. In relation to employment, there is a need to require employers to have clear procedures to support Transgender employees similar to anti discrimination and harassment advice. The existence of a policy and an action plan backed up by training for management and support for the individual and their colleagues would ensure a better understanding of and reaction to the process of gender re-assignment.

10. I trust the above comments will be of assistance to the Committee’s work in October 2002.

A Stephen
Chief Executive

SUBMISSION FROM LIZ MACINALLY

1. As a lesbian who has had to remain in the closet for most of my working life, which was spent in education, I welcome the opportunity to submit my comments to the committee. I hope that in talking about my own experience I can help others to gain insights into the real need for legislative change to guarantee equal rights to LGBT people, as only that step can begin to change their lives.

The experiences of LGBT communities in Scotland today. How are we discriminated against in our lives, what goes well, what not so well, etc?

2. As a secondary school teacher and later an adviser in education I kept my sexuality a secret so as to avoid hostility from colleagues and pupils. The climate of homophobia in schools is such that it would take a certain kind of courage to be openly gay - or it certainly did 20 years ago when I was in my 30s. From the number of gay and lesbian colleagues I have known in my career who have come out, compared to the greater numbers who have not, I know I am not the only one to have taken the 'easy' way out. I knew one colleague, a male primary head, who was 'outed' by a newspaper article. This was 15 years or so ago. His staff and parents rallied round him, and he ended up the stronger for the experience. But that was not the aim of whoever 'outed' him. They wanted to smear him and damage his career. It did not, but it might well have done.

3. On the other hand I worked with one colleague who was openly gay, and he was verbally abused, harassed, and finally had to move schools and home in order to find some kind of relief from the stress, which took a toll on his health.

4. I had a much more pressing motivation to remain in the closet. I had two daughters, both primary school age, and was in the middle of a messy and protracted divorce, finally granted in 1984. I knew that if any Scottish divorce judge of the time came to know that I was lesbian, I could have lost custody of my daughters. Cases were common in the courts of a woman's lesbian identity being equated with being 'an unfit mother'. So not only did I have to stay in the closet, but I had to take the regrettable step of asking my daughters to tell their father during access weekends absolutely nothing about my private life, who came to the house, who stayed over, etc.
5. In short, my experience was of living almost a ghetto existence, with surreptitious visits to gay bars and discos, living in fear of encountering anyone from my other life, such as a pupil, a parent, or a colleague. Those were difficult days.

6. The point I am making is that there is a lot more of what does not go well than what does go well for LGBT people in education. As adviser in equal opportunities for Lothian Region in the early 1990s I tried to address the homophobia in schools expressed not only by pupils but also by staff, by collaborating with the Stonewall Youth Project in putting together an anti-homophobia training pack and in-service course. I was told that this course would not be used, and it was shelved. I would hope that that would not happen today, and certainly not next year when hopefully legislation will back the need for such courses.

**The provision of LGBT aware services.** Are services such as health, policing, social work, education, housing, etc, provided in a way that recognises the specific needs of LGBT people, our relationships and our families, and in a way that is fair and equitable? If not, what needs to change?

7. The legacy of Section 28, or Section 2A, is still with us. There is a need for awareness of LGBT issues and needs across the board in health authorities, in police training, in social work training, in housing and all other public bodies and institutions. In particular, assumptions of sexuality and marital status need to be challenged. Since passing 50 I have noticed all the more that people assume I am Mrs. Everyone from the receptionist at the hospital - who cannot cope with my next of kin being my female partner - to the man in the shoe repair shop who writes down Mrs while saying 'what name?'

**The current legislative framework.** What laws need to change to end discrimination against LGBT people and to improve our lives?

8. I am no expert on law, but the immediately obvious candidate could be the Sex Discrimination Act 1975 and its revisions. It could be further strengthened by explicit references to LGBT people and their rights to equality in all areas referred to in the Act for women and for men. The nonsense of the recent case where a lesbian lost a case for sex discrimination because the judgement was that she had not been discriminated against as a woman but as a lesbian, and 'a lesbian is not a woman' should never happen again.

9. Particular issues for LGBT people in long-term relationships are that marriage is the only current way of guaranteeing pension rights to a widow or widower - and marriage is not legally possible for same-sex partners. Certain enlightened organisations such as, interestingly, the Principal Civil Service Pension Scheme, will from October 2002 take account of whether an employee's partner might be same-sex, or opposite sex but unmarried, and still offer inheritability of some proportion of the pension to the surviving partner on the pensioner's death. Many organisations - notably the Scottish Office Pension Agency, do not, to my current knowledge.
10. It is not just a question of changing the law to stop discrimination and harassment, it is about looking critically in 2002 at the reality of real people's lives. We are no longer nuclear families with 2.4 children, and we have not been so for a very long time. Section 28 and all that only served to delay general public realisation that those 'pretended family units' were not pretended, but real, and all around everyone. There are many single-sex couples with children, and issues of inheritance and tax and legal responsibilities need to be looked at afresh. Why, for example, should a partner of many years have to pay inheritance tax when a spouse does not?

11. Implications of Article 13. Because of article 13 of the European Union Treaty and the European 'Employment Framework Directive', the UK Government must change the law by the end of 2003 to ban discrimination on grounds of sexual orientation in employment and in training. What are your views on how this should be done? (For more details on this issue see our article 13 page.)

12. It is really important that whatever is put in place in the UK is a positive piece of legislation, rather than another big stick to beat employers with. There is a lot of evidence, for example, that since the recent Employment Rights Act small and medium enterprises are more reluctant than before to take on female workers of child-bearing age as they have so many more rights now that the employers fear being out of pocket covering maternity and childcare entitlements. Employing more LGBT people explicitly, instead of often unknowingly as in the past, should be seen as a way of opening up businesses and professions to more LGBT clients.

13. I hope that these comments add something useful to the consultation process, and I wish the committee well in their deliberations. If I can be of further help, please let me know.

Liz MacInally
July 2002

SUBMISSION FROM SCOTTISH MEDIA MONITOR

1. In response to your letter to Tim Hopkins at the Equality Network, I have been monitoring the Scottish media for around six years and would like to see my findings, published in 'Sexual Fascism' (Sex in the Scottish Media) Ganymede Books 2001, taken on board when the Executive looks at equal opportunities.

2. The book raises some serious issues that particularly affect lesbian, gay, bisexual and transgender people. Through what I write in the Scottish Media Monitor I'm blacked by a good number of Scottish publications and media and cannot get my research into a wider domain. This does not lessen its importance. I have just finished a new book (Badge of Shame) on the repeal of Section 2a in Scotland which is a damning indictment on the manipulative role of the Church and media in compromising our rights to a healthy sexual education. I hope you can take the time to at least read the last two Articles on the Scottish Media Monitor website.
SUBMISSION FROM JUDITH MACKINLAY

The experiences of LGBT communities in Scotland today.

Education:
1. There is still a climate of fear within schools since the keep the clause campaign. Many lesbian and gay teachers do not feel safe to be out in their schools. The possibility of harassment from the press, staff, students or parents keeps many teachers in the closet.

2. I welcome the mention of sexual orientation in HMI's new How Good is Our School (Quality indicator for equality and fairness 5.3 - example of level 4 achievement) But it's a tiny and largely unnoticed step. Local Authorities headteachers, teachers and teachers in training need guidance, support, advice and resources to begin to move in the right direction.

3. Having recently returned from a training course at OULU University, Finland on Creating Safe and Affirming Schools for LGBT students and staff (http://glee.oulu.fi) I am aware of how much work could be done. There are many resources, ideas, skills, knowledge and understanding to be passed on and developed.

4. Developing an awareness within educators of how homophobia affects all learners (not only those identified as LBG or T) would be my first priority. The transformation of homophobic and heterosexist attitudes, policy, curriculum and ethos within educational institutions needs powerful straight allies. It also needs to happen in alliance with other groups who seek equity and value diversity.

5. My question to the committee is how is this work to be done? Is it to be a few words on some equal opps policy gathering dust in the back of my classroom cupboard? Is it to be yet another demand made on my headteacher and colleagues? Will each school have to stumble upon the ideas at random? Will it be left to a few out teachers to rattle a can or bang a drum? Or will there be some money, some people, and some thought given to transforming our schools? At present CEC has only one equality officer in the education department and she has no budget!

Judith Mackinlay
August 2002

SUBMISSION FROM CHARLES COVENTRY
1. I grew up when being gay was still a criminal offence, and only became aware of being gay in middle age after my parents died, but I always knew that I was disabled. Any discrimination I have had in employment, and in one case, harassment during a period of employment, I had always assumed to be because of my disability, and in the case of the period of harassment during employment, also because of my university education, but I have come to recognise another point, I was single, and by implication gay. I never reached the stage of opposite sex relationships, and because of my upbringing right through school, including being left out of sports which it took another gay person to recognise as producing isolation, I am awkward with children, if having to deal with bad behaviour my response is liable to be to hit them.

2. My main interest is parent education, particularly in not trying to force supposed masculinity on disabled boys, eg in my case with partial vision treating a very real fear of the perfectly genuine risk of being burned if trying to use matches or lighters. Panic at offers of cigarettes or cigars was treated as cowardice and supposed effeminacy, similarly with failure to acquire certain tastes and levels of consumption of alcohol. This corresponds to the experience of able bodied gay men of the same age being bullied for failure to reach required standards in PT and games at public schools.

3. In early teens I was tormented over failure to get girlfriends, although this seems to have stopped having any effect in late teens. I never got to the suicidal stage, maybe because I was already used to appearing as a curiosity because of my disability. At that time I was sometimes being held up as an example of goodness to other young people, particularly when something 'bad' happened, eg another boy getting a girl pregnant and having to marry her, then a warning before going off on a holiday after leaving school, 'don't just talk to the boys.' Being gay was something you were supposed to have grown out of by the age of 18. The pressure to get married continued on and off until my mid fifties when my sister, a social worker, made the great discovery, 'he's been damaged by special education.' I take it this is supposedly an explanation of me never having had 'an eye for the girls.' I occasionally had vague ideas that marriage was something I should get into, but had no job, and even with a job, would have no car because of my eyesight, more women than men smoke, and I couldn't ever cope with a smoking accident, and most importantly, even if I could procreate children, I couldn't possibly be a parent.

4. If there was more parental education not to pressurise sons or daughters, particularly if disabled, into opposite sex relationships, there would be no need to 'come out.' As long as no questions are asked about not being married, I don't see any need to do this, and relatives all seem to have given up. My attitude to anybody asking if I really have never been married is simply 'mind your own business.'

5. Now that I am in the gay community I get on better. My disability is accepted, nobody comments on me not having a partner, and even although I know some gay dads, they don't regale me with what their children are doing, and it is possible to have friends over a very wide age range. Among considerably younger men I'm not conscious of them seeming very young, and I don't seem
extremely old to them. In the local GOC branch, for example, the two important things are that I have learned to swim as an adult, and that with my Gaelic studies I am the person to be consulted on pronunciation and meaning of hill names.

Charles S Coventry
August 2002

SUBMISSION FROM RICHARD KEIR

1. I am writing this in response to an article I read on the Equality Network website, calling for Gay people to write with specific areas where equality towards Gay people doesn’t exist. I have tried to keep my letter as brief as possible but feel it is necessary for you to understand my position that I write in so much detail.

2. I am a part-time flag maker who studied for five years (1 at college, 4 at University) for a B.Ed. in primary school education. Although I have been an “out” gay man for many years I was aware of the feelings towards gay people in primary education. For three of the four years at university it was widely known by other students and some tutors alike that I was gay. During this time on 6 school and nursery placements I kept my sexuality to myself and never had any problems.

3. On my final years placement I was in a position whereby I had to make a difficult decision about announcing my sexuality. While in the staff-room at my final school placement a teacher told a very homophobic joke. I was embarrassed and annoyed that not only was she able to freely tell this blatantly homophobic joke but that I felt my placement and my degree could be affected.

4. I informed a tutor from my university but said I didn’t want to make a big deal of it.

5. Feeling more and more apprehensive about being in a similar situation I approached one of the two teachers I was working with and told her about the incident. She said that it seemed out of character for the particular teacher to tell a homophobic joke and I decided that I would just leave it. I asked the teacher not to tell anyone about me being gay or about the homophobic joke.

6. Later that night I had a phone call from the teacher I had told. She informed me that she had talked to the teacher who told the joke to and gave her my home phone number so she could apologise to me. I was in shock at having to deal with the situation and when the teacher called me at home later that evening I told her to not mention it again and everything would be all right.

7. Over the next few weeks the attitudes of the other teaching staff at the school changed towards me and I found it more and more difficult to function within that environment.

8. At the end of the placement I found that there had been negative reports made about my “abilities” to my tutor by the head teacher who had never witnessed me
teaching to make such a report. On the strength of the head teacher report I failed my placement and subsequently didn’t get my degree. Strathclyde university and it’s staff treated my case badly and failed to act on any of the areas I had reported of school and university staff’s treatment of my case. At no time did the appeals procedure include anyone from outside the university to decide on the validity of my claims of unfair treatment.

9. One of the appeals boards agreed with me that there had been mistreatment and upheld my appeal but wouldn’t do anything to put it right.

10. All subsequent attempts to have my case and complaints looked at by Strathclyde University have ended with internal meetings and findings that there is only me to blame.

11. I have since then been treated for depression and find myself unemployable in anything but the job I left to go to university.

12. You must be asking when I am going to make my point.

13. My point is that Strathclyde University treated me in the way it did because they were able to. There is no law to protect people like me from this type of homophobia.

Richard Keir
August 2002

SUBMISSION FROM PROFESSOR KENNETH NORRIE

Taking Stock Meeting on Sexual Orientation, October 2002

1. I should like to respond to the invitation issued by the Equal Opportunities Committee dated 5th July 2002 to submit written evidence on the issues relating to sexual orientation to be discussed at a “taking stock” meeting between the Committee and Scottish Ministers. I will concentrate on the current legislative framework and my comments are made with professional knowledge combined with personal experience.

The Criminal Law

2. Gay sex between adult males was decriminalised in Scotland in 1980, and so it is no longer the case that sexual activity between my partner and myself is, by definition, a criminal offence. But it remains, according to the statute (now the Criminal Law (Consolidation) (Scotland) Act 1995, s 13) “gross indecency”. I find it grossly offensive for statute to declare that gay sex is by definition “indecent” and it encourages a lack of respect for those who perform intimate acts which might be as loving as any between heterosexuals. “I make love, you have sex, he is grossly indecent”: the law should not give its imprimature to such beliefs. In many respects the continued use of these offensive words is worse than the deliberately demeaning “Section 28”. These words may be symbolic but they are
no less effective in justifying in many people’s minds acts of bigotry and brutality (just as Section 28 did).

3. But it is not just the words that the law uses. The law continues to criminalise gay men more than non-gay men and all women in sexual activity in at least three ways:

(A) Section 13(6) of the Criminal Law (Consolidation) (Scotland) Act 1995 remains in force - “it shall be an offence to procure or attempt to procure the commission of a homosexual act between two other male persons”. This is an inexplicable provision since gay sex itself is lawful - the provision makes criminal the procuring of a lawful act, and there is no other example that I know of when an act is itself lawful but the procuring of it is not. The provision is also discriminatory since it is not a crime to procure or attempt to procure a (lawful) sexual act between a man and a woman, or between two women.

(B) Section 13(9) and (10) criminalise living off the earnings of a male prostitute, but provide heavier penalties than living off the earnings of a female prostitute (as in section 11): this is unjustified discrimination. There may well be good policy reasons why living off the earnings of prostitution should remain a criminal act, but they must, in my view, apply equally whatever the gender of the prostitute.

(C) Section 13(3) (rightly) aims to protect male persons who suffer from mental deficiency from sexual exploitation by other men, but the equivalent provision protecting mentally deficient females is s. 106 of the Mental Health (Scotland) Act 1984, which contains a very different test, more difficult for a prosecutor to establish. In other words, it is easier to convict a man who has gay sex with a mentally defective man than a man who has heterosexual sex with a mentally defective woman. Women exploiters are ignored. Seeing s. 13(3) from the perspective of the mentally deficient man means that a man who “is incapable of living an independent life” (part of the definition of “mental deficiency”) can never give consent to gay sex, though he might be able to give consent to non-gay sex. Though the provision has a clearly justifiable aim - protecting the vulnerable - it is disproportionate as an infringement of the vulnerable man’s right ever to choose to have gay sex.

4. The most justifiable aim of any law criminalising sexual activity is to protect the weak and vulnerable. Children, of course, come within that category. Yet the present law draws very different lines depending upon whether the child is male or female, and the adult is gay or non-gay. The so-called “age of consent” for gay sex is 16 and gay sex with a boy below that is a crime. Yet both gay and non-gay sex with a girl below 16 is dealt with by sections 5 and 6 of the 1995 Act: these sections create crimes even although the girl consents in order to protect her from manipulation (when the girl does not consent the crime is rape or sexual assault). There is no protection for boys between 14 and 16 from heterosexual activity (unless it is not consented to in which case it is assault). In other words, the level of protection for boys and girls is different, and different again depending upon whether the acts are gay or non-gay. But in fact the justified aim in all
cases is the same - to protect the vulnerable and exploitable from manipulation and persuasion into early sexual activity.

**Recommendation**

5. All of the above problems would be solved by repealing s. 13 in its entirety and moving the justifiable prohibitions contained therein to a restructured section 5 and 6. These should be reworded so that they are gender neutral, providing identical protection for boys and for girls, from both males and females. Benefits:

- There would no longer be the offensive language of “homosexual offences” or “gross indecency”. If it were felt necessary to define the sexual activity to be prohibited by the new sections 5 and 6 either the model in section 6 or that in the Sexual Offences Act 1990 (unsatisfactory but at least gender neutral) could be used.
- The age provision in s. 13(1) would be subsumed into section 5 and 6 (any sexual activity with either a boy or a girl below the age of 16 would be a criminal offence) so enhancing equality of protection for both genders.
- The privacy provision in s. 13(2) has already partly gone with the Convention Rights (Compliance) (Scotland) Act 2001 and the remaining “public lavatory” provision could also be made gender neutral and indeed extended - any sexual activity in a public place should be a crime, rather than only gay sex in a public toilet.
- The protection of male persons with mental deficiencies in s. 13(3) should be put on the same basis as the protection of female persons with mental deficiencies in s. 106 of the Mental Health (Scotland) Act 1984 (and the current Mental Health Bill is the obvious place to do so).
- The procuring of a criminal offence provision in s. 13(5) could be extended to cover the new gender neutral sections 5 and 6; the criminalisation of procuring a lawful act provision in s. 13(6) could and should simply be abolished (I am not aware of any prosecutions in living memory under this section).
- The defence in s. 13(8) could be subsumed into the redrafted section 5 and 6; the “living off the earnings of male prostitutes” provisions in s. 13(9) and (10) should be subsumed into the equivalent provisions for female prostitution in s. 11.

6. It will be noted that the overall effect of these suggestions is to extend rather than limit the criminal law, making more acts criminal, not less. But this is justifiable so long as protection is the goal. The gay offences were and to some extent are based on moral disapproval of homosexuality rather than protection of the vulnerable: the Scottish Parliament has no business in expressing such disapproval but it has every right to extend such protection.

**Same-Sex Relationships**

7. I stopped breaking the criminal law in 1980 when my acts of gross indecency were decriminalised, and much of the above has had no real impact on my life since then. What does have a direct impact on my day to day life, however, is the civil law and in particular the way in which the law responds to the fact that I
live my life within the context of a same-sex relationship. So do hundreds of thousands of people in Scotland today. The law, until recently, totally ignored this fact of life, creating vulnerability, particularly on the death of a partner or on the break-up of a relationship, which the law has for long attempted to ameliorate for opposite-sex couples. The Scottish Parliament is to be commended for including same-sex relationships in every piece of legislation it has passed since 1999 dealing with personal relationships. But there remains a vast array of laws not yet touched by the Parliament which confer benefits and impose liabilities on opposite-sex couples which are not accessible by same-sex couples, such as my partner and me. This is of course in principle discriminatory and in practice it makes my relationship less secure, less protected and less valuable (socially, economically, and legally) than that of a non-gay individual in the same situation.

8. Many aspects of discriminatory treatment, where opposite-sex couples are treated better than same-sex couples, are reserved matters (e.g. tax and social security) and so outwith the power of the Scottish Parliament. But many are not. Those within the power of the Scottish Parliament to change include in particular the following, all of which apply to unmarried cohabiting couples:

- Protection of the family home under the Matrimonial Homes (Family Protection) (Scotland) Act 1981: I include here not only the protections against domestic violence, partly dealt with by recent Scottish legislation, but also the right to apply for occupancy rights in the family home owned or leased by one’s unmarried partner.

- Damages on the wrongful death of one’s partner. The Scottish Law Commission have recently recommended removing the indefensible anomaly in the present law that it is cheaper to kill gay people than non-gay people (because damages to their ‘relatives’ will be less). The Law Commission’s recommendations need to be implemented as a matter of urgency. But the Parliament needs to go further than the Law Commission and amend also the similarly motivated Administration of Justice Act 1982, s 13.

- The Fostering of Children (Scotland) Regulations 1996 (reg 12(4)) allow fostering by single persons, married couples, and unmarried opposite-sex couples but not unmarried same-sex couples. This suggests that same-sex couples are less fit to foster children than opposite-sex couples and has the effect of keeping children in children’s homes rather than in families.

- The Civil Evidence (Family Mediation) (Scotland) Act 1995 allows mediation services to be kept confidential, but only for opposite-sex married or unmarried couples; this notwithstanding that most mediation services in Scotland open their services to same-sex couples also.

- The Mobile Homes Act 1983, s 5(3) gives security of tenure and succession rights to those living in mobile homes similar to that now contained in the Housing (Scotland) Act 2001 but unlike the 2001 Act it is limited to married and unmarried opposite sex couples and excludes same sex couples.

- The Legal Aid Advice and Assistance (Scotland) Regulations 1987, reg 6A provides for the aggregation of income for unmarried opposite-sex couples one of whom applies for legal aid. Same-sex couples are
excluded and do not suffer the disadvantage of such income aggregation in determining eligibility to legal aid. This is an advantage to being in a same-sex relationship, but is equally unjustified as the disadvantages.

- The Local Government Finance Act 1992, s 77 provides that an unmarried opposite-sex couple are jointly and severally liable for each other’s council tax. A same-sex couple are advantaged in not bearing this liability but this advantage is as unjustified as the disadvantages they suffer.

9. Compared with the legal consequences of marriage, open of course only to opposite-sex couples, the above consequences of unmarried cohabitation are relatively minor in both effect and number. But married couples are given a much greater range of rights and liabilities by the law which are not accessible to same-sex couples. The following are some examples:

- Spousal exemptions for inheritance tax purposes
- Evidentiary privileges as witnesses in court
- The obligation of aliment
- The right to adopt children as a couple
- The right to access infertility treatment as a couple
- Presumption of joint ownership of household goods
- Succession rights on death
- Immigration rights
- Automatic rights of occupancy of the matrimonial home
- Right to claim financial provision at the end of the relationship
- Special rules on division and sale of jointly owned property

10. There are of course others, and many are matters reserved to Westminster. In my view, however, the most important of the above are (i) inheritance tax exemption; (ii) obligation of aliment, (iii) right to adopt as a couple, (iv) succession rights and (v) financial provision at the end of the relationship.

Recommendation

11. It seems to me that there are three possible ways forward for the Scottish Parliament: (1) continue to extend to same-sex couples the rights and responsibilities conferred and imposed on opposite-sex couples whenever new bills come before the Parliament; (2) do as the Canadians and Australians have done and pass comprehensive legislation bringing in same-sex cohabiting couples to all statutory provisions that grant benefits or impose liabilities on opposite-sex cohabiting couples; (3) create a mechanism whereby same-sex couples can access the benefits and liabilities available to opposite-sex married couples (either by opening up marriage to same-sex couples, as the Netherlands has done, or by creating a new civil institution with the same legal rights and liabilities as marriage, as many European countries and North American states and provinces have done, or by conferring on same-sex couples the same rights and liabilities as married couples once they have proved their stability). Option (1) is unsatisfactory since it means that the LGBT community would have to wait many years until the Scottish Parliament gets around to amending or introducing legislation; Option (2) is unsatisfactory since there are far fewer legal
consequences to unmarried cohabitation in Scotland and England than there are in Australia and Canada, with the result that in practical terms not very much is achieved; Option (3) is the only one that allows same-sex couples access to all the rights and liabilities open to opposite-sex couples and is therefore the only option which would ensure equality. On the question of whether to open up marriage or to create a parallel institution (a “civil union”), I express no opinion - that is a political decision and my major interest is solely in attaining legal equality for same-sex couples.

**Discrimination Law**

12. The law many years ago made unlawful any discrimination against a person on the basis of their race or their gender. The UK Parliament perceived a need to make such discrimination unlawful, because many elements in society practised sex and race discrimination and that Parliament accepted that women and members of ethnic minorities required the law's protection. There is no such general anti-discrimination legislation banning discrimination on the basis of sexual orientation, notwithstanding that there remain many individuals in contemporary Scotland who practise such discrimination, and every LGBT individual in the country suffers such discrimination as a fact of their lives. Such discrimination in employment and training will, of course, become unlawful in 2003 as a result of the new EC Equal Treatment Directive; but in any other area, such as the provision of goods and services, access to legal and social benefits, discrimination on the basis of sexual orientation will remain lawful. Homophobia is the last remaining respectable bigotry and the law needs to play its role in taking away that perceived respectability. I say this fully conscious of the fact that I am lucky to live and work in an environment that values individuality and tolerance and practises non-discrimination, and that any experience of homophobia that I personally suffer is minimal compared with many in the LGBT community in Scotland; but it is important for those outwith that community to realise the real vulnerability we within it all felt with the press coverage of Section 28. No-one is immune. The most recent experience I myself have suffered was last month when a student, against whom the University is currently taking disciplinary action, threatened as a result to expose my sexuality to the press. Given that anyone remotely interested will already be aware of my sexuality the threat in practical terms was meaningless, but the fact remains that we live in a society in which some people think that they can make such a threat and disrupt the lives of those against whom such threats are made.

**Recommendation**

13. The Scottish Parliament ought to pass comprehensive anti-discrimination legislation, following the model provided by the race discrimination laws. Many countries in the world already do so and legislative precedents will be easy to find.

Kenneth McK. Norrie  
Professor of Law and Head of the Law School  
University of Strathclyde  
August 2002
SUBMISSION FROM THE NORTHERN CONSTABULARY

1. I refer to your letter dated 5 July 2002 and thank you for offering me the opportunity to consider the proposed issues for the Scottish Executive Ministers’ “Taking Stock” meeting on sexual orientation. The agenda for the meeting appears broad and encompasses the general issues that require consideration when developing policies which impact upon the LGBT community.

2. With regard to the experiences of LGBT communities in Scotland, the Scottish Police/LGBT Community Liaison Forum was created mainly in response to two studies, namely the Plant Report and the TASC Report, which focussed on the experiences of the gay community in Edinburgh and the recognition that a national co-ordinated response was required to deal with issues which inevitably affected individuals throughout the country. These studies, along with a variety of anecdotal evidence from throughout Scotland, identified that LGBT members of society felt marginalised, victimised and discriminated against and, in addition, they did not feel they had equal access to mainstream services.

3. The response within the Police Service was also affected by the Macpherson Report, which acted as a catalyst for a rigorous process that identified a need to reach out to all minority groups. The Scottish Police/LGBT Liaison Forum has worked closely with representative groups from the LGBT community who are rightly forthright in relating the feelings of their members who advise us that, despite the best efforts of the Police Service, many individuals are still suffering harassment and victimisation.

4. It is difficult to generalise the experiences of the LGBT Community, particularly as many LGBT people do not identify themselves as a “community” and see that term as something of a misnomer. Many individuals do not disclose their sexuality and do not identify themselves with the “gay scene”. The police and other public services have expended much effort in reaching out to individuals within the LGBT community in order to improve our service delivery. However, it is much more difficult to determine the needs of individuals who are lesbian, gay, bisexual or transgender but who do not wish their sexuality to be widely known. I am aware that work is being carried out within the Scottish Executive to determine the experiences and service needs of such individuals and I believe this will be of invaluable assistance to the Sexual Orientation Reporter.

5. It is my belief that the provision of LGBT Aware Services will require careful consideration during the “Taking Stock” meeting. I know that many of the services that interact with the police are usually focussed on areas other than the Police Service priorities of community safety and victim support.

6. It is difficult, therefore, for agencies concerned with, for example, HIV prevention and safer sex, to commit a disproportionate amount of time in trying to deal with individuals who are suffering victimisation and harassment. This is particularly noticeable in the area of domestic abuse where it is believed anecdotally that many men suffer abuse within same sex relationships and there is a dearth of
agencies available to offer support and accept referrals from agencies such as the police. Also, it has long been recognised that there is a wide gap between service provision in rural areas and city centres and this situation needs to be assessed to determine the level of support agencies are receiving in order to assist them in their outreach work.

7. I welcome the minimum standards of legal protection against discrimination based on Article 13 of the Amsterdam Treaty and I am fully aware of the implications internally for the Police Service. In terms of the “Taking Stock” agenda, I feel it is important that the Scottish Parliament adopts a positive approach to the promotion of combating discrimination. This is an opportunity to highlight the blighting effect discrimination has on the lives of individuals and, if handled well, with an appropriate media strategy, we can avoid the general public’s negative perception that LGBT people are getting preferential rather than equal treatment, thereby avoiding further discrimination, victimisation and expressions of prejudice.

8. I hope these comments are useful and I look forward to hearing of the outcomes of the “Taking Stock” meeting in due course.

Ian J Latimer
Chief Constable
Northern Constabulary

SUBMISSION FROM ALISTAIR LINGS

1. Thank you for the opportunity to make a submission the Equal Opportunities Committee. My personal views/comments follow.

Sex Offences Law

2. The law must apply equally to same-sex and mixed-sex participants and to men and women. All sexual orientation discrimination must be eliminated. Any insulting terms such as “the unnatural connection between human males” should be removed.

3. Section 13, sub-section 9, of the Criminal Law (Consolidation) Scotland Act 1995 makes it an offence to “solicit or importune any male person for the purpose of procuring the commission of a homosexual act”. My understanding is that this creates a legal anomaly where it is a criminal offence for homosexuals to meet each other for the purpose of arranging sexual relations which are completely lawful. We don’t need laws like this.

Sex Offenders Register

4. Legislation and guidance on the registration of sex offenders must not discriminate against homosexuals.

Criminal Records
5. On several occasions the UK has been found guilty of breaching Article 8 of the European Convention on Human Rights and has had to amend its illegal discriminatory laws. Criminal convictions relating to homosexual offences which are no longer offences must be annulled. The Criminal Records Office must delete all records of these annulled offences, and public employers such as the police must not discriminate against the victims of these discriminatory laws. Written Parliamentary Question No. 70 of 18/05/1998 indicates that there may be some way to go in this regard.

6. Dr Evan Harris (Oxford West and Abingdon): To ask the Secretary of State for Northern Ireland, what account her Department would take of a criminal record consisting solely of homosexual activity engaged in prior to 1982, where such activity has been decriminalised, in determining (a) security clearance and (b) employment within the RUC; and what changes to regulation have taken place since 1994. (41156)

7. Mr Ingram: A candidate must meet the recruiting criteria in every respect. The RUC will take into account convictions for any and all criminal offences. The fact that an offence may have been decriminalised is not considered relevant. There have been no changes in policy relating to sexual orientation since 1994.

8. Compensation must be paid to all the victims of these discriminatory laws.

**Local Government Pensions**

9. These pension schemes must allow single people an opt-out from contributions towards married members spouses benefits. Alternatively they must recognise same-sex partners for benefit purposes.

**Article 13**

10. It is no more helpful to distinguish between sexual orientation and sexual behaviour (e.g. wearing wedding rings) and religious orientation and religious behaviour (e.g. wearing skull-caps, or turbans). Religious organisations may use religious knowledge as a criteria for assessing potential employees, but they must not be permitted to discriminate against candidates on the basis of their private lives.

11. All forms of discrimination in employment, education and training, and in the supplies of goods and services must be prohibited.

12. Once again, thank you for the chance to contribute.

Alastair Lings
August 2002

SUBMISSION FROM THE SCOTTISH VOLUNTARY HIV AND AIDS FORUM
1. The Scottish Voluntary HIV and AIDS Forum is a voluntary sector policy organisation supporting the voluntary sector’s work in the field of HIV. The Forum is a membership organisation made up of voluntary service providers and self-help organisations working in HIV-related areas.

2. We have a particular interest in this consultation due to the stigma and discrimination that different groups affected by HIV and AIDS experience and the well-established links between discrimination/inequality and HIV transmission across various vulnerable groups.

The Provision of LGBT Aware Services

3. The Scottish Executive’s current work on mainstreaming equalities should be continued, with the duty on public bodies to encourage equal opportunities extended to cover all public bodies.

Health Service

4. Adequate provision of confidential GU clinic services is essential. Lack of confidence in the availability of services and also confidentiality issues make many LGBT men and women reluctant to discuss medical problems at their health centre.

5. Adequate health promotion programmes are vital for all the population, including: lesbians, gay men, gay and bisexual men and women.

Police

6. There should be a duty on the police to ensure that:
   - at all levels of the service, LGBT people will be able confidently to expect equal and unprejudiced policing, both as victims and in any other context;
   - the effective combating of homophobic crime will be a central element in all community-safety strategies;
   - violence, neighbour harassment and abuse will be dealt with promptly and firmly;
   - arrests will lead to prosecutions, and prosecutions will lead to equitable and effective sentencing – work needs to be done with the Crown Office on these issues, so that an equitable and socially responsible prosecution policy at that level can be achieved.

Schools

7. Local education authorities should work in partnership with schools and other agencies to develop strategies to reduce homophobic bullying, and deal with it where it is identified.
8. Young LGB people in schools should be able to look to informed and professional support from the police service if they become victims of, e.g. harassment, abuse, domestic violence, exclusion from the family home.

**Legislative Changes for Equality**

*Sex offences law*

9. Although there have been improvements, sex offences law in Scotland needs to be revised to end discriminatory inconsistencies between same-sex and mixed-sex offences.

*Family law*

10. The laws regarding cohabitation for mixed-sex and same-sex couples should be equalised. Hopefully this will happen in the forthcoming Family Law Bill.

*Article 13*

11. The UK Government should extend the protection against discrimination in employment on the grounds of sexual orientation or gender identity to cover education and training and also the supply of goods and services.

Frances Cresser  
Information & Development Officer  
Scottish Voluntary HIV and AIDS Forum (SVHAF)  
August 2002

**SUBMISSION FROM DIVERSITAY LGBT GROUP**

1. I write on behalf of Diversitay, Tayside's LGBT Support Group, in response to your request for input from LGBT organisations.

2. A few weeks before this year's annual Pride march in Glasgow, Diversitay wrote to the Chief Executives and the Provosts of Dundee City Council, Angus Council and Perth and Kinross Council asking politely if they would consider flying the Rainbow flag from Council Chambers during Pride week. Only one of the six people contacted even bothered to reply, and the one who replied refused point blank to even consider the request.

3. This in our opinion is symptomatic of the attitude of local government towards LGBT groups. Even on the rare occasions when support and/or financial assistance is provided by a local authority, it is done in a 'nudge nudge, wink-wink'-manner. The last thing any local authority wants to be seen to be doing is openly supporting an LGBT group - a vote loser if ever there was one!

4. No matter how sincere Parliament is in its intention to find ways of redressing the balance and righting the wrongs done to the LGBT community over the years, it seems clear that this change of heart has not yet occurred at a local level. It's about time it did.

Pam Dewar
SUBMISSION FROM FALKIRK COUNCIL

Sexual Orientation Taking Stock

1. I am in receipt of your letter dated 5th July 2002 in connection with the above. Having considered the content of the letter I would make the following comments:

- The council is committed to achieving equality for all our citizens and employees. The Council to develop an equality strategy which will provide a framework to tackle disadvantage, discrimination, inequality and social exclusion;
- Whilst the specific experiences and needs of LGBT people is not currently a significant feature in our planning at the moment, we welcome the proposal to hold a “taking stock” meeting and would be very interested to hear the experiences and views of LGBT people directly. It is only by listening that we can begin to understand what needs to be done;
- In some areas, such as education, curriculum is developed and delivered in line with national guidelines and this would include issues in relation to this sensitive topic;
- A “taking stock” meeting would also allow additional consideration to be given to improvements that can be made in all Services for equality and inclusion of LGBT people.

2. I trust these comments are helpful. We have no written evidence, which we would wish to submit to the Equal Opportunities Committee.

3. If you require further information please do not hesitate to contact me.

Mary Pitcaithly
Chief Executive
Falkirk Council

SUBMISSION FROM THE WEST OF SCOTLAND LESBIAN AND GAY FORUM

1. The West of Scotland Lesbian and Gay Forum is a coalition of both local and national LGBT organisations which serve the needs of people who identify as LGBT and live in the West of Scotland.

The Experiences of LGBT Communities in Scotland today:

2. In presenting evidence under this heading the Forum is keen to stress the difficulties in using a community-focussed model. Our communities, as far as they exist, are centred on the main urban centres (primarily Glasgow and Edinburgh although not exclusively) and are extremely poorly resourced in terms of community infrastructure. Services for LGBT communities tend to focus on
projects and lack the sustainability built in to services for almost every other community within Scotland. Other issues to bear in mind when considering the experiences of LGBT communities in Scotland include:

- A distinct lack of a community (and therefore the positives that can be derived from it) in more rural areas
- Issues relating to isolation are commonly reported by LGBT people
- Urban communities tend to focus on commercial venues with the attendant issues relating to exclusion of the poorer members of the community and drug and alcohol use
- Chronic under-resourcing of communities and/or support groups/organisations leading to activist ‘burn-out’ and needs going unmet
- Lack of accessibility for LGBT people to more mainstream communities due to homophobia (both indirect and direct) and fear of homophobia
- Individuals turning more and more to internet communities due to isolation and lack of alternatives in the commercially based ‘community’
- Exclusion from all major faith communities – separate organisations have had to be created to meet the spirituality needs of the LGBT community

The Provision of LGBT Aware Services

3. The Forum believes that all public bodies still have much to do to ensure that their services are ‘LGBT aware’. All too often mainstreaming of the equality agenda leaves people who identify as LGBT languishing as an ‘and so on’ category. Invisibility is one of the main ways in which services exclude those who are LGBT. Explicit statements are required to ensure an aware culture is developed. Services currently involved in developing aware services include:

- Education
- Social Work
- Scottish Executive
- NHS Boards/all Health services
- The Police
- Social Inclusion Partnerships
- Community Education/Youth Work Services
- All other public services

4. In the meantime the Forum firmly believes in the need for LGBT specific services and for these to be funded in a sustainable way.

5. The Forum also believes that awareness is also only the start of a far more detailed process of integration of the needs of LGBT people in to the mainstream. Services must be able to respond positively to the myriad needs of LGBT people as well as being ‘aware’. Having one without the other will only lead to frustration and further feelings of exclusion.

6. Work then needs to be done to ensure that equality is provided in the provision of private services.

The Current Legislative Framework
7. The Forum welcomes recent moves to redress the discrimination faced by people who are LGBT in the development of truly inclusive legislation (and the removal of Section 2A from the statute). This process must continue and legislation has to be drafted which addresses the whole range of equality issues including:

- Relationship rights and responsibilities
- Pensions
- Employment
- Parenting
- Fostering and Adoption
- Protection from crime including blackmail
- Sexual offences
- Harassment

**Implications of Article 13**

8. The forum believes that everything should be done to ensure that people who are LGBT are provided with the same rights as others under Article 13 and that should not only focus on employment rights but also on the provision of goods and services. Failure to do this will merely continue the exclusion faced by members of the LGBT community.

Charlie McMillan  
Convenor  
West of Scotland Lesbian and Gay Forum  
September 2002

**SUBMISSION FROM STIRLING COUNCIL**

**Equal Opportunities Committee Taking Stock – Sexual Orientation**

1. I have copied the letter re the above to all services within Stirling Council. However, none of our officers felt that they had any specific evidence to submit on the issues to be covered. Stirling Council has in place a Citizens Charter, which guarantees that all our citizens will be treated equally and fairly, with respect and dignity, regardless of age, gender, disability, race or sexual orientation. Our employment practices also follow these principles.

2. However, one of our community planning partners, Central Scotland Police, do have a helpline for LGBT communities to use if they wish to report homophobic crime. Trained officers will work with them to address concerns. If you would like further information on this scheme, may I suggest that you contact Sgt Gary Lawrie, the force Diversity Officer, at Dunblane Police Office.

3. I hope that this information is of use to you.

Stirling Council  
September 2002
SUBMISSION FROM ARGYLL AND CLYDE HEALTH BOARD

1. Much of the research on this issue is from areas other than Argyll and Clyde, so the information below is of a generic nature rather than Argyll and Clyde specific. Where possible, Argyll and Clyde specific information is included, although much of this is anecdotal. Most of the Public Health work on this topic has been linked to HIV and therefore most of the information relates to men who have sex with men rather than lesbian or Transgender communities.

The experiences of LGBT communities in Scotland today

2. The term “Community” seems to imply some form of organised structure or at least regular interaction. In terms of LGBT people, such a community does not always exist, especially when considering rural areas such as Argyll and Clyde.

3. In Argyll and Clyde, peer support and interaction with other LGBT people can be accessed by visiting Glasgow’s gay scene, through university or college LGBT societies, through local public sex environments or through virtual sex environments (Internet). However, it is the case that many people choose not to pursue these routes of interaction and are therefore not readily exposed to other LGBT individuals, or health information distributed via these channels. From a public health perspective, the existence of an established scene facilitates access to this priority target group for the conveyance of prevention and harm reduction messages. This is difficult in Argyll and Clyde, there being few identifiable scene areas (and none in the rural areas) and the cost and difficulty of travel can prohibit accessing Glasgow’s gay scene.

Sexual Identity

4. In a recent needs assessment in Glasgow (Coia et al 2002) a survey of LGBT found that young LGBT are often defined by difference from their peers at school and that not identifying with a peer group results in inner conflict, guilt, shame and anger. Feelings of wanting to conform to social norms were also high on the agenda, as were feelings of relief when sexual identity was accepted by another person. Although these issues are being discussed in terms of young adulthood, these themes around forming sexual identity, receiving no peer support and feelings of isolation or alienation are important for LGBT people of all ages. The difficulties in talking to parents about sexual health and sexuality have been well researched and it may be presumed that for a young person who is LGBT, if family have difficulty discussing heterosexuality and sexual health, then open conversations about homosexuality are, arguably, even less likely. This could have a negative affect on an individual's self-esteem, self-image and development of sexual identity, all of which affect health in its broadest sense in a variety of ways.

Discrimination

5. The same Glasgow study (Coia et al 2002) claimed that 81% of young gay, lesbian and bisexual people in Glasgow had experienced some form of homophobia, ranging from verbal insults to physical and sexual assault. As a result, many people can feel unsafe in their everyday lives. This is especially
important in areas, such as Argyll and Clyde, where it is considered harder to access support services, people are more isolated and there may not be many gay friendly environments. Homophobic crime is believed to be vastly underreported and, until recently, police forces in Scotland were unable to determine the extent of the problem. On average, around 3% of calls received by Strathclyde Lesbian and Gay Switchboard concern discrimination or homophobic violence. These statistics led to new initiatives like the Hate Crime Line set up by the Switchboard and Strathclyde police, and are showing that these incidents are more common that previously thought.

6. A few years ago the then Argyll and Clyde Health Board ran a “Gay Healthy and Happy” media campaign that publicised the gay friendly services serving the area (e.g. PHACE West, Steve Retson project, Strathclyde Gay and Lesbian Switchboard). While the project was difficult to evaluate, anecdotal evidence suggest that seeing positive messages in the rural and sometimes homophobic communities of Argyll and Clyde had a significant impact on the mental wellbeing of individuals. In one case the significance of seeing the poster was recalled by an individual some years later.

The effects of LGBT individual’s experiences on Mental Health

7. The low self-esteem, lack of peer support, internalised issues with sexual identity and discrimination have a direct effect on emotional and in some cases mental health. Most research has focussed on self-harm, depression and suicide, and shows a high percentage of LGBT individuals do experience mental health problems. For example, in the Glasgow study (Coia et al 2002) 41% of women and 31% of men had depressive symptoms, with 50% of the sample attributing low mood and/or self-harm to issues surrounding their sexuality. A Stonewall document cites studies that found that 25% of males reporting self-harm are homosexually orientated and a 30% suicide rate among gay and bisexual youth.

8. Locally, 50% of calls to Strathclyde Gay and Lesbian Switchboard are requests for counselling and verbal support to help deal with mental or emotional problems. 6-7% of callers to the switchboard are recorded as being from Argyll and Clyde area, but the actual number is thought to be higher as many people nearer to Glasgow identify as being from the ‘Greater Glasgow’ area.

9. Many national studies show a higher level of drinking, smoking and illicit drug use in LGBT individuals, which correlates with low self-esteem and low mood. In Scottish research, however, any difference between LGBT and heterosexual substance abuse is negligible.

The provision of LGBT aware services

Schools

10. Sex education in schools can tend to be aimed at young women with the intent of reducing teenage pregnancy; thus LGBT individuals will be excluded.

11. In the recent needs assessment (Coia et al, 2002) 57% of men and 41% of women reported discrimination at school, and 86% stated that their school was an unwelcoming place for LGBT people. Only 4% had received any kind of
support or information from their school. This has important implications for health; both in terms of mental health and in terms of development of a positive self esteem necessary for many health promoting behaviours.

GPs
12. Gay Men’s Health in Edinburgh have set up a website for the LGBT community to locate ‘gay-friendly’ GPs. At the moment, there is no equivalent service for the NHS Argyll and Clyde area, although there are similar schemes south of the border. It is often presumed that many LGBT individuals have reservations about disclosing their sexual orientation to their GP. It is, however, unclear whether or not this reluctance stems from actual or perceived anti-LGBT sentiment. The current Beyond Barriers national LGBT survey has included questions covering this area and when it is completed later in the year will hopefully shed some light on the provision of LGBT aware general practices.

13. Around 4% of those included in Coia et al’s needs assessment had experienced problems at a general practice due to their sexuality. Substantially more voiced concern over issues of confidentiality. This issue is of more importance in rural areas such as Argyll where an individual is more likely to have social contact with health professionals. However, on the whole, anecdotal evidence suggests that GPs in the area are ‘LGBT ambivalent.’

Sexual Health Services
14. In common with other sexual health services, those in Argyll and Clyde offer a sensitive, non-judgemental and highly confidential service open to all. It is suggested that LGBT individuals prefer to use these services than approach their GP. However, in the Argyll and Clyde area this is not always possible due to the geography of the area. Although satellite GUM services are being planned, the main GUM clinics are in Paisley, Greenock and Alexandria. This means that anyone not wanting to go through his or her GP has a long distance to travel, often at great expense that may include a flight or a ferry.

15. This is made more difficult when considering young people, who often prefer youth orientated one-stop services. Although services like these exist in Argyll and Clyde they tend to be centralised and vary in accessibility to LGBT people. Family Planning Committees, while offering an excellent service, are perceived as inappropriate because most LGBT individuals will not be planning a family.

LGBT Specific Services
16. There are few LGBT specific services in the Argyll and Clyde area. This may be attributed to a number of facts: Geography, ease of travel to Glasgow (for some areas) and lack of formal needs assessment. The needs of LGBT individuals in Argyll and Clyde are being researched but there are difficulties with identifying potential service users and assessing these needs (for example, lack of identifiable LGBT community, lack of “scene”).

17. NHS Argyll and Clyde funds a gay Men’s Health worker at PHACE Scotland for 1-2-1, outreach and group work services. Other services in the Argyll and Clyde area include FE based LGBT support and social groups, and Strathclyde Lesbian and Gay Switchboard. In Glasgow there are dedicated GUM services for the
LGBT population and a larger number of social and supportive services, all of which can be used by Argyll and Clyde residents if they are able to travel to Glasgow.

18. The main problems with LGBT specific services are awareness of services, distance needed to travel and also problems that arise when individuals do not identify (or openly identify) as LGBT and therefore are hesitant to use LGBT specific services.

The Current Legislative Framework

19. The repeal of Section 28 was welcomed from a health point of view as removing some of the perceived barriers to providing appropriate sexual health education, in schools. However, there are still barriers to this due to lobbying of schools by special interest groups. It is likely that this negativity in the media has an impact on self-esteem.

Implications of Article 13

20. The requirement to make discrimination unlawful on the grounds of sexual orientation is to be welcomed. Discrimination of any kind has a negative effect on mental wellbeing.

Paul Gibbons
Director of Corporate Affairs
Argyll & Clyde Health Board
September 2002

SUBMISSION FROM STONEWALL YOUTH

1. Stonewall Youth is a non-political charity dedicated to providing services and educational opportunities which “empower lesbian, gay, bisexual and transgender young people to make positive choices about their lives”.

2. We would like the Scottish Parliament to suggest the following steps to Ministers:
   • make a commitment to reduce homophobia in Scotland – on the streets and in the schools
   • provide us with an inclusive education including sex education which meets LGBT young people’s needs
   • help families stay together
   • fund Stonewall Youth to provide a service across Scotland and not just the central belt.

Voice of Youth

3. We wanted the Parliament to hear it direct from Young LGBT people who attend our weekly drop-in. We have not edited to withhold any of the comments.
4. We asked them to fill out some postcards and pop them into a postbox.

5. As you can see, there is a lot of diversity in their experiences but they all think that they are less valued than they should be.

6. All these young people attend our Edinburgh services – it would be nice if we could have these services elsewhere?

**Postcards – I want to tell the Scottish Parliament:**

*Being Young and LGBT in Scotland*

7. There aren’t enough facilities for all youths. We’ve taken drugs because we have nothing to do and we want to escape our lives sometimes. It’s hard being bullied. LGBT people take a lot of pressure. More support, please.  
   **Age 19**

8. I used to live in a village in the country where everyone knows everyone. I was dying to come out but was very scared what people would say. Stonewall helped me. After going I felt a lot more confident. All I needed was someone to tell me that being gay wasn’t a bad thing. When I go back to my village I get a positive reaction because they see how happy I am now and if I get a bad reaction, I just don’t care!  
   **Age 19**

9. I’m proud to be gay, but other people can still cause problems.  
   **Age 25**

10. I believe myself to be a well adjusted young man. It has taken a lot for me to get here in my life and the stigma of being gay has not made anything any easier. People wonder why there are so many people suffering from depression or committing suicide. It is because people can be very cruel and non understanding. This relates to anything people may be experiencing not just LGBT issues.  
   **Age 21**

11. It would be better if all understood and not hated and if we were all safe and equal to everyone.  
   **Age 22**

12. It’s fun, but the scene is really small, so isolated.  
   **Ages 18 and 20**

13. I enjoy being young LGBT in Scotland but feel isolated.  
   **Age 18**

14. It is totally funky but not really accepted outside of the city etc – not many LGBT groups in Falkirk and other small towns.  
   **Age 17**
15. Transsexuals have the right to have their birth certificates changed to show their chosen gender.  
Age 17

16. I think there should be more LGBT centres around Scotland, but also the scene should be bigger.  
Age 19

17. ... to be able to assure LGBT people are safe. Just now you are scared to be 'camp'.  
Age 15

18. It is OK in Scotland for LGBT youth.  
Age 16

Education  

19. The school system is biased towards straight people. LGBT people are excluded. Everyone should be informed. It would reduce homophobia because people are scared of the unknown. Teachers need to get stronger.  
Age 19

20. When I was at school I was way too scared to come out. As much as I wanted to I felt that there was no-one to turn to for support. The only time I ever heard anyone talk about gay people, it was an insult i.e. you ‘f**kin lezbo’ etc. Gay people were never portrayed in a positive way putting a lot of horrible scared feelings on me.  
Age 19

21. While at school as a young LGBT person I was told nothing about being gay and now from being at Stonewall I have learnt a lot.  
Age 19

22. In my opinion, there is still a lot of stigma attached to LGBT people, especially in schools. Even in High Schools there are little if any at all resources for them. Speaking from personal experience, teachers are not willing to talk to us about issues. If they are, they feel pressured into backing off as they may also be labelled. Unfortunately this led me to look for answers in the wrong place and this could have been avoided if we were given help and recognition.  
Age 21

23. LGBT issues should be discussed in all schools, past and present, as well as heterosexual.  
Age 22

24. Colleges and universities are still not positive enough in their approach to sexuality subjects.  
Age 25

25. There is nothing to represent Gay and bisexual people in colleges and schools.
26. ... to get some more youth LGBT groups around Scotland. There is nothing for LGBT people in other areas like Dumfries. 

Age 20

27. ... there’s no gay sex education in schools. 

Ages 18 and 20

28. There is education in LGBT but I find that if you want it, you have to look for it. 

Age 16

29. ... gay education should be an option. 

Age 18

30. ... improve education, societies, more books, topics and updated buildings. 

Age 15

31. The SQA are buffoons, and teachers don’t get the respect they deserve. 

Age 17

Feeling Safe 

32. I don’t feel safe all the time about being gay. I have to “act straight” in some areas. Why can’t I be myself? 

Age 15

33. I would like to be able to walk along the street holding hands with my girlfriend without fear of violence or sexual harassment. Someone threw a can of unopened coke, which hit my friend, and said “f***ing dykes”. A man grabbed my girlfriend and me by the bum and said we would have a threesome and he would do dirty things to us like a porno he had watched. 

Age 19

34. Most attacks (including sexual assaults) are committed by people who know the victim yet it is made too hard for the victim to prosecute crime. 

Age 17

35. I don’t feel safe in Edinburgh because a lot of Police are still very homophobic. 

Age 19

36. I don’t really feel safe in general as there is such a bad element around our streets nowadays just looking for trouble. I don’t think I ever take abuse for my sexuality alone as I am not any different from what I was before I came out. In general I think something needs to be done to clean up the streets of Scotland. 

Age 21

37. I never felt safe at school, other kids have that problem. Our straight peers need informed on LGBT issues, told it’s not bad, unusual or wrong. 

Age 19

38. ... that I don’t feel safe at all especially outer Edinburgh and all urban areas. 

Age 22
39. …streets aren’t safe for gay people.  
Ages 18 and 20

40. I don’t feel safe when I walk down the street.  
Age 18

41. Walking in the street at night is not very safe.  
Age 17

42. I can feel very intimidated by ignorant people.  
Age 25

43. I feel pretty safe but not sure about the gay scene (Pubs) because of the new cinema complex.  
Age 20

44. I do not feel safe enough at night.  
Age 16

Parents and Families
45. There should be a phone/email helpline or group to understand and learn.  
Age 22

46. My parents and family are, and have been, excellent in regards to my sexuality.  
Age 25

47. That families often get left out. LGBT issues need to be more mainstream. Families need support too. It can be very confusing and hard for them to understand. You’re neglecting a big section of society.  
Age 19

48. I have been very lucky, my family fully support and love me the same as before I came out. However, not all families are like this. My friend has been fully rejected by his family, with them saying “I don’t want AIDS Scum in our family”. This is prejudice and pure ignorance. People need to know that AIDS isn’t just a gay thing and being gay isn’t bad.  
Age 19

49. Parents and families can be homophobic which can sometimes be hard to live with.  
Age 15

50. All my family were cool about me being gay. Nobody thought it was something wrong.  
Age 19

51. Parents and families are often homophobic – they should be fully educated.  
Age 16

52. All families should be taught how to handle the news that someone is gay.
53. *My family does not care that I’m gay.*

Age 18

54. *My family are supportive.*

Age 17

55. *It’s about time people took a long hard look at the priorities in their life. Personally after a long while my parents have come to accept my sexuality because they love me for who I am, I feel more families should check the reality of the situation and realise someone’s sexuality does not change who they are.*

Age 21

Stonewall Youth Project
September 2002

**Stonewall Profile**

**Profile of the needs of LGBT young people**

**Introduction**

1. Lesbian, gay, bisexual and transgender people are under represented at every level of society in Scotland. They have far less rights, poorer employment opportunities, poorer health and are more likely to be attached or discriminated against than the general population.

2. Young people who are LGB or T are often overlooked by society, seen as victims of circumstance or simply tacked onto existing policy agendas.

3. Because there is no link between generations of LGBT people before the point of coming out, each person has to learn ‘how to be LGB or T’ in isolation – there is in effect no community learning.

4. This background information will demonstrate that:
   - There is an extensive range of needs, barriers and pressures which many LGBT young people face
   - There is an ‘open door’ in terms of new opportunities, partnerships and policies to support LGBT young people to participate in decisions which effect them
   - There is good evidence to support the approach being proposed by Stonewall Youth in delivering the work.

**Needs**

5. The poor attention paid by academic researchers to LGBT youth when examining citizenship goes a great way to indicating just how marginalised and excluded
these young people are. However, Stonewall Youth has gathered evidence
where possible.

6. The needs of LGBT youth are as varied as those of any group of young people,
but time and time again Stonewall Youth hears the same themes over and over:

*Coming Out*

7. The process of disclosing their sexuality to others. This is often described by
young people as the hardest moment of their lives; a ‘no turning back’ situation
where all could be won or lost.

> Before I came out I remember feeling very isolated and depressed. I had no
vision of my future because I was afraid that I was the only person to feel like
this ...

young person (under 18)

8. It is seen as a key time for young LGB people in their development and is a
pivotal point in their ability to build good and strong relationships with people; to
access advice and information services\(^1\); and to move their lives forward.

*Discrimination, Violence, Homophobia and Heterosexim*

9. Young LGBT people often face discrimination because of their sexuality. Social
norms still allow national bodies, businesses and the media to openly
discriminate against someone on the basis of their sexual orientation. People in
authority can easily choose to discriminate against young LGBT people, putting
their job security, financial provisions and homes at risk. There is little protection
in law and many organisations fail to include sexual orientation (explicitly) within
their procedures.

10. Homophobia is the irrational fear of homosexuals, but is also a term used to
describe discriminatory practice. Heterosexism is the assumption that being LGB
or T is in some way less good than being *straight*. Many institutions may have an
anti-homophobic approach to their service (general anti-discriminatory practice)
but may be heterosexist, e.g. not recognising long-term same sex partners in the
same way as a heterosexual couple.

11. Two independent research surveys conducted in Edinburgh into levels of
violence and harassment have indicated that LGBT people (regardless of age)
are 4 times more likely to suffer violence or harassment as a result of their sexual
orientation, when directly compared with the Scottish Crime Survey\(^2,3\). Given the
level of reported incidents concerning premeditated violence near to home, it is
not surprising that each of these research reports has made a number of
recommendations for local authority housing departments.

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\(^1\) Smith, C; Scottish Council for Voluntary Organisations Research Unit, “Be Yourself, A Needs
Assessment of Young Gay People in the Lothians”, 1997

\(^2\) Morrison, TASK Agency for Scottish Office Centre Research Unit, “Experiences of Violence and
Harassment of Gay Men in the City of Edinburgh”, 1999

\(^3\) Plant et al, Alcohol and Health Research Centre for City of Edinburgh Council, “Experiences of
Harassment and Violence Faced by LGBT People in the City of Edinburgh”, 1999
I was driven out of (small town near Edinburgh where she grew up) after I came out, people who knew me for years, neighbours who babysat me watched as lads put hammers through my windows. I'm in (Edinburgh short stay hostel) now and am getting a flat soon. I'll never go back.

young woman (18)

12. This young woman bore the brunt of a series of violent attacks on her home; she subsequently lost her tenancy and became homeless. Fortunately she was able to access the support she needed and is rebuilding her life.

13. Levels of attacks on young people (of school age) are high, with a recent national research survey of over 4,000 young (under 18) lesbian and gay people finding that 40% had experienced a violent attack within school4. These young people live under the fear of attack and ridicule, unable to make clear judgements as to their own rights as service users. They have been stripped of their status as social equals and made to feel like second-class citizens. It is worrying to note that only 6% of schools include a reference to homophobic bullying in their anti-bullying policy5.

Internalised Homophobia
14. Often young LGBT people can exhibit what is termed ‘internalised homophobia’. Young people gather information about the world they live in as part of their cognitive development into adulthood. For young LGBT people the messages and images they receive from society are predominantly negative. The effect of this is that young LGBT people can become entrenched in a cycle of self-hatred and self-denial, creating barriers which can make them hard to reach. Stonewall Youth believes that internalised homophobia is a primary reason for LGBT youth not accessing services.

Isolation, Lack of Role Models and Affirming Messages
15. As the picture of the LGBT young person starts to emerge we see an individual who is often isolated from their peer group, their families and the professionals (teachers, GPs, youth workers etc) in their lives, who for most young people are their primary sources of support. Their isolation is compounded by the lack of any affirming messages from school, the media or their friends; and there are few positive role models with whom they can identify. Research in south east Scotland has suggested that services should include more positive images of LGBT people in mainstream literature6 to counter this imbalance.

Fear of Judgement and Pigeon-holing
16. Compounding this lack of positive messages – which would state “these services are as much for you as anyone else” – is the fear of judgement that young LGBT people often have. Anecdotal evidence from clients of SYP has indicated that – once expressed – for the service provider their sexuality becomes the pivotal reason behind all their issues and they cease to be an individual.

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I’m crap at maths, I just hate it. A while after I came out to (name of guidance teacher) she spoke to me about how (name of maths teacher) was worried that something was up. I suppose she was hinting to make me spill any problems. I told her that I hate maths. She didn’t believe me though.

young man (15)

17. It is easy to pigeon-hole LGBT youth in this way and see them as a set of issues that need to be dealt with. Although within this document much has been talked about the problems associated with LGBT youth, we must be clear in stating that it is the society within which they live and the services which they use that create the problems they face; and not vice-versa.

Mental Health and Well-being
18. In the past 12 months Stonewall Youth’s Advice and Support staff provided over 1,000 sessions with young people. A startling 56% of this work was primarily concerned with mental well-being. Issues of extreme low self-esteem, depression and serious self-harming behaviour make up over half of these numbers.

19. Even more disturbing are the findings of Trenchard and Warren who found that of 416 young lesbian and gay people they interviewed, 19% had attempted suicide as a result of being discriminated against because of their sexuality. These rates are significantly higher that the UK national average suicide rates for young men and women (ages 15 – 29 years).

Parents and Families
20. Whereas most young people from minority groups have the support of families, LGBT youth often find themselves without such a structure to fall back on. As has been stated earlier, coming out is a ‘no turning back’ situation, exploring issues of sexuality with parents can be putting at risk the only stable structure a vulnerable young person has.

21. Parents, like any group, can react in a variety of ways to a child coming out as LGB or T. Indeed, every situation is different but we can categorise them into 3 broad responses:
   • That is okay, you are still my child, I love you - acceptance
   • I have a problem with this (consequences) - rejection
   • Never mention this again - denial

22. It is easy to imagine the last two responses can be very damaging to a young person. Both can put at risk their safety and their homes. The stories of young people ‘running away’ from home after being rejected by parents are frightening.

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8 Trenchard and Warren, “Something to Tell You”, 1984
These vulnerable young people are unlikely to access services without assistance.

23. Of course, those young people who can rely on the care and support of families, housing and support become less of an issue. Stonewall Youth has supported a large number of young people who stay within their families and indeed it runs the only Parents' Evenings of any LGBT youth project in the UK (so far).

Effect on Accessing Services
24. As we pull together these various strands, we hope to build up a picture of why it is that young LGBT people find themselves marginalised, in vulnerable situation, do not access services and have low expectations of the levels of service available to them.

25. Also, recent research\(^9\) has shown that of 200 housing workers interviewed, a startling 50% said that embarrassment was the key blockage to them dealing effectively with LGBT issues.

Sex Industry
26. Although not exclusive, the sex industry which operates on the periphery of the commercial gay scene mostly involves young gay men. The reasons for selling sex are varied (for money, goods, attention, somewhere to sleep, drugs, peer pressure and coercion/threat) but for many of the young men on the street there are impacts on their physical, mental and sexual health, their safety and prospects\(^{10}\). Stonewall Youth is a community agency which is committed to supporting young people to exit prostitution\(^{11}\).

Conclusion
27. The picture is of a group with no distinguishable common feature, an invisible population that becomes known to service providers only at the point of breakdown and failure. To these young people services rarely offer cure, and are incapable of offering what they really need – prevention.

SUBMISSION FROM NHS TAYSIDE

Taking Stock Meeting on Sexual Orientation

1. Over the last two years, LGBT communities have become an increasing priority for NHS Tayside to consider.

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\(^9\) Waterson & Rennie, Stonewall Youth Project, “Out in the Cold – housing needs of LGBT young people”, 1999


\(^{11}\) Baig, B, Edinburgh Royal Infirmary (study), “Medicine and the Male Sex Industry”, 1999
2. In light of this there have been two Needs Assessments\textsuperscript{12} undertaken and several training events to NHS staff and partner organisations within Tayside related to LGBT issues.

3. In 2000 we undertook a Review of HIV Prevention Services and from this made a decision to further invest in Gay Men’s Health by appointing two dedicated health workers and also for the first we now financially support the LGBT Switchboard in Tayside.

4. I hope you find this information of use and please do not hesitate to contact myself if I can be of further assistance.

Wendy Peacock  
Associate Head of Health Promotion  
Specialist Health Promotion Service  
Directorate of Public Health  
September 2002

SUBMISSION FROM OUTRIGHT SCOTLAND

Equal Opportunities Committee – Taking Stock Meeting on Sexual Orientation

1. Outright Scotland is Scotland’s national, democratic, lesbian, gay, bisexual and transgender (LGBT) rights organisation. We have been campaigning for improvements in Scots law, Scottish society and Scotland’s institutions since 1969.

2. Prior to 1999 Outright Scotland campaigned for the establishment of a Scottish Parliament that would reflect the diversity of the people of Scotland. From its establishment Outright Scotland has actively and constructively engaged with the Scottish Parliament and its Committees. We welcome this opportunity to take part in the Equal Opportunities Committee’s Taking Stock exercise.

3. Speaking in September 2000 the then First Minister Donald Dewar said:

\begin{center}
\textit{I am proud of the stand we took on Section 28. We faced unprecedented pressures – a well-funded campaign, hostility built sometimes on malice, more often influenced on nameless unjustified fears and sometimes on deep-dyed prejudice.}
\end{center}

\begin{center}
\textit{We argued that the law discriminated, that tolerance was an essential virtue in our society, that our children were protected by the vigilance of teachers and by the caring involvement of parents}
\end{center}

We stood firm in the blizzard. We won. In Scotland we did not keep the clause, Section 28 is no more.

4. Outright Scotland shares the widespread concern that the commitment of the Scottish Executive to take a similarly principled stand on contentious equalities issues has diminished in recent times. This concern has not been allayed by the current First Minister’s very different view of the early years of devolved power in Scotland. In a recent interview with The Financial Times First Minister Jack McConnell told the newspaper:

I have no doubt that there is a level of disaffection with the parliament. The first couple of years were a disappointment, partly because expectations were too high, partly because of the way in which presentation was skewed to the negative. But partly also because in the executive and the parliament we took our eye off the ball.

5. Like many in the LGBT communities, Outright Scotland is rightly proud of the work of the Scottish Parliament, and the Equal Opportunities Committee in particular, and do not share the First Minister’s view of the first few years of devolution.

6. The Executive and Parliament need to continue to convince the LGBT people of Scotland of their commitment to address the inequalities and discrimination we experience. This will be most clearly demonstrated not by the usual pledges to equality in the party manifestos next summer but by the presence or absence of LGBT equality measures in the Executive and Parliamentary programme in the next session and beyond.

7. The areas where the rights of Scotland’s LGBT citizens remain in question are many and often complex. For brevity we present a list of issues that Outright Scotland would ask you to consider and to address to Ministers:

In relation to Justice

Partnership
8. We continue to hope that the parliament will address the question of recognition of same-sex partnerships. Although, in principle, Outright Scotland would prefer all rights and responsibilities within domestic partnerships to be a private matter of agreement between the two parties involved, we recognise that centuries of social custom and law have developed the current system in which the state grants certain privileges to individuals by virtue of their domestic living arrangements.

9. Legislation passed by the Scottish Parliament has sought to treat same-sex and mixed-sex couples equally. This is in itself welcome and Parliament must ensure that it continues by both expressly including same-sex couples in legislation and by maintaining a single, clear, agreed legislative definition of same-sex partnership (as in the Adults with Incapacity (Scotland) Act 2000; the Mortgage Rights (Scotland) Act 2001; and the Housing (Scotland) Act 2001).
10. However, inequity continues in that couples recognised as being married enjoy various rights, privileges and protection under the law.

11. We therefore consider that a new Civil Registered Partnership, open to same-sex and mixed-sex partners should be available giving the same status as married couples. For the sake of clarity however, it should be noted that Outright Scotland is not calling for “Gay Marriage” however much this may disappoint the tabloid press. Civil registration would be recognition, by the state, of two individuals consenting to form a committed partnership and agreeing to share rights and responsibilities to one another.

**Parenting**

12. The parenting and adoption rights of same-sex couples must be reviewed. At present the law remains at best unclear and subject to widely varying interpretation (as in the case of *T Petitioner* 1996 SCLR 879; SLT 724) and at worst thoroughly discriminatory. Scotland currently has high levels of children being “looked after” by local authorities yet same-sex couples are unable to adopt although single individuals can.

**Crime**

**Sexual Offences**

13. Sexual Offences law should be equal for heterosexual people and LGBT people. It is planned that sexual offences legislation will be reviewed in England and Wales next year and sexual orientation discrimination removed. A similar process needs to take place in Scotland.

**Rape**

14. A man who is “raped” should be treated the same as a woman who is raped in terms of the prosecution and sentencing of the perpetrator. There should be more support for male victims of rape or sexual assault, either as adults or children.

**Domestic Abuse**

15. It should not be surprising to learn that domestic abuse takes place in same sex relationships. However, support services throughout Scotland operate mainly within a sexist and heterosexist paradigm in which men are abusers and women are victims. Such services can offer little to women who have been abused by other women and completely ignore men as victims altogether. Likewise, other people of all ages but particularly the young and the old, who suffer abuse from parents, carers or siblings because of their sexual orientation or gender identity, are largely ignored.

**Sex & Gender Identity**

16. Because people are treated as having the same sex throughout their life as that shown on their birth certificate, the law does not recognise the sex of transsexual people. Recent judgements by the European Court of Human Rights in the cases of *Goodwin* and *I v the United Kingdom* in July 2002 will require this to change. We believe that a Re-registration of Sex Bill is required. Such a bill
would allow transsexual people to re-register their sex so that, for example, they would have the right to marry someone of the opposite sex. (We would stress that occasional references to “gender re-registration” is incorrect and liable to confuse matters.)

**Policing**

17. The Scottish police service through their National Equal Opportunities Training Strategy and both local and national liaison with the LGBT communities, have made significant progress over recent years in addressing the concerns of the LGBT communities. There are many valuable lessons here that are transferable to other bodies in the public sector. The committee and Scottish Executive should consider how this resource can best be used and how this valuable liaison work can be expected to continue without appropriate funding.

**Discrimination: Homophobia & Heterosexism**

18. LGBT people in Scotland face a gamut of discrimination ranging from simply being ignored to actively being hated. Prejudice and hatred are unacceptable, regardless of whether their target is a race, ethnic group, religion, disability, sex, gender or sexual orientation. Such discrimination has no place in a modern Scotland and while much equal opportunities legislation is reserved to Westminster, the Scottish Executive and Parliament have considerable powers and responsibility to exercise.

19. There is a desperate need for adequately funded education, training and publicity campaigns to address the wide spread discrimination against LGBT people in Scotland. More specifically, there should be training to address heterosexism and homophobia in the public sector - in education, the civil service, government agencies, local government and the health service.

20. The Scottish Executive should encourage greater use of Anti-Social Behaviour Orders to tackle neighbourhood disorder which includes an element that is motivated by homophobia. While public bodies should be required to treat homophobic graffiti in the same way they treat racist graffiti.

21. Both the Executive and Parliament should give consideration to providing more legislative support to police and community efforts to tackle crime motivated by homophobia.

**Local Government**

22. In provision of services, licensing and regulation, local councils are responsible for significant areas of everyday life in Scotland.

23. As with other public bodies, councils should be exemplars of best practice in the way they interact with the LGBT Communities and treat their LGBT staff and service users.

*Licensing:*
24. Local Licensing Committees should be required to have cognisance of community safety considerations when granting alcohol or entertainment licences. They should be given power to require licensees to comply with community safety conditions where they have been made and there should be greater enforcement of the current requirements.

**Social Inclusion:**
25. Companies providing goods and services to the LGBT communities should be encouraged to engage with local community initiatives. This is particularly important for licensed premises aimed at an LGBT clientele in relation to community safety projects.

26. It is Outright Scotland’s experience that some Social Inclusion Partnerships do not regard the social exclusion experienced by many LGBT people as an issue for them. Addressing the social exclusion of LGBT people must be made explicit in their remit.

27. There should be interdepartmental work within the Scottish Executive and with local government to tackle isolation experienced by LGBT people in rural areas.

**Local Initiatives:**

*Community Centres*
28. Outright Scotland believes that community centres, particularly those serving a minority community are an invaluable but much underestimated asset. For service providers such centres are an effective focus for the delivery of their services. And for LGBT people a community centre offers a much needed safe and supportive environment free from commercial pressure.

29. The Glasgow LGBT Community Centre should be recognised as the significant resource it has become, not just for the city itself but for a large area of the country. The Centre should receive funding appropriate to its status. Furthermore, the Glasgow centre should be promoted as an example that ought to be reproduced in other cities in Scotland.

*Community Forum*
30. Outright Scotland applauds the work of Aberdeen City Council and the Aberdeen LGBT Forum. The work undertaken to develop the City’s LGBT action plan is an example of good practice that should be supported and promoted elsewhere.

*Community Safety Forum*
31. Outright Scotland applauds the work of the City of Edinburgh LGBT Community Safety Forum. As part of the City of Edinburgh Community Safety Partnership it is one of the few community safety initiatives in Scotland to directly address the needs of LGBT people. The Scottish Executive should be asked to consider allocating specific funding for such initiatives directed at the LGBT, and the black and minority ethnic communities.

**Civic Participation:**
32. In attempting to address discrimination and social exclusion the LGBT communities are repeatedly faced with the systemic inability of the public sector to differentiate between community groups and voluntary organisations.

33. In liaison between with LGBT organisations public bodies have naturally drawn upon their experience of working with other groups aiming to counter exclusion and discrimination such as those dealing with issues of race, gender, disability, young people or senior citizens.

34. However, many such organisations receive public funding from local and/or central government to pursue their aims and employ staff.

35. If LGBT people are to be involved and their views included in public policy formation then consideration must be given to the support needs of LGBT community representatives. This is particularly important where they are to attend events and meetings that take place during normal working hours and may result in loss of earnings and additional expenses being incurred.

36. There is a desperate need to address the lack of public funding available to LGBT groups. Indeed, it could be argued that discrimination against and exclusion of LGBT people starts with the decision makers of local and central government funding.

**In relation to Education and Life Long Learning**

37. There are continuing concerns about the scarcity of provision of targeted youth services for LGBT young people, particularly in Glasgow. There are significant potential child protection issues that we trust Glasgow City Council and Greater Glasgow NHS Board are aware of.

38. LGBT parents and their children deserve more support within the education system. Age appropriate resources, which represent positively the diversity of families in Scotland, should be available to pupils and teachers.

39. Specific initiatives are needed to target the continuing problem of homophobic bullying both of pupils and staff in educational establishments.

**In relation to Health and Community Care**

40. The health care needs of lesbian and bisexual women have long been under resourced, and this should be addressed.

41. There is a high incidence of mental heath problems and self-harm within the LGBT community. These issues must be addressed by specifically targeted initiatives.

42. The needs of same-sex couples and older LGBT people in long-term care should be taken into account when planning and delivering services.
43. As outlined above, little or no support is available for LGBT victims of domestic abuse. This systemic failure must be addressed, particularly in relation to their health and housing needs.

44. There should be pre-registration and on-going awareness training on LGBT issues for all social-care workers, doctors, nurses and other professionals allied to health care.

45. There should be targeted work that addresses the high levels of smoking and alcohol consumption in the LGBT community.

**In relation to the LGBT Communities and Capacity Building**

*History, Culture & Sport:*

46. The persecution of LGBT people should be acknowledged in national and local Holocaust memorial events.

47. As in other EU countries, there should be a national memorial to LGBT people who have been persecuted because of their sexual orientation or gender identity.

48. The spoken and written history of LGBT people in Scotland and their contribution to Scottish society should be archived and recorded for the nation.

49. There should be public funding and support for national and local LGBT Community Cultural Festivals.

50. The Parliament and Scottish Executive, specifically through funded bodies like Sport Scotland, should address the problems of LGBT people participating in sport. Attention should be paid to access to sport and leisure facilities and funding for LGBT sportspersons, groups and clubs. Particular attention should be paid to the inclusion of transgender sportspersons and their participation in sport at all levels.

*Community Building:*

See “Local Initiatives” under “Local Government” above.

**Discrimination within the LGBT Community:**

51. The combined discrimination experienced by black and disabled LGBT people continues to have a significant impact, particularly in terms of access to services, education and employment.

52. Targeted work to address and counter discrimination within the LGBT community on the grounds of sex, race, or disability should be supported.

53. Work addressing the discrimination on the grounds of sex, race, or disability should include the experiences of LGBT people.

**In relation to Employment**
54. As has been noted, Article 13 of the EU Treaty and the EU Employment Framework Directive require legislation be enacted to make discrimination on the grounds of sexual orientation in employment illegal.

55. It is disappointing, but perhaps not surprising, that the UK Government did not take the opportunity to extend the new legislation to apply to goods and services. The Race Relations Act would have been a better model of legislation that aims to eradicate discrimination. Perhaps the Equal Opportunities Committee could recommend such a course of action to the UK Government?

56. Outright Scotland would like to thank the Equal Opportunities Committee for this opportunity to contribute to its “Taking Stock” exercise and hope that our comments and suggestions are helpful. We look forward to hearing how the committee intends to take forward the issues we have raised.

Keith Cowan
for the National Executive Committee
OutRight Scotland
September 2002

SUBMISSION FROM FIFE NHS BOARD

57. Health services are provided in Fife on the basis of equality irrespective of sexual orientation. There are also LGBT aware services which provide both direct services and inform service planners and providers on specific needs of the LGBT community. Such services include the Genito-urinary Medicine Service, the Condom Distribution Scheme and Fife Men. In addition, the Fife Sexual Health Strategy Group is supporting the pilot introduction of a service run by Stonewall Youth to increase support to LGBT young people.

58. Fife has also produced a Sexual Health Directory which includes information on all sexual health services provided in Fife and also provides contact numbers for national support services. There is a specific section on sexuality which deals with sexual orientation, gender identity, transgenderism, prejudice and discrimination, and legal issues. This directory is updated annually and is distributed to health care providers, schools and community services.

59. Work is ongoing at local level to identify the needs of the LGBT community and address these through training and multi-agency service provision. Many health staff are also in contact with or are aware of local non-NHS services which include the St Andrews University LGBT Group run by the Students Association and Fife Constabulary work on diversity awareness training.

60. If you have any further queries, please do not hesitate to contact me.

George J Brechin
Interim Chief Executive
Fife NHS Board
SUBMISSION FROM THE NORTH EAST LGBT FORUM (NELF)

Taking Stock Meeting On Sexual Orientation – October 2002

1. Thank you for giving the opportunity to respond to the above consultation. We received copies of your letter from a number of organisations and noted the wish of the Equal Opportunities Committee (EOC) for as wide consultation as possible.

2. The North East LGBT Forum (NELF) is a new body and is an umbrella organisation to co-ordinate activities to support and promote the lesbian, gay, bisexual and transgender (LGBT) communities in Aberdeen and Aberdeenshire. We held two open meetings in order to consult amongst our community. The discussion was broad and detailed and I cannot hope to convey every point raised. What follows is a synthesis, which I passed back to those who contributed to try to ensure I didn’t leave out the most important details. We have also posted a copy of this letter on our web site:

The Provision of LGBT aware services;

3. NELF is the main vehicle by which statutory and non-statutory service providers may consult with the LGBT community in Aberdeen and Aberdeenshire. We enjoy good communication with Aberdeen City Council and Grampian Police. Grampian Health Board has good communication with some LGBT organisations, but no link yet to NELF. We have no contact at all with Aberdeenshire Council.

4. Aberdeen City Council has broken new ground in establishing a means for LGBT persons to input to the way services are provided for our community by establishing an LGBT strategy and action plan. At present, this plan is undergoing its first annual review. We consider that this has already provided many tangible benefits for our community and that other local authorities in Scotland should be following Aberdeen’s lead. We are unaware of any strategic steps taken by Aberdeenshire Council for its LGBT citizens.

5. Of the services provided by local authorities we have highlighted the following points:

6. Education – removing discrimination against LGBT people in the school environment remains a difficult issue following some of the entrenched positions formed during the debate about removal of ‘Section 2A’. While the Education Department at Aberdeen City Council is positive about providing educational and supportive material on LGBT issues for schools, the headmaster and board of governors do not have to make these available to children or parents at their school. Similarly, guidelines on treatment of LGBT issues in schools issued by the Scottish Executive in response to repeal of Section 2A are guidelines and not obligatory. This leads to erratic treatment of LGBT issues in the classroom; bullying, harassment, stigmatisation and exclusion are still commonplace for LGBT children, their parents, LGBT parents and their children.
7. We consider schools to be one of the most important places where social justice can be delivered for LGBT persons now and in the future. The Scottish Parliament is still failing in this area.

8. **Youth Issues** – the LGBT community is under-developed in North East Scotland and there are few facilities away from the “commercial gay scene” (bars and nightclubs). The commercial gay scene excludes everyone under the age of 18 and is unpopular with LGBT people who do not enjoy pubs and older LGBT people. Many LGB people come out in their early teens and discover there is nowhere for them to meet like-minded people where they can be supported and receive appropriate advice. Young LGBT people are likely to find ways of meeting people, such as going out on the commercial scene where they are exposed to alcohol and perhaps other drug culture or perhaps for young gay men, use public sex environments. All these place LGBT youth at considerable additional risk.

9. We consider that there is a pressing need to establish a permanent LGBT youth space in North East Scotland. This could be achieved by providing funds for an LGBT centre in Aberdeen.

10. Social Work – we note that there is poor after-care for LGBT children after fostering. The consequences of this relate to mental health problems and homelessness among LGBT youth (covered below).

11. Housing – we note a recent report by Barnardos that highlighted the high incidence of homelessness among LGBT young people. Young LGBT people may be forced to leave home before they have become independent of their parents because of homophobia or harassment. The “points system” for prioritising the provision of council housing doesn’t make any special allowance for this.

12. Grampian Health Board provides funding for the Grampian Gay Men’s Health Project and for the Grampian Lesbian Gay and Bisexual Switchboard. There has been no examination of the health needs of the lesbian or of the transgender communities. We believe that there is a shortage of health services targeted at lesbians, particularly in areas of sexual health.

13. In general, we feel there has been a slow improvement in the provision of services to LGBT people, particularly in how partners of LGBT people are treated in hospital.

14. There is a shortage of skilled surgeons specialising in gender re-assignment and related operations. Many of the small operations that accompany full gender reassignment are crucial for the self esteem of transgender people but are difficult to obtain or expensive by private surgery.

15. Many LGBT people suffer mental health problems because of issues around their sexuality or gender. Many seek counseling services, which are generally over-subscribed with long waiting lists and not LGBT targeted. We note that there were four suicides in Grampian last year by young LGBT persons.
16. Grampian Police have consulted with the LGBT community since 1998 and have made considerable progress in overcoming homo- and transphobia amongst their ranks. Grampian Police has made considerable progress toward establishing General Orders to guide police officers in dealing with LGBT persons or issues (e.g. treatment in custody of transgender people, policing of public sex areas); it is anticipated that these will be brought into place soon.

17. Grampian Police has also brought in its own training programme for established police officers over and above that provided at Tullyallen College for new recruits.

18. We welcome these developments but recognise that there are still many problem areas. We note that there is serious under-reporting of homophobic and transphobic crimes. We also note that some LGBT people in North East Scotland still feel “over-policed and under-protected”, this problem is significantly worse in other parts of the country.

19. Community-led service provision has always been poor in Aberdeen, because the community has always been under-developed. At present, there are two charities working specifically for LGBT people in the North East – Grampian LGB Switchboard and PHACE Scotland. The former relies entirely upon volunteers and the latter has one full time officer and part time secretarial support. It is unreasonable to expect an under-developed community to provide services for itself with little or no professional support.

20. If the Scottish Parliament is genuine about delivering social justice for LGBT people, then it needs to give the communities a major kick-start, especially in rural areas and in the smaller cities.

The current legislative framework;

21. We note that the Equality Network provides considerable advice to the Scottish Executive and Scottish Parliament on the way legislative change may affect LGBT people.

22. We do not profess to be legal experts, and nor should this be expected of us. During consultation, we all professed to be confused by which laws discriminate against us specifically as LGBT people. We feel that the Scottish Executive should carry out:

23. a review of all laws that currently discriminate against LGBT people and provide a timetable for removing these inequalities and

24. provide a list of recent changes made to the law affecting Scotland that have removed discrimination against LGBT people.

25. These reviews should be written in plain English and made freely available e.g. on the internet.
26. At our consultation meetings, we noted that there was a strong wish for strong partnership legislation for same-sex couples.

27. We also noted that while there has been a change to the law concerning fostering by LGBT persons, there is still inequality in treatment for same-sex couples in adoption law.

28. We note that it has been necessary in this country to introduce or consider introducing laws which ban the incitement of racial and religious hatred in order to prevent abuse against these groups. Homophobia and transphobia is deep rooted in Scottish society, as was shown by reaction to repeal of Section 2A; verbal and physical abuse of LGBT people is widespread. If the Scottish Parliament is serious about delivering social justice, then it will give very serious consideration to introducing legislation to protect LGBT people from abuse. Only then will Scottish people take the issues of homophobia and transphobia seriously.

Implications of Article 13.

29. We noted amongst our consultation group that many had suffered what they felt to be discrimination in their workplace. Examples included one person whose employment contract was not renewed when all of his colleagues’ contracts were. In another case, where a person was unsuccessful in her application for a permanent job when she had been doing the same job successfully on a temporary contract for the past year.

30. We perceived there to be greater problems for those working in the offshore oil and gas industry where there is limited protection for workers and an artificial "macho" environment.

31. We felt certain that the transgender community receives more discrimination in the workplace than other single group, even though sex discrimination law can be used in some cases. However, we note that there is no protection against discrimination for transgender people while in their pre-operative phase and no proposal to provide such protection. This is a particularly difficult phase for transgender people when they are expected to live as their true gender identity, including the use of a new name, but will not have had the cosmetic surgery they may require to discard their old gender identity.

32. For discrimination in the work place to end, employers will need to instigate extensive and sensitive monitoring schemes, and to review benefits and rights that extend to partners. Most company pension schemes do not provide for same sex partners in the event of death in service, although new schemes are redressing this inequality. Most employers will not know how to carry out an LGB audit of their employment practice and staff policies and will need considerable guidance in this area from the Scottish Executive.

33. Some religious groups are seeking exemption from new legislation that may emerge from ‘Article 13’. We consider this to be spurious and cannot see any
The experiences of LGBT communities in Scotland today;

34. In general, we consider that there is considerable under-lying prejudice against LGBT people in Scotland today. This was borne out by some of the shocking reactions to repeal of Section 2A of the Local Government Act. While repeal was successful, the process left many scars on the LGBT community, especially in Aberdeen where the community is fairly weak and poorly developed. The problem is even greater in rural areas. Some progress has been made toward healing these scars by initiatives from the community itself and from Aberdeen City Council. No such effort is being made in rural areas where there is no visible community and no will on the part of the local authority.

35. Initiatives at ending discrimination are most likely to succeed if led by the community, but in the absence of a strong community, public bodies must be prepared to take the initiative. Weak communities cannot be expected to deliver social justice for the Scottish Parliament on a purely voluntary basis – all too often the burden falls onto the shoulders of a few individuals who are expected to give their own time for no financial reward.

36. The Scottish Parliament must look into issues of providing secure ring-fenced funding for LGBT communities in Scotland. Greatest resources must be placed in rural communities where there is most work to do.

37. Please feel free to use any part of this submission for your report. If you or any of the Committee members have any further questions please feel free to contact us (quickest via email).

Andrew Webb
Acting Convenor
North East LGBT Forum

SUBMISSION FROM HIGHLAND LESBIAN GROUP

1. Highland Lesbian Group have not felt able to fully participate in this consultation process, due to the amalgamation of the needs and concerns of lesbians, gay men, bisexuals and transsexuals, transgendered and transvestite people under one blanket banner of ‘LGBT issues’. The needs and concerns of these groups are not the same and could very well often be diametrically opposed. Many women find this continued amalgamation alienating, marginalising and destructive and are not comfortable entering such a forum. We hope that you will take on board the need for focussed and separate consultations in the future, whether it is concerns of cost that have led to this amalgamation or whatever, it is very far from satisfactory.

2. In almost every case lesbian rights are women’s rights and issues such as equal pay and equal opportunities for women are absolutely crucial for lesbians - we
need financial independence from men. Women have brought this up as an issue to our group - that they have felt trapped in relationships with men due to financial concerns and they have known other women in the same position - this is a particular concern for working-class lesbians.

3. Partnership rights and recognitions of same sex couples and employment protection rights are also very important.

4. We also feel there is a particular need for focussed research into provision for lesbians in our area with mental health problems, and lesbians with addiction problems. We are a voluntary group and we are not equipped to deal with the problems that many of the women who contact us have. There has to be research into this and proper provision made to deal with these women. Health service professionals have to be made aware of issues of sexuality and steps taken to ensure that there is no discrimination, in fact that positive help is given re concerns of sexuality and how that affects these women's problems - this will require education in the health service.

5. Our group has been in existence since 1981 and we have had some extremely damaged women contact us during that time, and they still do, and we cannot possibly be expected to deal with them without support, and yet we have to try.

6. We deplore the continued extremely undemocratic and unbalanced power and voice of the Churches in local government committees re schools etc. There is an atmosphere of repression which contributes to a paranoia, silence and invisibility in our community which is in no way necessary. If part of the community is living in fear it's damaging to the whole community. Though some of us live healthy and fulfilled lives there is no doubt that many of our sexual persuasion have been damaged, some extremely damaged, by the oppression of the society in which they've had to live - and that is unhealthy for the whole of society. There are consequences for everyone.

7. We look forward to further, more focussed, research and consultation in the future.

Marjory Smith for
Highland Lesbian Group
September 2002

SUBMISSION FROM BEYOND BARRIERS

Taking Stock – Sexual Orientation Report

1. The Equality of opportunity for all in Scotland is one of the four key principles on which the Scottish Parliament is based, and the definition of “equal opportunities” in the Scotland Act itself specifically includes sexual orientation. The Scottish Executive’s published Equality Strategy is explicitly inclusive of lesbian, gay, bisexual and transgender (LGBT) equality issues, and the Executive and Parliament have already legislated in a number of areas in the past two years in
ways which explicitly help address discrimination against LGBT people, most notably with the repeal of section 28 (more formally, section 2A).

2. However, compared to that of some of the other constituencies in Scotland who face discrimination and abuse, the LGBT community’s own infrastructure is very underdeveloped. There are approximately eighty local LGBT organisations of various sorts (social, self-help, health, community, political, religious) across Scotland, but these groups are almost all completely unfunded, and are largely working in isolation, without links either to other LGBT organisations or to groups working in other equality-related areas, for example to address race, gender and disability issues.

3. Events of the past two years surrounding the repeal of section 28 have illustrated the lack of information, and in our view, the level of prejudice, about LGBT people and our lives amongst significant parts of the people of Scotland. The section 28 debate, with the very high-profile and extraordinarily well-funded Keep the Clause campaign, was very divisive for all of Scotland, and personally distressing and damaging for a very large number of LGBT people. A great deal of support and outreach work still needs to be done at local level to repair this damage.

4. Building on the foundations of policy and legislative change outlined above, there is a huge task facing the LGBT community over the next few years, to strengthen and develop, to provide better support and services, and to build links with other communities, both communities who themselves face forms of discrimination, and more general communities, especially at local level.

5. The Beyond Barriers project has begun to facilitate that community development; working towards the ultimate aims that:

6. LGBT people (as individuals or in groups) develop the skills, knowledge and motivation to become actively involved in the evolution of their own community as part of the wider social context.

7. Support and services exist at local level to help ensure that LGBT people are able to live their lives free from discrimination and exclusion.

8. Equality of opportunity is widely recognised as a principle which should apply to all people, including LGBT people alongside other groups such as women, black people and ethnic minorities, disabled people and religious minorities, and that understanding of both our common humanity and our diversity is strengthened. However its primary objective is to strengthen the internal capacities of the LGBT community within Scotland and seek common ground with other minority communities facing similar issues of exclusion. In order to make this a reality, the project also has to work on the integration of LGBT people and organisations into the wider social structure – using education and information to prepare the ground for a more equitable Scottish society. It is this balance of work within the LGBT community / voluntary sector and that, which will take place with public, private and voluntary sector organisations outwith the LGBT community, that has begun to ensure the effectiveness of Beyond Barriers in helping create a more inclusive environment.
9. To ensure clarity and focus, Beyond Barriers is structured into four separate but related strands of work, each of which will strengthen the LGBT voluntary sector and build bridges with the wider community:

- Information Provision
- Training
- Research
- LGBT Community Building

**Information provision**

10. To provide high quality and comprehensive information on the situation of LGBT people across Scotland for use from within and outwith the LGBT voluntary sector. This includes information on topics such as legal issues, social policy, and current research as well as updates on the current situation and good practice in public, private and voluntary bodies. It is a forum for LGBT community groups across Scotland to share information on what works and what doesn’t, and to exchange ideas, resources and experiences. It also demonstrates and explores relevant areas of overlap and commonality with other socially excluded groups. There is no other resource currently in existence and our experience suggests that it will be widely accessed by individuals and groups from public, private and voluntary sector organisations, as well as those with a personal interest. It is both web and paper-based and the project makes provision to support LGBT voluntary sector organisations in developing their own IT strategies towards on-line access.

**Training**

11. To create and publish training materials on LGBT equal opportunities, and to develop a “train the trainer” service, for equal opportunities trainers in public, private and voluntary organisations. At the end of two years, the project would be recognised as an influential source of expertise and have well-developed and workable training materials, including model equal opportunities promotion policies, “How to..” guides and action packs. All such materials would be readily available for local use through the information service.

**Research**

12. To identify and commission research into the situation of LGBT people in Scotland. This is likely to include community surveys, public opinion polls, social audits, and specific qualitative research. This will provide a clearer understanding of current situations, establish a base-line of social opinion and permit longitudinal analysis of changing trends. This will feed into the information strand described above, providing high quality evidence on which to target and build LGBT support and equality work across Scotland.

**LGBT community building**
13. Whilst the three previous areas are largely about developing resources, this workstream is specifically about building skills within the LGBT community in Scotland and will develop its capacity and professional competences in the accessing of funding, networks and decision-making bodies. It will empower local groups to become better funded, work together more effectively and to find a greater voice. In so doing it will ensure a greater sustainability and better resourcing of community-led initiatives.

Beyond Barriers – Strategies for Change

14. Lesbian, gay, bisexual and transgender people have traditionally been amongst the most stigmatised minorities in our society. Social hostility has been reinforced in the past by harsh laws that penalise and discriminate against LGBT individuals in almost every aspect of their lives. Although much remains to be done before we redress all of this, we can see that the social and legislative climate is rapidly changing.

15. With the coming of devolution, there has been greater focus on issues of equal opportunities and social inclusion in Scotland than ever before, and a widening of the scope of work in these areas. For the first time, issues of equality and inclusion for lesbian, gay, bisexual and transgender (LGBT) people are now firmly included within this scope. Equal opportunities for all in Scotland is one of the four key principles on which the Scottish Parliament is based. The definition of “equal opportunities” in the Scotland Act itself explicitly includes sexual orientation. Under the Scotland Act, the Scottish Parliament and Executive must act and legislate in a way compatible with the European Convention on Human Rights, and the European Court has made it clear that article 14 of the Convention prohibits discrimination on grounds of sexual orientation.

16. The Executive Equality Strategy provides a foundation for mainstreaming equality work.

17. The Beyond Barriers team are now firmly established in our base at the Glasgow Lesbian, Gay, Bisexual and Transgender Centre and have been working on our plan for the first part of the project.

18. Our biggest task for the first year is a comprehensive LGBT needs assessment, which is currently being conducted through “roadshows” around Scotland and the wide distribution of questionnaires.

19. We are working with the main Scottish LGBT organisations to explore the types of information they hope to obtain from the process. With so much valuable input, the needs assessment will be the largest and most comprehensive survey into the priorities and requirements of LGBT people in Scotland.

20. It was launched at the LGBT Consultative Forum in Aberdeen on 2 March 2002. Although the survey is still in progress and the results are not collated or published, we are beginning to build up an identity of LGBT peoples experience of living in Scotland today. The Needs Assessment is divided into 6 sections:
A – Personal
B – Community
C – Information
D – Consultation and Research
E – Safety
F – Barriers to Health Care

21. Listed below are preliminary results that we have had returned so far, and that LGBT people have discussed with Beyond Barriers at events around Scotland. Only aspects that appear relevant to this consultation have been included, therefore not all sections are mentioned.

Section A - Personal
22. Asks questions such as “Who are you out to” e.g. friends, family, faith group, employer, bank, GP etc.

Does you or your partner have children?
If partnership registration were possible would you register your partnership?

Results so far:
23. Appear to show that whilst people may be “out” to friends / family, most are not out to professionals- mainly their GP, faith group, teachers.

24. The reasons for this are various, such as some people not viewing it as relevant, but the main reasons people cite is fear. That fear is based on actual or perceived experiences of receiving a lesser quality of service if they declare their sexuality.

25. Many LGBT people would want to register their partnership.

26. Many LGBT people have children either from heterosexual relationships or from donor insemination/ wants to have children in the future.

Section B – Community
27. Asks questions such as - Do you feel part of the wider community, feel part of the LGBT community, have you experienced problems in accessing information e.g. about health, human rights?

Results so far:
28. Appear varied with people saying, “they feel part of the wider community but not accepted by it!“

29. There is always a lot of debate around what and where the LGBT Community is, and therefore Beyond Barriers is trying to explore what that means for people in Scotland – various responses have centred around “physical areas where LGBT people meet, political activism, community of people around the world who share concerns and issues, and freedom.

30. LGBT people tend not get involved due to fear of prejudice.
Section D – Consultation and Research
31. Asks questions such as – What are the main issues facing LGBT people today? Do you vote? As an LGBT person are there any particular subjects that you have been surveyed on regularly?

Results so far:
32. Appear to show clearly the issues Facing LGBT people today are:

- **Visibility** (Not being visible for fear of the consequences)
  Once LGBT people make themselves visible, they are more open to attack either verbal or physical. LGBT people feel unprotected by the legal system and by societies attitudes, this leads to people deciding not “to come out” which in turn perpetuates the myth that “we don’t have any gay people in our area”

- **Equality**
  Within the law particularly around Partnership rights, Inheritance rights, Pension rights, Parenting rights, Employment rights. People feel particularly vulnerable around these areas as they have no legal protection and tend to feel under valued and second class citizens.

- **Harassment**
  Being verbally or physically abused. People will alter their behaviour in public, so as not to draw attention to themselves. People will change the way they dress, walk. They will also not hold their partners hand whilst walking along the street, or show any form of affection to their partner for fear of being verbally or physically threatened.

Do you vote?
33. The majority of respondents so far, do vote in General Elections and less so in Local Elections.

Section E – Safety
34. Asks questions such as - Has someone that has assumed you are Lesbian, Gay, Bisexual, or Transgender verbally, physically threatened you ever in the last 12 months? Did you report these incidents to the police? In which of the following locations have you felt unsafe?

Results so far:
Have you ever in the last 12 months been verbally/physically threatened?

35. Nearly every one of the respondents in this survey had been physically or verbally threatened for being an LGBT person. We expect the final results to reflect this.

36. This abuse happens when people are walking in the street, whilst they are in their own homes e.g. broken windows, anti – gay graffiti sprayed on their house, dog excreta put through their letterbox when they are leaving gay / straight venues,
almost anywhere that LGBT people are. This adds to peoples fear about being visible or “coming out” because if you are visible, you are more likely to be threatened or attacked.

Did you report these incidents to the Police?

37. Most people did not report the incident to the police as they felt their complaint would not be taken seriously, or that it did not warrant being reported as it “was not serious enough” e.g. I wasn’t bleeding or I didn’t need hospitalised. Whilst some people do report these incidents, it would appear that there are still a lot of incidents being under reported because people are afraid of the police or feel that they will not be taken seriously.

38. In partnership with Glasgow City Council, we have organised and facilitated the Glasgow LGBT Community Safety forum. The event was well attended but the results sadly showed that from the LGBT people in attendance 75% had suffered verbal abuse and 50% had been the victims of physical abuse.

Section F – Barriers to Healthcare
39. Asks questions such as - Have you experienced any difficulties in accessing mainstream health care?

40. Most people so far choose not to disclose their sexual orientation for fear of service providers’ i.e. mainstream organisations like the NHS being judgemental and prejudiced.

41. In conclusion, most statutory and voluntary organisations have an equal opportunities policy in place, but it would appear that when it comes to practice, these organisations appear to have difficulty when it comes to implementation of this policy. There remain a great number of LGBT people whilst getting on with their lives and living positively still experience fear and prejudice as an LGBT person living in Scotland.

42. The full results and report of this Needs Assessment will be published in November and will be available from Beyond Barriers

Beyond Barriers
September 2002

SUBMISSION FROM GAY DADS SCOTLAND

Stock Taking Meeting on Sexual Orientation

Who we are

1. Formed in April 2000 as a registered Scottish Charity and in receipt of funding from The National Lottery Awards for All scheme we are a group of over 20 gay fathers from all over Scotland. We are a mix of married, divorced, separated and single fathers who are all interested in understanding gay parenting issues and
how to provide ourselves and our children with a positive life experience. Some of us are openly gay whilst others are still coming to terms with their sexuality.

Why we exist

2. We recognise that there are many men in Scotland who feel isolated as they try to deal with being a gay parent with no support. This Group exists to help fill that gap.

Our Aims

3. We aim to preserve and protect the good health (mental and physical) of gay fathers, their children and partners and families by:

   • Providing relevant advice and support
   • Providing health education
   • Providing information to any agencies involved in working with gay parents
   • Raising public awareness of gay parenting to combat discrimination against gay fathers and their children

What we do

4. We meet monthly in the cities of Glasgow and Edinburgh and we provide support and outreach by

   • Meeting individuals in rural areas who cannot reach our meetings
   • e-mail contact
   • Telephone contact

Parliament seeks views on four areas:

The Experiences of LGBT Communities in Scotland Today

5. There are certain common issues, which regularly affect members:

6. Physical and mental abuse - although not specific to separations involving gay fathers the motivation can sometimes be from a homophobic route. Either the partners or family abuse the departing father through use of abusive, homophobic language or in some cases physical attacks.

7. Denying access - again a common problem not solely relating to gay father separations however, in some cases unique problems can occur when the reasons cited are on a homophobic basis - child abuse, not wanting children to see partners of gay fathers together etc.

8. Psychological support - many gay fathers need support to cope with stress relating to the upheaval resulting from separation. Seems to be a greater need
compared with heterosexual relationships. Greater help with this using trained counsellors would be welcomed.

9. Financial issues - often, gay fathers feel more guilt about leaving the domestic abode resulting in greater financial compensation to their spouse. This can have difficult future implications when CSA gets involved who don't take account of previous capital transfers in some cases.

10. Legal advice - many gay fathers need regular legal advice as they go throughout the separation process. Many prefer to seek the advice of gay friendly lawyers but are not aware of where they exist. A register of these would be useful.

11. Discrimination - gay fathers find it particularly difficult to come out at work - colleagues they feel will find it incomprehensible that a gay man can father children. Awareness raising amongst employers would help. This also extends to schools where again a feeling of incredulity can exist. This can be exacerbated by mothers who may not always make the school aware of what is happening or worse promote a negative side to the situation.

12. Partnerships - Gay fathers can sometimes feel particularly isolated with foots in neither the heterosexual or homosexual camps leading to increased isolation. The gay community should be made aware of the particular difficulties gay fathers face (financial, access, parenting) to remove any negative perceptions that potential partners may have.

13. Real fears around being out and the consequences in terms of bullying that that may have on one's children especially in school where so few, if any, schools are prepared to have a register of bullying on the grounds of homophobia and a failure of schools to teach gay sexual orientation as a positive thing. The lack of LGBT literature in schools where children have gay parents and indeed may be L/G/B/T themselves and require some positive role models to grow and develop themselves as whole human beings.

The Provision of LGBT Awareness Services

14. We actively support two recent important developments namely the formation by the City of Edinburgh Council of its LGBT Policy Forum where challenging homophobia in the provision of local services is well under way although much remains to be done in Schools after the revocation of Section 2A and the proposed new LGBT Healthy Living Centre to provide a one stop shop for the LBGT Community which we believe has recently been awarded Lottery Funding. Both will help to solidify the new and emerging infrastructure of the gay community.

The Current Legislative framework

15. Whilst we recognise that individuals with foresight can arrange their affairs both in life and after death to protect those whom they love, the absence of default provisions which would recognise gay relationships means that the LGBT community falls into a massive hole in the legal system which marriage with its
default provisions offers as a safety-net for heterosexual couples. The legal system is failing therefore to provide a system that serves the community as a whole.

16. Examples of this are:

- in relation to property rights where married couples have an assumption of equal sharing of property on divorce.
- have (albeit on intestacy) limited rights of succession on the death of a partner.
- major tax advantages not available to LGBT couples.
- full protection against domestic violence.
- since we are a parenting group, there are 2 legal developments which have been of benefit – namely –

  (i) the requirement that the Scottish Courts under the influence of the Human Rights Act have to follow decisions of the European Court on issues relating to custody and access where being gay is no longer an automatic disqualification to custody and access; and

  (ii) the parental rights and responsibilities available under the Children (Scotland) Act 1995.

17. The continuing inability of a gay couple to adopt a child fails to provide a level playing field and indeed fails to recognise that a gay couple may have children which are the biological children of one of the parties just as a heterosexual couple may have, and it fails to provide the legal stability for a child which adoption can offer. Also, given that there is no legal framework which offers partnership rights to gay couples on separation, the non-biological parent has no rights regarding access or visitation rights if parental rights and responsibilities have not been secured earlier.

18. Currently, for gay couples, it appears that there are 2 routes to legal parenthood.

19. First – a couple consisting of one biological parent can apply for parental rights and responsibilities in respect of the non-biological parent.

20. Second – a couple of which neither adult is the biological parent are in a position whereby only one may adopt while the other could apply for parental rights and responsibilities. In both scenarios it would be simpler if one Court process could achieve the objective of securing the child’s legal status rather than there having to be 2 processes to obtain the same objective. A married heterosexual couple, to achieve the same objective, only have to adopt. If gay couples were afforded the same legal rights invested by the law on married couples, the non-biological spouse would have by virtue of the marriage, rights and responsibilities in relation to the stepchild. Similarly in separation the non-biological gay step-parent has no legal recourse in respect of access and visitation. Neither has the biological parent any legal right in terms of aliment from that step-parent which right would be available to a married heterosexual couple where the step-parent accepts the child into family.
21. There are clear issues of discrimination and inequality of treatment between heterosexual married couples and gay couples.

22. If Parliament wants a system which places the interests of the child as a central consideration then such default mechanisms require to be created as presently children of gay couples are treated differently and with less status than those adopted by heterosexual married couples. A stigma akin to the old stigma of illegitimacy now applies to the children of LGBT people.

23. Finally the one and only issue which complicates these matters is the continued denial of gay couples to be given legal partnership rights as those afforded to marrying heterosexual couples.

The Implications of Article 13

24. The potentially interesting development in Scots Law will arrive by the back door in that the Human Rights Act will require the Scottish Courts to recognise foreign marriages. The granting of the right to marry to gay couples across Europe already available in other EU countries will require the Scottish Courts to recognise those marriages here. This will lead to the ludicrous proposition that foreign gay couples will be regarded as married whilst native Scots will not.

Donald I S Reid Ll.B., N.P., S.S.C., T.E.P.
Dirk A Geelen B.Sc., Dip. S.W.
Gay Dads Scotland
September 2002

SUBMISSION FROM FIFE MEN PROJECT

Taking Stock – LGBT Issues

1. Thank you for your intimation in relation to the above subject.

2. The Fife Men Project is a sexual health voluntary agency with a primary aim of preventing the spread of HIV and related infections, blood borne viruses (BBV) and sexually transmitted diseases (STD), within the lesbian, gay, bisexual and transgender community (LGBT).

3. Established in 1997, the project has worked in many community settings in addition to the daily support for people accessing the service. Outreach volunteers make contact with gay, bisexual men and those who do not self-identify as homosexual but engage in such sexual activities that they may risk physical and emotional health.

4. Therefore, our main submission to the Equal Opportunity Committee will be related to sexual orientation and health gain areas.

Sexual Orientation
5. During the bitter debate for the repeal of Clause 2a (Section 28) lesbian and gay communities in Scotland became a major focus for political and media scrutiny with often an illogical debate that did little to enlighten attitudes on the development of sexual orientation in adolescence and the mental health consequences of growing up in a climate of homophobic intolerance.

6. British research documenting the impact of homophobia has been corroborated by extensive research in the United States, Canada and New Zealand.

7. In 2000 the Fife Men Project with some funding from Fife Constabulary, undertook impact research into the effect of crimes motivated by homophobia, largely underreported to the police. “Homophobia can kill!” the research report confirmed anecdotal evidence that the perception, particularly of gay men, was that the institution to protect was one of direct and covert oppression.

8. Equally, our research indicated that sexual orientation emerges strongly during early adolescence. Youths with emerging identities that are gay, lesbian or bisexual, living in generally hostile climates face particular dilemmas. They are aware that in many schools the words “poof” and “dyke” are terms of denigration and that anyone who is openly gay, lesbian or bisexual is open to social exclusion, psychological and physical persecution. Some of their families too will express negative feelings about people who are lesbian, gay or bisexual; youths in such families may be victimised if they disclose that they do not share the majority orientation, heterosexuality.

9. It is our experience that even with the repeal of Clause 2a, educational authorities are reluctant to acknowledge the existence of institutional homophobia or willing to enter into discussions that aim to challenge victimisation and bullying based on homophobia and transphobia.

10. Outreach volunteers have encountered a high percentage of young people who report physical and sexual abuse not only within the education system but also as a result in connection with residential care systems.

11. The Fife Men Project directly supported older men that had been abused during the 1970s by David Logan Murphy, now serving a fifteen-year prison sentence. We share the concerns of the residential services in Fife that recruitment and selection processes should be rigorous and where detected or reported, abuse should be acknowledged and appropriately investigated.

Recommendation 1
The concerns of the LGBT communities are treated with respect by educators within academic and lifelong learning schemes.

Recommendation 2
That LGBT people should have support within the education system that is focused upon an equality and diversity agenda. Appropriate, professional resources should be available to educators that present alternative family groupings and respect the learners’ right to self-determine and make life choices.
**Recommendation 3**

The role of community residential care should be inclusive. Therefore, regulations dictating the role of the local authority in terms of “duty of care” should be reinforced to identify appropriate options such as same-sex foster care placement and adoption by same-sex couples.

**Health Gain**

12. It is generally acknowledged that the 1980’s government campaigns in the wake of the HIV epidemic in the male gay community did little to establish long term behaviour change. What it did achieve was the reinforcing of bigotry and prejudice. “AIDS plague” concepts did harm to those with self-identity challenges. It should be remembered that homosexuality was considered a form of mental dysfunction well into the mid 1960s.

13. National campaigns bear little relevance to the experience of gay men and often the small amount of target health promotion education seems to be urban based. Assumptions are made about methods of service provisions and health education, which are effective for mainstream heterosexual population, being equally effective for LGBT populations.

14. An example of this is the relatively low numbers of gay men attending Genito Urinary Medicine (GUM) services. Clearly gay men have GUM and sexual health problems but they do not experience the existing provision as being helpful.

15. The gains and benefits to providers by local, accessible, culturally affirmative, non-judgemental, democratic, strategic and reactive etc, services adequately funded such as the Fife Men Project model, can and do reach out to isolated individuals, something sadly rejected by LGBT community groups themselves.

16. It is clear from an analysis of the work undertaken by the Fife Men Project over a period of years and recorded on our website (www.fifemen.co.uk) that negative messages surrounding sexual behaviour are not sustainable. It has been important for us to develop a response which empowers people and gives them the ability to choose safer sex as the best option.

17. In Fife’s gay community, historically opting for anonymity with the result of invisibility, it has proven necessary to mobilise a response to HIV/BBV and in order to ensure that the issues are addressed on an individual basis. The successful social and action days, such as the “Fife Frolic Weekend” are prime examples of community activism at its best.

18. The most effective health education material is almost always that which is most relevant to the individual’s experience. It is not effective for example, to educate the majority of gay men by telling them to have sex with one partner only. That is not an option and therefore irrelevant. Education material and working with individuals and groups must take account of the experience of gay men living in the rural environment of Fife.
Recommendation 4
Education needs to be LGBT affirmative

Recommendation 5
Initiatives should reflect local need.

Recommendation 6
Funding should be appropriate and “fit for purpose” and achieve best value status.

Peer Education

19. For many years sex has been presented as being “the problem” in terms of the spread of HIV/BBV/STD infections, yet it potentially holds the key to the most effective prevention strategy available. By utilising peer education it is possible, via the network of sexual contacts, to effectively promote the positive aspects of safer consensual sex.

20. The experience of using this method by the Fife Men Project volunteers has shown that large numbers of sexually active gay men and men who have sex with men are easily accessible through existing networks. The concept of “each one teach one” results in a method of safer sex education which not only reaches many more people than “expert” training would but also provides a flexible approach to tailoring the safer sex message to the most sensitive or reticent people.

21. Ideally this approach also produces the level of community involvement which is essential to sustaining behaviour changes and provides an exciting challenge for those who become involved. By the very nature of this involvement volunteers become role models within the community.

Recommendation 7
Peer education should be supported and appropriately funded.

Outreach

22. The urgency of the spread of HIV/BBV/STD infections amongst men who have sex with men and because such a large proportion of the men in Fife do not self-identify as gay or access any of the information sources which can otherwise be established, peer education alone will not be sufficient to effectively produce behaviour changes.

23. Outreach work enables us to deliver our services to a section of the population which would be most reluctant to access them at base (project office). It also provides a method of informing men living in isolation about what is available as well as giving them direct information and materials.

24. Because of the sensitivity of the work and fears about confidentiality, it has been vital that policy guidelines of practice have been established, volunteers trained in use and policy guidelines monitored and reviewed in the light of experiences.
25. Work which addresses anonymous sex confronts the taboos which exist and allows men to talk about concerns (unreported crime), ask questions etc. A substantial proportion of the men we see in such situations also have sex with women (about 35%), which is a subject that is unlikely to be raised within the home base (project office) environment, yet it is one with considerable repercussions in terms of the spread of infections.

Recommendation 8
Successful outreach programmes should be supported.

Recommendation 9
Mechanisms should be introduced that encourage the reporting of crimes motivated by homophobia, such as remote reporting schemes. Such initiatives in partnership with law enforcing agencies should be funded directly from the Executive, with funding being provided to the agency and not through statutory groups that could potentially use funds for other purposes that have a more legislative basis.

Research

26. It is surprising and very disappointing that much of the information already collected by health authorities on the sexual practices of men who have sex with men is not collated in a form available to inform prevention initiatives.

27. The assumption that the LGBT communities have overcome the spread of infections by changing their sexual behaviour has proved, globally, to be incorrect. In Fife, where the community is still becoming established, this was never an option. Therefore, the need exists for research to provide the information and knowledge to guide prevention initiatives.

28. Over the years, the Fife Men Project has been the only sexual health resource for the LGBT community and has worked closely with other LGBT agencies that provide social support. All these agencies have suffered from inadequate funding and experienced a reticence within the statutory sector to provide appropriate levels of support.

29. The core funders of the Fife Men Project is NHS Fife that enables us to operate from a home base and to have a part-time administrator but with insufficient income to develop services which would allow appropriate participation at strategic meetings where LGBT issues can be raised. Avenues of funding from charities and National Lottery cover some of the service provision costs

Recommendation 10
Appropriate monitoring, reviewing and research should be funded and integral to the operational context of service provision.

Counselling

30. Although not the primary aim for the Fife Men Project, we regularly receive self-referrals and referrals from other voluntary and statutory agencies. It is interesting to note that 90% of this work focuses equally on HIV/BBV/STD issues
and sexuality matters. In the main the counselling work is “crisis intervention” and creates a further strain to limited financial resources.

31. There are many difficult issues which revolve around sexual identity. The experience of growing up and finding yourself in a society that not only does not recognise or understand you but often despises and operates a code of law that legitimates hatred of you, is sometimes too much to bear. Recently a mother of a gay son aged 17 who committed suicide emailed the project and her experiences are recounted on our website (www.fifemen.co.uk/counselling).

32. The incidence of suicide arising out of conflict with sexuality is unrecorded and seldom reported. Members of the LGBT communities can suffer from a variety of “hang ups”, the most often hear are isolation, low self-esteem, self-hatred, guilt, shame, persecution, oppression and little sense of place within society. It is our experience that issues such as these have a dramatic impact on the spread of HIV and related infections. It is not a coincidence that the use of addictive substances such as alcohol and tobacco are high within this group.

33. It is our informed belief that the degree of risk someone is prepared to take in relation to HIV and related infections is directly influenced by issues like how that person feels about themselves and their ability to fulfil their potential.

Recommendation 11
Counselling services need to address issues presented by LGBT communities.

Recommendation 12
Such counselling needs to be guided by appropriate accreditation and levels of accountability.

Recommendation 13
The high prevalence of low self-esteem, under-achievement and acute mental health issues needs to be reversed with specifically identified LGBT focused initiatives.

Recommendation 14
Domestic violence agendas should seek to include LGBT aspects into their aims and objectives.

Existing Health Provision

34. The growing realisation that GUM services generally are not being accessed by gay men coupled with the Fife Men Project’s increased understanding that a more innovative approach to LGBT health issues is required should mean that partnership working becomes the norm rather than the exception.

35. Historically, GUM services and GP services are used only for clinical treatment. In order to create a climate of positive healthcare amongst the LGBT communities these groups should be approaching the service for information, advice and assistance about prevention. This in turn means the presentation of sexuality and sexual health in positive and liberating ways.
36. In a survey of GP practices in Fife, several rejected displaying the Fife Men Project poster and few agreed to have public display of our information leaflet.

37. The growing confidence in the LGBT communities of Fife could mean that increasing use could be made of health services in positive ways, for example, health checks, information services. However, this relies upon services embracing social rather than clinical aspects of care, ensuring that a diversity agenda informs underpinning knowledge. The Fife Men Project experience of working within the LGBT community could provide a useful input in the quest for improved user-friendly services.

38. Much of what determines people’s usage of a service includes the individual’s experience and perception of what is on offer, how it is presented and how specifically it will meet their needs.

39. LGBT people have had very little experience of positive, effective healthcare which encompasses the sexual dimension of their life. This situation is compounded by the discrimination almost always experienced when GPs divulge a patient’s sexual orientation to potential employers, insurance companies etc. This has resulted in large numbers of particularly lesbian and gay men not disclosing their sexuality to healthcare workers, especially GPs and therefore not getting healthcare which includes their sexual health.

40. Mental and emotional health which arises out of sexual difficulties are often not recognised or treated because the patient is unable to raise an issue.

41. Sex industry workers and gay intravenous drug users are particularly vulnerable to health problems. Existing services are far removed from their need.

42. LGBT people need to be offered choices to mainstream services which encompass their lifestyle positively. Often their experience of mainstream services actually prevents them from using them or sets an agenda within a narrow reactionary framework.

43. Part of the effectiveness of work done to prevent HIV transmission within the gay community in the early 1980s came from a sense of ownership of the issues. The invention of safer sex and ability to inform, educate and support each other as communities has contributed greatly to the challenges presented by new HIV infections and those related such as BBV/STDs.

44. However, as the epidemic grew and became more mainstream, strategies and modules of education and support became less effective and relevant to the lives and experiences of LGBT communities.

45. Throughout this submission and within the recommendations great care has been taken to integrate the thought, feeling and experiences of LGBT people.

46. An important part of this process clearly indicates the value to LGBT people of packaging and providing services and education with the context of an affirmative LGBT environment. From work done by the Fife Men Project it is very clear that...
it is important to present education and services in a way which LGBT people view and acknowledge are user-friendly, supportive, sex-positive and relevant. Existing provision seldom benchmark these criteria in service delivery.

47. It is important that the health related matters within the LGBT communities enhances the right to care, but also extends beyond an HIV agenda. LGBT people have more health related concerns than the single issue of HIV/BBV.

48. However, the reality that gay men are still a target group in the recorded incidences of HIV cannot be ignored and local initiatives such as the Fife Men Project require reliable and comprehensive funding.

49. It is unfortunate that in the training curriculum of doctors and nurses little attempt is made for the exploration of sexuality and in particular attitudes to transsexual people and individuals undergoing gender reassignment, which often can be discriminatory, reflective of the legal status of such people.

Recommendation 15
*Healthcare provision should be LGBT affirmative with the recognition of diversity as a key structural driver.*

Recommendation 16
*The needs of same sex couples of all ages should be integral to such services.*

Recommendation 17
*Training of doctors, nurses and paramedical support staff should positively address sexuality and difference as a core element.*

Recommendation 18
*Sex industry workers and IV drug users within the gay community should have access to services within a non-judgemental or threatening environment.*

Recommendation 19
*Where specific health related matters are identified, as in the case of increased substance misuse, access to health promotion material should be appropriate and LGBT orientated.*

Recommendation 20
*The ability to make a complaint about service provision should recognise the reluctance of LGBT community members to engage in such processes and address such inequalities.*

**Equality of Opportunity & Diversity**

50. In order to tackle HIV/BBV & STD prevention within the diverse groups it is necessary to ensure that all statutory and voluntary agencies address sexual orientation within the equal opportunities policy and that work practices reflect that policy.
51. LGBT people have a wide range of discriminatory experience and can assist in dealing with inequalities. As a starting point, fostering knowledge and understanding of the experiences of LGBT lives is required within these services.

52. Good management practice in the form of equal opportunity policy implementation, review and monitoring would ensure that all services are accessible and relevant to all. This could be achieved by increasing the level of awareness and commitment by management and staff to the understanding of diversity and equality of opportunities.

53. Greater flexibility is required where traditional systems have become rigid.

54. The increase in HIV infections, currently 5 new infections every week in Scotland, lends urgency to the need to ensure the implementation of good equal opportunity practice. More consultation with members of the LGBT communities themselves will result in improved service provision and a positive response to the challenge of HIV/BBV/STDs.

Recommendation 21
Oppressive practice should be acknowledged and addressed.

Recommendation 22
Provision of employment policies that support people with medical care needs should be established and where in place monitored and evaluated.

Recommendation 23
Diversity should be a benchmark and moved forward within a legislative framework that outlaws discrimination on grounds of sexual orientation or medical status.

55. I hope these comments are of assistance to your committee and we look forward to hearing how the issues raised are to be addressed.

Arthur M. Jack
Chairperson
Fife Men Project

SUBMISSION FROM CARE FOR SCOTLAND

Taking Stock Consultation

1. I wish to express our concerns relating to the Taking Stock inquiry currently being undertaken by the Equal Opportunity Committee.

2. CARE for Scotland has previously expressed its concern about the fact that the Equal Opportunities Committee is pursuing an agenda based on an adherence to a view of the moral equivalence of all lifestyles and the equal benefit of all family types. We strongly support the view that all people are of equal worth as human beings made in the image of God and as such should be treated with respect and dignity. However, we find no Christian principle or natural law that justifies the
moral equivalence of all lifestyles. Indeed, we believe that by equating equal opportunities with moral equivalence the Equal Opportunities Committee has gone beyond the principles of the CSG and is undermining the Christian moral basis and historic values of our society, with detrimental social and spiritual consequences for the Scottish nation.

3. As we have stated before, the existence of a standing rapporteur on sexual orientation provides unequal access to the Committee for specific interest groups coming from gay rights perspective, whilst discriminating against organisations representing faith communities. Issues of perceived discrimination on the grounds of sexual orientation also have a faith perspective, not least because the term ‘sexual Orientation’ is not defined in the Scotland Act and is interpreted by some to include behaviour. The Equal Opportunities Committee has failed to take this point on board. Legislative changes to allow civil registration of same-sex partnerships and adoption by cohabiting couples (both heterosexual and homosexual) imply a statement of support for the moral equivalence of these relationships with marriage on the part of the state. On some issues there are direct implications for the religious liberty, most specifically in relation to employment law, the public duties of clergy in respect to weddings and the rights of faith groups to determine what is and is not acceptable behaviour for their members. We are concerned that the Equal Opportunities Committee in pursuing a legislative agenda determined by ongoing consultation with groups representing the lesbian, gay, bisexual and transgender communities is likely, in time, to create a situation in which serious infringements of religious liberties exist in the name of equality.

4. In the light of our comments above, we ask that Equal Opportunities Committee consult extensively with Christian and other faith groups before initiating a programme of further legislative change in this area. We ask also that equal weight be given to the views of faith communities as to the views of gay rights groups where the moral equivalence of difference types of relationships is perceived to be an important factor.

Jeremy Balfour
Parliamentary Officer
September 2002

SUBMISSION FROM LESBIAN SUPPORT GROUP OF SCOTTISH WOMEN'S AID

Taking Stock Meeting on Sexual Orientation

1. This is the response by the Lesbian Support Group of Scottish Women’s Aid prior to the above meeting.

2. As you are aware, Women’s Aid groups in Scotland provide information, refuge and support for women, children and young people experiencing domestic abuse. The first two services began in 1973 in both Edinburgh and Glasgow.
3. The Lesbian Support Group was set up by lesbian workers in 1984 as a safe space for them to discuss relevant issues to themselves as lesbians working for Women’s Aid groups. There are currently 39 groups affiliated to Scottish Women’s Aid and the majority of groups have had, from time to time, lesbians working for the group.

4. Over this period of time, we have met fairly regularly and have facilitated workshops and organised training events, held social events and supported lesbian workers, sometimes isolated within their work.

5. Most recently we have organised a training day on lesbians who have experienced domestic abuse from their lesbian partner; this was a closed day, only open to lesbians but will be repeated later this year for any worker within the network of Women’s Aid in Scotland. Our impetus in organising this training day was to facilitate providing a service at the Sappho Clinic at the Centre for Women’s Health in Glasgow. The training day was provided by SOLA, a London based organisation which provides a helpline service for lesbians experiencing domestic abuse.

6. We welcome the Scottish Parliament’s and Executive’s commitment to ending discrimination and also to ending domestic abuse and commend the Parliament for voting to repeal “Section 28”.

7. We would appreciate being added to your mailing list for further info/consultation.

Lesbian Support Group of Scottish Women’s Aid
September 2002

SUBMISSION FROM ORKNEY ISLANDS COUNCIL

Taking Stock Meeting on Sexual Orientation – October 2002

1. I refer to your letter dated 5 July 2002 addressed to the Chief Executive in connection with the above.

2. Copies of your letter were forwarded to all Council departments for comment. I have to advise you the following observations were made:-

- The Council is unaware of any local support groups in Orkney in relation to sexual orientation.
- Sexual awareness training, particularly in relation to learning disabilities, is being undertaken by the Council’s Department of Community Social Services.
- There is no mention of ensuring inclusion and representation of specific groups in any Council plans/strategies.
- While sexual orientation is not expressly mentioned in its Equal Opportunities Policy, the Council’s practice is to select on merit based on the requirements of the post.
3. I trust that this information is of assistance to you.

Margaret A B Sutherland
Senior Executive Officer
September 2002

SUBMISSION FROM CITY OF EDINBURGH COUNCIL

Taking Stock Meeting on Sexual Orientation – October 2002

1. Further to your letter of 5th July inviting written evidence for the above meeting, please find attached a submission from the City of Edinburgh Council.

2. The submission is in two parts and comprises a written commentary and the action plan of the City of Edinburgh Lesbian, Gay, Bisexual and Transgender Equalities Forum.

3. The Council is pleased to have this opportunity to contribute to the work of the Equal Opportunities Committee.

Introduction

4. This paper provides a response to the Scottish Parliament invitation to submit written evidence to its Equal Opportunities Committee ‘Taking Stock’ meeting on the issue of sexual orientation.

Contributors have been asked to consider the following issues:

- the experiences of LGBT communities in Scotland today;
- the provision of LGBT aware services;
- the current legislative framework;

5. The City of Edinburgh Council is an urban local authority with a policy of mainstreaming equalities issues and a significant track record of collaborative work with LGBT communities. This submission has been prepared with input from all Council Departments.

6. The last few years have seen considerable change in relation to the position of Lesbian, Gay, Bisexual and Transgendered (LGBT) people within Scottish society. There has been a perceptible shift towards legal equality for LGB people but less so for Transgendered people. In Edinburgh, LGBT communities have better access to decision-makers and a greater involvement in decision-making and policy development through the development of LGBT Community Safety and Equality Forums. Since the inception of the City of Edinburgh Council, sexual orientation has explicitly been mentioned in the Council’s Equal Opportunity in Employment policies.
7. The position of the Council is reflective of wider societal change. Indications of change include the forthcoming implementation of the EU Article 13 Employment Directive and the work currently being undertaken by the Cabinet Office examining the potential for a legally binding partnership registration scheme open to same sex partners. Finally, LGBT issues within policy development and service planning are currently the subject of two significant pieces of research, one being conducted by the University of Hull the other by the Scottish Executive Central Research Unit.

Experience of Communities

8. Whilst all of these developments are welcome, considerably more work is needed before it can be said with any confidence that LGBT people are full and equal members of Scottish society, free from discrimination, as able to access opportunities as anyone else. Whether within employment, legal or service use settings, LGBT people are too often faced with an invidious choice. They can either keep an enormously significant part of their life secret or run the very real risk of being discriminated against with little or no possibility of redress. Due to the lack of anti-discrimination legislation (Transgendered people excepted) the evidence that exists of discrimination is largely anecdotal. There is however a wide range of anecdotal evidence from a variety of sources that shows discrimination remains a major issue for LGBT people. In addition, the Council is aware from internal research that LGBT staff members have reported feeling unsafe in the workplace and having significant concerns about revealing their sexual orientation.

9. Possibly the most significant factor that impacts on the experience of any LGBT community within Scotland is geographical location. LGBT people who live within the central belt conurbations of Edinburgh and Glasgow benefit from networks of support in the broadest sense that are significantly more developed than other parts of Scotland. The two cities have the most established social opportunities, the best funded and most wide-ranging support services and perhaps as a result, arguably the most visible LGBT communities. However comparison either with other cities within the UK (e.g. Manchester, Brighton,) demonstrates the limits of even these developed structures.

10. Whether for reasons of comparative anonymity or in order to access social opportunities or support services, there is a pattern of LGBT migration from smaller, less developed settings to larger towns and cities. This is common to all societal groups, but it is the underlying reasons for migration which cause concern, with anecdotal evidence reflecting a pattern of LGBT migration linked primarily to experience or fear of discrimination and harassment, rather than economic or educational need. Further work on the experience of harassment and discrimination by LGBT people in both urban and rural settings would be advantageous.

Provision of LGBT aware services - Research and policy development issues
11. Two significant factors combine to make a generalised approach to issues of sexual orientation and gender identity untenable. First and foremost, the concept of ‘community’ in relation to LGBT people is one that is frequently debated even amongst LGBT people themselves. Whilst there is common ground between Lesbians, Gay Men, Bisexual and Transgender people, significant differences also exist and even within the different groupings it is impossible to assume consensus over any given issue.

12. The diversity of response to the detailed consultation, which has been conducted over the last few years within LGBT communities over proposals for a same sex partnership scheme, provides a good example of these differences. It is essential that policy makers develop a clear understanding of the diversity of views and employ a high degree of sensitivity when undertaking any research. There also needs to be an acceptance that there are unlikely to be straightforward responses to any relevant public issue.

13. The second factor that makes it particularly difficult to deliver LGBT aware services is that sexual orientation or gender identity is not necessarily the most obvious of personal characteristics. Together with the very real concerns LGBT people can have about being open about sexual orientation or gender identity, these factors make differential impact analysis extremely difficult. Qualitative research is vulnerable to the charge that its findings can be skewed in favour of those more confident in identifying as LGBT and taking part in qualitative consultation on that basis. Quantitative research is often unsuitable, because of concerns about confidentiality and fears about prejudice.

14. The difficulty in conducting research requires being set within a context in which beliefs about institutional discrimination and the consequently prejudicial nature of much service provision are widespread within LGBT communities. As policy development and service delivery become increasingly evidence focussed, the difficulty in obtaining empirical evidence to support places LGBT people and LGBT issues at a disadvantage. Following the outcomes of the current Scottish Executive funded research, the provision of guidance into the most appropriate ways for public authorities to conduct research with LGBT groups would be a useful development.

Provision of LGBT aware services - Funding for community-based services targeted at LGBT communities

15. Within the City of Edinburgh there are a number of agencies and organisations that offer services targeted at LGBT communities. These range from a small number of organisations with paid staff and reasonably secure public funding to a much larger number of small groups comprised principally of volunteers dependent in the main on voluntary contributions and short term funding. There is a similarly wide range in terms of activity ranging from health, social welfare and political lobbying to social networking and sports activities.

16. Over the 15 years the most accessible source of funding for any LGBT related work has been health, specifically HIV, funding. This narrow funding base has given rise to inequitable results. The most significant effect is that gay and
bisexual men have benefited disproportionately from the existence of publicly funded services when compared to lesbian and bisexual women. Another significant effect is that it has been extremely difficult to access funding for wider health, social and equality issues due to the focus on HIV.

17. This situation is now changing however, and recent high profile funding awards to LGBT projects from the New Opportunities Fund and the Community Fund have started to redress the balance. Despite this change considerable time and investment will be required to even out the current imbalance and respond to unanswered need. More fundamentally, the potential for imbalance will continue to exist until LGBT issues are truly integrated within mainstream statutory funding streams at both central and local level.

Provision of LGBT aware services – Integration of LGBT issues into mainstream service provision

18. As previously mentioned, the City of Edinburgh Council has a strategy of mainstreaming equalities issues; this policy is in its third year of implementation. For LGBT issues, two significant mechanisms are in place within the Council which enable the implementation of the Mainstreaming Strategy.

19. The first is the Edinburgh LGBT Community Safety Forum (LGBTCSF) established in 1996 as a Working Group of the Edinburgh Community Safety Partnership and predating the adoption of the mainstreaming strategy. The LGBTCSF has a broad membership drawn from LGBT community organisations, statutory agencies and council departments.

20. The Forum has had a positive impact on the planning and delivery of community safety for LGBT people within Edinburgh through its fulfilment of the following roles:

- Consultation between agencies and the LGBT community;
- lobbying/advocacy on LGBT community safety issues;
- information and best practice exchange between agencies and service providers;
- as delivery mechanism for identified projects to support the LGBT community.

21. The Council has also developed an LGBT Equalities Forum. The Equalities Forum has a similar membership profile but with the addition of a number of non-aligned individuals and has a broader but complementary remit to that of the Community Safety Forum. Both Forums have developed action plans with specific and far-reaching implications for the provision of services by the Council and partner agencies. The Action Plan of the LGBT Equality Forum is attached showing the priority areas identified in terms of Council policy, service provision and community issues.

22. Both Forums facilitate the engagement of members of LGBT communities with policy planning and council decision making and are consistent with the development of community planning. It is also expected that the Forums will play a significant role in the implementation of Best Value. However, the experience
within Edinburgh of developing and supporting the Forums has thrown up a number of challenges, which, if not resolved, have the potential to compromise the mainstreaming of LGBT issues. These challenges are directly linked to the funding issues identified above.

23. Community representation on both Forums is drawn from the small number of publicly funded organisations and the larger number of organisations with little or no public funding. In common with many other structures to enable community involvement, the majority of community representatives attend in an unpaid and voluntary capacity and the success of the Forums is reliant in the main on individuals’ good will and sense of commitment. Such capacity issues are a feature of the voluntary sector as a whole. The pertinent issue, illustrated by a comparison with the number of organisations working with other equalities communities within Edinburgh, is that there is a much smaller pool of LGBT organisations and individuals to draw from, due to the narrow funding base and fear of discrimination issues noted earlier. The outcome is that capacity to participate in policy-making and consultation is a particularly acute issue for the city’s LGBT communities.

24. There is an obligation on public sector organisations which create mechanisms such as the Forums to identify support needs and respond to them where possible. Within Edinburgh there are strategies in development that will address this issue and improve the capacity of the city’s LGBT communities to engage with the opportunities offered by the two forums. It would be beneficial both to the Council and local LGBT communities if this engagement was recognised and supported in the wider development of Community Planning by the Scottish Executive.

25. The forthcoming Local Government Bill once an Act, will require that local authorities engage with all parts of the communities they seek to serve. The issues outlined in this paper clarify the complexity of engagement with LGBT communities of interest and highlight the need for specific strategies to ensure sustained engagement.

The Legal Framework

26. As has already been noted, in recent years there has been considerable activity within the sphere of legislation. The equalisation of the gay/bisexual male age of consent, the repeal of section 2a and the expanding legal recognition of same gender partnerships within the Adults with Incapacity (Scotland) Act and the Housing (Scotland) Act are some of the most significant legal developments. It should be noted that these advances are not only welcome in themselves but are a visible sign to individual LGBT people that they are increasingly as valued as any other member of society. There are however still many areas within law where LGBT people either face a differential impact or lack legal safeguards that are available to other groups in society.

27. Key areas where differential impact remains an issue include:

- the rules on adoption and fostering;
• legal recognition for same sex partnerships with the contingent tax, pension and benefit implications.

28. Adoption and fostering regulations throw up significant anomalies. Gay men and lesbian women are effectively barred from being considered as foster parents and gay or lesbian couples from being considered as adoptive parents although single gay men and lesbian women can be considered. Discussion with the Council’s Social Work Department suggests that there have been situations in practice where gay/lesbian couples have been assessed for suitability and accepted. In these circumstances the Scottish Executive is always informed of what is a breach of the relevant regulations. This situation gives legal force to a popular prejudice i.e. that LGBT people are inappropriate parents. The process would be unnecessary if LGBT individuals and couples could be assessed for suitability in exactly the same way as heterosexual individuals and couples.

29. Legal recognition of same sex partnerships would bring many benefits. First and foremost it would give a message to wider society that its lesbian and gay members are as valued as any other. It would also smooth the path towards addressing the significant anomalies which currently exist in terms of the pension benefits and tax position of lesbian and gay couples.

Implications of Article 13

30. The City of Edinburgh Council contributed to the first round of consultation on ‘Towards Equality and Diversity’, the Government’s proposals for implementing the Article 13 Employment Directive. The key element relevant to sexual orientation within that contribution was support for a generic reference to ‘sexual orientation’ within any regulation as opposed to a specific reference to ‘heterosexual, homosexual and bisexual orientations’.

31. Whilst the Council is generally welcoming of the anti-discrimination measures the proposals contained, it is clear that the terms of reference of the Equal Treatment Directive (and the Government’s response to it) leave significant potential for LGB people to experience discrimination without legal remedy specifically in the areas of access to goods and services and non-employment based harassment. Uniquely within the legal context, transsexual people have more advanced rights through anti-discrimination protection under the Sex Discrimination Act.

32. The significant limitation of the proposals is the restriction of the anti-discrimination protection to employment and employment-related benefits. This restriction leaves it open for any LGB person to be discriminated against within a service delivery context, setting up an anomaly when compared to similar legislation on Sex, Race and Disability.

Conclusion

33. LGBT people have undoubtedly benefited from the positive changes in legislation supported by the Parliament. This in turn has supported the development of a more widespread acceptance of openly LGBT people. Despite this, LGBT people still face considerable institutionalised and personalised discrimination. There is
a need for further legislative change to create a level playing field and also for public authorities to mainstream LGBT issues. There is also a need for capacity building within LGBT organisations which should be addressed as part of the development of community planning frameworks.

Ellen Kelly
Equalities Manager

SUBMISSION FROM LESBIAN MOTHERS SCOTLAND

Taking Stock Meeting on Sexual Orientation

I refer to your letter of 5 July and, on behalf of Lesbian Mothers Scotland, I enclose evidence for submission to the Equal Opportunities Commission’s meeting on Sexual Orientation in October.

The Experience of Lesbian Mothers in Scotland

There are many of us – our experience is diverse. Those living outside the largest Scottish Cities can be isolated and sometime travel long distances to make contact with a support group. Those within the large cities have found that what is happening often centres on LGBT youth, gay men’s health and a social scene for adults without children. Depending on our circle of friends, family and colleagues we experience very different degrees of homophobia and heterosexism. We all experience some. We all have to make daily decisions about the wisdom and safety of being “out” in any given situation. In making these decisions, we have to take account of our children’s wishes – often parents wish to be open, but cannot be so, in order to protect their children. We are tolerated (or not); seen as needing support; seen as another issue that is just coming onto the agenda, will perhaps be controversial and will certainly involve more work. Very few environments positively welcome us and invite us to contribute to an acknowledged and celebrated culture of diversity.

The provision of aware services

Education – lesbian parents have had many responses from their children’s schools. Often polite, sometimes hostile but rarely constructive, well resourced and informed. None of us has met with a school that actively includes our families and LGBT issues throughout its work. We welcome the inclusion, in the revised HOW GOOD IS OUR SCHOOL quality indicator 5.3 Equality and Fairness, of sexual orientation in the level 4 example. However these are 2 words in a big document. There must be training and resources for head teachers, guidance teachers and other staff in local authorities and schools in order to develop LGBT inclusive policy, curriculum and practice. This has to be high quality training that does not merely mean we get a mention in a few school equal opportunities policies. Equality and fairness should be a significant aspect of initial teacher training and ongoing professional development. All incidents of bullying/harassment in schools that are rooted in gender stereotypes and/or homophobia should be recorded along with racist incidents.
Health – lesbians seeking fertility treatment and advice have had a variety of positive and negative experiences. These seem to be not only to reflect the various attitudes and opinions of health service employees but also the variation in policy at clinic, hospital and health authority levels. We believe we should be treated just as straight couples and single women are and that there should be consistency across Scotland.

Having to deal with society’s negative and often condemning attitude towards us is often hard to cope with. Add to that the stress and pressure of being a parent (or wanting to become one) and it’s unsurprising that some lesbian mothers suffer mental health problems.

We need:

(a) LGBT friendly health service provision at all levels and

(b) more government money available for the provision of suitable counselling and other services

Women need to know that the services are there and that they are LGBT friendly. It’s no good having the services there when you are afraid to approach your doctor or clinic or take up the counselling services offered because you fear anegative or hostile reaction.

Media

You only have to look at the press coverage of the recent Glasgow and Edinburgh “gay parenting” cases to see what we are up against. The press seem intent on putting forward a completely negative view of gay parents (male or female). Biased reporting and inflammatory language perpetuate homophobia in Scottish society. This has to be stopped. How are we and our children ever going to be accepted as part of “normal” society when the press are constantly telling us we’re not.

The current legislative framework

Our partnerships and families are not consistently recognised or valued equally in law. We cannot adopt children together. We cannot be joint parents. We may not marry or register our partnerships. Only very recently was a lesbian co-parent given parental rights and responsibilities in relation to her partner’s child – the first such award in Scotland, and immediately preceded by the refusal of such rights for another co-parent.

How can we and our children develop a positive and constructive engagement with the state/society that undermines and undervalues our family life by not providing the legal recognition which can contribute to the stability of same sex families?

The implications of Article 13
While we welcome the protection of our rights in employment that are to bring the UK inline with some of the EU law, it seems that the provision of goods and services is to be excluded. Our children and all children in Scotland will not have the right to an education free from homophobia and heterosexism. There will be no duty placed on schools to develop a strategy to counter this discrimination as there is to counter racism.

We need legislation that protects everyone from discrimination on grounds of sexual orientation or gender identity. Without it all the small pieces of policy, law and good practice are not enough. The Scottish Parliament should be pressing UK government for such legislation.

Marian Thomas
Secretary
Lesbian Mothers Scotland
September 2002

SUBMISSION FROM STUC

Response to Scottish Parliament Equal Opportunities Committee Enquiry on Sexual Orientation

Purpose of Paper

The attached paper is a draft response to the Scottish Parliament Equal Opportunities Committee’s Enquiry on Sexual Orientation.

Background

The Scottish Parliament’s Equal Opportunities Committee launched a consultation in July 2002 to inform their inquiry into Sexual Orientation. The enquiry asked for views on the following areas:

- The experience of LGBT Communities in Scotland today
- The provision of LGBT aware services
- The current legislative framework
- The implications of article 13

The STUC circulated the document to all affiliates for comment on 16th July and received a number of responses, which have been incorporated into the attached draft alongside adopted STUC policies. The deadline for submission of responses to the consultation is the end of September 2002.

Recommendation

It is recommended that the General Council consider the attached draft response, with a view to agreeing a final version of the response for submission to the Equal Opportunities Committee.
Introduction

The STUC is Scotland’s Trade Union Centre. Its purpose is to co-ordinate, develop and articulate the views and policies of the Trade Union Movement in Scotland and, through the creation of real social partnership, to promote trade unionism, equality and social justice; the creation and maintenance of high quality jobs and the public sector delivery of services.

The STUC represents around 630,000 working people and their families throughout Scotland. It speaks for trade union members in and out of work, in the community and in the workplace. Our affiliated organisations have interests in all sectors of the economy. Our representative structures are constructed to take account of the specific views of women members, young members, Black/minority ethnic members, LGBT members, and members with a disability, as well as retired and unemployed workers.

The STUC welcomes the opportunity to respond to the Committee’s enquiry on sexual orientation. We have consulted widely across our affiliates and across our LGBT network for views in response to the questions posed by the Committee. Please find below a summary of the feedback we received.

The experience of LGBT Communities in Scotland today:

The experiences of LGBT people in Scotland are as diverse as they are long. The feeling of isolation is as prevalent in large towns or cities as it is in villages and rural communities. Although this is not ground-breaking news, it highlights a basic need to adopt a support network that is available to all, regardless of where they live. This is very often ignored.

Almost without exception LGBT people become much happier and secure when they are able to “come out” at work and find acceptance in their working environment. This is a key area we should work on through education and legislation.

The provision of LGBT aware services:

Artificial insemination provisions for lesbian couples are grossly under-resourced. We can avoid court cases on parenting rights (which always favours heterosexual/mixed sex couples) if lesbian couples no longer have to find their own donor.

Funding for LGBT services is only provided when necessary, rather than as a matter of course. Too often LGBT services are funded through their own efforts. It is not unreasonable to assume that this is not only as a result of Clause 2A, but the fear of negative publicity from the press.

Many services are seen as a concession, and not as a need or right.

The current legislative framework:
The sexual offences legislation in England and Wales is due to be revised in 2003. It is expected all sexual orientation discrimination will be removed. Scotland must also do the same. The Compliance (Scotland) Bill has helped by repealing the law discriminating against more than 2 men having sex.

**The implications of article 13:**

The final outline of legislation around Article 13 is still not known, but we have seen from the consultation document and Ministerial statements the likely tone and content. This will for the first time give recourse to Employment Tribunals for people who have faced discrimination based on their actual or perceived sexual orientation.

In a survey conducted by the Cabinet Office across the Civil Service last year the question of how does some one identify their sexual orientation was asked. The Cabinet Office accept that the results were distorted because not every lesbian, gay man or bisexual would have been honest. The results from those that did identify as LGB shows that 18% of gay men and 16% of lesbians believed they had experienced discrimination on the grounds of their sexual orientation.

Indeed in a survey conducted across the Public and Commercial Services Union (this is the Union representing most civil servants) Proud network the level of discrimination experienced rose to 45% of the membership of the group.

There is a very serious problem that needs to be tackled. Employers need to start looking at their policies and procedures now to gear up for the change.

This should include:

- Asking the question in staff surveys how some one identifies and looking at that in relation to discrimination, reporting procedures, promotion procedures and performance pay.
- Tracking staff to see if sexual orientation is a barrier to promotion.
- Monitoring staff an added question to the race and disability forms.
- Setting targets for staff profile to represent the communities that they come from.
- Training is required for employers on how to tackle homophobia. From our experience it is here where many problems arise due to ignorance or feeling uncomfortable with the issues.
- Awareness training for all staff.
- Reviews of pension schemes to ensure that they do not discriminate on the basis of marriage, non-marriage.
- The Inland Revenue rules around Financial Interdependencies need to be changed to ensure that discrimination on the grounds of non-married couples is eliminated.
On a wider note the STUC believes that Local Authorities will now have to include monitoring of the LGBT community as a resource to employers. It is appreciated that it will take time before these will be as accurate as they ever will be.

The other important element is the support and advise available for the LGBT community on the new rights; again we see local authorities playing a role here in ensuring advice is available.

The STUC has argued that a Commission on the same basis as that provided for sex, race and disability be formed. Should however the Government go ahead with their announced decision to have a single Equality Commission, the STUC believes that adequate resources and provision must be made available for promoting LGBT equality and tackling bad practice.

In addition, we would wish to see the role of the Scottish Parliament enhanced to provide equal backing for issues around sexual orientation as they do on sex, race and disability.

Rozanne Foyer
Assistant Secretary
STUC
September 2002

SUBMISSION FROM NORTH LANARKSHIRE COUNCIL

Taking Stock Meeting on Sexual Orientation

Further to my letter of 19 July 2002, I can advise that in respect of the current legislative framework, this authority included sexuality in its Equal Opportunities in Employment Policy, and indeed goes beyond the provision set out in the legislation.

A copy of this policy is attached for your information. (Not reproduced here)

Jim McGuinness
Head of Community Resources
North Lanarkshire Council
September 2002

SUBMISSION FROM EIS

Taking Stock - Sexual Orientation.

The EIS welcomes the opportunity to respond to this consultation document. The following points are issues which the EIS consider to be of prime importance in a review of progress towards equality for lesbians and gay men in Scotland. The
following comments highlight areas of concern whilst also noting social advances which have taken place since the establishment of the Scottish Parliament.

Equality of Opportunity
The EIS welcomed the commitment to equality with reference to sexual orientation in the Scotland Act. The EIS believes there is still much to be done before it is safe to assume that the rights and aspirations of the lesbian and gay community are respected and protected in Scotland. The commitment to equality proof actions of the Parliament as a matter of course is not always obvious. A recent example would be the report of the Physical Activity Task Force which was without reference to sexual orientation. The EIS believes that adoption of a set of robust procedures guaranteeing equality proofing including, of course, due attention to lesbian and gay issues is the only way to demonstrate the intention of developing a progressive, egalitarian agenda in Scotland. Mainstreaming equality requires due regard being given to the concerns of all marginalised sections of Scottish society, including the gay and lesbian community.

Gay and Lesbian Teachers
At present there is no uniform guarantee of equality of opportunity in Scotland. The EIS welcomes the efforts of Education Authorities which have policies guaranteeing freedom from discrimination in terms of employment, promotion, harassment, etc. The EIS believes that a fundamental aspect of an excellent education service is to guarantee equal treatment of its employees. Conditions of service, employment practices, bullying and harassment policies, etc. should be subject to equality proofing which includes attention to gay and lesbian concerns. Local authorities should be required to adhere to a set of minimum standards which include guarantees of equal and fair treatment for all gay/lesbian employees. The EIS also welcomes the references to sexual orientation in recent publications by the General Teaching Council.

1. Pension Scheme
The EIS continues to highlight with the Pensions Agency the inbuilt discrimination against same sex couples. The scheme also discriminates against unmarried heterosexual persons, however, they have the option of marriage. It is unacceptable that gay and lesbian members of staff are compelled to join a scheme which discriminates against them. State employees should not be compelled to enter discriminatory arrangements. Arrangements should be rapidly set in place to review the teachers’ superannuation scheme to ensure such institutionalised discrimination is discontinued.

Education Service Users
The EIS is concerned at the slow progress towards developing a service that meets the needs of young gay or lesbian people and children with lesbian or gay parents. The amendment to HMIE document, “How Good is Our School?” to include sexual orientation in one of the performance indicator exemplars is a very welcome step forward. However, there is a need for a more consistent approach to the issue. Good Guidance support is only part of the answer but this can place, although not always, gay and lesbian people as a “problem”. Young people can experience discrimination and deep unhappiness as they come to terms with their sexuality. However, a ‘crisis intervention’ model sometimes adopted in the school system is
inadequate, particularly if this individualised counseling option is all that is on offer. The EIS is also concerned about the high media profile, which often attends efforts to provide good resources for schools.

The EIS believes that a comprehensive audit of a number of curricular areas to assess their effectiveness in terms of equality is required. PSD, RME, Health Education, Citizenship Education, Modern Studies are all areas which should present young people with ideas about equality. However, it is not adequate to confine the issue to these subjects only. It can arise in many subject areas as a matter of course and all teachers must feel fully prepared to deal with it. All young people, homosexual or heterosexual have the right to be educated about diversity and the damage prejudice inflicts on society.

The EIS believes that achieving national priorities in education such as raising attainment and promoting health are only attainable if a commitment to equality for all becomes fundamental to the Scottish Education system. While lesbian and gay issues continue to be absent from policy and training, and avoided within the curriculum there is no equality of opportunity. Lesbians and gay men remain invisible, their contributions as members of staff, students and parents to the rich diversity of Scottish society are unacknowledged and unvalued.

- Learning and Teaching Scotland and the HMI should devise methods for disseminating good practice and issue advice on appropriate resources.
- An Interchange document dedicated to lesbian and gay issues in education would be a positive step in the right direction.
- As part of teacher training there should be a compulsory module on equal opportunity with a specific section on sexual orientation.
- CPD programmes should also be encouraged to contain aspects of equal opportunity training.

Society and Citizenship.

Educationalists seek to prepare young people to take part fully in society. Unfortunately, young gay and lesbian people are ill prepared for a society which discriminates against them. The EIS supported the abolition of Section 2a and recognises its importance in challenging discrimination in the education system and society. Not only did the debate highlight the appalling levels of discrimination and prejudice against lesbians and gay men but it also started an inexorable process of change. Further moves are now crucial to support this process.

Partnership recognition is long overdue. The EIS welcomes the recent changes in UK immigration law and Scottish incapacity legislation. Both of these changes give a status to gay/lesbian relationships. There must be, however, clarity and equality in terms of the state recognition of gay/lesbian relationships. The introduction of some limited reform based on Article 13 is welcome.

The EIS recognises the excellent work over many years of the existing equalities commissions in Scotland. Any new infrastructure must display an intention to safeguard the fundamental rights and responsibilities of all Scots. Establishing a
national body with a clear remit to protect all our citizens would be a decisive step towards creating a just and equitable society.

Kate Blackwell
EIS
September 2002

SUBMISSION FROM GLASGOW CITY COUNCIL

Taking Stock Meeting On Sexual Orientation

Glasgow’s policy framework

Glasgow City Council is committed, through its Key Objectives, to tackling the poverty, social exclusion and poor health experienced by Glasgow’s citizens and provide accessible and relevant services to the city’s diverse communities through the development of Glasgow as a caring city.

The Council believes it can make a major contribution to this by ensuring the highest quality in service delivery which is sensitive, flexible and responsive to the needs of those traditionally excluded from the planning and decision-making process. It believes that promoting equality will ensure better use of resources and increased satisfaction by service users and service providers. The City Council is in a unique position to raise awareness and to make equality and fairness a feature of a regenerated Glasgow.

The Glasgow Equality Policy was developed to translate this commitment to equality into action and was adopted by the Council on 27 August 1998. This followed extensive consultation with the communities of interest and more generally within the city.

Council Services are seen as instrumental in implementing much of the strategy. The Council aims to incorporate equality within all of its core activities and corporate initiatives, thereby ensuring that equality is mainstreamed and integrated in all Council processes and business. It is recognised that many aspects of the strategy to deliver this policy, whilst requiring change in priorities and practice, may not require substantial additional resources. The Council hopes that other agencies and organisations in the city will co-operate and work together to recognise the advantages of fair and just treatment of all citizens.

The Council wants to make Glasgow a city where all citizens regardless of colour, race, nationality, ethnic or national origin, religion, social background, marital status, gender, disability, age or sexuality, are treated with respect, have full access to the range of services provided in the city, and are able to have a quality of life which affords them dignity, independence and freedom from violence, discrimination and harassment. The Council recognises that the experience of discrimination, victimisation and harassment blights lives, limits opportunities and is to the detriment of the city as a whole. It is not only direct and blatant discrimination, which hinders
opportunities - lack of awareness of equality issues and the absence of positive action initiatives can have the same effect.

The main aims of the policy are to challenge discrimination, to promote and implement equality measures, to progress social justice and to strive to ensure that no one is disadvantaged by virtue of negative attitudes to race, gender, physical, mental and or sensory impairments, age or sexuality. The Glasgow Equality Policy is founded on the following key principles – equity, equality, inclusion and partnership, visibility and shared responsibility.

**Consultation and involvement with communities of interest**

The Council’s Policy and Resources (Social Inclusion Strategy) Sub Committee has the responsibility of driving forward the commitments on equality. To ensure consultation and involvement the Council supports 4 city wide forums which bring together organisations and individuals working in the 4 key priority areas of disability, race, women’s issues and gay and lesbian issues. The Council has established an Equality Network Forum, which meets on a 6 weekly basis and involves the Senior Vice Convener of the Policy and Resources (Social Inclusion Strategy) Sub Committee, representatives from the 4 citywide forums and Council staff. Involvement of those from the priority groups has been an essential commitment to date and one on which the Council wishes to build.

3 representatives from each of the 4 networks meet with the Senior Vice Convener of Policy and Resources Social Inclusion Strategy Sub Committee with responsibility for Equality issues, and Council officers on a 6 weekly basis to discuss common issues and share information. This 6 weekly meeting is known as the **Equality Network Forum**.

To date the Equality Network Forum has established the Equality Bulletin and the e bulletin news group pilot and has discussed and made comment on issues such as the Glasgow Alliance Strategy and Action plans, the Council’s Review of Decision making structures and the Access Glasgow proposals. A series of meetings with senior representatives from Council services has now been established. To date Services including Personnel and Administration, Cultural and Leisure, Education, Social Work, Housing and Development and Regeneration have undertaken presentations on their approach and progress on equality issues.

**Progressing lesbian and gay equality in Glasgow**

The Council has identified lesbian and gay issues a one of four priorities since 1996 and a range of activities have been supported since this time including:

Support with the establishment and ongoing operation of the LGBT Centre in Dixon Street in Glasgow

An awareness raising poster campaign throughout Council venues and other buildings in Glasgow
Commissioning of a study on lesbian and gay experience of poverty and social exclusion carried out by Glasgow Women’s Library

Support for a resource to provide information to parents of gay men and lesbians

Housing Services produced an information leaflet on tenancy rights and dealing with homophobic harassment. A series of housing surgeries also took place at the LGBT Centre.

A Lesbian and Gay Employee Forum has been established and supported by Personnel and Administration Services

Consultation is ongoing with representatives from the West of Scotland Lesbian and Gay Forum, umbrella organisation for LGBT groups in Glasgow. A number of priorities are currently being addressed.

The Council is about to undertake a review of the funding of lesbian and gay groups and develop a funding strategy for consideration by the Council and other agencies.

The need to develop a multi agency approach to tackle homophobic violence and harassment led to the decision to establish a LGBT Community Safety Forum supported by the City’s Community Safety Partnership. The format and membership was agreed after consultation with members of the LGBT community undertaken by the West of Scotland Lesbian and Gay Forum.

The Women’s Library has been commissioned to produce a resource pack on tackling homophobia. A small steering group of Council staff and representatives from relevant agencies have been supporting this development.

There is still significant progress needed on mainstreaming of equality generally and lesbian and gay issues in particular and the following is being taken forward

Further guidance for those preparing Council Service plans
Opportunities to discuss Council services and progress on promoting lesbian and gay equality and ensuring appropriate and sensitive services

Discussion with Glasgow Alliance re Alliance Strategy and influencing the area based Social Inclusion Partnerships

Cultural and Leisure Services are involved in developing youth work provision for young gay men and lesbians in consultation with West of Scotland Lesbian and Gay Forum.

Experiences of LGBT communities in Scotland today

The Council recognises the inequality and discrimination facing LGBT citizens and in particular the issue of invisibility, which leads to needs not being considered and built in to policy and services. The Council is committed to addressing this in partnership with the West of Scotland Lesbian and Gay Forum. The Poverty and Social inclusion report commissioned by the Council and undertaken by the Women’s
Library provides some useful information and examples of the experience of lesbians and gay men in Glasgow.

The provision of LGBT aware services

As can be seen from the approach and the activities outlined above, the Council is committed to ensure that services are LGBT aware and sensitive. The need for discrete city wide provision is recognised and has been ensured in relation to youth work, housing rights and homophobic harassment.

It is recognised that there is still much to do in raising awareness of staff involved in the provision of services. Dissemination of the Equality Policy and wide scale distribution of the Equality Bulletin are seen as important elements along with the poster which was developed some time ago.

James Andrews
Chief Executive
Glasgow City Council
September 2002

SUBMISSION FROM MORAG ROBERTSON

TAKING STOCK MEETING ON SEXUAL ORIENTATION – OCTOBER 2002

Further to the Committee’s letter of 5 July 2002 I would like to offer the following views in advance of the Committee’s consideration of sexual orientation issues at its stock-taking meeting in October. My views focus mainly on the current legislative framework and how that needs to be changed to end the discrimination currently faced by same sex partners in our country and how these rights should be brought more in line with other EU member states.

Legal Status for Same Sex Partners

The Scottish Executive and the Scottish Parliament should undertake as a matter of priority a revision of the laws and rights affecting co-habiting and married couples. Currently, under both arrangements same sex couples continue to be discriminated against. There should be an equalisation of rights as a matter of priority. I acknowledge that progress is being made in this direction but next years Family Law Bill provides a perfect opportunity to ensure that all of Scotland’s families and relationships are given equal status, obligations and protection under the law. Thus bringing Scotland into line with most of the forward thinking members of the EU and to our shame enabling us to catch up with many emergent members of the EU. The laws relating to co-habitation should be equalised and there should be the introduction of state registered partnerships for all couples that may wish to take this option. The registered partnership should afford the same rights and responsibilities conveyed to and on married couples, thereby ending not only the discrimination placed upon same sex couples but also heterosexual couples who choose for whatever reason not to marry.
But I would urge the Parliament to go further than this and to carry out a wide scale review of the rights, obligations and responsibilities afforded to individuals through marriage and state registered partnerships, as well as those co-habiting, to ensure that these are fit for the 21st century. This would be a perfect opportunity to widen the debate to the increasing numbers of people choosing to live alone in our society. That debate may be too much to consider at this present time but I believe it must be had in the future. My priority has to be therefore to press for full equalisation of rights for same sex couples and co-habiting couples under the present systems.

Adoption

Unmarried same sex partners within stable relationships should be able to apply jointly to be considered for adopting a child. A partner should be able to adopt their partner’s child, with the agreement of the child’s other parent.

Sex Offences Law

I support the proposed revision of sexual offences legislation in England and Wales with a view to removing from that legislation all sexual orientation discrimination. I would urge the Scottish Executive and the Scottish Parliament to carry out a similar review. I would prefer that review to be undertaken alongside that of equalising partnership and pension rights.

Gender Re-registration

It is disgraceful that the UK is one of only 4 countries in the Council of Europe, which does not legally recognise in any way the gender identity of transgender people. This must be changed as a priority and any legislation introduced should guarantee the right of individual’s not to have their re-registration revealed.

Laws Banning Discrimination – Article 13 of the EU Treaty

The Scottish Executive should use its influence at Westminster to ensure that the UK Government legislates to give LGBT people the same range of protection as currently applies in relation to discrimination on racial grounds. This would mean making it unlawful to discriminate against people because of their sexual orientation or gender identity, in employment, training, education, and in the supply of goods and services.

General Comments

I welcome the stance being taken by the Scottish Parliament on same sex issues and gender discrimination and as a gay woman I feel extremely hopeful that Scotland can continue to lead the way in breaking down the barriers, as it did so courageously in its abolition of Section 28. Can I ask it to take on board as part of its considerations the changes already underway in other European member states? It is unfortunate that we are so far behind may of these states but we now have the opportunity to end discrimination in Scotland on the grounds of sexual orientation. I believe that the Parliament will be supported by the Scottish people in ending this
discrimination, which affects so many of our friends and families. Should the Committee wish to look more closely at what is happening in Europe it may wish to contact ILGA the umbrella body in Brussels which lobbies the EU Parliament on behalf of individual member states and has a wide expertise on the status of legislation in other countries but can also advise on the issues being raised before the EU at present. This would enable Scotland to become one of the leading countries in ending discrimination on sexual orientation and gender identity. Something that our country could be proud of in our egalitarian way! Should the Committee want the contact details for ILGA they could be provided by the Equality Network which is contactable on 07020 933 952.

I welcome the fact that 20 MSPs are supporting Robin Harper in his motion to discuss the setting up of a national register of civic partnership in Scotland. I very much hope that the Parliament will see fit to make the introduction of this register a priority after the forthcoming elections. If this is to be the first step towards a progressive and sustained change in the legislation surrounding same sex partnerships then this proposal is to be warmly welcomed. Finally, I would like to thank the Committee for this opportunity to be involved in the open and democratic process that our new Parliament provides for all of its people, so that they really can have a say in the matters that affect their daily lives. Taking up the issue of sexual identity and orientation on behalf of the people of Scotland can only lead to a more tolerant, a more fair and socially inclusive Scotland – a Scotland where gay people can live their lives in safety, without fear and without discrimination. And more importantly help to create a society where the issue of sexuality is not an issue at all! If this climate had existed in my late teenage years and throughout my early adult life I would not have spent so many torturous years afraid to be myself, afraid of what society would think of me. You have the opportunity to make an immense difference to the quality of life for LGBT people living in Scotland. You have the opportunity to create a society where LGBT youngsters will no longer spend their formative years in fear and isolation – fear and isolation that causes many to take their own lives. You have the opportunity – please take it!

Morag Robertson
September 2002

SUBMISSION FROM THE EQUALITY NETWORK

Sexual Orientation Taking Stock

The Equality Network is the Scottish network of groups and individuals working for an end to discrimination against lesbian, gay, bisexual and transgender (LGBT) people in Scotland. We welcome this opportunity to submit evidence to the Equal Opportunities Committee for the taking stock meeting on sexual orientation. Our evidence is based on consultation with the LGBT communities of Scotland conducted over five years, via conferences, forums and surveys.
An issue which remains a high priority for very many LGBT people is equality in legislation – in particular, eliminating the sexual orientation discrimination which still remains in gender identity law, family law and sexual offences law.

A second key area is equality in the provision of services and in employment. This needs to be backed up by Scottish Parliament legislation to encourage equal opportunities, and by reserved equal opportunities legislation, including article 13 related legislation.

A third area of great importance is that of attitudes about LGBT people, and the related experiences of harassment and exclusion.

Our evidence deals in most detail with the elimination of discrimination in legislation. We have commented more briefly on equality in services and employment, and on the problem of discriminatory attitudes.

1. Equality in legislation

Much of the Equality Network’s recent consultation has focussed on what needs to change to remove the historical discrimination against LGBT people that remains in some of Scotland’s laws. These laws date from a time that LGBT people were regarded as criminal and/or sinful simply because of our sexual orientation/gender identity, and they still impact enormously on the lives of LGBT people. The existence of discriminatory laws also undermines efforts to change negative attitudes about LGBT people.

The Scottish Executive and Parliament have made a number of improvements to these laws, including removing discrimination in some of the laws relating to cohabiting couples and in some sexual offences laws, and by repealing section 28. The Executive and Parliament should be particularly proud of the repeal of section 28, which was based on rational consideration of all the evidence, despite the pressure of the most extensive and expensive single-issue lobby campaign ever mounted.

It should be remembered that the million people who voted against the repeal of section 28 in the anti-repeal campaign’s ‘referendum’ did so not because they support discrimination against LGBT people (opinion polls demonstrate that a large majority in Scotland opposes discrimination), but because they were worried about their children being exposed to inappropriate material in schools. Those of us who supported the repeal of section 28 said that would not happen; the anti-repeal campaigners said it would. History is proving that we were right.

Notwithstanding recent changes, there remain three areas of law which still discriminate directly and very significantly against LGBT people: gender identity law, family law, and sexual offences law. The majority of legislation in all these areas is devolved.

Gender identity
The UK is one of only four of the 43 Council of Europe countries in which the gender identity of transsexual people has no legal recognition. Over the past 20 years, a series of cases has challenged this at the European Court of Human Rights. In Rees v. UK (1986) and Cossey v. UK (1990), the Court ruled that UK law did not breach transsexual people’s ECHR rights, but noted that scientific and societal understanding of transsexual people was developing rapidly in Europe, and that the UK should keep its law under review. In Sheffield & Horsham v. UK (1998), the Court again ruled, but by a minimal majority, that the ECHR was not breached, and noted again that the UK should review the law.

In April 1999, the Home Office set up the Interdepartmental Working Group on Transsexual People, which reported in April 2000. The report sets out options for change. The working group was reconvened in June 2002.

The Equality Network transgender issues forum met twice last year to consider what changes are needed to the law, and reached a great deal of consensus. The following is a summary of the main recommendations of those forums – a more detailed briefing is available from the Equality Network.

Recommendation 1: The Scottish Executive should introduce a Bill to allow transsexual people to re-register their gender for all legal purposes, including the capacity to marry someone of the opposite gender. A replacement birth certificate should be made available in the re-registered gender, with a private record of the change kept by the Registrar.

Recommendation 2: Re-registration should be a two stage process, starting with a declaration of the intention to live permanently as the opposite gender to the birth certificate gender. A further declaration two years later that the applicant has lived as such for the two years and intends to continue doing so would trigger the re-registration process.

Recommendation 3: Because major surgery or hormone treatment is not an option for all transsexual people, for medical or other reasons, these should not be requirements for re-registration.
Recommendation 4: There should be a general, legally established, right to privacy for gender re-registration, with the minimum number of necessary exceptions specified: for court proceedings where the person’s previous legal gender is a key issue, and for purposes such as health insurance and certain medical treatment, where full medical history is required.

Recommendation 5: The Scottish Executive and Home Office should work together to resolve cross-border issues, for example, the provision of an updated birth certificate to a person born in England but resident in Scotland, and to update the (reserved) provisions of section 2A of the Sex Discrimination Act 1975, to extend the existing protection for transsexual people from discrimination in employment, to cover discrimination in the supply of goods and services.

Family law – partnership

The recommendations on family law presented in sections 1.2 and 1.3 are based on consultation through national conferences in 2000 and 2002, and on a major national survey of LGBT people conducted in 2001. Reports of the 2000 conference, and of the survey, are available on our website, at www.equality-network.org. More detailed briefings on the recommendations presented in sections 1.2 and 1.3 are in preparation.

Two types of partnership between men and women are recognised in Scots law: cohabitation and marriage. Cohabitants enjoy a range of legal protections introduced in the past two decades, while married partners enjoy all of these plus additional legal protections.

1.2.1 Cohabitation

We welcome the fact that the Scottish Executive and Parliament have amended several of the provisions that protect cohabitants, to extend these to apply to same-sex cohabitants. As the Scottish Law Commission recently pointed out in its report on the provisions of the Damages (Scotland) Act 1976, to fail to treat mixed-sex and same-sex cohabitants equally may well breach articles 8 (respect for private and family life) and 14 (prohibition of discrimination) of the ECHR.

All legislation passed by the Scottish Parliament which includes explicit provisions for cohabitants has provided for equal treatment for same-sex and mixed-sex cohabitants. This includes the Adults with Incapacity (Scotland) Act 2000, the Housing (Scotland) Act 2001, and the Mortgage Rights (Scotland) Act 2001. The current Land Reform (Scotland) Bill is a further example. The Protection from Abuse (Scotland) Act 2001, while not including an explicit definition of cohabitant, provides for equal protection for those abused by a same-sex or an mixed-sex partner. We welcome the fact that in all these cases the relevant provisions were passed with unanimous support in the Parliament.

13 The 2002 conference report will be added to the website during September
14 Report on Title to Sue for Non-Patrimonial Loss, Scot Law Com No 187
There remain a number of areas of law where same-sex cohabitants are not yet included in the protections afforded mixed-sex cohabitants – areas of the law not yet updated by the Scottish Parliament.

Recommendation 6: The legal provisions covering mixed-sex cohabitants that have not yet been extended to cover same-sex cohabitants should be extended as a matter of some urgency, to avoid potential ECHR breaches. The gender-neutral definition of cohabitant, in section 108(1)(a) of the Housing (Scotland) Act 2001, should be used as a model for these amendments.

Recommendation 7: The forthcoming Mental Health (Scotland) Bill should replace the definition of “relative” in the Mental Health (Scotland) Act 1984 with a definition which includes a same-sex cohabitant on the same basis as a mixed-sex cohabitant.

Recommendation 8: The changes introduced recently in the Housing (Scotland) Act 2001, which extended to a same-sex cohabiting partner the tenancy succession right already provided to a mixed-sex cohabiting partner of a tenant with a secure tenancy, should be duplicated in the legislation for assured tenancies, under the Housing (Scotland) Act 1988. This should be dealt with as one of the security of tenancy issues to be addressed in the forthcoming Homelessness Bill.

Recommendation 9: The Scottish Executive should implement the recommendations of the Scottish Law Commission report, *Title to Sue for Non-Patrimonial Loss*, to amend the Damages (Scotland) Act 1976 to equalise the treatment of same-sex and mixed-sex cohabitants. At the same time, section 13 of the Administration of Justice Act 1982 should be amended similarly, to ensure equal treatment of same-sex with mixed-sex cohabitants in damages claims related to personal injury.

Recommendation 10: The changes proposed in the Scottish Executive’s family law white paper, *Parents and Children*, to the domestic abuse protections in the Matrimonial Homes (Family Protection) (Scotland) Act 1981, should extend those protections to both a same-sex and a mixed-sex cohabiting partner and any children of the partnership.

Recommendation 11: The financial provisions for cohabitants proposed in chapter 7 of *Parents and Children*, should apply equally to same-sex and mixed-sex cohabitants.

Recommendation 12: The forthcoming Family Law Bill should complete the elimination of discrimination in cohabitation law by amending the other minor provisions for cohabitants in Scots law, to ensure that these cover same-sex cohabitants on the same basis as they currently cover mixed-sex cohabitants. These include security of tenure of a mobile home site under the Mobile Homes Act 1983, and joint liability for council tax under the Local Government Finance Act 1992.

1.2.2 Registered civil partnership
Mixed-sex couples have the choice of cohabiting or marrying, and if they choose the latter they have stronger legal rights and responsibilities. The main additional legal provisions for married couples, over and above those for cohabitants, are as follows:

The protections available to cohabitants are more securely available to married couples, because the registration of the marriage demonstrates its existence, while a cohabiting couple may have to prove before a court that they were living together as, or in an equivalent relationship to, husband and wife.

Married partners have an obligation to support one another financially, and matrimonial property is generally split equally on divorce.

Each spouse has strong rights to inherit from the other, whether or not there is a will, and such inheritance is exempt from inheritance tax.

There are currently stronger protections from domestic abuse for married couples than for cohabiting couples.

A non-EU spouse of a UK citizen can reside with their spouse in the UK.

A Scots marriage is recognised in other countries.

Some employers and pension schemes provide benefits to spouses which they do not provide to cohabiting partners, such as a survivor’s pension to the spouse of a pension holder who dies.

Most of these provisions are governed by devolved legislation; the exceptions are inheritance tax, immigration, and laws relating to employment perks and pension schemes, which are reserved, and the recognition of marriage in other countries.

Clearly, marriage law discriminates on grounds of sexual orientation: same-sex couples cannot marry, and so cannot access the benefits listed above. As part of our consultation with LGBT people on family law, the Equality Network facilitated discussion on how these (secular) benefits of marriage could be made available to same-sex couples.

There are three main options:

To make all the benefits of marriage available to cohabiting couples, effectively closing the gap in legal provisions between married and cohabiting couples. There has been considerable movement towards this in countries such as New Zealand and Canada.

To extend marriage to same-sex couples, as has been done in the Netherlands.

To introduce a new scheme for registering with the state civil partnerships between couples regardless of gender, and to extend to registered civil partners some or all of the secular responsibilities and rights of marriage. Such systems have been introduced in many other European countries, including France, Germany, the
Netherlands, Denmark, Norway, Sweden, Iceland and the devolved areas of Catalonia and Aragon in Spain.

We have consulted widely on these options, and it is clear that there is a range of opinion within the LGBT communities. Some LGBT people feel that the law should not distinguish between married and cohabiting couples at all, and so favour option 1. However, many others feel that a choice should be available between cohabitation, with limited legal obligations and rights, and a more committed relationship, with stronger obligations and rights.

Some LGBT people feel that providing anything different from marriage for same-sex couples would be a form of discrimination, and so favour option 2. However, others feel that marriage is not for them. In Scotland, marriage is not entirely secular – legal marriages can be performed by a minister, priest, or other faith representative. It is not a matter for the law to impose, but for the churches and faith bodies themselves to decide, whether, when and how they will recognise same-sex relationships. Some, such as the Metropolitan Community Church, the Quakers, and some strands of Reform Judaism already do.

It is the position of the Equality Network, based on extensive consultation, that a version of option 3 above – the introduction of registered civil partnerships carrying the same secular financial obligations and protections between the partners as marriage does – provides the best solution for minimising discrimination against same-sex couples in partnership law. With the exception of the inheritance tax exemption, the introduction of such a civil partnership is a wholly devolved matter.

A more detailed briefing on the recommendations here is in preparation.

Recommendation 13: The Scottish Executive should consult on proposals for introducing registered civil partnership in Scotland, open to couples regardless of gender. Civil partnerships should carry the same financial obligations and rights between the partners as marriage: a duty of aliment, a presumption of equal shares in household goods and housekeeping money, division of property if the partnership is dissolved, and legal rights and prior rights of succession on the death of one partner.

Recommendation 14: The legal rights and responsibilities already available to cohabiting couples should also apply to registered civil partners.

Recommendation 15: In keeping with the significant obligations of civil partnership, partnerships should require two months’ notice for registration, and one year’s notice for dissolution, except that a court should be able to order an earlier dissolution on grounds of behaviour such that the applicant could not reasonably be expected to continue with the partnership, for example domestic violence. Courts should be empowered to impose a financial settlement, and arrangements for children, where there is disagreement on these matters on dissolution of a civil partnership.

Recommendation 16: The Scottish Executive should continue to consult with the UK Government about introducing provisions for Scottish registered civil partners in reserved areas of the law: inheritance tax exemption, a residence right for non-EU
The result is that unmarried mixed-sex couples and same-sex couples are adopting children, but that the security of the child suffers because only one of the couple is registered as parent of the child – the other has no formal parental standing unless she or he successfully applies for parental rights and responsibilities under section 11 of the Children (Scotland) Act 1995. The law as it currently stands is likely to

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15 In Scotland, the case of *T Petitioner*, 1996 S.C.L.R. 897, confirmed this for a male same-sex couple
discourage unmarried couples from applying to adopt, exacerbating the shortage of adoptive parents.

The Adoption and Children Bill, currently before the UK Parliament, would, in its present form, extend to unmarried couples in England and Wales the capacity to apply jointly for consideration as adoptive parents (contrary to reports, it does not give unmarried couples the 'right' to adopt, as all prospective adopters are carefully vetted). The Bill would also enable the unmarried partner of a parent to apply to adopt their partner's child (with the agreement of the child’s other parent, if any). These provisions apply equally to unmarried mixed-sex and same-sex couples. It is proposed that regulations under the Bill will specify ways of assessing the stability of prospective unmarried joint adopters’ relationship, and of ensuring that there are appropriate arrangements in place to protect the child if the relationship should later fail. The Adoption and Children Bill will complete its Parliamentary progress by November.

We welcome the current Scottish Executive review of adoption in Scotland, and note that the Executive has announced that phase 2 of the review will consider the law relating to adoption, and that the phase 2 report will subsequently be considered by the Executive for implementation in the forthcoming Family Law Bill.

Recommendation 19: Phase 2 of the adoption review should consider whether it would be better for adopted children, and for children in need of adoptive parents, for unmarried couples to be considered jointly as prospective adopters. The review should also consider whether an unmarried partner should be able to apply to adopt their partner’s child, subject to the agreement of the child’s other parent, if any.

Fostering

Unlike in England and Wales, the fostering regulations in Scotland prohibit the fostering of a child with a same-sex couple, although they allow fostering with a married or unmarried mixed-sex couple. The fostering rules are therefore more restrictive than the adoption rules: a same-sex couple can adopt a child in Scotland (although only one of them can be the applicant), but the fostering regulations prohibit fostering a child with the same couple. This is inconsistent. In England and Wales, children are regularly and successfully fostered with same-sex couples.

Recommendation 20: The Fostering of Children (Scotland) Regulations 1996 should be amended to allow fostering panels to consider same-sex couples as foster carers, bringing the law into line with that in England and Wales, and increasing the availability of potential foster carers.

Sexual offences law

There have been two significant improvements to sexual offences law since 1999: the lowering of the age of consent for sex between men to 16, equalising the age

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16 Regulation 12(4), Fostering of Children (Scotland) Regulations 1996
with that for sex between men and women and between women, and the repeal of the law against sexual acts involving more than two people, which applied only to sexual acts between men\textsuperscript{18}. However, sexual offences law still discriminates on grounds of sexual orientation in a number of important ways.

Between 1885 and 1980, all sexual acts between men in Scotland, in any circumstances, were criminal offences. In 1980, the scope of these offences was reduced, so that consensual acts between men over the age of consent, taking place in private, were no longer illegal. However, the underlying structure of the law remains that there are separate laws which criminalise sex between men: the common law offence of sodomy, and the statutory ‘homosexual offences’ of section 13 of the Criminal Law (Consolidation) (Scotland) Act 1995.

The result is discrimination:

Different structure of offences The fact that the ‘homosexual offences’ laws are separate and differently structured from other sexual offences laws results in confusion, and in discrimination in the scope of offences and in the penalties. The different structure signals that some sexual acts are worse offences when carried out between two men, than between a man and a woman or between two women, and that others are lesser offences.

For example, there is a specific statutory offence criminalising consensual sexual activity between two men which does not take place in private, while the same act between a man and a woman is not covered by statute (although it might be proceeded against as a breach of the peace).

In some cases, the maximum penalties differ according to whether the offence is same-sex or mixed-sex. For example, the maximum statutory penalty for sexual abuse of a girl aged 15 by a man or woman is ten years, while for sexual abuse of a boy aged 15 by a man, the maximum penalty in statute is only two years.

Confusion of sexual assaults with consensual acts Because the ‘homosexual offences’ are based on laws which originally criminalised all sexual acts between men, and which were later restricted in scope, the offences now confuse the serious offences of sexual assaults and sexual abuse of children, with the minor offence of a consensual act between men which is only illegal because it takes place other than in private (for example in a parked car). This confusion between serious and minor offences tends to diminish the apparent seriousness of sexual assaults and abuse, and exaggerate the seriousness of the consensual offence. As an example of this, the maximum penalty, under the ‘homosexual offences’ statutory provisions, is, absurdly, the same (two years imprisonment) for sexual abuse of a boy under 16 as for a consensual act between adult men otherwise than in private.

The confusion of sexual assault and abuse with the more minor consensual offence also leads to difficulties in the categorisation of crimes. The Scottish Executive acknowledged, during the passage of the Sexual Offences (Evidence and Procedure) (Scotland) Act 2002, that it would not always be possible to distinguish,

\textsuperscript{18} Convention Rights (Compliance) (Scotland) Act 2001
from the wording of the complaint or indictment, whether an accusation of the
crime of sodomy was for male rape, or abuse of a boy under 16, or for
two men engaging in consensual sex other than in private. Similarly, sodomy is not
categorised in Police and Scottish Executive statistics as a crime of sexual assault,
thereby excluding male rape from sexual assault statistics. These facts are highly
unsatisfactory – a crime as serious as male rape should be charged with an
unambiguous and recognisably serious sexual assault charge.

Outdated and offensive language The statute\textsuperscript{19} refers to these offences as
‘homosexual offences’. It goes on to define any homosexual act (even a legal one)
as “sodomy or an act of gross indecency or shameless indecency by one male
person with other male person”. Needless to say this is offensive language to many
LGBT people, and the language of the law may encourage discriminatory attitudes,
including by those whose job it is to uphold the law.

Similar problems exist in sexual offences law in England and Wales, although the
law there differs in being mainly based on statute rather than common law. In 1999,
the Home Office convened a group to review sex offences, which published its
report, \textit{Setting the Boundaries}, in April 2000. The report recommends a complete
overhaul of sexual offences laws in England and Wales, including removing all
remaining sexual orientation discrimination. It is widely expected that the UK
Government will introduce legislation in the 2002-3 Westminster session to
implement the recommendations of the report.

To correct the sexual orientation discrimination in Scots sexual offences law requires
only relatively minor changes. This is not a matter of making changes to what is and
is not legal, but of restructuring part of the law to remove the confusion, the
discrimination in penalties, and the discriminatory language. The following sections
outline the changes which we believe are necessary, following consultation. A more
detailed briefing is under preparation by the Equality Network.

Rape

Whereas in England and Wales, the crime of rape was extended in 1994\textsuperscript{20} to include
anal rape of a woman or a man, in Scotland, rape only includes vaginal rape of a
woman. Anal rape of a woman would be charged as indecent assault, but anal rape
of a man would be charged as sodomy. This is highly unsatisfactory for the reasons
discussed above. The meaning of ‘sodomy’, unlike rape, is not widely understood,
and as noted above, the offence confuses rape with the much more minor offence of
consensual activity other than in private. Scotland should follow England and Wales
by extending the definition of rape.

Recommendation 21: The common law crime of rape should be extended by statute
to include anal penetration of a woman or a man without her or his consent.

Other sexual assaults

\textsuperscript{19} Section 13, Criminal Law (Consolidation) (Scotland) Act 1995
\textsuperscript{20} Criminal Justice and Public Order Act 1994
The maximum penalty for sexual assaults by men against men under the statutory 'homosexual offences' law, section 13 of the Criminal Law (Consolidation) (Scotland) Act 1995, is only two years. Assaults can also be charged as the common law offence of indecent assault, the same charge as for heterosexual assaults, for which the maximum penalty is life.

Recommendation 22: Sexual assaults against men other than rape should be proceeded against as indecent assaults, not under section 13.

Sexual abuse of a boy

The maximum penalty under section 13 for the sexual abuse by a man of a boy under 16 is two years, while the maximum penalty under statute for abuse of a girl under 16 is ten years. A new statutory offence of indecent behaviour by any person towards a boy, modelled on the existing statutory offence of indecent behaviour towards a girl21 and with the same maximum penalty, should replace the current corresponding part of section 13.

Recommendation 23: A new statutory offence of indecent behaviour towards a boy should replace the current corresponding section 13 offence.

Sexual activity in a public place

The law here is discriminatory, with a statutory section 13 offence criminalising consensual acts between men other than in private, but no such statutory offence for acts between men and women, or between two women. These would be dealt with, if appropriate, under common law. Sexual activity between men other than in private should be dealt with in the same way as similar heterosexual acts, either under the common law, or under a new sexual orientation neutral statutory offence.

Recommendation 24: Sexual acts between men other than in private should be dealt with in the same way as similar heterosexual acts, either under the common law, or under a new sexual orientation neutral statutory offence of sexual activity in a public place.

Male prostitution

The remaining parts of section 13 deal with offences related to male prostitution. The overall effect is similar to the offences dealing with female prostitution, but the current section 13 offences are confusing and use discriminatory language. These offences should be replaced with a set of male prostitution related offences which are clearly set out, and written in terms of ‘male prostitution’ rather than ‘homosexual offences’ and ‘gross indecency’.

Recommendation 25: The remainder of section 13 should be replaced with a clear set of non-discriminatory offences relating to male prostitution.

2. Equality in services and employment

21 Section 6, Criminal Law (Consolidation) (Scotland) Act 1995
2.1 Mainstreaming equality in public services

We welcome the commitment, in the Scottish Executive’s Equality Strategy, to mainstream equality throughout Scotland’s public services. LGBT people are concerned about discrimination and the lack of appropriate services in many areas of service provision, including the police and justice system, the education system, the health service, housing provision, and local government services such as social work and homelessness support. Here we focus on issues underpinning the mainstreaming of equality across public services, rather than specific requirements relating to individual services.

2.1.1 Leadership and commitment

It is widely recognised that a prerequisite for effective mainstreaming of equality is commitment and leadership from the top. The basis for the political commitment to mainstreaming equality in Scotland is the CSG principle of promoting equal opportunities for all. The Scotland Act devolves the power to encourage equal opportunities, based on the broad definition of equal opportunities in section L2 of Schedule 5 to the Act. The recent experience of the Republic of Ireland, where anti-discrimination law covers nine strands, demonstrates the potential effectiveness of an inclusive approach to equal opportunities.

Recommendation 26: The Scottish Executive should continue to lead the mainstreaming of equality throughout public services, based on the definition of equal opportunities in the Scotland Act.

Recommendation 27: The development of generic equality work, which brings together the different strands of age, disability, gender, race, religion, sexual orientation and social origin, should be a priority. The Executive should prioritise work to bring the understanding and effectiveness of equality activity for the newer strands up to the same level as the longer established strands as soon as possible.

Proofing, monitoring and evaluation

Mainstreaming depends on effective equality proofing of policy and service provision, and on monitoring and evaluation. Appropriate methods for monitoring and evaluation are different for different equality strands.

Recommendation 28: The Scottish Executive should commission the development of equality proofing methodologies which operate effectively across all equality strands, which support the identification and addressing of issues specific to each of the equality strands, and which integrate the use of strand-appropriate monitoring and evaluation.

Training and awareness-raising

22 Age, disability, family status, gender, marital status, membership of the Traveller community, race, religion, and sexual orientation
We welcome the recent development of inclusive generic equality awareness-raising and training tools, such as Altering Attitudes\textsuperscript{23}. There is an increasing demand for generic equality training in Scotland, at all levels from basic awareness-raising to the implementation of mainstreaming strategies.

Recommendation 29: The Scottish Executive should work with equality organisations to develop the availability of high quality generic equality training.

Consultation

Mainstreaming of equality is founded on effective consultation with affected communities. There are several examples of good practice in consultation with LGBT communities in Scotland. The LGBT Police Liaison Forum, established two years ago, operates well at national and local level, and is effective in recommending changes to promote equitable policing. At local level, LGBT Forums hosted by city councils in Aberdeen, Edinburgh and Glasgow are proving effective.

The Scottish Executive’s support for consultation is also welcome, both for the Equality Network’s new Your Scotland project to improve consultation with LGBT communities on national law and policy, and for work on consultation with LGBT people on equality in the NHS.

Recommendation 30: Current good practice on consultation with LGBT communities, by the Police, some local authorities, and by some parts of the Scottish Executive, should be promoted as examples across the public sector.

Recommendation 31: It should be recognised that effective consultation requires financial and other support for the involvement and capacity building of community members and organisations. A commitment to provide such support should be an integral part of equality programmes.

Legislative foundation for mainstreaming

The inclusion of statutory duties to encourage equal opportunities, for example on local authorities and registered social landlords in the Housing (Scotland) Act 2001, and on the Scottish Commission for the Regulation of Care and the Scottish Social Services Council in the Regulation of Care (Scotland) Act 2001, is an effective way of promoting mainstreaming.

There are however significant difficulties relating to the detailed reserved/devolved split in this area, with the encouragement of equal opportunities devolved, but the regulation of equal opportunities reserved. The effect of these difficulties can be seen in the dual equality duties relating to best value in the current Local Government in Scotland Bill. The Bill places local authorities under a duty to encourage equal opportunities (as broadly defined in the Scotland Act) in discharging their best value functions (section 32(2)), and under a duty to have regard to the need to meet the equal opportunity requirements in securing best value

\textsuperscript{23} A generic equality training pack developed by Scottish Human Services, PHACE Scotland, Positive Action in Housing, IDEAL Training and partners in other European countries.
(section 1(4)(d)). The latter is a narrower duty, including only the equality requirements of Westminster law (currently including race, gender and disability to different extents, with religion and sexual orientation to be added next year).

The danger here is that confusion will arise, and that as a result, the narrower duties will be prioritised over the broader equality duty, with the result that a ‘hierarchy of discrimination’ will be established. National guidance will need to ensure that this does not happen, by setting out the equality duties in the overall context of the duty to encourage equal opportunities as broadly defined in the Scotland Act definition, with an explanation of how this can satisfy the different specific requirements of the Westminster law for each equality strand.

Recommendation 32: The Scottish Executive and Parliament should continue to mainstream equality in all legislation for public services, by placing duties on public service providers to encourage equal opportunities, modelled on the duty in section 106 of the Housing (Scotland) Act 2001.

Recommendation 33: The Scottish Executive should ensure that national guidance on implementing equality duties is generic across equality strands and based on the requirement to encourage equal opportunities as defined in the Scotland Act, in a way which meets the requirements of Westminster law. For example, the development of generic equality schemes, which meet the legal requirement for a race equality scheme, should be promoted.

Funding

Recommendation 34: All organisations funded from national funds should be placed under a duty to encourage equality as broadly defined in the Scotland Act. It should be recognised that the mainstreaming of equality involves expenditure, and funded organisations should be encouraged to include in their funding bids explicit budget lines for the costs of equality mainstreaming.

Recommendation 35: The budget for the Scottish Executive Equality Unit should be reviewed in the light of the significant core strategic work needed to develop the national equality strategy and the tools to realise that strategy in organisations across Scotland.

Recommendation 36: There should be a strategic review of funding needs and availability for the LGBT voluntary sector.

Employment and reserved equality law

Regulatory equality law is reserved to Westminster. For LGBT people, there are two significant current developments: the implementation of the EU framework directive on equal treatment in employment based on article 13, and the consultation on proposals for a single equality body. We submitted a detailed briefing in response to the UK Government consultation on the article 13 directives earlier this year, which is available on our website. Here we outline the main points of that submission, and of our view on the single equality body.
2.2.1 EU Framework Directive implementation

Recommendation 37: The new legislation should ensure that people are protected from discrimination on grounds both of sexual orientation and of perceived sexual orientation (heterosexual people can face homophobic harassment). The legislation should include strong protection from harassment, based on a subjective definition: as behaviour reasonably perceived by the victim to be harassment.

Recommendation 38: The legislation should ensure that same-sex cohabiting partners of employees are treated equally with mixed-sex cohabiting partners, for all employment-related benefits, including pensions.

Recommendation 39: A publicly funded body with statutory basis should assist people to uphold their rights under the new legislation, and should promote awareness of those rights. The Equal Opportunities Commission should be this body for the new sexual orientation strand, until any future establishment of a single equality body. The Equal Opportunities Commission should continue to work in partnership with LGBT organisations.

Recommendation 40: It should not be unlawful for churches and other faith groups to require that priests, ministers and other faith practitioners comply with the beliefs of their faith. However, other jobs within organisations with a religious ethos (for example, church-based schools or social work organisations) should not be exempt from the sexual orientation and other anti-discrimination laws. There is no reason why, for example, a teacher or social worker in such an organisation needs to be heterosexual.

Recommendation 41: The new laws on discrimination on grounds of religion and sexual orientation should cover discrimination in the supply of goods and services as well as in employment and training.

Single equality body

We welcome the debate on the introduction of a single equality body. Recent experience in the Republic of Ireland has shown that a single equality body with a strong mandate to promote equality across a number of strands can promote trust between organisations, such as those for religion and sexual orientation, which have not communicated well in the past.

It is important that the ‘hierarchy of discrimination’, with different strengths of anti-discrimination law for different strands, is eliminated.

Recommendation 42: If there is to be a single equality body, its establishment should be accompanied by a single Equality Act to bring the law for all equality strands up to the same level, including protection from discrimination in employment, training, education and the supply of goods and services, and a duty on public bodies to promote equality for all strands.

Recommendation 43: Scotland will need either a separate single equality body or a fully autonomous Scottish part of a GB body. The legislation establishing the single
equality body should give the Scottish Executive and Parliament power to place duties on (and grant resources to) the Scottish single equality body in devolved areas, including the encouragement of equal opportunities as defined in the Scotland Act. Mechanisms will also be needed for the Scottish single equality body to communicate effectively with the Scotland Office and with the rest of the UK Government on reserved matters.

Attitudes about LGBT people

It is still considered acceptable by significant numbers of people in Scotland to denigrate LGBT people. Violence and intimidation against LGBT people are too common, and the fear of it is pervasive in our communities. Harassment occurs in the street, in our homes, at work and in schools. Very few same-sex couples would dare to risk walking in the street hand-in-hand for example.

One result of this is that many LGBT people hide their sexual orientation or gender identity in many circumstances. This further cuts them off from the kinds of social interaction, for example chatting between work colleagues about home life, that other people enjoy. The need to hide undermines fundamentally our self-esteem and dignity.

Recommendation 44: The Scottish Executive and Parliament should give clear and outspoken leadership that discrimination and harassment on grounds of sexual orientation and gender identity are not acceptable in 21st century Scotland.

Recommendation 45: The Scottish Executive should follow its forthcoming awareness-raising campaign on race discrimination with campaigns on other forms of discrimination, including sexual orientation/gender identity discrimination.

Young people

Most LGBT people do not discover our sexual orientation or gender identity until we are teenagers. By that time, we have been thoroughly exposed to negative attitudes and stereotypes about LGBT people, at school, from peers, and in many cases, from within our own family. Against that background, the realisation that one is LGB or T is often a frightening and isolating discovery. The immediate reaction is to hide the fact and hope that it is not true. Young LGBT people are thus cut off from the support of friends and family at a time when they need it most. The resulting effect on self-esteem and mental health can be seen in the statistics revealing higher rates of attempted suicide amongst young LGBT people24. Some LGBT people are thrown out of the family home when their sexual orientation or gender identity is discovered, or find it impossible to remain at home.

Many young LGBT people who come out or are ‘outed’, and indeed many other young people, face homophobic harassment at school. The same is true for young people with LGBT parents. School curricula often do not include any representations of young LGBT people or of LGBT parents, and many schools do not yet make

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24 See for example, Something To Tell You, a health needs assessment of young LGB people in Glasgow, Greater Glasgow Health Board, May 2002
available information for young people about accessing LGBT-aware youth support services. Not surprisingly, most young people do not believe that school is a welcoming environment for LGBT people. Many LGBT people report that their educational achievement was negatively affected by their own or others’ attitudes to their sexual orientation/gender identity.

In the south-east of Scotland, Stonewall Youth Project is providing vital support to young LGBT people, but in the rest of Scotland such support services are having to operate without any funding, or do not exist at all.

Recommendation 46: The Scottish Executive should assist the provision of support services for young LGBT people across Scotland.

Recommendation 47: National guidance for education authorities and schools on the prevention of homophobic bullying, the provision of an inclusive and non-discriminatory environment and curriculum, and the availability of information about LGBT-aware youth support services, should be strengthened, and these elements should be assessed as part of the assessment of the ‘equality and fairness’ school performance indicator.

Crimes motivated by hatred

Research in Edinburgh and Glasgow indicates a significantly higher level of harassment and attacks on LGBT people than on the general population. In Edinburgh, 60% of LGBT people reported harassment, and 36% a physical assault, in a single year.

Recommendation 48: Consideration should be given to the extension of the offence of racially-aggravated harassment (section 50A of the Criminal Law (Consolidation) (Scotland) Act 1995), and the statutory provision on racial aggravation of other offences (section 96 of the Crime and Disorder Act 1998), to cover offences motivated by or accompanied by malice and ill-will based on a person’s actual or presumed sexual orientation, religion, disability, gender or age.

Tim Hopkins
Equality Network
September 2002

Annex A Equality Network Newsletter September 2002

What has the Scottish Parliament done for us?

The new Scottish Parliament and Scottish Executive took up their powers on July 1st 1999, and the Parliament will soon reach the end of its first four year term. It will be

25 Poverty and Social Exclusion of Lesbians and Gay Men in Glasgow, Glasgow City Council, March 1999
26 Experiences and Perceptions of Violence and Intimidation of the LGBT Communities in Edinburgh, City of Edinburgh Council Community Safety Unit, 1999
dissolved in March next year to allow the campaign to start for the next election, which is due to be held on 1st May 2003.

It is important to distinguish between the Labour / LibDem run Scottish Executive – the devolved government of Scotland – and the Parliament. The Executive is responsible for proposing most legislation (Executive Bills), but the Parliament can amend the legislation or throw it out. The Parliament’s Committees, which consider the general principles of Bills, and detailed amendments to them, are independent of the Executive, and can call Executive Ministers to account for their policies. The Committees can introduce their own legislation (Committee Bills), as can individual MSPs (Member’s Bills). However, without the support of the Executive, Committee Bills and Member’s Bills face an uphill struggle to find Parliamentary time. People had such high expectations of devolution that there was always likely to be some sense of disappointment set in after the first two or three years. Unfortunately some of the people who are attacking the Parliament now are people who did not support devolution in the first place, and who see this disappointment as an opportunity to undermine the whole system.

Although the Parliament still has five months of work left, all the major Bills to be debated before it finishes have now been introduced. So we thought this would be a good time to take stock of what the Parliament has done about discrimination against LGBT people in its first four years.

Our manifesto – Equality at Holyrood

Just before the May 1999 Scottish Parliament elections, the Equality Network published a manifesto for the Parliament, for equal opportunities for LGBT people, called Equality at Holyrood. You can find the manifesto on our website at: www.equality-network.org/briefings/manifesto.shtml

Over the next three pages are a summary of the proposals in Equality at Holyrood, and a report on how well the Parliament has done on each.

Building equality into devolution

The first recommendation in Equality at Holyrood was that the Parliament and Executive should adopt structures and methods of working which ensure that promoting and protecting equality is part of everything they do.

How the Parliament did: One of its first decisions was to adopt the ‘Consultative Steering Group’ report on how devolution should work, which said that the need to promote equal opportunities for all should be a key principle of devolution. The Parliament established a rule that all Executive Bills should have a statement of impact on equality, including for LGBT people. It set up an Equal Opportunities Committee, currently convened by Labour MSP Kate Maclean, which has ‘reporters’ for disability, gender, race and sexual orientation (a reporter is an MSP on a Committee who takes responsibility for becoming expert on an issue and reporting back to the Committee). The sexual orientation reporter has helped ensure progress on LGBT issues. LibDem MSP Nora Radcliffe held this job during 1999 and 2000,
followed briefly by her LibDem colleague Margaret Smith, while Labour MSP Cathy Peattie is sexual orientation reporter now.

How the Executive did: The Executive established an **Equality Unit** to work on ‘mainstreaming’ equality into all the Executive’s work. That Unit has staff specifically responsible for LGBT issues. The Executive also appointed a Minister and a deputy Minister with responsibility for equality issues: initially Wendy Alexander and Jackie Baillie; now Margaret Curran and Hugh Henry.

**Marks out of 10: 9**

**Fair treatment under the criminal law**

The second key point of the manifesto was the removal of discrimination in sex offences law against men who have sex with men. The most significant changes needed were equalisation of the **age of consent**, and the repeal of the discriminatory **ban on group sex between men**.

How the Executive and Parliament did: When devolution started, there was already a Bill in progress in the Westminster Parliament to equalise the age of consent, which had been held up by the House of Lords. The Scottish Executive proposed letting Westminster carry on with the legislation, and use the Parliament Acts to overrule the House of Lords. When it is proposed that Westminster legislates on a subject devolved to Scotland, the Scottish Parliament must give its agreement via a **Sewel motion**. The Parliament voted on a Sewel motion to agree to an equal age of consent in January 2000 – its first LGBT related vote. **The vote was 90 in favour to 16 against**, with the Tories voting against equality and all the other parties voting in favour. A year later, the Parliament unanimously agreed a section in the Executive’s **Convention Rights (Compliance) (Scotland) Act 2001**, to repeal the ban on group sex between men. However, sex offences law still discriminates on grounds of sexual orientation in a number of ways (see our August newsletter, at www.equality-network.org/news/08-2002.pdf), so more remains to be done.

**Marks out of 10: 6**

**Fair treatment for young people**

Top of the list in the manifesto here was the **repeal of section 28**. We also called for national policy on homophobic bullying in schools, inclusive school teaching and curricula, and local authority support for young LGBT people.

How the Executive and Parliament did: As we all know, after questioning about section 28 from the Parliament’s Equal Opportunities Committee in October 1999, Wendy Alexander introduced the repeal of the section as a short part of the **Ethical Standards in Public Life Bill** in late 1999. Some conservative clerics objected, and Brian Souter decided to spend £1m trying to stop the repeal of what even the Catholic Church had to admit when questioned by the Equal Opportunities Committee was discriminatory legislation. The resulting campaign was highly unpleasant for all, and particularly distressing for LGBT people. Political commentators in the south were convinced the Executive and Parliament would cave...
in and drop repeal, but they did not. **Repeal was agreed by 99 votes in favour to 17 against**, with again the Tories voting against and all the other parties in favour. On homophobic bullying and other equality issues in school, a start has been made. The Parliament pressured the Executive into an amendment to the *Standards in Scotland's Schools etc. Act 2000*, requiring education authorities to publish **annual plans for encouraging equality** in their schools, including on grounds of sexual orientation. Particular credit should go here to Malcolm Chisholm (Labour), Nicola Sturgeon (SNP) and again to the Equal Opportunities Committee. Much remains to be done translating this into real equality in schools though, especially as the main achievement of the ‘Keep the Clause’ campaign has been that schools and education authorities are wary of doing what’s right in this area in case they are themselves attacked by the anti-gay religious conservatives of the ‘Christian Institute’.

**Marks out of 10: 7**

**Fair treatment by public bodies**

Our manifesto called on the Parliament and Executive to place **duties on public bodies to encourage equal opportunities**, including on grounds of sexual orientation, and to monitor whether this is happening.

**How the Executive and Parliament did:** Following successful pressure from the Parliament to add an equality duty to the Schools Act (see previous section), the Parliament also persuaded the Executive to add equal opportunities duties, including sexual orientation, to the *Regulation of Care (Scotland) Act 2001*, and the *Housing (Scotland) Act 2001*. (These apply to the bodies that regulate social work and social care, and to public sector landlords.) Since then, the Executive has been more proactive in putting **equality duties** into its own Bills from the start. The current *Local Government in Scotland Bill* places local authorities under an equal opportunities duty, while the *Mental Health (Scotland) Bill* does the same for all parts of the health service involved in treatment of mental illness under the Bill.

More needs to be done extending these equality duties to all public bodies, and of course turning the duty to encourage equal opportunities into real action on the ground, including equality work with and for LGBT communities

**Marks out of 10: 6**

**Family law**

*Equality at Holyrood* called for legislation to **recognise the gender identity of transgender people** for all legal purposes, and to remove the discrimination in family law against **same-sex couples** and against **LGBT parents**.

**How the Executive and Parliament did:** The Scottish Executive took part in a UK Government working group on gender identity, which reported in April 2000. There was then no progress for more than two years. However, thanks to a European Court of Human Rights ruling this July, the law must now be changed, so the Scottish Executive elected next May will have to take action.
On same-sex partners, there has been some progress. The Equal Opportunities Committee called for the Executive to **recognise same-sex partners as ‘nearest relative’** in the *Adults with Incapacity (Scotland) Act 2000*, which Jim Wallace’s Justice Department agreed to do. The amendment was passed unanimously by the Parliament. Since then, a principle has been established that **same-sex partners should receive the same benefits in law as mixed-sex unmarried partners**, and this has been done in all legislation that affects partners, including the Justice Committee Bill which became the *Protection from Abuse (Scotland) Act 2001* (improving domestic abuse protection), the *Housing (Scotland) Act 2001* (allowing a partner to succeed to a secure tenancy), the *Mortgage Rights (Scotland) Act 2001* and the current *Land Reform Bill* and *Agricultural Holdings Bill*, which all recognise same-sex partners as family members for property owning purposes, and the current *Mental Health Bill*, which recognises a same-sex partner as ‘nearest relative’.

However, these changes only take us towards equality with the limited legal protections the law gives *unmarried* mixed-sex couples. So far there has been no progress on **registered civil partnership**, which would allow same-sex partners and their families to share the same protections, in mutual finances and inheritance, as married mixed-sex couples have. Nor has there yet been consideration of amending **adoption and fostering law** to allow same-sex couples to apply jointly to be considered as adoptive or foster parents.

**Marks out of 10: 4**

**SUBMISSION FROM THE EQUAL OPPORTUNITIES COMMISSION**

**Taking Stock Meeting On Sexual Orientation; Written Evidence From The EOC In Scotland**

**Introduction**

The Equal Opportunities Commission was set up in 1975 by the Sex Discrimination Act to work towards the elimination of discrimination, to promote equality of opportunity between women and men and to keep the Sex Discrimination Act and the Equal Pay Act under review. The particular focus of our work is gender discrimination, and until recent times, we had taken the view that discrimination on the grounds of sexual orientation was outside our remit. However, recent developments in Europe, Great Britain and Scotland have caused us to revise that view, and indeed the Commission’s remit has been extended to include law enforcement in relation to discrimination on the grounds of gender reassignment. We now have a specific obligation to promote equality of opportunity for transsexual people and a particular interest in sexual orientation discrimination.

**Gender reassignment**

In 1994, the EOC supported the case of P v S and Cornwall County Council in the employment tribunal. In that case, P claimed that her dismissal on the grounds of her gender reassignment amounted to unlawful sex discrimination contrary to the Sex
Discrimination Act (SDA). The employment tribunal referred the question to the European Court of Justice which held that a dismissal for a reason related to gender reassignment was treatment based a person's sex and therefore in breach of the Equal Treatment Directive\(^{27}\). In a subsequent case decided in 1997, Reid v Chessington World of Adventures\(^{28}\), the EAT determined that the SDA could be read to comply with European law and consequently found that it was contrary to the SDA to treat someone less favourably on the grounds that they had undergone, or intended to undergo, gender reassignment surgery.

The precise scope of protection afforded by the SDA was however unclear, and the government subsequently passed the Sex Discrimination (Gender Reassignment) Regulations 1999 amending the SDA to introduce express prohibition on gender reassignment discrimination in the fields of employment and vocational training only, setting out a series of supplementary "genuine occupational qualifications" exceptions, on gender reassignment grounds\(^{29}\).

There have been a number of cases, many of which have been supported by the EOC, seeking to clarify the law further.\(^{30}\) In particular the EOC has sought, through supporting cases\(^{31}\), to establish that discrimination on the grounds of gender reassignment is unlawful not only in the employment field, but also in other areas covered by the SDA such as the provision of goods, facilities and services. We have also sought to challenge the scope of the exceptions laid down in the amended SDA\(^{32}\), and the scope of protection for pre-operative transsexuals\(^{33}\) and transsexual people who do not intend to undergo gender reassignment surgery (who are currently not protected by the SDA).

As a result of our extended jurisdiction, we are thus now able to assist individuals who believe that they have been discriminated against on the grounds of their gender reassignment. In the Scotland office of the Equal Opportunities Commission, we get a small number of enquiries on a regular basis from transsexual people who believe that they have been discriminated against. Often the treatment suffered is quite extreme. We are able to assist these individuals to investigate and pursue their claims in the employment tribunal. As we are also able to assist employers, we receive, again on a fairly regular basis, a small number of calls from employers who are keen to implement good equality practices and who are particularly concerned to ensure that they are treating employees who have undergone or are undergoing gender reassignment surgery fairly.

We have produced briefings for individuals (See Annex D, Transsexualism: taking it forward, and Annex E, Transsexualism: frequently asked questions) and employers (Annex F, Transsexuals: What the law says). We also distribute the government guidance on the amendments to the SDA in this area (Annex G, DFEE: A Guide to

\(^{27}\) P v S and Cornwall County Council 1996 IRLR 347 ECJ  
\(^{28}\) 1997 IRLR 556 EAT  
\(^{29}\) See Annex A: A Summary of the main provisions of the Sex Discrimination (Gender Reassignment) Regulations 1999  
\(^{30}\) Summaries of the most relevant cases are included at Annex B  
\(^{31}\) See for example attached EOC press release, annex C  
\(^{32}\) See A v Chief Constable of the West Yorkshire Police, currently on appeal to Court of Appeal  
\(^{33}\) Croft v Royal Mail ET No1901270/99 currently on appeal to EAT
the Sex Discrimination (Gender Reassignment) Regulations). For employers, we also recommend "Press for Change's Code of Practice "Transsexual People in the Workplace". (Attached at Annex H).

**Sexual Orientation**

The decision of the European Court of Justice in the P v S and Cornwall County Council case indicated that any less favourable treatment based on a person's sex could amount to a breach of the Equal Treatment Directive. Further, the Advocate General had said that any connotation relating to sex and sexual identity cannot be relevant in making decisions relating to dismissal. Consequently, a test case was pursued to the European Court of Justice to establish whether or not European equal pay laws extended to protect individuals from discrimination on the grounds of their sexual orientation. In the case of Grant v Southwest Trains, the ECJ determined that the Directive could not be read in that way, stating that there would require to be a change in the law permitted by the forthcoming Treaty of Amsterdam.

In the meantime, several gay ex-servicemen and women were challenging their dismissals on the grounds of their sexual orientation. Some pursued their claims to the European Court of Human Rights, others pursued their claims in the employment tribunal seeking to rely on the Equal Treatment Directive which had been so broadly interpreted in the P v S case. One such case was pursued in the Scottish courts, namely Macdonald v MOD. In the course of its journey through the courts, the Grant decision was issued, meaning that reliance could not easily be placed on the European Community Law. However, around this time, the government passed the Human Rights Act 1998, and Mr Macdonald sought to argue that his dismissal from the Air Force was a breach of his Article 8 right to private and family life, read with his Article 14 right not to be discriminated against on the grounds of his sex "or other status", "other status" having been interpreted by the European Court of Human Rights to include discrimination on the grounds of sexual orientation. Mr Macdonald also argued that he was in any event protected by the Sex Discrimination Act as it currently stands. While Mr Macdonald was successful in the Employment Appeal Tribunal, the decision was overturned by the Court of Session by a two to one majority. In a powerful dissenting judgement from Lord Prosser, he took the view that the SDA as it stands can be read to protect those who suffer from discrimination on the grounds of their sexual orientation. That decision, and another of the English Court of Appeal covering similar issues, has been appealed to the House of Lords.

As a result of these high level decisions indicating that it is at least arguable that the Sex Discrimination Act protects individual on the grounds of their sexual orientation, at the EOC we have received a number of calls from individuals seeking to challenge their treatment. Again, we are able to assist these individuals to investigate any alleged discriminatory treatment and to help them to pursue their complaint to the

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34 1998 IRLR 206 ECJ
35 See for example Smith and Grady v United Kingdom 1999
36 2000 IRLR 748 EAT
37 Salguiero da Silva Mouta v Portugal
38 2001 IRLR 431 CS
39 Pearce v Governors of Mayfield School 2001 IRLR 669 CA
employment tribunal. If they reach the courts, these cases are being sisted (or put on hold) pending the outcome of the appeals to the House of Lords.

**The Scotland Act and Mainstreaming**

Another development which has of course necessitated a further interest for us in LGBT issues is the passing of the Scotland Act. The EOC very much welcomed the Schedule 5 exception to the reservation of equal opportunities relating to the promotion of equal opportunities, and also the extension of the definition of to encompass sexual orientation. This provided a further impetus for us to seek to take a holistic approach to mainstreaming of equality generally in the work which we do.

Further, significantly, the Scotland Act made it clear that the Scottish Parliament would not have the power to pass legislation in breach of the European Convention on Human Rights. Given the case law of the European Court of Human Rights relating to protection from discrimination on the grounds of gender reassignment and sexual orientation, this provision, together with the coming into force of the Human Rights Act, served to increase protection for those discriminated against on these grounds.

The Equal Opportunities Commission in Scotland undertook a number of initiatives in response to the devolution settlement and the increased impetus for mainstreaming, for example by helping to set up the Equalities Co-ordinating Group, where the Equality Network sits as a full member to input in relation to LGBT issues in relation to the joint work of the three Equality Commissions in Scotland. The Equality Network is now a member of our own Scottish Advisory Group. We have worked with our partners to seek to ensure that equality of opportunity (as defined by the Scotland Act) is mainstreamed into the policy and legislation of the Parliament, for example by working to ensure equality duties in legislation such as the Standard in Scotland Schools Act and the Housing Act. We also supported groups which were campaigned for the repeal of “Section 28”.

The EOC’s Equality Exchange, which is a membership organisation for employers seeking to implement best equality practice, has increasingly worked with the other Equality Commissions and with LGBT organisations to promote awareness among employers, and for example ran a seminar on “The Changing Meaning of Sex Discrimination” in January 2002, at which 45 employers were represented.

**Implications of Article 13 Directive**

As indicated by the European Court of Justice in the Grant case, law at a European level was due to be changed through the Treaty of Amsterdam, which included a new Article 13 allowing member states to pass legislation to outlaw discrimination on the grounds of race, religion, age, disability and sexual orientation, as well as sex. The European Community acted rapidly to pass legislation in this area in the shape of the Race Directive and the Framework Directive on Equal Treatment In

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40 For a general discussion see for example Lester and Pannick, Human Rights Law, Chapter
41 CD 2000/43/EC
Employment\textsuperscript{42}, the latter of which requires laws outlawing discrimination in the employment field on the grounds of religion, age, disability and sexual orientation. The government consequently requires to introduce legislation outlawing discrimination on the grounds of sexual orientation by December 2003. The government has undertaken a consultation exercise on the implementation of the two Directives, "Towards Equality and Diversity" and the EOC GB response to that document, together with the joint response from the GB offices of the EOC, DRC and CRE are attached at Annexes J and K.

The government has also announced that it is proposing to set up a Single Equality Body which will cover all six strands, namely sex, race, disability, age, religion and sexual orientation. The government is currently consulting on that proposal.

The EOC's response to "Towards Equality and Diversity" makes it clear that any such body will require to take full account of devolution, and the EOC is currently considering its position with regard to the most appropriate way to do that. Clearly there are a number of options, ranging from a separate Single Equality Body for Scotland, to a federal or quasi-federal structure, to a Scottish office of any Single Equality Body having autonomy in relation to devolved issues. There is evidently a need for clarity in relation to those devolved areas where there are particular issues relating to the promotion of equality (the recent Race Relations Amendment Act and the Special Educational Needs Act being illustrative of the current difficulties).

It would appear however that the legislation to set up such a body would not allow for it to be set up by December 2003, and the Equal Opportunities Commission has made it clear that, subject to appropriate additional resources, we would be happy to take over the enforcement and promotion of equality in relation to sexual orientation during any interim period.

Muriel Robison
Equal Opportunities Commission
September 2002

SUBMISSION FROM ORKNEY NHS BOARD

Taking Stock Meeting on Sexual Orientation

Thank you for your letter dated 5 July 2002 requesting written evidence on issues concerning the above.

For your information, I note below the situation pertaining to Orkney at the moment.

The experiences of LGBT communities in Scotland today
The Provision of LGBT aware services

\textsuperscript{42} CD 2000/78/EC
As is probably the case in other rural areas of Scotland, there is no, visible, ‘gay scene’ in Orkney, therefore it is difficult to document evidence of the experiences of LGBT individuals/community locally.

However, there is some evidence to form a picture of how members of the LGBT community experience life in Orkney, some of which is anecdotal, some of which is based on the services available and also on how LGBT issues have been reported in the local media.

LGBT individuals would probably access generic services (including health services) locally, as there are no specialised services here for many minority groups which would include the LGBT community: access to good quality, specialised services can be restricted by small numbers, financial constraints, geographical location and cultural attitudes. However, generic local services are fairly inclusive of minority groups and this would probably include LGBT individuals. From anecdotal evidence, it is also likely that LGBT people from Orkney access more specialised LGBT services on the UK Mainland such as Stonewall, and feel more comfortable in doing so in anonymity. Internet and telephone services for further advice, support and information are also a valuable resource, The Health Promotion Service holds contact details for many such services and as a sign posting service can point people in the direction of them.

In the midst of the moves to repeal Section 28, in 2000, and the interest this generated regarding LGBT issues which arose from them, the reaction in Orkney was fairly neutral. Local reporting of this issue in the media reflected a fairly tolerant and inclusive attitude.

In November 2000, possibly as a result of heightened awareness of LGBT issues generated by the Section 28 debate, a confidential support group for Gays and Lesbians living in Orkney was launched with contact and support available via an anonymous email address. Issues highlighted by the group included:

the difficulties in meeting other gay/lesbian people ie the lack of a gay scene or identifiable places where this could take place (this was highlighted as especially relevant for gay men);

difficulty in identifying ‘gay friendly’ accommodation for those visiting Orkney and again, the lack of a gay scene exacerbated this.

Awareness of LGBT issues in local schools was highlighted and a willingness shown to communicate with local teachers in addressing this.

A minority of homophobic responses was generated by news of the support group being set up locally, however, the police were very proactive and supportive in reacting to this, in letting it be known that homophobic bullying/violence would not be tolerated locally.

This group was funded personally by the group themselves, although they did start to look at identifying external funding and had hoped to set up a web page. The existence of the group itself provides evidence of some kind of, however limited,
SUBMISSION FROM THE HIGHLAND LGBT COMMITTEE

Consultation On The LGBT Community In Scotland (2002)

Introduction

The Highland LGBT Committee has been in existence since February 2002 and consists of representatives from the Highland Gay Men’s Group, Highland GLB Youth Group and Lesbian Mothers Highland. The group was originally formed to organise events in Inverness for Pride 2002 (the first time Pride had come as far north as Inverness) and was the first time members of all the various LGBT groups had worked together on a single project. The Highland Lesbian Group do not wish to associate themselves with the Committee but individual members of the Highland Lesbian Group are actively involved.

A rural community
We feel it is important that we take part in this consultation because policies and projects which work well in the Central Belt may need to be reconsidered and adapted to suit the particular needs of the LGBT community in the Highlands and if this is to happen, our input is essential.

Diversity and Difference
The success of Inverness Pride 2002 underlined the fact that;
there is a thriving LGBT community in the Highlands;
the Highland LGBT community face problems often not encountered, or considered, by communities in the Central Belt; and
the various groups within the LGBT community (and the members within those groups) have different views, aims and priorities which must also be acknowledged if the community are to work together effectively.

Problems faced by the LGBT community in the Highlands

Isolation – the Highland area is vast and contains numerous small villages and townships; transport to and from the major towns and cities can be difficult from these remote areas, particularly for people who rely on public transport and/or are on limited incomes. Access to information, support or counselling services based in Inverness or further afield can be very difficult;
Influence of the Church – despite dwindling congregations, the churches, particularly the Free Church of Scotland, have a huge influence over Highland society and are immediately critical of anything they see as “promoting homosexuality”.

Pride Scotland’s request that a rainbow flag be flown from the Council’s headquarters prompted a campaign by the Church to prevent the Council allowing any Pride events to take place in public buildings;

Invisibility – for the reasons above, the LGBT community is by necessity largely invisible. This makes it difficult for people to find out about its existence and become part of it, adding to the feeling of isolation; GPs are often unaware of who or where to refer patients who request information on LGBT issues;

Hostile local press – biased reporting and the dominance of anti-gay correspondence on the letters pages promotes homophobia and perpetuates the fear and isolation already suffered by the LGBT community.

Key Issues

HEALTH

Non-discrimination - Health service users need to be reassured by information campaigns that they will not be discriminated against because of their gender identity or sexual orientation and that they will not encounter homophobia from staff at any level;

Awareness – new campaigns/strategies are required to draw attention to the sexual health needs of gay and bisexual men and women, and to indicate where advice and information can be obtained;

Women’s health – non-discriminatory access to all services including counselling, mental health services and fertility treatment;

Drug and Alcohol abuse – links must be forged between NHS services and other voluntary organisations to ensure non-discriminatory support and counselling services are available to all sections of the community.

EDUCATION

The Equality Network’s recent questionnaire for schools, teachers and education authorities is an important step forward and we look forward to hearing the outcome. Lesbian Mothers Highland are keen to support and participate in any ongoing research into current education policy and practice in respect of LGBT issues.

We expect widely differing experiences by gay parents and children throughout the Highland area. Where individual schools or teachers are keen to put Section 2A behind them and incorporate LGBT issues in the curriculum, we feel most are afraid to do so.
In the Highlands, pressure from the Churches (in particular the Roman Catholic Church and the Free Church of Scotland) and fear of negative attention from the press mean schools and teachers are wary of doing anything which might be seen as “promoting” homosexuality.

Schools and education authorities must not be allowed to ignore the fact that families exist where one or both parents is gay and must not be allowed to discriminate against such families in any way;

LGBT issues must not be marginalised. LGBT issues extend beyond the realms of sex education. They are issues which affect all of us every day in every part of our lives. Equality throughout the whole curriculum must be assured;

Schools must be allowed to offer non-judgemental support to pupils who identify as gay, lesbian or bisexual or are questioning their sexuality and whose parents are gay, lesbian or bisexual. This should include the provision of information and access to other counselling and support services;

Training must be given to teachers and guidance staff in dealing with LGBT issues in the classroom and beyond, including homophobic bullying and abuse.

Policing

The Northern Constabulary have shown willingness to support and co-operate with the LGBT community in the Highlands by sponsoring a flag for Pride 2002.

However, anecdotal evidence suggests that the behaviour of many officers in the field has been unacceptable and that reports of homophobic incidents have not been taken seriously or dealt with satisfactorily. We are aware that victims of homophobic attacks rarely feel confident about reporting incidents to the police and as a consequence many attacks go unreported.

We feel that it would be useful to commence dialogue between the LGBT community and the local police forces regarding the following issues:

3.1 Homophobic attacks (physical and verbal);

Policing of known cruising areas;

Domestic incidents involving same-sex couples and their families.

The issue of homophobia within the various police forces in Scotland has also been raised. We would welcome a comments on this from the Northern Constabulary, together with any strategy they may have in place to combat internal homophobia should they consider it exists.

Article 13

Whilst welcoming this move, we would prefer these new laws to go further and encompass a ban on discrimination on grounds of sexual orientation in the supply of goods and services.

Not only does this affect the LGBT community in the Highlands who often face discrimination on a daily basis (in bars and clubs for example), it also has repercussions on the tourism industry.

Tourism accounts for 28% of jobs in the Highlands and Islands. The Highlands and Islands are the most popular tourist destination in Scotland for overseas visitors, with 8 out of 10 of them visiting the region while on holiday in this country. (Figures supplied by the Highlands of Scotland Tourist Board)

Instances of same-sex couples being refused accommodation in a double room are not uncommon. That this discrimination will remain unchecked does little to promote the image of Highland hospitality at home or abroad.

LACK OF INFORMATION / POSITIVE IMAGES

5.1 Local GPs and other health-care professionals are often unaware of who or where to refer patients who request information on LGBT issues. Citizens Advice Bureaux are similarly ill-equipped.

5.2 There is a dearth of positive images of lesbians, gay men, bisexuals and transgendered in health campaigns and advertising.

5.3 The main sources of information for the LGBT community are provided by the LGBT community itself (see below) which is often under-funded.

SERVICES CURRENTLY AVAILABLE IN THE HIGHLANDS

REACH OUT HIGHLAND
Reach Out Highland is the first sexual health charity for the Highlands, established in 1995 and funded by the Highland Health Board. Their aim is to promote sexual health and well-being, without discrimination, to all sections of the Highland community, providing information and support and referrals to the appropriate agencies on the subject of sexual health. They offer a sexual health clinic (including HIV counselling and testing) and sexual health counselling and also provides support for other groups for members of the Highland LGBT community, i.e. Highland Gay Men’s Group, Highland GLB Youth Group and Lesbian Mothers Highland.

HIGHLAND GAY MEN’S GROUP
The Highland Gay Men’s Group was established in 1993 for gay and bisexual men living in the Highlands. The group aims to provide a focus for gay and bisexual men regardless of age, occupation or cultural background to make friends, explore issues
around their sexuality and find support and information on safer sex and sexual health matters.

HIGHLAND GLB YOUTH GROUP
The Highland GLB Youth Group is open to anyone under 26 regardless of gender and offers mutual support, social events and information on sexual health and other issues.

HIGHLAND LESBIAN GROUP
The Highland LGBT Committee are not authorised to make any response on behalf of the Highland Lesbian Group. It should therefore be noted that the information contained herein does not necessarily reflect all or any of the views of the Highland Lesbian Group who may be contacted separately at High_Les@bigfoot.com

LESBIAN MOTHERS HIGHLAND
Lesbian Mothers Highland is a new group (affiliated to Lesbian Mothers Scotland) which aims to provide a support and information service for lesbian and bisexual mothers and their partners, co-parents and children in the Highland area and also for lesbian couples thinking about becoming parents. The group is open to all women identifying as lesbian or bisexual (or questioning their sexual orientation) whether married, separated, divorced, single or living with a partner (male or female).

THE WORK OF THE HIGHLAND LGBT COMMITTEE
Raise awareness, locally and nationally, about the LGBT community in the Highlands and the various constituent groups;

Identify the needs of the LGBT community throughout the Highland area and the specific needs of the various constituent groups within the community;

Promote a positive image of the LGBT community in the Highlands;

Work with Scottish Executive, Highland Council, Highland Health Board and Northern Constabulary in the creation of policies and guidelines on all LGBT issues;

Work with the Equality Network, Beyond Barriers and other agencies in achieving the above aims.

THE FUTURE

Rural LGBT Conference
The Highland LGBT committee (in conjunction with Beyond Barriers) plan to hold a conference in Inverness in Spring 2003 to raise awareness of the existence of the LGBT community in the Highlands and other rural areas.

Highland Pride 2003
Following the success of Pride 2002 in Inverness, the Highland LGBT committee will be organising Highland Pride 2003 with events at various venues throughout the Highlands.

CONCLUSION

The Highland LGBT committee welcome the current consultation and the efforts being made to identify and deal with the issues raised.

The LGBT community in the Highlands exists but is largely invisible. Prejudice and discrimination, supported by the churches and the press, create an atmosphere of fear and oppression.

These are things we can only change with support from outside as well as within.

We urge the LGBT community throughout Scotland to work together towards equality for all – throughout the WHOLE of Scotland and in ALL areas of our lives.

Ronald Flint
Maria Henderson
Joanne Mackenzie-Winters
Highland LGBT Committee
September 2002

SUBMISSION FROM UNISON SCOTLAND

Taking Stock on Sexual Orientation

Introduction:
UNISON Scotland welcomes the opportunity to submit evidence to this inquiry.

We are the largest trade union in Scotland and represent over 140,000 members. Since its inception, UNISON has enshrined within it rule book the principle of self organisation. Self Organisation is a key element of UNISON’s strategy for achieving equality. It plays a vital role in enabling members who face discrimination to participate in the union. Successful implementation of the union’s policies on equality depends on the fullest possible involvement of women, black members, disabled members and lesbian and gay members who have traditionally been under represented at all levels of the union.

Consequently, this response has been prepared by the UNISON Scotland’s Lesbian and Gay Committee.

Experience of LGBT Communities in Scotland:
UNISON is of the view that it welcomes the achievements of the Scottish Parliament in the area of equalities and recognises the developments, to date, which have taken place.
UNISON would be looking for the Parliament to continue its good progress, where it has the power to do so, in reducing discrimination of the LGBT community both in terms of the criminal laws and also in the field of partnership rights. We appreciate the work of the Equality Unit in ensuring that legislation is appropriately equality proofed.

Provision of LGBT Aware Services: UNISON calls for a positive agenda for public services which properly meets the needs of all LGBT users. We believe that the LGBT Community in Scotland are entitled to:-

1. Recognition and celebration of their diversity. UNISON believes that service providers must recognise that the lesbian and gay community covers a complete cross-section of society and respond to the full range of needs.

2. Fairness at work. UNISON believes that good employment practice and best practice in service delivery are two sides of the same coin – you can’t offer quality services if you’re not offering your staff a fair deal at work.

3. A roof over their heads. UNISON believes that safe and affordable housing should be available to everyone who wants and needs it; providers of housing should recognise and respond to the specific needs of lesbians and gay men.

4. Care for their communities. UNISON believes that lesbians and gay men and lesbian and gay carers must be able to access care services in confidence that their rights and dignity will be respected, and without fear of prejudice.

5. Care in sickness and health. UNISON believes that health care providers should ensure lesbians and gay men have access to services appropriate to their needs, without encountering prejudice or compromising their confidentiality.

6. Learning without prejudice. UNISON believes that all education authorities and institutions should provide honest, non-judgemental information about lesbian and gay issues and take rigorous steps to tackle homophobic bullying.

7. Equality of justice. UNISON believes that lesbians and gay men are entitled to full equality of justice under the law and in the application of the law and that effective action must be taken to tackle homophobic hate crimes.

8. Inclusion at leisure. UNISON believes the local administration of arts, sport and leisure can make an enormous difference to the lives of lesbians and gay men and to breaking down barriers of prejudice if organised on the basis of inclusiveness.

Attached to this response is UNISON’s agenda for change entitled ‘UNISON – Equality and Inclusion: A Public Services Agenda for Lesbians and Gay Men’, which expands in more detail the main points of our submission.

Conclusion:
We hope the committee will give serious consideration to this submission and would be happy to give further evidence if so required.

Matt Smith  
Scottish Secretary  
UNISON Scotland  
September 2002

SUBMISSION FROM (NAME WITHHELD)

I look forward to the day when my mutually supportive relationship of some 28 years is able to have some protection & recognition in law. I do not seek anything special...just the same rights as those whose partner is of the opposite gender.

In particular I want equal pension rights. Both of us work in education. Neither of us can get a pension on the other's death although we can & have nominated each other as beneficiaries in the event of death in service. We contribute just as much money to the superannuation scheme as people who are married. I have ten years until retirement. I hope it will have changed to an equal situation by then.

I want the right to be my partner's next of kin. I want there to be no question of our status vis a is each other & medical interventions & information.

We both work & pay taxes. We both contribute to society in Scotland. Recognise us in law. We do not want liberal tolerance, we want genuine equality.

Name withheld  
September 2002

SUBMISSION FROM GLASGOW WOMEN’S LIBRARY

Taking Stock Meeting on Sexual Orientation

The following issues have arisen in consultation with lesbian and bisexual women users of Glasgow Women’s Library, from information gathered in informal discussions. These points are based on individual and group experiences as well as constituting those of Glasgow Women’s Library as a service provider.

The needs of different groups in ‘the LGBT community’ are to an extent as disparate as they are common. There are multiple disadvantages, for example, for lesbians who experience discrimination as women and lesbians. There should be a recognition of this and not an assumption that experiences and needs can be addressed and met under a generic ‘LGBT’ umbrella.

Homophobia in our culture is pervasive and its effects often devastating. Research to qualify experiences of LGBT people in Scotland is fairly sparse and patchy, and
there is a need for further work in this area. The smaller pieces of research that do exist should also be gathered, surveyed, read, considered and taken on board.

We can address homophobia, it causes and effects in a context of a commitment and need to achieve equality for all. The role of the education system and schools is crucial in instigating positive change and addressing issues of homophobia. We need to start to normalise the very notion of being LGBT within families, schools, further education establishments, workplaces and wider society. The repeal of Section 2A was a vital step towards this and we should look at other legislative measures that could be taken – two suggestions are laws to take homophobic attacks and discrimination seriously as hate crimes, and the recognition of same sex partnerships. Legal changes do not change everything overnight, but they can, in the longer term, help to create an environment that can influence hearts and minds.

There is a crisis in the field of front line provision of LGBT specific services because of lack funding. Voluntary organisations, in the absence of local authority funding and commitment to LGBT issues, mainly rely on making applications to charitable trusts to sustain their services. LGBT issues are among the most unpopular for such funders to support. Glasgow Women’s Library, for example provides a peer support project for young lesbians and bisexual women under 25 (called LIPS), the funding for which will end in March 2003. The success of the project is overwhelming, with young women attending the group from all over the West of Scotland as well as from Central Region and from Edinburgh. As well as providing a safe social space, we provide group and one-to-one support on issues around self-esteem, sexual health, drugs, alcohol, same sex violence, rape and sexual assault and a range of other things. Health Board funding structures are inadequate in meeting needs other than those of gay men, in a context of HIV/Blood Born Virus prevention work. The needs of lesbian and bisexual women are completely ignored.

There are many more issues to raise, but these are the key issues that surfaced as a result of discussions.

Sue John
Director
Glasgow Women’s Library

SUBMISSION FROM UNISON FIFE

Taking Stock – LGBT Issues

Thank you for the information requesting we make a submission to the Equal Opportunities Committee related to LGBT issues.

The Trade Union movement has a long history of supporting equality and diversity at national and local levels. Our submission sets forth the objectives of UNISON at both of these levels, focusing upon education, life long learning, employment social justice, housing, equal opportunities and celebration of our diversity.

Education, Training and Life Long Learning
While the institutions responsible for the development of potential are established, the experience of many LGBT people is that the structures in which they operate discriminate and victimise.

Teachers and educators will always be the main source of expertise for delivering programmes of learning development. However, carefully chosen individuals or agencies are able to provide additional knowledge and the benefit of experience which might prove difficult for many teachers to provide without extensive research and training. Local self organised groups in UNISON may be able to help in providing meaningful staff development.

As people develop and mature, they experience a range of feelings which affect their attitudes, behaviour, personal relationships and values. As they enter adolescence most begin to develop feelings of a sexual nature towards members of the opposite sex. Some develop similar feelings towards members of their own sex. Some young people become aware of their sexual orientation at a relatively early age while others take longer. For a number the, process is fraught with uncertainty, confusion and anxiety that can lead to the loss of educational focus in their lives, social exclusion, isolation and self oppression. It is important that educators show understanding of those issues and are sensitive to protecting and supporting vulnerable people as they come to terms with their feelings and how best to deal with them.

All young people should have the right to information that will assist in the process of understanding sexual orientation and impart an under-pinning value of the awareness of diversity in communities.

The central purpose of the educator should be to promote understanding mutual respect for one another regardless of orientation. This approach is considered an important way of encouraging respect for, and valuing the diversity of, human life.

UNISON believes that education should be a worthwhile experience and that all educational institutions from nurseries to further and higher education should adopt, implement and actively monitor equal of opportunity for all learners. Policies must recognise the diversity of LGBT people, and the different impact discrimination has on different people. For example, it must be recognised that black and disabled LGBT people will face a greater risk of bullying and victimisation.

The key issues facing LGBT people and families in education services are: what children are taught about dignity and respect; what validity is given to different family situations, and how direct and covert homophobia is tackled.

During the Clause 2a (Section 28) debate many teachers cited confusion about the powers of the Act as a reason for not tackling homophobia or giving honest answers to students questions about sexuality. Indeed, the tabloid-led storm that followed the announcement, first by the Scottish Executive and then by the UK Government of the intention to repeal Clause 2a made it difficult to have an informed discussion about sex education.
Denial of the full range of human sexuality is damaging to all people, whatever their developing sexuality. It is particularly painful for LGBT students. It can have a long term effect on their self-esteem if no one is telling them they are not alone in feeling the way they do, and that it’s perfectly normal. It is also damaging to children of LGBT parents. Local authorities and educational institutions need to ensure that all educators and childcare workers are trained in diversity awareness, not only those actively involved in delivering sex and relationship education. These issues are equally important in post-school education and life long learning initiatives, when many people begin to question their sexuality for the first time.

**Employment & Equal Opportunities**

The right to work in an environment that is free from discrimination, bigotry and prejudice has long been a stated objective in UNISON. Lesbian, gay, bisexual and transgender people have had no specific legal protection against discrimination in the work place on grounds of their actual, assumed or perceived sexuality. UNISON welcomes the fact that under the EU Directive laws have to be introduced by 2nd December 2003 addressing these inequalities.

Existing employment law, most recently the Human Rights Act, have been used to attempt to prevent discrimination, but has met with limited success and this protection has proved inadequate.

UNISON believes that good employment practice is a prerequisite for best practice in service provisions. Public service employers should lead by example in demonstrating a commitment to equal opportunities. The workforce should reflect the diversity of the communities they serve. Like service users, public service workers have the right to be treated with dignity and respect, irrespective of gender, race, sexual orientation, disability, age or medical status. In a service where harassment of staff goes unchallenged service users will probably also face harassment. A service which reserves its career opportunities for just certain staff is not likely to treat the diversity of users with the respect and service that is their right.

There are still too many examples in LGBT communities where lives have blighted by prejudice. In 1999 the TUC survey asked lesbian and gay trade unionists, most of whom were public service workers, about their experiences at work. 44% of them reported that they had suffered discrimination because of their sexuality. If this is the level of discrimination experienced by active trade unionists, we can be sure that the experience of non-union LGBT people is probably worse.

All employers should be required to implement equal opportunities policies which specifically include LGBT staff, and protects them from harassment motivated by homophobia and/or transphobia, by colleagues, managers and service users. When LGBT workers are being harassed, the procedure to tackle it should protect the confidentiality of the person being harassed. Policies are no good if they exist on paper and are not translated into daily working practices. Employers must actively monitor their implementation and evaluate their effectiveness. LGBT workers should be involved in drawing up these policies and evaluate their implementation and evaluate their effectiveness. LGBT workers should be involved in drawing up these policies and evaluate their implementation.
Some discrimination faced by LGBT workers is blatant, such as unfair work allocation, negative review of work, failure to promote, exclusion from workplace events, and stereotyping. Other discrimination is less obvious: the result of failing to recognise the lives of LGBT people in a homophobic society.

UNISON should be consulted in the “equality proofing” conditions of employment. Job vacancies should be advertised in the LGBT media, application packs should explain the organisation’s equal opportunities policy, and interviews must avoid questions which implicitly or explicitly probe a candidate’s sexuality. For example, questions about marital status would be inappropriate to most lesbians and gay men. LGBT workers should not be disadvantaged in workplace benefits, relocation agreements, care of their partner(s) or childcare provision. Everyone needs to take special leave at some time in their working life, whether to cope with a bereavement or to look after a sick partner or friend. The validity of LGBT relationships and families must be recognised. Staff should be able to access special leave procedures without necessarily having to come out to their immediate manager and colleagues.

Social Justice

UNISON believes that LGBT workers are entitled to full equality of justice. Lesbians and gay men have faced a history of prejudice and discrimination both in laws themselves and in their application. At least we now have an equal age of consent. The law makers are reviewing sex offences legislation with a commitment to repealing laws which discriminate on grounds of sexual orientation or gender.

Increasingly LGBT communities have established liaison groups to work with their local police. UNISON Fife commends the core funding from the Scottish Executive leading to the establishing of the Scottish Police LGBT Safety forum, and the productive work that has already been completed, impacting upon policing LGBT communities throughout Scotland.

Guidelines issued by the judicial Studies Board on equal treatment of LGBT people in court also contribute to the development of inclusion in legal processes. However, much still remains to be done.

The sheriff court service, prisons and criminal justice services should act to protect LGBT people from prejudice. Sentencing guidelines should ensure a greater uniformity of sentencing decisions throughout the country. The criminal justice service and prison system need to recognise the needs of LGBT people and the bullying, intimidation and violence LGBT people often face within the penal system should be open to challenge.

Access to Housing

UNISON believes safe and affordable housing should be available to everyone who wants and needs it. Providers of housing should recognise and respond to the specific housing needs of LGBT people, including those who become homeless. One of the biggest issues for LGBT people is their right to live without fear of
harassment of LGBT tenants and residents. Lesbian and gay men are at high risk of homophobic abuse or harassment when using direct access or emergency hostels, and for that reason tend not to use the generic services. UNISON believes emergency housing provision for lesbian and gay men should be made available within a core service framework – but with adequate, appropriate back up/support pertinent to LGBT issues.

UNISON welcomes the provision under the Housing (Scotland) Act 2001, recognising the tenancy succession rights of same sex couples in social housing being on a par with married couples and straight couples living as “husband and wife”. It also recognises that parenting is a social not a biological role. It creates an obligation on local authorities to submit a local housing strategy which includes how equal opportunity requirements are to be addressed.

Many local authority tenants are being asked to vote on whether housing stock should be transferred out of local authority control and into the hands of other housing providers. If stock transfers go ahead it is essential that progress that had been made in establishing equal opportunities in housing allocation policies and in tackling harassment are not lost.

UNISON believes that housing services which acknowledge and protect the rights of LGBT people should not be the exception but the operational norm.

Celebrating LGBT Diversity

UNISON believes that service providers must recognise that LGBT communities cover a complete cross-section of society. Few people actually fit the stereotypical image of the young to middle aged, white, non-disabled, childless, moneyed, city-dwelling, gay man. Services must recognise the diversity of LGBT people and respond to the full range of their needs.

Black LGBT people face multiple oppression, because of racist attitudes (sometimes, sadly, from white lesbians and gay men) and homophobic prejudice (sometimes painfully from within their own communities). The impact of this can make black lesbians and gay men invisible. What this requires of service providers is that they are extra vigilant in ensuring services targeted at black communities are not just for heterosexuals, and services targeted at lesbians and gay men are not just for white people.

Local authorities who make provision for asylum seekers should be aware of LGBT people fleeing persecution because of their sexuality, particularly those who are so used to homophobic abuse that they do not identify themselves as members of LGBT groups immediately. The immigration service should ensure that LGBT applicants are treated with respect, dignity and sensitivity.

All service providers should recognise the specific needs of disabled LGBT people who face complex discrimination. Many non-disabled people do not imagine disabled people have a sexuality at all, let alone that they may be lesbian, gay, bisexual or transgender. This attitude is all too likely to be held by non-disabled LGBT people and most LGBT events, bars, clubs and groups make no provision for
disabled people’s access. Homophobia within the disabled people’s community compounds the isolation and the needs of disabled LGBT people are frequently overlooked. This makes it all more important that the organisation of education, housing, employment and transport do not further contribute to exclude and deny disabled people’s rights.

One of the most persistent myths about LGBT people is that they are childless and have no care responsibilities. The reality is very different. Some LGBT people have children as a single parent or as a result of relationships, by fostering, adoption or by parenting their own biological children. Others became parents before they accepted their sexuality; some become involved because their partners have children. Many LGBT people have caring responsibilities for relatives and friends. Family services must recognise and provide for the diversity of families, including LGBT families.

The particular needs of older LGBT people are often overlooked by agencies involved with provision for elderly people, and by the LGBT communities who are not immune from ageist attitudes and the assumptions of this society. The exclusion of all unmarried partners from benefits under many pension schemes often causes considerable and needless financial hardship for the bereaved partner. All agencies involved in provision for older people need to develop services for LGBT clients which give them the same chance of ageing with dignity as everyone else, hand in hand with improvements in the quality of provision for everyone.

We hope these observations and comments are of assistance.

Linda Erskine
Branch Secretary
UNISON Fife

SUBMISSION FROM STONEWALL SCOTLAND

Background

Stonewall Scotland is the Scottish branch of the Stonewall Lobby Group – a UK wide organisation that has campaigned for social justice and legal equality for lesbian, gay and bisexual people since 1989. Our work in Scotland focuses predominantly on social justice and the effective implementation of changing legislation. We strongly believe that major attitudinal shifts are still needed for real change to occur in the way LGBT people are treated as citizens across the UK and as such we seek to reach the ‘hearts and minds’ of Scottish society and its institutions. Our work in Scotland fully encompasses the rights and experiences of transgender people.

Introduction

We warmly welcome this opportunity to contribute to the Equal Opportunities Committee’s “taking stock” meeting on the issue of sexual orientation and commend the Committee on its proactiveness in undertaking this exercise.
The following response is drawn together on the basis of:

- Feedback (both formal and informal) from many of Stonewall’s 4000+ active supporters in Scotland
- Our own research into and evaluation of existing structures and services
- Stonewall’s ongoing campaigning work on key legislative issues
- Professional interaction with government (Europe, Westminster, Scottish Parliament, local authorities), statutory and non-statutory bodies, other NGO’s, public and private service providers, voluntary organisations and employers.

Whilst we have endeavoured to make this response as complete as possible, time and resources are such that we cannot include full detail on every area. This submission therefore seeks a compromise between ensuring that all of the issues of relevance are raised whilst still delivering an accessible and focused response that is structured so that readers can quickly go to the areas of specific interest to them. We would be happy to go into greater detail if required on specific areas or to give further information in person if appropriate.

We also recognise that there is some overlap between the four topic areas to be covered and where an issue has already been covered under a previous heading this will simply be cross-referenced (unless there is any other pertinent comment to add in relation to the later topic area).

Where appropriate, points have been illustrated in people’s own words; a reference to the sources of such comments is included at the end of the submission.

In no way should this submission be seen as seeking to portray all LGBT people as ‘universal victims’ of society and its structures. Whilst much good work is going on and many LGBT people are experiencing relatively trouble-free lives, it is to a degree inevitable that much of the focus of this report will be on the areas where change and improvement are still needed. It is also our belief that there is no excuse for individuals to experience any level of discrimination, exclusion, prejudice or violence as a result of their sexual orientation or gender identity. We need to move to a ‘zero tolerance’ attitude from the current perception that an individual has been ‘lucky’ if they’ve not experienced too much overt discrimination as a result of being gay.

**Experiences of LGBT communities in Scotland today**

**1. Overview**

Lesbian, gay, bisexual and transgender (LGBT) people have traditionally been amongst the most stigmatised minorities in our society. Social hostility, ignorance and a self-styled ‘moral’ disapproval, have been reinforced in the past by harsh laws that penalise and discriminate against LGBT individuals in almost every aspect of their lives. Although much remains to be done before we redress this entire legacy of exclusion, we can now at last see that over recent years the social and legislative climate is changing and equal citizenship is starting to become a believable possibility. The coming of devolution has brought a greater focus on the core issues of equal opportunities and social inclusion in Scotland than ever before, and a widening of the scope of work in these areas has meant that issues of equality and
inclusion for lesbian, gay, bisexual and transgender people have now been explicitly included.

Whilst the next section will explore the diversity of LGBT people in Scotland in greater depth, it should be noted from the very outset that individuals’ experiences of being lesbian, gay, bisexual or transgender in Scotland all differ, as indeed do people’s coping mechanisms and personal responses in dealing with those same experiences.

2. LGBT community – a diverse concept

It is always tempting to refer to the ‘LGBT community’ in Scotland as though it is one easily identifiable group of people, clearly recognisable to each other (and to the wider society) who share similar characteristics, life experiences and values. Of course, the reality couldn’t be further from this.

Lesbian, gay, bisexual and transgender people are as diverse a cross section of the Scottish community as any other group that happen to share one personal characteristic (e.g., Those who have brown hair). LGBT people are present throughout society: irrespective of gender, race, social class, education, age, ability, geographical location, marital or parental status, religion, political belief or any other characteristic.

For LGB and T people (just as for heterosexuals) sexuality is a part of who they are as individuals rather than the sole element to define them. This is an important point in that one of the ways that discrimination and prejudice against LGBT people has been justified and maintained is through the perpetuation of misinformation and stereotypes. Whilst LGBT people can be marginalised by wider society as somehow “different” or “other” then it can seem reasonable (to some) to maintain or introduce different rules or norms. As it becomes more widely realised that the only real differences lie in who a person is attracted to or how they experience gender then unequal treatment cannot be justified.

3. Stigmatisation, homophobia and prejudice

Just as the MacPherson report provided new insight into our understanding of racism following the death of Stephen Lawrence, so too is it important to understand that negative attitudes towards LGBT people manifest themselves in many different ways – some more subtle than others. Indeed much of MacPherson could be read with the words sexual orientation substituted for race and it would still make sense. It is these often hidden and unconscious attitudes (in the Macpherson report applicable to racism in the police service but visible equally across a wide range of discriminatory attitudes in many social institutions) which, if unchecked:

"...results in a generalised tendency, particularly where any element of discretion is involved, whereby minorities may receive different and less favourable treatment than the majority. Such differential treatment need be neither conscious nor intentional, and it may be practised routinely by officers whose professionalism is exemplary in all other respects. There is great danger that focusing on overt acts of personal prejudice by individual officers
may deflect attention from the much greater institutional challenge ... of addressing the more subtle and concealed form that organisational-level racism [consider here how ‘homophobia’ might equally fit] may take. Its most important challenging feature is its predominantly hidden character and its inbuilt pervasiveness within the occupational culture."

Macpherson report into Lawrence inquiry section 6.31

Negative belief systems in relation to LGBT people tend to fall under three main definitions.

HOMOPHOBIA - An irrational fear and dislike of lesbian, gay and bisexual people and homosexuality itself, which can lead to hatred, resulting in verbal or physical attacks, abuse and discrimination. This can occur at an individual, organisational or societal level. This is similarly manifested in transphobia although the one term is often inaccurately used to encompass both.

1. HETEROSEXISM - The belief that heterosexuality is naturally superior to homosexuality or bisexuality, manifest in the automatic assumption that ‘normal’ people are heterosexual. This belief is then used to justify domination and the imposition of values and beliefs and has resulted in heterosexuality being privileged legally, culturally, educationally, and culturally.

MARGINALISATION - The experience by one group of people of being identified as ‘unacceptably different’ and as a result pushed by another group of people to the edge of mainstream society and kept there (through laws, social norms, stereotypes or prejudices) to the advantage of the dominant social group.

LGBT people in Scotland experience these to different degrees in many areas of life – at work, in education, in their families and in their broader communities - such experiences occur within both a public and a private context.

Some of this is well-documented and researched (although remedial action has not always followed the evidence) whilst in other areas the true extent of the problem is only gradually becoming evident as the people who experience it speak out and stop accepting that ‘it goes with the territory’.

- The TASC report: Experience of violence and harassment of gay men in Edinburgh 2001 commissioned by the Scottish Executive found that 57% reported experience of harassment within the previous year and 26% were the victim of an incident involving physical violence (when adjusted for gender and age this sample proved to be 4 times the national average)
- “Something to tell you” 2002 Greater Glasgow Health Board needs assessment of young LGBT people – 80% of young people in sample had experienced
discrimination and most had experienced more than one kind in more than one context

- GB National taskforce on policing lesbian and gay communities report “Breaking the chain of hate” 1999 found that 66% of over 2500 respondents reported being a victim of a homophobic incident - only 18% of these reported the incident to the police and the main reasons for not reporting were:
  - Lack of confidence in the police
  - Anticipated negative reaction
  - Fear of being 'outed'
  - Fear of being charged with gay offence eg. Cruising
  - Fear of retribution
  - Had learned to accept violence and abuse

No baby is born a bigot. Prejudice and bigotry are only learnt by individuals from the society around them. At Stonewall we believe that proactive steps must be taken to ensure that social infrastructures (through legislation and policy) actively guard against appearing to condone discrimination against minority groups within it, otherwise the hate crime that exists will continue to be justified by the people that perpetrate it. On the most basic level, whilst LGBT people can still be legally refused a hotel room on the basis of their sexual orientation, be sacked because they are gay or have their most intimate relationships overlooked and dismissed, then homophobia and its behavioural manifestations are (at least in the perpetrator’s eyes) given legitimacy.

Given the advances that have been made in the areas of racism, sectarianism and sexism in particular over recent years, many LGB people in Scotland believe that in some ways, homophobia is now the last ‘acceptable’ prejudice, being tolerated where other equivalent behaviours would be challenged.

I can get called a poof or anything and the teachers won’t do anything, but if I’m called, like a Paki or something, they will do something then obviously .... I tried once or twice (to say something) but they then just said “don’t aggravate the situation and it’ll be OK” ... so I just didn’t bother

_Stavro – Glasgow – Something to tell you_

Oh, my supervisor’ll spend hours worrying whether new t-shirts for line operators are not too blue or green or orange but he’ll just join in the “here he comes - backs against the wall boys” comments and say I need to lighten up and take the joke.

_Gay man (35 - 45) Lanarkshire – response to e-mail request for experiences_

Events surrounding the repeal of Section 28 in Scotland in 2000 clearly illustrated the lack of information, and in our view, the level of prejudice, about LGBT people and their lives amongst significant parts of the people of Scotland. The section 28 debate, with the very high-profile and extraordinarily well-funded Keep the Clause campaign, was very divisive for all of Scotland, and personally distressing and damaging for a very large number of LGBT people, their families and friends. Opponents of repeal (some in high profile positions) sought to deliberately use prejudicial stereotypes and inflammatory language to raise fear and negativity.
Supported by elements of the press, LGBT people in Scotland felt under siege for the best part of 6 months.

Each morning I was awoken by the alarm clock and instantly sick with apprehension as almost every day there seemed to be another hate-filled comment from the “Keep the Clause” media machine to kick off my morning. Every helpful comment from the Scottish Executive or from our own campaigning groups seemed almost life-saving and helped calm the feelings of depression and nausea I felt daily.

**Woman 26 – 40 Edinburgh / Glasgow**

Compare this with the proactive and sustained campaign of positive PR sponsored by the Scottish Executive and local councils that has been developed and implemented over the last couple of years on a national level to address the racial prejudices and stereotypes that have been (equally wrongly) expressed in relation to asylum seekers in Scotland.

Feedback collected at that time (and enclosed with this written submission as a separate report entitled Caused by the Clause) consistently expressed the sense of surprise and frustration felt by lesbian, gay, bisexual and some heterosexual people in Scotland that existing equality provisions largely overlook sexual orientation. There was a very real feeling that people are unprotected by the law and helpless in the face of that. People’s responses also reflect a widely held perception that Section 2a came to represent much more than education and local authority funding, becoming in some ways a symbol of all discriminatory legislation. For opponents of repeal it was seen virtually as a national opinion poll on homosexuality – a chance to assert superiority and perpetuate hierarchy. For many LGBT people, the need for repeal to happen became equated almost with a need to justify their very right to exist within their own communities.

The whole experience clearly raised the question for many people of the overall tolerance levels of Scottish society, with much surprise expressed at just what level of animosity lay below the surface and how it could be ignited with such apparent ease. The main lesbian and gay Switchboards (voluntary telephone counselling services) all highlighted significant increases in calls relating to homophobic abuse, harassment and ‘queerbashing’ throughout this period. Although now two years on, we believe a great deal of support and outreach work still needs to be done at local and national level to repair this damage.

It made me realise how Nazi Germany came about. People with lots of money and a PR campaign putting lots of lies in posters can reinforce people’s negative stereotypes. I kept thinking "this can't be happening, this is just so crazy"

**Male 41 Glasgow - Caused by the Clause**

Passing the billboards with Souter's campaign against repealing the clause had a severe impact on me, making me feel that somehow I had less of a right to dignity and respect than any heterosexual. To add insult to injury was the attitude of many people I knew of “what’s all the fuss about – it's
unimportant, you’re over-dramatising”. This heterosexist attitude underlined
that this can not be the end until all gay lesbian, bisexual and transgendered
people, along with members of all other minorities, are treated equally in
every aspect of society.

Female  26 – 40  Edinburgh / Glasgow – Caused by the Clause

4. Coming out and being counted

It’s often very easy to count the things that don’t count and very hard to count
the things that do

Albert Einstein

1.1.1 The question is often asked as to why some gay, lesbian and
bisexual people lay so much emphasis on their sexual orientation and
feel the need to keep telling people about it. Our experience is that this
question or reaction usually underpins a belief (either conscious or
unconscious) in the questioner that there is something inherently wrong
or less good in being gay, lesbian or bisexual. In reality heterosexual
people are referring to their sexuality all the time; by wearing a wedding
ring, by referring to their husband / wife / boyfriend / girlfriend or by
informal comments on who they find attractive. Society does not
consider this to be generally problematic because it conforms to a
heterosexist model of the world. It is only when the same comments
are made in the same way about someone of the same gender that it is
seen to become some kind of a statement or ‘political posturing’.

‘Coming out’ needs to be seen in this context. It is not something LGB or T people
have to do once in their lives, but an ongoing process wherever it is relevant. It is not
something that is just done by young people either, as more and more people are
realising in later life that some of the social models of heterosexuality and marriage
that they felt forced into in their youth, can no longer be sustained. Obviously, there
are times when it is simply not pertinent to disclose one’s sexual orientation but it is a
small step between not disclosing and ‘hiding’ or ‘covering up’ – the latter often being
associated with fear, shame or embarrassment. For most LGBT people, this ability to
be open is key, because sharing that aspect of themselves with others is important
to their self-respect within society, their own self-esteem and their subsequent
mental health. In fact, this ongoing process of identity development for lesbians,
bisexuals, gay men and transgender people, has been found to be strongly related to
psychological adjustment - the more positive gay, lesbian, bisexual or transgender
identity, the better one's mental health and the higher one's self-esteem. This is
important in a society where homophobia and heterosexism are still common-place,
as it can lead to individuals suppressing their own personal development and can
also lead to internalised homophobia where an LGBT individual might absorb and
take on some of the negative values that society ascribes to them.

Section 2a almost killed me. In my Catholic secondary school my teachers
were prevented from speaking to me in any way about my sexuality. I
remember one great teacher telling me I should be in class one day because
she was going to show a video she thought I would enjoy. It was Torch Song
Trilogy and in retrospect, her way of saying “I know and it’s OK”. It would have been nice to have someone to turn to, growing up gay in the East End of Glasgow was no easy prospect. Eventually after nine years of denial, the expression of my sexuality came with a suicide attempt which left me in a coma. Thankfully now my life is open, honest and proud – not as a result of my sexuality but as a result of me.

Gay Man 26 – 40 Glasgow Caused by the Clause

But coming out remains a big step for people of all ages and in Scotland today can still mean risking family contact, friendship circle, employment and physical safety.

I came home from seeing a friend one night and my father had just arrived home from the pub. He asked me where I’d been and when I told him he said I was a fucking slut and then said I was a dirty queer and had to move out of the house because I was an embarrassment to the family – I was 16 at the time. He began punching me in the face and body before grabbing my throat and trying to strangle me. Eventually my older brothers came in and split us up.

My mother was in the room for the entire time and made no attempt to stop him or call the police. I was prevented from calling the police myself and my mum and brothers said it was all my fault and I had asked for it by talking about such things.

Lesbian 18-25 - Queerbashing

In quantitative research conducted amongst 300 respondents by Stormbreak at an LGBT event in London in 1998, the average age at which people realised they were gay (whether or not they acted upon it at that time) was 15 for men and 18 for women. One in three realised that they were ‘different’ by the age of 12 but didn’t have any context in which to recognise or even quantify that difference. However, the average age of ‘coming out’ within the same sample was 23 for men and 25 for women – leaving a 7 – 8 year gap in which people were keeping their sexual identities to themselves. Four out of 5 of the respondents had found it either ‘quite’ or ‘very difficult’ to come out and only 2% said it had been easy and that they hadn’t encountered any problems. Fewer than 2 in 5 men and 1 in 3 women were out to everyone who knew them.

The full extent of questions explored in the Stormbreak research have not been conducted in Scotland but the coming out data was mirrored in research conducted by the Glasgow women’s library who, in their study of poverty and social exclusion of lesbians and gay men, found that there is a significant time-lapse for many lesbians and gay men between self-realisation and ‘coming out’ to others. By 16 years of age in the Glasgow study, 58% of respondents had realised that they were lesbian or gay, but only 9% had come out. By the age of 18, 65% had realised but only 27% had come out. Perhaps as a result of changing social awareness however, young people are increasingly coming out earlier.

Whilst coming out remains an entirely personal decision, there is no doubt that as more people become visible then social attitudes change both in the sense of public acceptance (as people realise that friends and relatives that they know and like are
LGBT) and also in the statutory arena where there is a recognition of the need to provide non-discriminatory services to what is in reality a sizeable minority of actual and potential service-users. It was only in the last year that a senior representative of a Scottish police force outwith the Central belt, stated in a public forum that they didn’t need to worry about policing attitudes or training opportunities in relation to LGBT issues as “they didn’t have any of them in their area”.

We are frequently asked to put a figure on how many LGBT people there are in Scotland and in some senses this is a pointless question. Equality must never become a ‘numbers game’ and this is anyway in practical terms perhaps the most difficult and indeed sensitive area to get a perspective on demographic breakdowns.

In his review of several studies on the prevalence of homosexuality, the American psychologist LeVay (1995) states that “it is best to keep an open mind towards reviewing statistical evidence since changing attitudes and beliefs appear to be strongly linked to self-stated homosexuality”. What he was referring to was the indication that individuals are more likely to express their gay behaviour within their own culture as that culture becomes more accepting of homosexuality (and conversely less likely to be open about it when society is seen to be negative). Thus it is apparent that culture influences the public expression of one’s sexual orientation, although it might not modify the actual behaviour which becomes hidden or ‘underground’ as has been seen throughout history. This in turn can influence sexual motivation and indeed an individual’s personal acceptance of their own desires within their social environment. This factor is important in the Scottish context, which has in the past been religiously and perhaps sexually conservative. It is also important when considering the relative visibility and acceptability of gay, lesbian, bisexual and transgender people outside the major towns and cities of Scotland.

SIGMA research 2000

- 48% of women and 42% of men said they avoided same sex affection in public for fear of consequences

It is often possible to hide one’s sexual orientation and gender identity. Indeed in a climate of fear (bullying at school, discrimination at work, etc.) it is common to be forced to hide. The UK census has never attempted to record sexual orientation data. It is therefore impossible to give an accurate picture of the percentage of the population of Scotland that is LGBT, and we must rely on piecing together estimates from academic studies, health work and small-scale surveys.

By its very nature, most research into sexual orientation relies on self-completion questionnaires and the involvement of volunteers. As a result, it has been suggested that there is a significant incidence of under-reporting in that those who are less self-confident are less likely to participate in such research.

In 1990 and 1991, Wadsworth, Johnson, Wellings, and Field undertook the largest ever sexual health population survey in Great Britain, The National Survey of Sexual Attitudes and Lifestyles (Johnson et al. 1992, 1994; Wellings et al. 1994) polled 19,000 people aged 16-59 years. Six per cent of women and 12 per cent of men identified same-sex sexual orientation. A significant further percentage of both the men and women surveyed also reported regularly having sexual relations with both men and women. This survey was repeated in 2001 with the results due out at the
end of 2002 and it is expected that the relaxing of social attitudes over the last 10 years will contribute to a higher reported rate of same-sex attraction and activity.

The situation is also different between both the experiences of lesbians and gay men and society’s perceptions of them. Lesbians are perceived to be far less visible than gay men and a larger percentage have previously been married – once again underlying the complex interplay of social and cultural expectations on individual behaviour and aspiration. In a national survey of Gay Times readers across the UK in 1996, more lesbians were ‘out’ to their straight friends (70 per cent compared to 58 per cent of gay men), and they were much more likely (41 per cent) to be living in a long term relationship with their partner. Despite a significant and growing UK lesbian population, most members of the public still associate the words gay and homosexual with exclusively male behaviour, and have a far clearer view on male homosexuality. Most research that does exist has been done on a national (or city-specific) basis in the UK.

So in summary, drawing together the various studies over many years it can be quite confidently estimated that between 4% and 10% of the population is exclusively homosexually oriented. This would suggest that there are between 200,000 and 500,000 lesbians and gay men in Scotland with a likelihood that there are proportionately more of them living in Glasgow and Edinburgh. Estimates for bisexual people are generally considerably higher. There is also a significant community of transgender people in Scotland some of whom will have undergone gender reassignment surgery or hormone treatment and will feature in relevant health statistics and others who are unable or unwilling to seek medical intervention and as such remain wholly invisible.

5. Isolation vs. inclusion – the importance of social contact

Everyone needs social contact – groups of friends or individuals with whom one can relax, be oneself, feel accepted. Many people’s friendship circles are made up of people who initially were casual acquaintances; work colleagues, neighbours or the like. One of the key attributes of friendship is being loved, appreciated and understood for who you are. Most people take such contact for granted but for many LGBT people it’s not so straightforward.

The first issue comes down to whether one is ‘out’ or not and the degree to which an individual feels confident of the reaction of their social circle. With a known group of friends this may not be a problem as likely reactions might be confidently gauged – however with more casual contacts, a positive reception is not guaranteed. It is for this reason that many LGBT people seek out the local gay ‘scene’ (gay bars and clubs) where they can be confident of being accepted, meeting people who they will not have to ‘come out’ to and not having to face a homophobic reaction from staff or other customers. The ‘scene’ in Scotland is limited really to Glasgow, Edinburgh and Aberdeen with a couple of bars in Dundee which means that many people are forced to travel or have no social outlets that they perceive to be relevant.

But it would be wrong to assume that more gay bars would provide all the answers to social isolation. The ‘scene’ like any concentrated social space brings its own issues;

- Many people simply don’t want to do their socialising in bars and clubs
• It can reinforce / promote a ‘ghetto’ mentality
• Alcohol, smoking and recreational drugs are commonly used
• It tends to have a young focus and is largely male-dominated
• Homophobic attacks are more common around known venues
• People are scared of being ‘outed’ if seen going to a known venue
• Young people are less able to access licensed venues and the environment is less appropriate for them if they do get in

Completely isolated, yeah, totally, I felt as though I was the only one, I was so unhappy and then I was on the internet once talking to some guy and he’s like ‘yeah I’m bi’ whatever and I was like ‘how old are you?’ and he was like ‘I’m 15’ and I was like ‘so am I’ I was like oh big smile on my face an a’ that (laughs) so eh, that was eh, I actually completely felt isolated, it was like totally terrible now I think about it

Bruce “Something to tell you” Greater Glasgow health Board

It’s a strongly held belief within the LGBT community that there is a real lack of safe social spaces in many areas of Scotland where you can meet up and not feel threatened. Whilst it’s easy for people to say “if you just go to a normal bar and behave normally then no-one will know” – people’s experiences are somewhat different.

The body language of a heterosexual couple in a bar or restaurant may not include any physical contact but it will be clear that they are a couple – unless a same sex couple seek to actively disguise their relationship, the same body language will be apparent. ‘Normal’ behaviour in such instances is no longer enough to avoid awkward situations. When this is what LGBT people still experience on the basis of ‘no contact’ body language, the reactions, ranging from ridicule to verbal abuse to physical violence towards even the mildest displays of affection (an arm around the shoulders, a kiss on the cheek) are enough to quickly change a relaxed social environment into a place of threat and potential danger.

In a health needs assessment of gays and lesbians in Dumfries and Galloway carried out in 1997, 60 % of the female respondents had experienced verbal harassment and name calling from men when socialising in couples or larger groups in local pubs. The following were the top responses by both male and female respondents to the question: “Are there any special concerns or problems you perceive as a gay, bisexual, lesbian person living in Dumfries and Galloway?”

lack of contact with other gay people leading to a sense of isolation and loneliness

The main problem is isolation, I know several other gay women, but it’s a common complaint and I fear being known by other non-gays, to be gay

Having to go to Glasgow for any services or even a social life, when transport is so limited

The long term emotional impact of feeling isolated and lacking in social contact is significant. Later, we will cover mental and emotional health in greater detail, but
there is significant research to indicate a strong correlation between a sense of social isolation and loneliness underpinned by societal homophobia with low self-esteem, depression, self-harm and suicide amongst LGBT people in Scotland.

6. Violence, fear of violence and community safety

Fear of violence (both real and perceived) is an ongoing issue for many members of the LGBT community in Scotland. As a result of the level of homophobia that still exists (see section 3 above) all too many lesbian, gay, bisexual and transgender people have direct experience of personal threat ranging from verbal abuse, to damage to property, to serious physical assault. At the most extreme end of the scale many LGBT people still remember (or have heard tell of) the murder of Michael Doran in Queens Park, Glasgow in 1995 when a gang of three young men and a 14-year-old girl went on a queerbashing rampage with a hammer and other weapons. They seriously assaulted at least two other men before finally murdering Michael Doran who received 83 blows to his body, was stabbed in the groin and had his face stamped on leaving all his facial bones broken. Whilst statistically, incidents of this severity are of course rare, the fact that the attack was so frenzied and was carried out by such young people purely on the basis of the victim’s sexual orientation can easily become a part of people’s worst fears.

Whilst for some people the fear of being a victim of homophobic violence is greater than the reality will ever be, it must be recognised that severe homophobic beatings still take place on an all too regular basis across Scotland and whilst the vast majority are not reported to the police (for all the reasons identified in section 3 above), the Strathclyde police service have privately acknowledged that for many of those that they do investigate, it wouldn’t have taken much more for them to become murder enquiries.

In 2001, research by Fife Men and Fife Constabulary published as “Homophobia can Kill” found that of a sample of 74 LGB people in Fife, 57% had been the victim of direct verbal abuse as a result of their sexual orientation, 41% had been threatened with violence, 27% had been the victims of homophobic assault (attacked, hit, kicked or other types of violence) and 11% (includes both men and women) had been raped by someone as a result of their sexual orientation.

In the same way as being ‘out’ or not can affect one’s sense of self-esteem and personal identity (see section 4 above), so too can the steps that people take in terms of modifying their behaviour in order to avoid homophobic violence. Many people report that either as a direct result of violence they have already experienced or for fear of what might happen, they try and behave differently, acting more ‘butch’ or not going out after dark.

I am convinced that the closet is the most oppressive instrument used to harm homosexuals: a broken arm will heal easier and sooner than the psychological harm caused by spending your whole life hiding and pretending Gay man 26-40 – Queerbashing

In Edinburgh and Glasgow LGBT community safety forums have now been established by community volunteers with support from the City councils. Whilst this
is a positive focus on specific issues, they are the only thematic community safety partnerships in each council with all others being geographical. In some ways it’s ironic that local LGBT people do not feel safe raising the issues of LGBT safety in their local geographic community safety fora.

7. Rural and urban experiences

Rural isolation remains a major issue for many LGBT people and there is a significant gravitation towards the major centres of population (particularly amongst young people) who seek social support structures (see section 5 Isolation vs. exclusion). Highlands and Islands Enterprise have even recognised the impact that this can have on rural depopulation and their work on equality development is actively inclusive of the need to retain young people who might be LGBT, as active contributors in their community of origin.

Whilst the larger urban centres might seem attractive, moving to them often brings its own set of challenges with people feeling equally lonely, not being able to afford the cost of living and potentially over-compensating in their (sometimes excessive) use of the commercial ‘scene’. What starts off as a sense of immeasurable freedom for a young and perhaps rather naïve gay man or lesbian, can all too often end up in risky behaviour without family support structures or positive role models. There are clearly (as always) advantages and disadvantages in both rural and urban contexts:

- **Rural**
  - Lack of access to support, services and social contact
  - Sometimes more ‘socially conservative’ attitudes
  - In some island communities particularly, there is an ‘unflinching’ religious attitude towards homosexuality
  - Everyone knows everyone else’s affairs
  - Families can easily feel that a child’s coming out reflects badly on the whole family

- **Urban**
  - Can be a pressurised environment with ‘new faces’ receiving a lot of attention initially, which can then fade away
  - Attractions of excessive use of alcohol, drugs, recreational sex can lead to a ‘child in the sweetshop’ mentality for someone who’s come from a more sheltered background
  - Still easy to be lonely in a crowd – may not have close support of family / friends
  - Cost of living far higher particularly if just leaving home – survival sex might be a way of paying the rent
  - Statistically greater risk of being victim of homophobic crime

+ **Rural**
  - Smaller communities more likely to know you for ‘who you are’ and can be more tolerant
o Remaining within positive family support networks
o Established couples or individuals might achieve better ‘quality of life’

- Urban
  o Easier to be invisible if one chooses
  o More social options
  o Less feeling that “you’re the only one”
  o More likely to encounter external affirmation of sexual orientation eg. Annual Glasgay arts festival

(at the time of the Keep the Clause campaign) Letters to local papers were published, amongst which ours in support of repeal was in the vast minority and provoked a mixed response from acknowledgement of a differing viewpoint to criticism and attack. Unfortunately, living in a small village in the Highlands, everyone knows us and suspicion and wariness has increased since the debate. Of course, the whole thing triggered off people’s worst prejudices and we were disillusioned. Also we felt we’d already been there, having been active anti-clause campaigners in 1988. However amongst our friends there has been no change. We are accepted for who we are – some were even more interested in the debate because of us.

Male Couple 41 – 60 Highlands – Caused by the Clause

9. Parenting and families

LGBT parents have always existed although it is only in the past few decades that they have been confident enough to openly identify themselves. Whilst children may have been born or adopted within a same sex relationship, be the product of a previous heterosexual relationship or be born to / adopted by a single person not currently in a relationship, most LGBT parents are clear that where sexuality and parenting inter-relate, no decisions or actions are taken lightly.

In the past many LGB parents have remained secretive and protective, and for very good reasons. Their children had often been conceived in the context of heterosexual relationships, and a gay parent had to face not only his or her own coming out issues and the need to separate from a spouse, but also contend with coming out to children. If a custody battle ensued, gay parents were often fighting a losing battle in a homophobic court system.

Until the late eighties (and less frequently through into the nineties) judges tended to consider that it was quite simply against the welfare of children to be brought up by gay men or lesbians or to be exposed to gay or lesbian lifestyles. Up until the early eighties this was justified by the fear that children would be contaminated with homosexuality (i.e. would either be sexually abused or would become gay or lesbian themselves). Since that time the main concern has switched to the fear of the child being stigmatised and picked on and bullied as a result of a gay parent’s sexuality. It has been suggested that the reason for this shift in approach was that the corruption argument was clearly judgmental (and unsustainable in the light of social and psychological research) while the stigmatisation argument appears to focus more on the child itself. However, research suggests that with the appropriate support and
attitudes from the parents the risk of stigmatisation is no more likely than the former risk of corruption. It also seems ludicrous that the stigmatisation argument allowed one discriminatory act (homophobia in the community) to condone another (depriving lesbians and homosexual men of custody of their children).

The legal and social stigma is finally improving for gay people coming out who have had children in previous heterosexual marriages, and more people are able to be honest about the nature of their families. Family courts are becoming less ‘heterosexist’ in issues of child residence and contact. This was underpinned recently by a landmark decision at the European Court of Human Rights in the case of da Silva Mouta v. Portugal 1999 where it was held that while the identification and protection of a child’s welfare was clearly a legitimate aim, the means adopted to further that end, being a blanket discrimination against gay men and lesbians in residence disputes, was unjustified. Discrimination on the basis of sexual orientation, it was held (for the first time, incidentally), came within the terms of article 14 and could not possibly be justified. Whilst few parents today lose residence or contact with their children purely on the basis of their sexual orientation or their transsexuality, there is a legacy of immense fear amongst LGBT parents in this area that significantly impacts upon the decisions they make.

I had a much more pressing motivation to remain in the closet. I had two daughters, both primary school age, and was in the middle of a messy and protracted divorce, finally granted in 1984. I knew that if any Scottish divorce judge of the time came to know that I was lesbian, I could have lost custody of my daughters. Cases were common in the courts of a woman’s lesbian identity being equated with being ‘an unfit mother’. So not only did I have to stay in the closet, but I had to take the regrettable step of asking my daughters to tell their father during access weekends absolutely nothing about my private life, who came to the house, who stayed over, etc.

In short, my experience was of living almost a ghetto existence, with surreptitious visits to gay bars and discos, living in fear of encountering anyone from my other life, such as a pupil, a parent, or a colleague. Those were difficult days.

Lesbian (50 - 60) West of Scotland – response to e-mail request for experiences

It is partly as a result of such legacies that whilst all LGBT people struggle with the question of how open and honest to be about their sexual or gender identity (see section 6 above), for LGBT parents the struggle can be even more profound with significant additional stress (and responsibility for the stress of others) associated. On one hand their children can be hurt or bullied by people who are uncomfortable with their parent’s sexual / gender identity and on the other hand growing up in a home with secrets and shame can also be damaging. Although there is all too frequently a price to pay in being open about being LGBT parents, there is also a price one must pay living a carefully protected, secretive life; LGBT parents have to constantly decide for themselves how best to balance the two.
Some parents might be out to their children, but feel that social reaction would be such that they have to ask the children to be secretive as a way to protect the family. Obviously asking children to collude in a lie can create a great deal of confusion. Children don't necessarily understand the political, social or legal ramifications of their parents’ choices.

As many same sex parents in Scotland have noted, having children often puts people in contact with a variety of institutions (i.e. schools, child-care, hospitals) where one must decide whether or not to be out. The alternative to being out and honest is to lie or avoid the topic. "She's my friend" or "He's my flatmate" some gay people will say. However, the school administrators will not release a sick child to a "friend", and hospital staff cannot recognise the medical requests of a "flatmate" in relation to an ill child. Whilst the current legal situation (see later section on legislative framework) doesn’t recognise the true nature of parental relationships with a child, then the pressures and the dilemmas increase for LGB parents.

The biggest complaint for LGB parents is that while indications suggest that up to 25% of lesbian and bisexual women in Scotland are mothers and that there are significant numbers of gay and bisexual fathers, they are rarely visible. Seldom represented in magazines, books or on television (unless in a ‘tabloid exposé’ style) and often unrecognised within the structures and frames of reference used by schools, NHS and the like. This all too frequently means that their children, and their own parents (i.e. the children's grandparents) do not see other families that look like them, depriving them of role models and increasing the potential for them to experience isolation and invisibility.

In the last two decades in Scotland many LGB people, single and in couples, have actively chosen to have children outside of a heterosexual marriage - some have had children through self-insemination or a structured fertility service, others have chosen to adopt. Although many remain secretive about their sexuality or relationships, some are increasingly confident in being open about who they are. This means more lesbians at Family Planning Clinics seeking information about attempting pregnancy, more people approaching adoption services clearly outlining the nature of their family, more people applying for rights and responsibilities for co-parents and on a very practical level greater visibility at parents evenings and sports days.

The impact that this will have on the next generation is enormous. Thirty years ago children would still whisper in the playground about their classmates whose parents weren’t married – this is no longer a cause for comments and as more children of LGBT parents play in the same playgrounds and attend the same schools, so too will current attitudes change to deal with this new level of diversity.

The reality is of course that the majority of issues faced by gay parents in Scotland today are identical to the issues all parents face. No less exhausted by the 5 a.m. feeding and no less concerned when their child runs a temperature. Their relationships as couples (including their sex lives) will be no less challenged by the busyness of working and childcare, dinner and laundry, along with all of the other complexities of family life.
But there do remain however some powerful differences and in the reports from LGBT parents and LGBT parenting groups, these are the differences that really make a difference. They are rarely able to forget that they are a minority among parents and when they do they are often caught out by someone else’s reaction or behaviour. Like all minorities (particularly minorities within a minority) they face certain prejudices and stereotypes. Many people - school staff and lawyers, social services and health workers - may be offended by or hostile to same sex couples. They may find themselves even more socially isolated than other new parents and more than one lesbian mother responding to Stonewall reported their experience of post-natal depression being attributed by medical staff entirely to their sexual orientation. Financial concerns can become more pressing in relation to issues such as maintenance eg. if a couple co-parenting a child split up (given that the relationship had no legal recognition in the first place) and to accessing of benefits.

In the absence of institutional validation (i.e. domestic partnership and same-sex adoption legislation) same sex couples must develop extensive legal documentation to ensure the protection of their family. A heterosexual parents’ right to approve medical treatment for their child or to maintain residence in the event of the death of a spouse would not even come under the scrutiny of a court system. As dramatic as some of the legal and medical obstacles are, social difficulties can be equally difficult. Having the child’s friends over to play or to stay for the night entails a potentially sensitive discussion with the other child’s parents, volunteering to accompany and help supervise school trips can expose an individual to the misinformation, homophobia and even scare-mongering of other parents.

Finally a same sex couple frequently finds themselves in the situation where their relationship, their parenting skills, the way they keep their house all have to be seen to be somehow ‘better’ than other people’s in order to somehow justify the other differences in their family structure. A heterosexual relationship that breaks down after 10 years is seen as unfortunate with concern expressed for how the children will cope, a same sex one breaking down in the same timescale is seen as proof that gay relationships are inherently unstable and that they shouldn’t have children.

During 2000 when so much media coverage and social ‘airtime’ in Scotland was devoted to a debate that was ostensibly positioned as being about ‘family values’ it was in some ways ironic that it so patently ignored the family circumstances of a whole section of the Scottish population. Many of the people who contacted us at that time were parents themselves (either of children being raised within a gay relationship or of gay children) and their responses reflected their family values of love, compassion and respect. LGB individuals were often concerned about the impact that the negative coverage and misinformation might have upon their parents perspective of them “would they believe it all ? Was that how they understood their child to be ?”. Equally parents were concerned that their gay children’s lives would be made harder and they might be at greater risk.

With hindsight, the media coverage of the issue throughout the winter and the spring did serve a useful purpose – it opened up and aired the many perspectives and viewpoints, raising public awareness in a previously unprecedented way. We, the gay and lesbian minority had our worst fears confirmed: yes, there are an awful lot of very bigoted people out there, a fact
which variously upset, angered, alarmed and irritated us throughout the year. But equally, there was also the voice of justice, of understanding, compassion and open-mindedness, which was often strong and came from a surprising variety of quarters. Particularly heartening that, initially at least, it came from government figures. So no, it wasn’t all bad.

Throughout the year my partner’s 17-year-old daughter battled with a severe eating disorder. In a small rural community such as this nothing is very private or secret and despite our efforts my partner’s daughter had been the victim of harassment and bullying at school. Simultaneously, she had also been the target for her father’s bitter tirades about her mother and her mother’s sexuality. It was impossible throughout this ordeal (which like many eating disorders continues and may very probably become a lifetime affliction) not to link these difficulties with the very issue that was the subject of debate.

We asked ourselves often how anyone could believe that Section 2a served the best interests of the child (the focus of the 1995 Children (Scotland) Act) when there were children such as our own (and we have 7 between us) who were living their daily lives having to deal with the homophobia of others. We had dealt with our own confusion earlier on, as children of the 50’s and 60’s, ourselves brought up in a climate of repression and intolerance. Do we not have a right to expect something a bit better for our children?

A learning experience it has been. Section 2a has gone. Public awareness is I hope at a new level and I very much hope that the tide is turning.

Female couple 41 – 60 North East – Caused by the Clause

9. Older people

Whilst many older LGBT people in Scotland today will have spent much of their lives under a cloud of social disapproval or even illegality, the reality is that issues affecting older LGBT people will become more important as the population ages overall and as more LGBT people are able to live their lives openly in a climate of increasing acceptance and visibility.

Stonewall along with other LGBT community organisations is already working with Age Concern Scotland in an attempt to anticipate and meet the needs of older gay, lesbian, bisexual and transgender people. The key issues that have been identified to date include:

- Inheritance Tax; Next of Kin status/ recognition of closest relative.
- Recognition and access to partner in hospital/ as carer (eg Alzheimer Society)
- Poverty, and access to benefits. It is not always clear whether same sex couples can apply for grants etc
- A need to investigate residential/ nursing care / sheltered housing for older people from LGBT communities, in particular same sex couples
- Peer homophobia – 60+ age group tends to harbour most negative attitudes
- Coming out of heterosexual relationships/ marriages and related impact on relationships/ rejection by family and friends – how this impacts on later life
- Potential for recognising ‘alternative’ family support units eg. A mutually
supportive group of friends rather than an extended family of children and
grandchildren
- Bereavement – need to develop counselling services for older people within
LGBT communities
- HIV and AIDS – sexual education for older people
- Rural living and how this impacts on social networks for LGBT communities
and older people, in particular
- Attitudes by service providers in health, social work and housing towards
LGBT elders – do they even see them or just assume they’re heterosexual?
- Recognition of attitudes within the LGBT communities in relation to older
people in general
- Legacy of living much of one’s life invisible and perhaps illegal

Older LGBT people may face discrimination based on both their age and their sexual
orientation. Consequently, they may not feel comfortable either in organisations
serving older people or in LGBT community organisations, thus not receiving useful
services from either quarter. The good news is that decades of experience dealing
with discrimination based on sexual orientation appears to help older LGBT persons
cope with age discrimination.

Research from the US also suggests that this resilience may depend on the older
person’s integration into the LGBT community, which varies widely. For example,
older LGBT people differ in the extent to which they have revealed their sexual
orientation to family, friends, and health care and social service providers. Moreover,
generational differences occur among older LGBT individuals, based largely on
society’s changing attitudes toward homosexuality. Older LGBT people may be less
likely to self-identify using the terms gay or lesbian or to participate in community
organisations.

10. Younger people

Sexual orientation emerges for most people in early adolescence without any prior
sexual experience and young people today are becoming more sexually aware
generally than in any other period in recent history. The needs of young LGBT
people for adequate peer support, social contact, positive role models, affirming
family relationships, safe educational environments and no-risk contexts in which to
explore their sexual attraction cannot be stressed highly enough. One problem is that
as soon as young people and sexual orientation / gender identity are discussed
together there is a significant kneejerk reaction (which happens to a certain extent
with any discussion of sexual matters but is considered far more acceptable in a
heterosexual context)

And I think there is not so much a general reluctance, I think ….. yeah, there’s
a fear there, particularly round the youth thing, because even if you had to talk
about it or discuss it seriously like adults, grown-up adults, because they fear
they’re going to get attacked by the Daily Record or some religious
organisation.

*University LGBT Association – Scottish Executive research*
It can be very hard for many teenagers and younger people to deal with the way the world and society portrays LGBT people. They hear that being gay is “wrong”, “nasty”, “unnatural”, “sinful”, etc. They see people making fun of gays. They hear all the stereotypes and may receive little in the way of affirmative information. They may hear it from the media, from their neighbours, from their parents, from their teachers, and from their peers.

Homophobic bullying in schools is reported by young Scots as being extensive, with the term ‘gay’ now being one of the most common terms of abuse in the school playground - becoming extended in its use to refer to anything which is deemed to be bad or negative. In contexts where the young person might not yet have accepted (or even be aware of) the fact that their sexual orientation or gender identity is different from the majority, there is also a real reluctance from victims of homophobic bullying to report it to teachers or (perhaps even more scary) to tell their parents or family about it – which might be tantamount to them having to ‘come out’ and risking further rejection, upset or anger.

The emotional distress caused by bullying in whatever form – be it racial, or as a result of a child’s appearance, behaviour or educational needs, or related to (real or perceived) sexual orientation – can prejudice school achievement, lead to lateness or truancy, and in extreme cases end in suicide…. Low reporting rates should not in themselves be taken as proof that bullying is not occurring

Dept for Education and Employment 1999

A presentation by Dr Ian Rivers, of the College of Ripon and York St John, to The British Psychological Society's Lesbian and Gay Section Conference in 2000 outlined the results of his three-year study into the impact bullying has on academic achievement and long-term mental health problems. For the research, 190 lesbian, gay and bisexual people, with a current average age of 31, were questioned about their experiences at school. The study indicated that the bullying they experienced was both long-term - lasting for periods of about five years - and systematic, and carried out by gangs rather than individuals. Whilst significant work has been done on anti-bullying programmes in Scotland, there appears to have been a marked reluctance to explicitly address homophobic bullying – because that would require much more positive messages to be given out about sexual orientation and that still has a tendency to provoke a challenging reaction from organised pressure groups. As such whilst some of the specific bullying behaviours might have been addressed, there is no indication in Scotland currently that the situation in relation to negative homophobic attitudes in the school environment has improved greatly.

- Over half of all respondents had recently experienced homophobic bullying at school
- 86% of respondents believed their school was not a welcoming place for young LGB people or were unsure whether it was

Something to Tell You – NHS Greater Glasgow - 2002

The Rivers report suggests that half of the sample contemplated killing or harming themselves, and four in 10 actually harmed themselves at least once. Almost a third harmed themselves on more than one occasion. The research also indicates that
17% - nearly one in five - displayed symptoms associated with post-traumatic stress disorder later in life. As adults, some still suffer flashbacks and nightmares linked with being bullied at school. Separate research looked at the comparative experiences of bullied and non-bullied heterosexuals, as well as non-bullied lesbian, gay and bisexuals. The findings suggested that as adults, those who had been bullied, whether gay or heterosexual, were found to show symptoms of depression, anxiety and internalised hostility.

"The kind of behaviour we are seeing against kids, who may not even be gay, just different (and therefore labelled) is savage and unrelenting. It is more what we might expect of a jail system than the supposed safe haven we expect schools to be for our kids. It is not a safe place for kids who are perceived to be gay. School culture is virulently anti-gay." From: Plummer Ken (1989). Lesbian and gay youth in the UK

When, after years of being exposed to this homophobia, a young person realises that they are lesbian, gay, bisexual or transgender themselves, many think there's something wrong with them. They don't want to be "nasty" or "sinful" – they might desire to conform and be like their friends. Many young people on first realising that they're attracted to people of their own sex, spend a lot of time trying to change themselves. Many of them sleep with people of the opposite sex, hoping this will make them "normal" and as a result of all of this, too many young people lose their sense of self-worth, because they get a message from society that it's not O.K. to be who they are.

A conference in 1997 organised on Youth issues by the Equality Network generated the following range of issues from a working group of young self-identified LGBT participants (these are presented exactly as they expressed them). Whilst some of the issues have been addressed through legislative change, many of the concerns remain the same.

Legal
- Age of consent (now amended but of real concern to young people who felt it criminalised them)
- Cottaging - law around gross indecency, difficulty making initial sexual contacts – it's not just adults who seek sex in such environments
- Discrimination - lack of protection, no rights
- Voting age - young gay people often forced into early independence without a democratic say
  1.1.2 Housing
- Homelessness - more likely to become homeless after coming out to parents
- Security - difficulties in obtaining and retaining accommodation for young gay singles and couples
- Safe Houses - absence of safe gay housing projects for the young
  1.1.3 Education
- Section 28 - misinterpretation both deliberate and through fear
- Teacher Training - no raising of LGBT issues in training
- Non-inclusive sex education - no coverage of homosexuality, heterosexism
• Anti-harassment work - little done to combat bullying or setting up support systems
  1.1.4 Money
• Gay scene - baptism of fire, expensive and predatory
• Exploitation - expensive gay world, social pressure to conform to ‘lifestyle images’
• Marketing - expensive products aimed at young, setting up need for parental support, borrowing etc.
• Debt - likely to get into major debt (esp. students) pushed into premature independence
• Prostitution - need for money for living, confirmation of sexuality in absence of school or other support
  1.1.5 Services
• Lack - a general lack of services for young LGBT people
• Consultation - a lack of consultation over services and needs
• Marginalisation - young people's needs marginalised, high priority on needs of older men especially eg safer sex advice not targeted at young people or those who are still virgin
• Access/Awareness – many services aimed at ‘out’ people, advertised through scene and press – how to get information if not out.
  1.1.6 Employment
• Low pay - young people paid less
• Work rights - early careers have little rights, part-time work, easy to lose job
• Protection - no protection for dismissal if gay
• Restriction of choice - stereotyping hairdressing etc., homophobia linked with working with children
  1.1.7 Families/Social
• Parenting rights - little access to fostering, adoption etc., or having own children and connections with partners
• Safety - gay bashing
• Support networks - support networks are mostly heterosexist for young people
• Parent support - often absent for young LGBT people
• Media - lack of positive images of young LGBT people – portrayed as victims of ‘old men’
• Diversity - lack of diversity' on the gay scene
• Gay scene - off-putting, exploitative, predatory
• Positive role models - traditional family role model inappropriate to gay people

11. Media and public portrayal / representation

One of the main issues raised by respondents to Stonewall Scotland’s development survey in 2000 (see section on Legislative Framework for full results) was the lack of positive information and imagery about LGBT individuals and communities within Scotland. This was expressed through a desire for:

• Public / social education and PR campaigns (eg. On the models of Zero tolerance and anti-racist campaigns – perhaps integrated into the Respect initiative)
• Raising awareness of LGBT issues amongst the public and in the media
• Proactively tackling negative media stereotypes and inflammatory reporting

…… in order to develop wider public / social acceptance and understanding.

This is challenging in that without a concerted effort and clear leadership, LGBT issues will continue to be omitted from mainstream public awareness programmes (as run by HEBS or the Scottish Executive) and cheap papers will continue to print the stories that sell, irrespective of the harm they may do to individuals.

In 1995 Terry Sanderson wrote a book entitled Mediawatch: The treatment of homosexuality in the British Media, in which he considered the newspaper and television industries’ ongoing obsession with lesbian and gay matters and posed the question as to whether sections of the media simply reflect society’s homophobia, or help to create and maintain it. There seems little doubt that at a certain level there is a media manipulation of homosexuality for political or commercial purposes. Right back from the trial of Oscar Wilde to last year’s panics over ‘explicit gay sex lessons’ brought daily to our attention by The Scottish Daily Mail and The Scotsman using material directly provided by the Christian Institute. Whilst the objectives of such reporting may be to promote a certain organisational ‘line’ or standpoint or, as the Daily Record exemplified during the media frenzy surrounding the repeal of section 28, to influence the political functioning of the Parliament – the impact upon LGBT individuals (either indirectly or personally) is significant.

There is a very strong sense amongst LGBT people in Scotland (particularly transgender people in this area) that self-regulation of the media is insufficient and that papers can get away with printing stories based solely on people’s sexual orientation or gender identity that they would not risk publishing if it were purely an issue of race or gender. Concrete examples of this lie in the way that the lives of transsexuals (particularly those working in any public setting: police, education, health etc) are ridiculed – often with photos and full personal details - if they dare to undergo a transition and then return to their employment. Suggestions also (often wholly unfounded) in recent high profile stories, that the murderous activities of people such as Thomas Hamilton or William Begg are a result of their sexual orientation are presented in a way that would not be accepted if applied to another equality ground.

Part of Stonewall Scotland’s work is to address the ‘hearts and minds’ issue in Scotland today – much of which will have been raised or certainly fuelled, by the experience of the Keep the Clause campaign in 2000. What does that mean in practical terms? Firstly it involves providing support and information within the LGBT communities in an attempt to help build self-confidence, self-esteem and develop the skills and infrastructure that might help us deal better with such concerted attacks in the future. Secondly it means using every method available to provide information and education to the population at large to counteract some of the myths that are developed and perpetuated by those who wish to see LGBT people kept on the fringes of ‘normal’ society – often in partnership with self-interested and sensationalist tabloid journalism.

At the time of the Ayr by-election the “Keep the Clause” hysteria was at its height. Petitioners were on the high street every day alongside the
parliamentary candidates for whom this had become the primary election issue. They brandished placards and leaflets that were inflammatory, often inaccurate and entirely homophobic. The worst I saw which made me doubt my own eyes was a sandwich board that simply said “A vote for Labour is a vote for Buggery” – this couldn’t be the Scotland I knew!! …. But it was.

Lesbian 60+ Borders – Caused by the Clause

12. Community development and funding

LGBT people in Scotland have made progress in addressing prejudice and discrimination based on sexual orientation and gender identity. They have been to the fore in contributing to far-reaching legislative and policy change including the repeal of section 28 and the development of the Equality strategy. LGBT people have managed to build a wide variety of community support, activist and social organisations, usually in the face of significant barriers and limited resources and opportunities.

However, many LGBT people remain very isolated, without access to or knowledge of LGBT community organisations, supports or social outlets for meeting other gay people. This has consequences, both in terms of the impact on the individual’s health, social well-being and personal development, and in terms of lost contributions to the broader community.

Equally, compared to that of some of the other constituencies in Scotland who face discrimination and abuse, the LGBT community’s own infrastructure is very undeveloped. There are approximately eighty local LGBT organisations of various sorts (social, self-help, health, community, political, religious) across Scotland, but these groups are almost all completely unfunded, often very small and largely working in isolation, without links either to other LGBT organisations or to groups working in other equality-related areas (for example to address race, gender and disability issues)

The LGBT voluntary sector in Scotland has historically struggled to access funding from either public or private bodies. Many factors have contributed to this: an absence of knowledge about LGBT exclusion, a lack of focus/prioritisation on LGBT issues, a degree of fear around the public sensitivities of funding the LGBT community, the lack of infrastructure and capacity within the LGBT voluntary sector itself and at the most extreme, a level of institutionalised homophobia.

Whilst some considerable progress has been made over the last 2 years on both a national level (Community Fund’s funding of Beyond Barriers, Scottish Executive Equality Unit research monies, LGBT consultation project with the Equality Network) and a local level (LGBT community safety forums in Glasgow and Edinburgh, some local youth work in Lothian) the question of any longer-term, sustainable funding strategy on both a national and local level for the LGBT community remains unanswered. The Scottish Compact for the Voluntary Sector recognises that there is a large and diverse voluntary sector with organisations working in many fields that vary greatly in their objectives and organisational structures. The important role of this sector in almost every aspect of service provision is recognised in COSLA’s
recent paper ‘Policy guidance on the funding of voluntary organisations’ which underlines the need to recognise:

“the role independent voluntary action has in promoting the welfare and quality of life of their communities”

This is never truer than in the LGBT sector where there is currently a paucity of mainstream support and service. This means that any specialised LGBT support and service provision that does exist is delivered more often than not by an under funded and over-stretched voluntary sector working outwith established infrastructures.

13. Religion

Whilst encountering much of the same decline in active participation that religion across the UK are experiencing, the influence of organised religion in Scottish society, media and politics remains significant. In relation to LGBT issues, this can prove a delicate balance with a real potential for conflict as groups and individuals with differing perspectives seek to uphold what might on the surface appear to be opposing ‘rights’.

I am a practising Catholic and I believe, as the church teaches that God made me. It must therefore follow that God made me gay. I therefore found it particularly hurtful when Cardinal Winning was appearing in tabloids, almost daily, and coming out strongly in support of the “Keep the Clause” campaign and stating so many times that gay couples could not have a stable relationship. I am also a father of three children and I found the poster campaign asking people to vote for the ‘balance’ to be retained to protect their children, particularly offensive. Fortunately I am in the position that all of my children have accepted me for who I am and have no problem with the fact that their father is gay (despite the efforts of their mother to poison them against me and my partner).

Gay man 41 – 60 Edinburgh / Glasgow – Caused by the Clause

For many LGBT believers, it is a constant struggle to balance their faith with their sexual / gender identity (this is consistent across Christian, Jewish and Moslem respondents in Scotland) and significant numbers highlight their church / place of worship as the place where they have encountered most homophobia. Equally some LGBT people who do not have religious belief or affiliation increasingly see religion as one of the main ‘enemies’ of equality and are intolerant towards the expression of it.

Of course the reality is that there is far less of a polarity than might appear. The agenda has a tendency to be hijacked by people holding more extreme views but it does result in an ongoing point of tension in the experiences (religious or secular) of most LGBT people in Scotland This is manifest in many practical ways such as the inevitable media spokespeople who can be relied upon to publicly oppose any advances in equality right through to the use of certain churches as a key distribution point for the Keep the Clause petitions and so-called referendum.

The challenge increasingly (particularly with the advent of the Art 13 Employment Directive) will be to balance issues of religion and sexual orientation in such a ways
as to recognise the fundamental human rights of each and to build consensus and understanding around issues of extreme sensitivity.

As a Parish Minister my reaction was one of shame – and then of relief that the Scottish Parliament managed to stand (fairly) firm against the ranks of "committed Christians" whose understanding of the gospel is so different to my own

Heterosexual Male 60+ Edinburgh / Glasgow – Caused by the Clause

14. Employment

The current lack of any kind of employment protection on the basis of sexual orientation (transsexual people only protected since 1999 as a result of the case of P v Cornwall County Council) mean that direct discrimination and bullying in the workplace remain a reality or a fear for many LGBT people. Whilst forthcoming legislation resulting from the EU article 13 employment directive will finally put legal protections in place by December 2003, strong structures for support, education, monitoring and as a last resort, enforcement will still be needed.

As a secondary school teacher and later an adviser in education I kept my sexuality a secret so as to avoid hostility from colleagues and pupils. The climate of homophobia in schools is such that it would take a certain kind of courage to be openly gay - and it certainly did 20 years ago when I was in my 30s. From the number of gay and lesbian colleagues I have known in my career who have come out, compared to the greater numbers who have not, I know I am not the only one to have taken the 'easy' way out. I knew one colleague, a male primary head, who was 'outed' by a newspaper article. This was 15 years or so ago. His staff and parents rallied round him, and he ended up the stronger for the experience. But that was not the aim of whoever 'outed' him. They wanted to smear him and damage his career. It did not, but it might well have done.

On the other hand I worked with one colleague who was openly gay, and he was verbally abused, harassed, and finally had to move schools and home in order to find some kind of relief from the stress, which took a toll on his health.

Lesbian (50 - 60) West of Scotland – response to e-mail request for experiences

The whole issue of being ‘out’ or not means that gay, lesbian and bisexual workers can often face a very particular type of subtle discrimination, one that heterosexuals often don’t even understand: pressure to stay in the closet. Even when not directed at a specific employee, jokes, casual remarks, graffiti and numerous other signals can send an unmistakable message that gays and lesbians are at best different and objects of curiosity and at worst, unwelcome.

TUC – Straight Up research (1999)
• 44% experienced discrimination at work because of known or assumed sexual orientation
Stonewall – Less equal than others research 1993
• 68% said that they were not ‘out’ at work

Employment issues are particularly sensitive in areas where LGBT people work with young people (education, social work, youth leader, community work etc) or in areas that may entail close interaction with (or numerical support from) the public eg. health services and elected positions such as local councillors / MSPs.

I still have a problem being out in any aspect of my life ... in that I’m a teacher. I work at one of the catholic schools in (area), I’m non-catholic and I’m a gay man. And I just think that would be career suicide if I admitted that, still in this day and age. I feel like I’m leading a double life and it’s so frustrating from that point of view. So I feel there’s a lot to be done educating

Respondent, Regional group Scot. Exec. research

15. Financial

Finally in terms of LGBT people’s experiences in Scotland today, there are some real challenges to economic security that people have to work around:
• Financial penalties still frequently apply to gay and bisexual men in relation to life assurance, mortgages and the like as a result of a discriminatory attitude towards their likelihood to be affected by HIV / Aids
• Lack of partnership recognition means same sex couples are unfairly penalised in relation to;
  o Partner’s pension benefits (affecting both lump sum on death and ongoing payment of pension to surviving partners)
  o Inheritance tax – incurring tax on what would normally be exempt for spousal joint assets
  o Child maintenance issues on the breakdown of a relationship
• Being treated (or not being treated) as a benefit unit – there is little consistency around this and while in some cases same sex couples benefit in others they are penalised

The provision of LGBT aware services

The directional leadership established through the Scottish Executive’s Equality Strategy recognises that change is necessary and that there are tangible steps to achieving such change. Social difference (and individual difference around personal characteristics) can be acknowledged, valued and accommodated. Inclusion can be constructed on the basis of such a perspective on difference. This inclusion is more than simply being counted in: it is the capacity to play an active part in the organisation and activities of society. Bringing about such inclusion requires strategies to move us from the assumption that a generic service or provision will suit everyone equally, to adapting to the changes required to accommodate increasing social diversity

In order to achieve this, the public profile of any organisation or service deliverer needs to be examined; likewise its policies and procedures, the content and levels of
professional development and training that are available, and finally, if necessary, the question of specific programmes targeting certain groups – in this case lesbian, gay, bisexual and transgender people who have been disadvantaged or excluded in the past – also need to be examined.

For the LGBT community, the key problem is that it has rarely been explicitly included in the kind of policy assessments that have informed the development and ongoing provision of mainstream services. Even with the advent of Best Value and Community Planning, where policies are being more frequently evaluated and reviewed, the issue of ensuring relevance and accessibility for people of all sexual orientations and gender identities has only ever been partially addressed.

Nonetheless policy development in such core areas as education, housing, transport, economic development and regeneration, community safety, health, social welfare, culture and leisure and employment, provides unique opportunities to ensure that all sections of society, including LGBT people, are recognised, treated equally and taken into account in the development of relevant and inclusive services.

A major problem in terms of service provision and take-up is that LGBT people either may not seek help or may hide their sexual orientation from various service providers because of fear (or previous direct experience) of prejudice and discrimination. The resulting “invisibility” (as outlined above in section 5 - Coming Out and being counted) is a major problem in itself. Service providers can be genuinely unaware that they have LGBT service users and so no remedial or LGBT specific action is taken in terms of service provision.

This problem has been examined in some depth through some of the Irish Equality Authority’s work on LGBT inclusion. They recommend a strategy to address the problem based on action in four key areas;

- Public profile
- Policy and procedures
- Professional development
- Programme development

All four areas are inter-related. For example, LGBT positive policies will not make a difference without training for the staff that turn them into action; trained staff are constrained without appropriate programme development on related issues; and clients or customers may not be aware of an agency’s efforts to become more accessible to LGB people if the public profile remains exclusively heterosexual.

This lack of visibility of LGBT people as service users or as employees is often presented as the main reason for their lack of targeting in the policy system. However, as people are now starting to recognise that LGBT people can be assumed to be part of all populations, it is entirely reasonable that this should be taken into account when all areas of social policy are being designed and implemented. It is not necessarily an issue of identifying particular individuals or groups but of acting on the assumption that all populations comprise people and households of differing sexual orientation and gender identity (just as it is already
assumed that buildings must be accessible to people with disabilities even if no such people have currently been specifically identified as using them).

Not only should there be a statutory requirement for service providers to ensure that their service does not discriminate, directly or indirectly or by association. Service providers should also take steps to ensure that a service user does not suffer sexual or other harassment. Service providers are liable for sexual harassment and harassment perpetrated by staff, unless they can demonstrate that they took reasonable measures to prevent the harassment or sexual harassment from occurring.

One of the simplest and most effective ways of conveying a message of welcome and acceptance to LGB people is through the public profile the agency presents, including brochures, positive imagery used in promotional materials and clear statements of policy in public communication. Any negative reactions from staff or other clients could then be used as an opportunity for raising awareness and would help to start the process of making society’s casual homophobia as unacceptable as negative attitudes expressed on the basis of race, gender or disability. Finally, service providers could also engage in outreach work into the LGBT community to ensure that consultation opportunities are well publicised and actual and potential service users know that they will be respected for who they are.

Balancing mainstreamed and specialised services

Whilst the long-term objective is, in Stonewall Scotland’s view, to move to fully integrated services that recognise the varied needs of all service users and where staff are skilled in delivering an appropriate response for each audience - some considerable development work is still needed to get to this future state. We envisage that this development falls into three broad areas;

1) The **knowledge** to understand what changes need to be made and why
2) The **skills** to be able to effectively deliver such changes
3) The attitudinal **motivation** to want to make those changes

Until we are able to guarantee those three dimensions, then there is a strong argument for retaining some specialised and carefully targeted services in appropriate areas that deliver particular responses for LGBT service users. This is not a plea for ‘special’ treatment; rather it is a suggestion that (at least in the short-term) in order to be able to ensure **equal** treatment, specialised services (provided often by people with a specialised knowledge or affinity with the service user) may be needed to bridge the gap.

This can be demonstrated through the example of gay men’s health services which were developed initially in response to the stigma associated with HIV / AIDS. The vast majority of LGB people are not out to their GP and as such gay men in need of sexual or even general health services may well not seek appropriate treatment or be reluctant to be honest about their behaviour, thus preventing an accurate medical history from being taken and therefore impacting on effective diagnosis. Initiatives such as the Steve Retson Project in Glasgow and Gay men’s Health in Edinburgh have been highly successful in offering a specialised service to gay and bisexual men that has resulted in very concrete outcomes; more people taking HIV tests,
more men taking responsibility for their personal health and getting regular sexual health check-ups, more cases of sexually transmitted infections (STIs) getting picked up and treated.

We firmly believe that mainstreaming in all areas of service provision is the most sustainable future, but in understanding and meeting the needs of LGBT people in Scotland, there is some considerable catching up yet to be done before that is a reality. There is also some high quality service provision to LGBT people that has already been developed in the voluntary sector that should be recognised, valued and financially supported.

The current legislative framework

Whilst there are some clear legislative changes that remain to be effected (as well as some notable changes that have been made in recent years (repeal of Section 28, equalisation of age of consent, first recognition in Scots law of same sex partnerships in Adults with Incapacity Act etc) it must not be forgotten that significant work is still needed on policy development and implementation to ensure that changes in laws also translate into changes in attitudes and behaviours. We believe therefore that while legislative change is a critical first step, the incremental achievement of that should not allow us to sit back and believe that the work is done. Equality under the law is essential but it can only be seen as the gateway to full citizenship.

Our 6 areas of priority within the forthcoming legislative framework are as follows:

1. Partnership recognition
2. Parenting and family law
3. Comprehensive equality legislation
   a. Including public duty on public bodies to promote equality for all
4. Addressing inequality in sexual offences law
5. Recognition of true gender for transsexuals
6. Formalised structures for monitoring, enforcing and equality proofing

These priorities have been developed through consultation with supporters and the broader Scottish population along with a UK-wide strategic review of opportunities and objectives for Stonewall. Each area is examined in more detail below.

Some of the consultation results in their summary forms give a useful background insight into the context against which these issues are being raised. In June 2000, a development survey was sent to all the 3700 members of Stonewall Scotland’s mailing list at that time. The survey sought to seek input on the issues that Stonewall supporters believed to be most important for LGBT equality in Scotland over the coming 5 years and what they would like to see from Stonewall Scotland in addressing these. A total of 340 fully completed returns were received (which allowing for those returned as undeliverable by the post office) represented a very acceptable return rate on delivered items of just under 10%.

- The breakdown of returns by gender was 36% women and 64% men.
- Geographically returns were broken according to 4 regions:
  o Borders and South 7%
Participants were asked to identify what they believed to be the *three* main issues for LGBT equality in *Scotland* as of June 2000. Clearly responses varied greatly as did different individuals’ style of expressing the same issues. The areas of importance as expressed by the respondents are listed here (weighted by number of first mentions).

- Legal recognition of same sex partnerships (some called it ‘marriage’) 168
  - Specific mentions of pensions, inheritance, tax, benefits, next of kin 34
- Getting rid of Section 2a / addressing aftermath of Section 2a (*depended on return date*) 140
- Achieving equality in all areas of legislation / An Equality Act 126
- Combating institutionalised discrimination (public bodies, employment, police) 90
- Gaining public / social acceptance (some said ‘tolerance’ others refuted that word) 74
- Challenge / work to address bigotry of churches (faith communities) & doctrines 54
- Public / social education and PR campaigns (eg. Zero tolerance and anti-racist) 52
- Equalisation of age of consent 50
- Raising awareness of LGBT issues amongst the public and in the media 42
- Parenting / adoption 42
- Challenging acceptability of homophobic behaviour 40
- Proactively tackling negative media stereotypes 40
- Young people’s issues 39
- Appropriate education / sex education re. LGBT issues in schools 30
- Passing legislation dealing with incitement to hatred for LGBT people 30
- Visibility of positive images / role models 26
- Health issues (access to services / HIV funding) 24
- Addressing the problems of rural isolation of LGBT community in Scotland 24
- Addressing homophobic bullying at school / work 20
- Bill of rights / implementation of ECHR 20
- Overhaul of sexual offences / gross indecency legislation 18
  - Better relations with the police 16
- Providing information / support for LGBT groups/ individuals to work *together* 12
- Immigration rights 12
- Transgender rights 11
- Getting closer to local authorities to change behaviours / policies 10
- Older people’s issues 8

1. Partnership recognition
The relative invisibility of LGBT people is perhaps most marked in the absence of official, statutory and legislative recognition of same-sex partnerships. Few of the rights, responsibilities, commitments and benefits assigned to married heterosexuals are available to same-sex couples and only a few are enjoyed by non-married heterosexuals. Unmarried heterosexuals may choose to postpone or reject marriage but for same sex couples, marriage is not an option. In Scotland (and GB overall) marital status impacts significantly on the extent of rights in relation to adoption, immigration, taxation and welfare entitlements among other areas.

Same sex couples have no guarantee of fair treatment under the law because legally their relationships simply do not exist. This not only has an impact on their ability to access certain rights and responsibilities but also indirectly makes a powerful social statement suggesting that such relationships have no intrinsic value.

To exclude same sex couples from such protections proclaims the inevitable message that society judges their relationships to be less worthy of respect, concern and consideration than the relationship between members of the opposite sex. The fundamental human dignity of the same sex couple is severely and palpably affected by the impugned distinction. The distinction is drawn on grounds relating solely to one of their personal characteristics, their sexual orientation. If the law is as many Lords state it to be, then it discriminates against a not insignificant proportion of the population who may justly complain that they have been denied their constitutional right to equal treatment under the law.

Lord Justice Ward in summing up Fitzpatrick v. Sterling Housing Association Ltd (1997) 4 All ER 991

The vulnerability experienced by all couples during times of death or serious illness of a partner, the anxieties involved in child rearing and child custody are all exacerbated for same sex couples. The LGBT community has many examples of diverse families, partnerships, domestic arrangements and relationships. The issue of parity for same-sex couples is currently receiving serious attention in many European countries and in various jurisdictions this has already led to registration (and subsequent legal / social recognition) of same-sex partnerships in relation to the rights and responsibilities of inheritance, immigration, taxation, pension, parenting, welfare and health.

The ongoing moves by the Scottish Parliament in legislation eg Housing Act to reduce the inequalities between opposite sex and same sex co-habiting couples, are welcome and eliminate one level of inequality. But it should not for one moment be assumed that this offers equality – as the opportunity to move beyond the most basic level of rights and responsibilities and the chance to make a clear socially recognised statement of public commitment remain out of reach.

We would therefore wish to see a new legal framework for Civil Partnership registration in Scotland (along the lines proposed by Robin Harper MSP earlier this year) that recognises the new structures under which both same sex and opposite sex couples are increasingly living their lives. Whilst separate from marriage and entirely secular, this would none the less allow access to the rights and
responsibilities currently available to spouses, and the social recognition of a family unit, to be available to other committed partnerships for whom, for whatever reason, marriage is not an option.

2. Parenting and Family Law

As more LGB people become parents there is now a body of research, particularly in this country, which has looked at the quality of parenting and the experience of children growing up in these families. These studies have concentrated on children’s gender identity, socio-emotional development, sexual orientation and the quality of parenting.

The most robust work undertaken in this country is by Dr Susan Golombok from the Family and Child Psychology Centre at City University. Inter alia, her work has included longitudinal comparisons of the experiences of lesbian mother families and families headed by single heterosexual mothers. They have also compared the experiences of 30 lesbian families who had parented a child without a father from the first year of birth, 42 families headed by a single heterosexual mother and 41 two-parent families. In all studies parent interviews, teacher questionnaires and standardised child assessments were used.

These studies have found no measurable difference between the children of lesbian mothers in terms of gender identity, social or emotional disturbance, quality of friendships and social acceptance, and sexual orientation. In relation to their longitudinal study the authors concluded,

> Children brought up by a lesbian mother not only showed good adjustment as young children but also continued to function well as adolescents and as young adults, experiencing no detrimental long-term effects in terms of their mental health, their family relationships with peers and partners in comparison with those from heterosexual mother families.

They point out that in general,

> Existing findings seem to suggest that aspects of family structure such as genetic relatedness, number of parents and the mother’s sexual orientation may matter less for children’s psychological adjustment than warm and supportive relationships with parents and a positive family environment. New families it seems flourish on values.

Given the reality of people’s family lives today, there is an urgent need for the parenting relationships of same sex couples (both male and female) with their children to be recognised and protected in law. This applies to biological parenting (including access to fertility support), adoption and fostering and step-parent relationships.

3. Comprehensive equality legislation

co-authored by Anthony Lester QC, Mary Coussey and Tufyal Choudhury. The Report identified serious defects in the present framework of equality legislation, and proposed that there should be a single Equality Act in Great Britain, supplemented by regulations and codes of practice. The Report also proposed that there should be a single Equality Commission with responsibility for enforcement of the legislation.

We support the call that was made within this report for a “new, more unified approach to equality”, and we believe that this is not possible without a rational and consistent single Equality Act, dealing with all grounds of unfair discrimination in all spheres of activity. One pied of legislation is needed to address the piecemeal mixture of existing equality provision to ensure a comprehensive measure that provides a unified approach across all grounds in all spheres of public life.

We believe that there is now an overwhelming case and indeed groundswell of demand, for comprehensive equality legislation that protects the rights of LGBT people against discrimination alongside all other members of society. The freedom to work without prejudice, to enjoy and have access to the benefits of goods and services on the same terms as everyone else, to participate in public life without discrimination are fundamental aspects of the dignity and rights of all people as protected under Article 1 of the Universal Declaration of Human Rights.

We believe that the appropriate long-term objective is for a single Equality Act and a single Equality Commission. Equality is a fundamental value in a modern and democratic society and it should not just be the concern or ‘property’ of minority interests. We need consistency in scope, standards, timetables, and burdens of proof. A one-stop shop for everyone where promotion, education, information, litigation and enforcement are seen as part of an overall package relevant to individuals, employers, service providers, local authorities and government alike. Such legislation should seek to encourage an inclusive, pro-active, non-adversarial approach to fair participation and fair access, in particular by placing a positive duty on public authorities to promote equality, and on employers to conduct workforce reviews and, where appropriate, undertake employment equity and pay equity plans.

We fully recognise that equality legislation is reserved to Westminster but would encourage the Scottish Parliament to play an active and influential role in developing solutions that are comprehensive and appropriate to the needs of Scotland alongside other parts of GB.

4. Addressing inequality in sexual offences law

Whilst discriminatory legislation in relation to the male age of consent and to consenting sexual activity between more than two men in private has now been redressed as a result of European Court rulings, there remains a significant inequality in how sexual offences law treats male sex.

The provisions of the Sexual Offences Act are widely used to prosecute gay men accused of cruising in a public place whether or not there is anyone present. Heterosexual couples engaging in similar activities (‘lovers’ lanes, secluded beachfront car parks etc) are seldom treated as harshly or liable to such public
approbation / salacious local media coverage as that given to men charged with sex in public places.

We do not promote a ‘right’ to public sexual activity but we do believe that discriminatory offences such as "gross indecency" which apply only to gay / bisexual men should be scrapped and replaced by a new public sex offence applying even-handedly to heterosexual and homosexual behaviour in public. The law should cover crimes that apply to all people equally.

Specific sexual offences relating to gay men give out a message that homosexuality is wrong and that gay men are less valued in society. They encourage intolerance and prejudice, which can seriously affect the lives of young gay people and give a green light to homophobia and queerbashing.

5. Recognition of true gender for transsexuals

Currently the sex that is specified on an individual’s birth certificate (unless it can be proven that an error was made in the birth certificate record) is the sex that continues to be recognised, for all legal purposes for the remainder of their life. For transsexual people, a direct result of this is that the subsequently are likely to face a range of discrimination in law. This includes being unable to marry a person of the opposite sex (although in theory they could therefore legally marry a person of the same sex) and being unable to retire at the age normal for their true sex. These and many other related issues are fully explored in the Home Office document Report of the Interdepartmental Working Group on Transsexual People, April 2000. Out of the other 40 Council of Europe countries, only Ireland, Andorra and Albania sit alongside the UK in failing to provide any mechanisms for legal recognition of the true sex of a transsexual person. We would urge the Scottish Parliament towards redressing this legal anomaly.

6. Formal structures for monitoring, enforcement & equality proofing

Equality proofing is emerging as a policy tool within a wider focus on mainstreaming equality, which is itself a relatively new but very welcome approach to the pursuit of equality. It still requires significant development – both conceptually and in its practical application – but it holds significant promise for the real integration of the equality agenda.

We believe however at the moment, that certainly in relation to LGBT issues, but also in relation to some issues affecting other defined groups, there is inconsistency in the way that such monitoring and proofing is carried out. In comparison to equality legislation in the Republic of Ireland and Northern Ireland, where there is a statutory duty on public bodies and legislators to conduct a full Equalities impact assessment to identify and address all implications of actions, the process in Scotland appears significantly less robust. Even when an issue has been identified through the process of equality proofing there appears to be no clear mechanism for that to be addressed before further progress can be made.

Implications of Article 13
1. Four Core Principles

The passing of the Framework Directive on equal treatment in employment was a very important development in equality legislation and a very important step for LGB people in particular. It marks in many ways a new era. For LGB people the manner and terms of its implementation will set a benchmark for future legislation in this area and affect the public perception of the place of people of diverse sexual orientations in public life.

Accordingly we believe that the principles that will support these major changes should be carefully thought through and should determine our approach both short term and long term to implementation in Scotland and indeed across GB:

First principle – Equality of protection

Protection afforded to lesbians, gay men and bisexuals should be equal to that provided to those experiencing discrimination on grounds of race, gender, disability, age, religion or belief.

For this reason, specific legislation dealing with sexual orientation discrimination under this directive should be framed within a longer-term aim of guaranteeing equality for all citizens in all areas of public life.

Second principle- Working in partnership to deliver equality

The implementation of the directive should involve partnerships where appropriate between all relevant bodies, business, trade unions, NGO's representing the different strands and the existing Commissions. A joint approach to delivery will, we believe, be a potent force for change. We note in the private sector there is a growing commitment to dealing with issues of sexual orientation, which is paralleled in the trade union movement. It would be foolish to ignore this goodwill and the expertise and experience that is already developing.

Articles 13 and 14 of the Directive also emphasise the importance of working with social partners and relevant non-governmental organisations. We believe that it is vital that LGBT groups and organisations are closely involved in the implementation and delivery of the Directive. It also needs to be remembered that lesbians and gay men still face discrimination in many other areas of life and that many people are still uncertain about trusting mainstream agencies. Any case involving discrimination are likely to involve very sensitive issues of being ‘out’, questions of confidentiality. It will in our view require the involvement of LGBT organisations to make any interim arrangements credible to these communities.

Third principle- Clarity and consistency of message

What people understand by legislation is often as important as what the law actually says. Existing discrimination legislation is often misunderstood, sometimes willfully, as giving special protection to different groups. The introduction of the Directive is an opportunity to spell out a new message. We support the emphasis on such
legislation being complementary to the business case and the case for social justice. We consider further key themes to be:

- a guarantee to all individuals in the workplace that they will be rewarded on their merits.
- promoting a culture of respect for all individuals
- maximising the use of the talents and abilities of all people
- creating new partnerships to build a fairer more prosperous nation.

In the detail of introducing new legislation it is very easy for this message to get lost. Every effort should be made to ‘brand’ the new legislation as a new approach to equality with new key values and ways of delivering.

**Fourth principle – real recognition of devolution**

That full account should be taken of the need for unique solutions in relation to devolved government that fully reflects the national context, culture and social expectations of Scotland.

**Non-hierarchical approach to equality**

Equality as a concept is indivisible. New legislation must guard against enshrining any kind of ‘pecking order’ into the differing grounds of equality. It must also guard against positioning minority group interests as in some way being ‘brought’ up to the level of the majority population or perhaps worse, in conflict with that population – once again we reiterate it is not about ‘special’ treatment to bring certain disadvantaged groups up to the acceptable majority experience. Equality must be a concept that is seen to apply to all individuals within society.

**Promotion of a ‘culture’ of equal treatment**

There is a clear commitment outlined in the consultation materials that have been thus far presented in relation to the implementation of the Article 13 Employment Directive, to legislation that enshrines “equality as an integral part of a civilised society” and to actions that “promote a change in culture” in order to achieve this. We strongly believe that the implications of this cultural change should not be underplayed or overlooked. Whilst we do not expect that any legislation can address this overnight, we would reiterate that the extent of the ‘change in culture’ referred to will require significant thought and resources to be invested in proactive strategies to address it. This may be particularly relevant in some of the remote and rural areas, which make up a large part of Scotland, amongst small employers with limited infrastructures and under-developed human resources practices and within what are considered to be more ‘traditional’ and conservative working environments.

**Interim arrangements**

Current UK government proposals outline a desire to move towards a single equality body in 2006 with a series of suggestions for practical ways of managing the interim arrangements up until that point. It is critical that in the period of 3 years (or potentially more) between the application of the Employment Directive on the basis
of sexual orientation, religion and disability in December 2003 and the establishment of any single body, that robust structures and procedures are in place. Like most new legislation the greatest public awareness is at the beginning, when people look to see what changes will happen as a result. If there are insufficiently robust interim arrangements then much momentum will be lost and the long-awaited cultural and attitudinal shift that is needed to ensure sustainability of such legislative change will fail to materialize, making the task even harder in the future.

This Directive offers the opportunity to establish new ways of working with employers on these issues that rely less heavily on enforcement and litigation but rather promote a greater social dialogue and process of mutual coordination.

On the basis of this, we believe that structures and resources to deliver the following are required for each of the new grounds defined by the directive:

- Advice and information service
- Direct support for individuals and organisations
- A clear strategic communications plan to promote employment rights for all (specifically highlighting the new grounds) linked to a public campaign to achieve the ‘cultural shift’ alluded to by the Minister in the foreword to the consultation document.
- Enforcement mechanisms and formal investigations
- A strategic approach to test cases
- Development of organisational partnerships with employers
  - Training
  - Sharing of good practice
- Creation of printed materials, organisational resources and practical tools to aid implementation
  - E.g self-assessment ‘equality scorecard’ with a development pack for employers to make local improvements
- The fostering of greater trust between employers and employees in the creation of a more equitable society

To deliver these, we have considered two options.

The first was to establish a non-statutory taskforce dealing specifically with the implementation from Dec 2003 of the new grounds of sexual orientation, age and religion / belief. Whilst the idea of coordination and partnership was attractive we felt that the significant differences between the issues faced in effective implementation and the (unfortunately) very real potential for conflicts of interest would likely render such a structure impractical and even unworkable.

Speaking now only in relation to the issues affecting sexual orientation, we propose therefore the development of a new relationship that would build on the existing strengths of a statutory body (namely the EOC) and add to that the specific knowledge and expertise on issues of sexual orientation that come from a number of NGOs and social partners, such as Stonewall Scotland and the Equality Network. We would envisage this as a form of ‘joint-venture’ structure, which retains a degree of autonomy from the other work of both the EOC and the social partners involved.
From our perspective here in Scotland, it is important that there is seen to be a national approach that is cognisant of the specific socio-cultural context in Scotland in relation to sexual orientation. Such an approach would offer the advantage of UK wide legislation being applied in a way that remains pertinent in Scotland. There is already a positive relationship in Scotland between the EOC and other social partners (including Stonewall Scotland) and this has lead to some creative and well-received joint working with employers on the issue of sexual orientation through existing structures such as the Equality Exchange programme.

Such an arrangement will also help develop understanding of and practical approaches to, joint working from within both the statutory and non-statutory sectors. This will start the process of building towards a single Equality Commission for the future.

If this were not a viable option, then it would be important that resources were still directly available to NGO’s and other social partners to carry out the work as described above in relation to sexual orientation in the workplace. This could perhaps be held centrally by the DTI or by preference for us in Scotland, by the devolved authorities of the Scottish Executive and the Welsh Assembly.

We also consider it important in terms of the future shape of any single Equality Commission that structures are created to allow a greater exchange of information and good practice between some of the key bodies currently working in these areas, these might include; the existing Commissions, NGO’s working on the issues of sexual orientation, age and religion / belief, religious bodies, Trades Unions and employer’s groups. Such a group might initially meet infrequently around conferences and key issue discussion forums and would allow the crosscutting nature of discrimination and current overlaps of experience to fully explored and understood.

Access to goods and services

The article 13 Directive in relation to age, religion and sexual orientation does nothing to address the inequalities still faced in relation to equal access to goods and services. Comments above relating to the need for a comprehensive single equality Act highlight the implications of this.

Implications of single equality body

We envisage that a single equality body offers significant opportunity to develop an integrated and consistent approach to tackling discrimination and creating a fairer and more inclusive society.

If however proposals for a Single Equality Body go ahead at UK level it is important that there should be significant a Scottish input at an early stage and not only on Scottish issues. Mainstreaming of equal opportunities is already more advanced in Scotland and Scotland is also ahead of the UK on human rights issues with the intention of setting up a Human Rights Commission for Scotland within the near future.
The relationship between the Scottish Parliament, Westminster and a Single Equality Body in Scotland would need clarification. At the moment while equal opportunities in itself is not a devolved matter some of the areas covered by equal opportunities are eg housing, education etc.

It will therefore be important to get the structure right and a proper formal legal framework established and understood. People wishing to access a single equality body will need to be very clear where to go for relevant support and on what decisions can be taken within Scotland. A formal relationship with the Scottish Parliament and other bodies will also be necessary. We will need to avoid the situation where a subsidiary body in Scotland is merely a ‘tartanised’ version of Westminster thinking that does not fully understand the different social and legal structures against which the body operates.

**Effective workplace monitoring**

Any legislative and attitudinal changes of the scale encompassed in the implementation of the Art. 13 Employment Directive, need to be carefully evaluated to ensure their practical application and ongoing success, particularly in the early days. It is important that this legislation is used to catalyse a move towards more effective monitoring and evaluation systems in relation to sexual orientation and gender identity within the workplace (and ultimately within a broad range of service provision). Whilst we do not advocate an immediate move to the sort of quantitative analysis that is increasingly common in the areas of gender, disability and race (for the reason that there is still significant sensitivity, fear and mistrust for many LGBT people around the whole issue of disclosing their identity) – we do need to be using other more qualitative forms of assessment. Such evaluation might be achieved through staff surveys, the development of employee networks, an emphasis on improved diversity training, equalities evaluation of disciplinary and grievance systems and exit interviews. Such activities will help ‘normalise’ consideration of such issues in the workplace and in service provision and help dilute the stigma around what is in effect a personal characteristic just like race or gender.

**Conclusion**

A significant amount of ground has been covered in the last few years on the journey towards the equal treatment and social inclusion of LGBT people in Scotland and the UK as a whole. But as the preceding pages outline, much also remains to be done on levels of legislative change, cultural attitudes, social policy development and effective implementation and evaluation.

The positive aspect is that there is a significant body of knowledge and evidence around what exactly needs doing to ensure that LGBT people can take their places in Scotland as equal citizens without fear of discrimination, violence, isolation or invisibility.

The challenge is now to the find the political and social will to address the remaining inequalities and genuinely embrace the diversity of a modern democratic country.

**Key References**
1. Lesbian, gay, bisexual and transgender people are under represented at every level of society in Scotland. They have far less rights, poorer employment opportunities, poorer health and are more likely to be attached or discriminated against than the general population.

2. Young people who are LGB or T are often overlooked by society, seen as victims of circumstance or simply tacked onto existing policy agendas.

3. Because there is no link between generations of LGBT people before the point of coming out, each person has to learn ‘how to be LGB or T’ in isolation – there is in effect no community learning.

4. This background information will demonstrate that:
   - There is an extensive range of needs, barriers and pressures which many LGBT young people face
• There is an ‘open door’ in terms of new opportunities, partnerships and policies to support LGBT young people to participate in decisions which effect them
• There is good evidence to support the approach being proposed by Stonewall Youth in delivering the work.

Needs

5. The poor attention paid by academic researchers to LGBT youth when examining citizenship goes a great way to indicating just how marginalised and excluded these young people are. However, Stonewall Youth has gathered evidence where possible.

6. The needs of LGBT youth are as varied as those of any group of young people, but time and time again Stonewall Youth hears the same themes over and over:

Coming Out

7. The process of disclosing their sexuality to others. This is often described by young people as the hardest moment of their lives; a ‘no turning back’ situation where all could be won or lost.

Before I came out I remember feeling very isolated and depressed. I had no vision of my future because I was afraid that I was the only person to feel like this …

young person (under 18)

8. It is seen as a key time for young LGB people in their development and is a pivotal point in their ability to build good and strong relationships with people; to access advice and information services43; and to move their lives forward.

Discrimination, Violence, Homophobia and Heterosexim

9. Young LGBT people often face discrimination because of their sexuality. Social norms still allow national bodies, businesses and the media to openly discriminate against someone on the basis of their sexual orientation. People in authority can easily choose to discriminate against young LGBT people, putting their job security, financial provisions and homes at risk. There is little protection in law and many organisations fail to include sexual orientation (explicitly) within their procedures.

10. Homophobia is the irrational fear of homosexuals, but is also a term used to describe discriminatory practice. Heterosexism is the assumption that being LGB or T is in some way less good than being straight. Many institutions may have an anti-homophobic approach to their service (general anti-discriminatory practice) but may be heterosexist, e.g. not recognising long-term same sex partners in the same way as a heterosexual couple.

43 Smith, C; Scottish Council for Voluntary Organisations Research Unit, “Be Yourself, A Needs Assessment of Young Gay People in the Lothians”, 1997
11. Two independent research surveys conducted in Edinburgh into levels of violence and harassment have indicated that LGBT people (regardless of age) are 4 times more likely to suffer violence or harassment as a result of their sexual orientation, when directly compared with the Scottish Crime Survey\textsuperscript{44,45}. Given the level of reported incidents concerning premeditated violence near to home, it is not surprising that each of these research reports has made a number of recommendations for local authority housing departments.

I was driven out of (small town near Edinburgh where she grew up) after I came out, people who knew me for years, neighbours who babysat me watched as lads put hammers through my windows. I'm in (Edinburgh short stay hostel) now and am getting a flat soon. I'll never go back.

young woman (18)

12. This young woman bore the brunt of a series of violent attacks on her home; she subsequently lost her tenancy and became homeless. Fortunately she was able to access the support she needed and is rebuilding her life.

13. Levels of attacks on young people (of school age) are high, with a recent national research survey of over 4,000 young (under 18) lesbian and gay people finding that 40% had experienced a violent attack within school\textsuperscript{46}. These young people live under the fear of attack and ridicule, unable to make clear judgements as to their own rights as service users. They have been stripped of their status as social equals and made to feel like second-class citizens. It is worrying to note that only 6% of schools include a reference to homophobic bullying in their anti-bullying policy\textsuperscript{47}.

Internalised Homophobia

14. Often young LGBT people can exhibit what is termed ‘internalised homophobia’. Young people gather information about the world they live in as part of their cognitive development into adulthood. For young LGBT people the messages and images they receive from society are predominantly negative. The effect of this is that young LGBT people can become entrenched in a cycle of self-hatred and self-denial, creating barriers which can make them hard to reach. Stonewall Youth believes that internalised homophobia is a primary reason for LGBT youth not accessing services.

Isolation, Lack of Role Models and Affirming Messages

15. As the picture of the LGBT young person starts to emerge we see an individual who is often isolated from their peer group, their families and the professionals.

\textsuperscript{44} Morrison, TASK Agency for Scottish Office Centre Research Unit, “Experiences of Violence and Harassment of Gay Men in the City of Edinburgh”, 1999
\textsuperscript{45} Plant et al, Alcohol and Health Research Centre for City of Edinburgh Council, “Experiences of Harassment and Violence Faced by LGBT People in the City of Edinburgh”, 1999
\textsuperscript{46} Mason et al, Stonewall Equality Campaign (commissioners), “Queer Bashing, a national survey of hate crimes against lesbians and gay men”, 1998
\textsuperscript{47} Douglas et al, Institute of Education, University of London, “Playing it Safe”, 1997
(teachers, GPs, youth workers etc) in their lives, who for most young people are their primary sources of support. Their isolation is compounded by the lack of any affirming messages from school, the media or their friends; and there are few positive role models with whom they can identify. Research in south east Scotland has suggested that services should include more positive images of LGBT people in mainstream literature to counter this imbalance.

**Fear of Judgement and Pigeon-holing**

16. Compounding this lack of positive messages – which would state “these services are as much for you as anyone else” – is the fear of judgement that young LGBT people often have. Anecdotal evidence from clients of SYP has indicated that – once expressed – for the service provider their sexuality becomes the pivotal reason behind all their issues and they cease to be an individual.

*I’m crap at maths, I just hate it. A while after I came out to (name of guidance teacher) she spoke to me about how (name of maths teacher) was worried that something was up. I suppose she was hinting to make me spill any problems. I told her that I hate maths. She didn’t believe me though.*

young man (15)

17. It is easy to pigeon-hole LGBT youth in this way and see them as a set of issues that need to be dealt with. Although within this document much has been talked about the problems associated with LGBT youth, we must be clear in stating that it is the society within which they live and the services which they use that create the problems they face; and not vice-versa.

**Mental Health and Well-being**

18. In the past 12 months Stonewall Youth’s Advice and Support staff provided over 1,000 sessions with young people. A startling 56% of this work was primarily concerned with mental well-being. Issues of extreme low self-esteem, depression and serious self-harming behaviour make up over half of these numbers.

19. Even more disturbing are the findings of Trenchard and Warren who found that of 416 young lesbian and gay people they interviewed, 19% had attempted suicide as a result of being discriminated against because of their sexuality. These rates are significantly higher that the UK national average suicide rates for young men and women (ages 15 – 29 years).

**Parents and Families**

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20. Whereas most young people from minority groups have the support of families, LGBT youth often find themselves without such a structure to fall back on. As has been stated earlier, coming out is a ‘no turning back’ situation, exploring issues of sexuality with parents can be putting at risk the only stable structure a vulnerable young person has.

21. Parents, like any group, can react in a variety of ways to a child coming out as LGB or T. Indeed, every situation is different but we can categorise them into 3 broad responses:
- That is okay, you are still my child, I love you - acceptance
- I have a problem with this (consequences) - rejection
- Never mention this again - denial

22. It is easy to imagine the last two responses can be very damaging to a young person. Both can put at risk their safety and their homes. The stories of young people ‘running away’ from home after being rejected by parents are frightening. These vulnerable young people are unlikely to access services without assistance.

23. Of course, those young people who can rely on the care and support of families, housing and support become less of an issue. Stonewall Youth has supported a large number of young people who stay within their families and indeed it runs the only Parents’ Evenings of any LGBT youth project in the UK (so far).

Effect on Accessing Services

24. As we pull together these various strands, we hope to build up a picture of why it is that young LGBT people find themselves marginalised, in vulnerable situation, do not access services and have low expectations of the levels of service available to them.

25. Also, recent research\(^5\) has shown that of 200 housing workers interviewed, a startling 50% said that embarrassment was the key blockage to them dealing effectively with LGBT issues.

Sex Industry

26. Although not exclusive, the sex industry which operates on the periphery of the commercial gay scene mostly involves young gay men. The reasons for selling sex are varied (for money, goods, attention, somewhere to sleep, drugs, peer pressure and coercion/threat) but for many of the young men on the street there are impacts on their physical, mental and sexual health, their safety and prospects. Stonewall Youth is a community agency which is committed to supporting young people to exit prostitution\(^6\).

\(^5\) Waterson & Rennie, Stonewall Youth Project, “Out in the Cold – housing needs of LGBT young people”, 1999
\(^6\) Baig, B, Edinburgh Royal Infirmary (study), “Medicine and the Male Sex Industry”, 1999
Conclusion

27. The picture is of a group with no distinguishable common feature, an invisible population that becomes known to service providers only at the point of breakdown and failure. To these young people services rarely offer cure, and are incapable of offering what they really need – prevention.
Purpose

1. This paper:
   - updates Members on the submissions received during the consultation phase of this Inquiry;
   - sets out emergent themes from the submissions;
   - invites discussion on the issues raised; and
   - makes proposals for the next stages.

Timing

2. Consultation ran from 8 July to 27 September 2002. Decisions on 12 November will enable Clerks to take forward a more detailed analysis of the evidence, with a view to bringing a further paper to the Committee in December.

Background

3. Members will recall the Committee previously agreed a need for guidance to assist in mainstreaming equality within the work of all Parliamentary Committees. Providing such guidance would, for the first time, address an important aspect of the internal scrutiny remit of the Committee, as well as helping to fulfil its role as a “catalyst” as envisaged by the CSG.

4. The Committee commissioned external research from Sheffield Hallam University (SHU) which was taken forward by Clerks. The draft guidelines dealt with three areas of committee activity:
   - Primary Legislation process
   - Information base
   - Consultation

5. Again, the basis for developing the guidelines in this manner was to concentrate on defining the features of an effective mainstreaming equality process, which defines the outcomes of that process.

Consultation

6. The consultation has produced 45 responses, 42 of who have agreed that their responses may be published and are attached as Paper EO/02/17/03. 3 have requested that their responses are not published and these are circulated separately as Private Paper EO/02/17/04 (P). A copy of the original consultation document is attached as Annex A.

7. 13 Local Authorities replied, the three Independent Statutory Bodies and three Health Boards together with a wide range of organisations and sectoral interests.
Aside from the numbers responding, the level of detail and expertise revealed is gratifying.

Emergent themes

8. The overarching theme is that all respondents agree with the policy intent of the Equal Opportunities Committee in the work to mainstream equality in the work of committees of the Scottish Parliament. A discussion of the issues raised is gathered under the sub-headings below.

Definition of mainstreaming equality

9. There was discussion amongst respondents about what was actually meant by “mainstreaming equality”. Abbeyfield Scotland felt that the definition should include reference to age (specifically “older people”), as did ACPOS, Stirling Council and Fair Play. ACPOS also raised the point that the definition of mainstreaming (in para 6 of the consultation document) “is not as comprehensive as the definition given in the Scottish Parliament Standing Orders, Rule 6.9”1 and argued for consistency.

10. The benefits gained from consistency were further argued by Dundee City Council and the DRC, asking that a common definition be promulgated for all those involved in policy development: the DRC went on to argue that the definition of equal opportunities set out in the fourth CSG principle should be mainstreamed into the first three.

11. The DPHS also pointed out the potential for rolling out the definition across the public sector within Scotland as whole, but highlighted the potential dichotomy when private sector providers did not mesh with the definition, creating a two tier impact within people lives. Dundee City Council asked for financial implications to be addressed in the definition, whilst East Renfrewshire introduced the concept of power structures as an aspect to address. Both UNISON and the WSLGF were concerned that the definition would create (or perpetuate) a “hierarchy of oppression”, with the top three on any list addressed. WSLGF disagreed with the term “mainstreaming equality” and suggested “integration”. EWBG also felt that the definition should preface the guidelines in order to demonstrate commitment to the principle.

Accessibility

12. This occupied a lot of submissions. Aberdeen Trades Council argued that “[c]onsideration needs to be given as to how to produce legislation in formats which can easily be understood by people with learning disabilities.” Given that the format of Bills (which are essentially draft Acts not yet on the statute book) cannot be changed, this is taken to refer to the accessibility of the accompanying documentation.

13. Physical access to meetings, access to information in different formats (including BSL on video), use of interpreters and translation of documents were all cited by a

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1 SO Rule 6.9.2 “In these Rules, “equal opportunities” includes the prevention, elimination or regulation of discrimination between persons on grounds of sex or marital status, on racial grounds, or on grounds of disability, age sexual orientation, language or social origin, or of other personal attributes, including beliefs or opinions, such as religious beliefs or political opinions”
number of respondents as outcomes expected of mainstreaming equality\(^2\). In addition Aberdeenshire Council pointed out the problems caused to those with visual impairment by the current “house style” of reports (which the consultation of necessity followed), Falkirk Council were concerned about the use of jargon and Argyll and Bute commented on the potential difficulties of technical language being used and subsequent comprehension, a point echoed by CACFOA.

_Audit of current practice_

14. There were several calls for an audit or review of current mainstreaming practices\(^3\), with the CRE going onto state “the concept of mainstreaming equalities needs to be reassessed and reinvigorated to ensure that it does not become emptied of meaning or developed into ways of working which have little practical result”. NUS Scotland’s Womens Campaign also mentioned this engagement with the political process. The DPHS felt that the current Scottish Executive work in the housing pilot had become “patchy”, with the DRC citing the need for further research, a broadening of understanding of the term and a recognition that it was not built in at this stage.

_Consultation_

15. The use of a central database (with appropriate Data Protection safeguards) was well received, with the caveat by Argyll and Bute that such a tool would need to be resourced well and have specific responsibility for maintenance and update assigned within the Parliament. Open Futures raised the point that consultation should involve an opportunity for those consulted with to raise their issues, not solely those set out before them. The need to reach “under represented” groups was stressed by most respondents: coupled to this were calls from CRE and ACPOS that that the consultation process should represent a genuine challenge and opportunity to influence and change policy.

16. This wider engagement with the political process, and the need to explicitly account for action (or inaction) with regard to a response, was also raised by Aberdeenshire Council and the CRE. Fair Play specifically called for capacity building to assist those taking part in the consultation process, while CACFOA, Castlemilk Churches Together Refugee Centre were concerned over the issues of representation in the consultation cycle, with DPHS referring to the “usual suspects” approach. ACPOS also state “There is no mention in the document of the action to be taken to ensure that any gaps or weaknesses in policies in relation to consultation in these areas are overcome. It may be appropriate for the Bill sponsor to incorporate an action plan that will address this.”

17. The NUS Scotland’s Womens Campaign raised the resources issue as to whether there should be steers given by committees as to what particular issues within a Bill they were concerned about, in order to allow maximum use of scarce resource along with a possible targeting approach: “there is a balance to be reached between overburdening equality organisations with unnecessary documentation, and underusing their expertise, and missing valuable input.”

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\(^2\) Aberdeen Trades Council, Aberdeenshire Council, Argyll and Bute Council, CACFOA, Castlemilk Churches Together Refugee Centre, Greater Glasgow Health Centre, Victim Support Scotland

\(^3\) Orkney Islands Council, RNIB, Victim Support Scotland and Fair Play
**Data**

18. ACPOS raise the general point that “There is an expectation that once it has been decided to collect data it will always be available and called upon at any time. The burden of data collection is real and must be used as an appropriate tool that adds value to the process. Increasingly, data collected is not subject to useful analysis and often the results are not fed back to organisations.”

19. CERES called for greater interaction between the Parliament and those representing the variety of Scotland’s communities, with the CRE calling for wider research coupled with greater sector specific data. DPHS echoed this with a call for disaggregated data on a regional and national level, as well as sectoral. Fair Play said, “The Parliament and Executive should continue to collect disaggregated data and extend pressure to others to ensure that all data is disaggregated,” as well as encouraging committees inviting briefing from specialist groups.

20. Stonewall Scotland pointed out the absence of reliable data on LGBT issues, as they cannot be considered a homogenous group: the issue of homogeneity (or not) was also raised by the DRC, highlighting the fact that people with a disability span the whole of society and their needs are individual.

**Guidelines**

21. Whilst there was recognition of the need for further work, the level of detail currently shown in the draft guidelines was raised by many of the respondents, ACPOS, DPHS, Fair Play, EWBG and DRC wanting more detail and tools. EOC in particular warned against premature use of the guidelines in their present form, without further development work “While we understand the need for concise guidance for busy committee members, the guidelines as prepared are unlikely to assist the members of committee in capacity building in respect of mainstreaming nor will they assist in the rigorous scrutiny required for mainstreaming to be achieved.”

22. The EOC, EWBG and Fair Play felt that the guidelines had to include budget work. Fair Play also recommended the HERA 2001 Indicators Guide for a Gender Mainstreaming Approach (HERA 2001) and the Scottish Executive Toolkit for Mainstreaming Equal Opportunities in the European Structural Funds as an example of good practice.4 EWBG also argued that the guidelines had to be in place prior to the next Stage 1 Budget round in 2003.

23. Scottish Enterprise offered the example of their newly introduced “assessment templates”. South Ayrshire Council and West Dumbartonshire Council recognised the need for simple, self-assessment tools but warn against over-reliance on a “tick-box” approach. Again, EOC comment that tools support a strategy, rather than comprise a strategy in themselves

24. DRC, Castlemilk Churches Together Refugee Centre, Greater Glasgow Health Centre and Dundee City Council argued for a mandatory approach to ensuring committees use of the guidelines rather than the current use of “encourage”.

25. The approach to Stage 2 amendments was discussed by CRE, feeling that a more proactive approach was needed. It also highlighted the use of Stage 3 amendments

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4 Previously circulated for Equality Proofing Budget seminar
to reverse or alter Stage 2 amendments which, as it is managed by Parliament, rather than a committee, is strictly speaking outwith the inquiry scope.

Impact Analysis
26. ACPOS raised the issue of impact analyses allowing “for greater consideration of the collateral impact of legislation on organisations that are not key to the main thrust of the legislation but may require to change practices as a result.”

27. Angus Council examined the sectoral impacts, with CRE suggesting that an explicit measure of any policy being the extent to which it addresses racial inequality. The DRC felt that impact analysis should be automatic and inherent in any policy development system whilst EOC and EWBG felt that the existing approaches to gender impact analysis were not only essential activities but also provided an invaluable starting point for the development of further analysis techniques. Stonewall Scotland returned to the point that LGBT issues have rarely, if ever, been addressed in an impact analysis and WSLGF echoing the point that LGBT cannot be seen as some homogenous group.

Monitoring
28. Dundee City Council raised the point that as many local authorities and other public sector bodies have to report on progress in matters, why should this not apply to the Parliament, by requiring reference to the guidelines and the use made of them in any report they produce or consider, “as is the practice of many Local Authorities.”

29. Victim Support Scotland and Greater Glasgow Health Council both asked whether there would be any provisions for grievance procedure, if a committee was felt not to have addressed equality issues adequately. Several respondents also added suggestions for review mechanisms such as peer reviews, seeking comments from traditionally “under-represented groups” and an audit of current practices and their perceived utility.

Outcomes
30. The consensus view of the outcome was a cultural change, with mainstreaming equality built into all processes, supported by appropriate resources. The support was also seen to include specialist support mechanisms, with many respondents seeing a continuing role of the Equal Opportunities Committee in terms of advice, monitoring and review of good practice.

31. The mainstreaming approach was seen as extending beyond the legislative processes of the committees (and indeed Parliament) and fitting into the cycle of policy development, Parliamentary activity and subsequent implementation. Targets, performance indicators, toolkits and review mechanisms, shared and understood across as wide a group of stakeholders as possible, was seen as a concrete manifestation of a mainstreaming equality approach.

Training
32. The need for a more detailed training plan was cited by several respondents with the need ranging between “vital” and “essential”: Argyll and Bute Council felt an explicit policy was required from the outset and should have been included in the

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5 This accepts the fact that subsequent implementation may involve further Parliamentary scrutiny.
draft guidelines. The question of wider awareness raising of the causes of inequality was raised by both Fair Play and DPHS, with Fair Play calling for mandatory training of Parliamentary staff. The need for training MSPs and staff was cited often, with Aberdeen Trades Council and CERES advocating training MSPs and staff together and Dundee City Council providing the practical point of the need for a rolling programme of training and review.

Witnesses
33. Monitoring of witnesses being called was suggested specifically by East Renfrewshire Council, who also highlighted the financial implications for smaller organisations being called as witnesses. In addition, Friends of Glasgow Council also highlighted the problems of witnesses getting time off work to appear, especially when not appearing in relation to areas directly associated with their employment. The area of witnesses echoed issues raised under consultation, including under representation, “usual suspects” and how representative witnesses actually were. The issue raised by CACFOA of monitoring both witnesses and committee members themselves lies outwith the scope of the Inquiry.

Next Stage
34. The Committee is invited to consider the next stage in this Inquiry. Clerks suggest that a detailed analysis of the issues raised be undertaken. This will enable an analysis of all action suggested, together with an appraisal of the options presented. In order to make use of expertise on these areas, Clerks seek authority to carry out further informal discussions with relevant groups.

35. In addition, an 18-month project by Scottish Civic Forum resulted in the publication on 05 November 2002 of their “Report of the Audit of Democratic Participation”. The Civic Forum report aims to evaluate the progress towards the third CSG principle of the Scottish Parliament “should be accessible, open, responsive and develop procedures which make possible a participative approach to the development, consideration and scrutiny of policy and legislation”. This has clear resonance with, and linkage into, the fourth principle “the Scottish Parliament in its operations and appointments should recognise the need to promote equal opportunities for all”. As such there is much to cross-reference between the Civic Forum Audit and the themes emerging from the Inquiry.

36. The Committee may also consider that it would be useful to invite key stakeholders to give oral evidence on the guidelines at its meeting on 10 December.

Conclusion
37. The Committee is therefore invited to:
   • agree the proposals for the next stages; and
   • delegate the necessary authority to Clerks, as set out above, to carry forward action.

Jim Johnston
Clerk to the Committee
November 2002
Equal Opportunities Committee

Inquiry into Mainstreaming Equality into the activities of committees of the Scottish Parliament

Consultation

JULY 2002
Introduction

1. This paper sets out the initial proposals of the Equal Opportunities Committee on how best to mainstream equality into the activities of committees of the Scottish Parliament.

2. It provides further details of an approach which aims to outline the features of an effective mainstreaming process and define the intended outcomes.

Background

3. The Consultative Steering Group was very clear in its view on mainstreaming equality:

“The promotion of inclusiveness and equality of opportunity for all requires that equality must be integral to the infrastructure, procedures and policies of the Parliament. It must not be retained as a responsibility within only one department or Committee, but must be a mandatory consideration throughout the workings of the Parliament and its agents. Although it will be necessary to put in place a specialist unit, Committee and programme where expertise can be developed, it must be recognised that the creation of equality of opportunity is a collective responsibility, the responsibility of each MSP and each member of every Committee.”

4. The need to ensure that equality was “built in” from the beginning, rather than “bolted on” at the end, led to the Equal Opportunities Committee beginning an Inquiry into how best to mainstream equality into committee activities of the Scottish Parliament.

5. At this stage of the Inquiry, the Committee seeks views on the proposed Mainstreaming Equality Guidelines, which it is proposed would be used (in the appropriate circumstances) by all of the committees of the Scottish Parliament.

What does mainstreaming equality mean?

6. The Equal Opportunities Committee adopted the following definition of mainstreaming equality:

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“Mainstreaming’ equality is essentially concerned with the integration of equal opportunities principles, strategies and practices into the every day work of Government and other public bodies from the outset, involving ‘every day’ policy actors in addition to equality specialists. In other words, it entails rethinking mainstream provision to accommodate gender, race, disability and other dimensions of discrimination and disadvantage, including class, sexuality and religion.”

What are the activities of committees of the Scottish Parliament?

7. We have included a list of committee functions in Annex B at the end of this paper. Please note that whilst one function of a committee is to scrutinise the financial proposals of the Scottish Executive, it is not intended that a committee is responsible for “equality proofing” any budget. (This matter is dealt with in more detail in the recent Finance Committee Report on the 2003/04 Budget Process.⁸)

The proposals

8. Annex A sets out more detail of the proposed Mainstreaming Equality Guidelines under the following three headings:
- Primary Legislation (“Bills”);
- Information Base; and
- Consultation.

9. The basis for developing the guidelines in this manner is to concentrate on outlining the features of an effective mainstreaming equality process, which defines the intended outcomes of that process.

10. If we were simply to copy other processes from across the world, there is the risk that, not only would they fail to meet the needs identified, they would also not be sufficiently sensitive to the context within which committees of the Scottish Parliament operate.

11. By involving our stakeholders from the outset we aim to develop pragmatic guidelines and practical techniques to ensure effective mainstreaming of equal opportunities in the activities of all committees of the Scottish Parliament.

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⁷ EOC/CRE Questions for mainstreaming
⁸ Finance Committee, 3rd Report 2002, Stage 1 of the 2003/04 Budget Process
12. The proposed Mainstreaming Equality Guidelines are **not** intended to involve changes to **Standing Orders**. Detailed guidance on legislative procedures within the Scottish Parliament already exists in the “Guidance on Public Bills” and “Guidance on Private Bills” together with more general information on committees in the (provisional) “Guidance for the operation of committees”.

13. It is envisaged that, once finalised, the Equal Opportunities Committee would publish the Mainstreaming Equality Guidelines and encourage other committees to use them, with appropriate training provided.

14. In addition, since September 2001 the Equal Opportunities Committee has scrutinised most Scottish Executive Bills using a standard equalities checklist. These results will be analysed and used to highlight existing areas of good practice and inform further discussion on how to further develop the Mainstreaming Equality Guidelines.

**What other work is being done on mainstreaming equality?**

15. The Scottish Executive have already published their approach to mainstreaming equality in the work they carry out and this is set out in their publication “Equality Strategy – Working together for equality”. **This consultation does not seek comments on the Scottish Executive Equality Strategy**, although the Central Research Unit of the Scottish Executive have recently published a most useful report entitled “Equality proofing procedures in drafting legislation: international comparisons”

**Conclusion**

16. The Equal Opportunities Committee wish to ensure that equality is built into the activities of committees from the outset. You are invited to comment, amongst other relevant issues, on:

- any issue raised by this paper;
- what features would be displayed by an effective approach to mainstreaming equality;
- what the identifiable outcomes of an effective approach to mainstreaming equality would be;
- how to monitor the manner in which committees mainstream equality;
- the proposed Mainstreaming Equality Guidelines;
- any examples of good practice you have either used or come across;

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9 The exception was the Fur Farming(Prohibition)(Scotland) Bill – SP 39
whether there are any relevant processes you would wish to highlight; and
whether there are any implementation issues.

Please ensure any response includes the following details:

- Name (incl. title)
- Organisation (if appropriate);
- Job Title (if appropriate);
- Address;
- Telephone Number;
- Fax (if appropriate);
- Email (if appropriate).

If, in any response, you wish to include references to material which has already been published elsewhere, it is not necessary to include a copy. Instead please ensure you provide as much detail as possible. Please note that your response will be treated as a public document unless you state clearly that you do not want it to be published or circulated in public. All responses will be circulated to the Committee.

Responses should be returned by 27 September 2002. This document has also been published on the Internet at http://www.scottish.parliament.uk/official_report/cttee/equal.htm.

Copies of this paper and the accompanying letter are also available in Braille, large print and audiotape on request.
ANNEX A – MAINSTREAMING EQUALITY GUIDELINES

Equality Guideline 1 – Primary Legislation (“Bills”)

Background
Equal Opportunities criteria should be considered at all stages of the legislative process, including the policy development process preceding the introduction of the bill. Equality proofing during legislation should not be seen a standalone process but rather as part of an on-going process of work which begins at the policy development stage.

The following sets out guidelines for the various types of legislative activity and the main stakeholders.

To carry out mainstreaming activities effectively and ensure that equal opportunities considerations are included in all of their work involving legislative activity, committees need to consider the following:

Primary Legislation – Stage 1

Bill Sponsor

- has the Bill sponsor assessed the implications of the Bill for all equal opportunities categories as identified in the remit of the Equal Opportunities Committee, including the impact on all key stakeholders;
- have any differential impacts on particular categories been quantified, discussed and justified;
- what consultation has been carried out with the stakeholders;
- how clearly have the intended effects of the Bill been set out in accompanying documentation;
- what additional information on the Bill is made available e.g. previous consultation exercises, draft guidance, equality impact assessments, disaggregated data etc;

Committee activity

- to what extent equal opportunities issues have been addressed in selecting witnesses and advisers and analysing evidence; and
- have the equal opportunities criteria been adequately considered at all stages of the legislative process.

Primary Legislation – Stage 2
At Stage 2 there are no formal requirements. However, equal opportunities implications may arise at this stage. The following recognises that there are amendments which are largely technical in nature, or drafted primarily to stimulate debate. Broadly, in discussion of amendments, committees would be encouraged to address:

- if amendments address concerns raised earlier at Stage 1, and how;
- if amendments introduce new policy issues; and,
- if a new policy issue, has an analysis (similar to Stage 1, i.e. impact analysis) been done.
**Equality Guideline 2 – Information Base**

Equal opportunities criteria should be considered at all stages of the legislative process. In order to carry out mainstreaming activities effectively and ensure that equal opportunities considerations are included in all of their work, committees need to have access to high quality information including:

- disaggregated statistics and other relevant information on equal opportunities categories as identified in the Scotland Act;
- develop EOC database of EO contacts and consultees, accessible to all committees;
- SPICe briefings on Bills should include reference to equal opportunities issues;
- briefing papers on changes to equality legislation;
- briefing notes from relevant external groups;
- legal advice.

**Monitoring**

Ensure that information resources are regularly updated and relevant training is carried out.
**Equality Guideline 3 - Consultation**

Committees regularly consult with a variety of individuals and organisations in the course of their work. Equal Opportunities criteria should underpin the processes and mechanisms which facilitate these consultations/inquiries. Specifically, Committees should aim to include equal opportunities criteria in:

- deciding what to consult upon;
- deciding who to consult with; and
- deciding the format of each consultation/inquiry.

Committees should include equal opportunity considerations as part of their overall criteria for choosing an inquiry topic. For example, in deciding topics of consultations and inquiries Committees may wish to identify, by impact analysis, how the proposed topic impacts upon “equal opportunities” as defined in remit of the Equal Opportunities Committee.

Committees should include equal opportunity considerations as part of their overall criteria for selecting witnesses.

For example, Committees should aim to ensure as wide a representation as possible of stakeholders.

Committees should include equal opportunity considerations in deciding the format of a consultation/inquiry. For example, equal opportunities criteria should be adopted in advertising a consultation/inquiry while sufficient time should be allowed for responses in order to allow less well-resourced groups to participate.

Committees should include equal opportunity considerations in deciding who to appoint as Committee advisers.

**Monitoring**

Monitor and evaluate levels of participation, particularly in order to identify groups who are under-represented. Ensure that witness databases are regularly updated to include widespread representation of minority groups.
Annex B – Functions of committees of the Scottish Parliament

“In general terms, the role of all committees is to examine matters within their remits either of their own choosing or, in certain circumstances, those referred to them by the Parliament or another committee. Committees then report their findings and recommendations to the Parliament as a whole. Within the overall competence and powers of the Scottish Parliament the main tasks of the committees are to:

- Scrutinise the policy and work of the Scottish Executive and to hold it to account for its activities;
- Initiate their own inquiries;
- Consider proposals for legislation, including both the general principles and the fine detail;
- Consider any European Communities legislation or any international conventions or agreements;
- Consider the need to reform the law;
- Initiate Bills;
- Consider the financial proposals and financial administration of the Scottish Executive, including variation of taxes, estimates, budgets, audit and performance; and
- Consider public petitions.”¹⁰

Finally, in order to help the Equal Opportunities Committee please feel free to include comments on any aspect of this Equal Opportunities consultation exercise in your response.

End of consultation paper – Thank you for your help

Please ensure your responses reach us by Friday 27 September 2002

Equal Opportunities Committee

17th Meeting, 12 November 2002

Mainstreaming Equality in the Work of Parliamentary Committees – Submissions

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Submission From Scottish Natural Heritage
Submission From South Ayrshire Council
Submission From South Lanarkshire Council
Submission From Stirling Council
Submission From Stonewall Scotland
Submission From Unison Scotland
Submission From Victim Support Scotland
Submission From West Dunbartonshire Council
Submission From The West Of Scotland Lesbian And Gay Forum
SUBMISSION FROM ABBEYFIELD SCOTLAND

Thank you for offering our organisation the opportunity to comment on the above noted consultation paper. The Abbeyfield Society for Scotland has no detailed comments to make on the proposals other than to commend the policy that underpins them. Our role is that of an umbrella organisation for providers of supported accommodation for Scotland’s older population and we do therefore feel that ‘equal opportunities principles, strategies and practices’ should extend to older people as well as to the more readily recognised minority groups identified in point six of your consultation paper. Perhaps the EOC may wish to adapt their definition in light of this comment.

Ian Bruce
Chief Executive
Abbeyfield Scotland
September 2002

SUBMISSION FROM ABERDEEN TRADES COUNCIL

Inquiry into Mainstreaming Equality into the Activities of the Committees of the Scottish Parliament.

I am writing to make the following comments on the consultation relating to the Inquiry Into Mainstreaming Equality Into the Committees of the Scottish Parliament.

1. Equal Opportunities should be built into all stages of the legislative process and the ‘inquiry’ process of all Committees of the Scottish Parliament.

2. In order to make this a reality all Committee Members should receive Equal Opportunities training alongside key Civil Servants.

3. Committees should ensure that their meetings are fully accessible to people with physical disabilities. This does not just mean physical access, it also means taking account of the needs of visually impaired people.

4. Consideration needs to be given as to how to produce legislation in formats which can easily be understood by people with learning disabilities.

5. Steps need to be taken to ensure that all legislation takes account of sex discrimination legislation and race relations discrimination. It is crucial that the work of the Scottish Parliament and its committees takes full account of the needs of a multi-cultural, multi-racial and multi-faith Scotland.

6. Committees and the Parliament need to take steps to include the widest range of groups in Scottish society. Much could be gained by talking to groups such as Aberdeen Trades Council.
7. The Department for Work and Pensions needs to be lobbied to extend the availability of time off with pay for individuals to talk to Committee of the Scottish Parliament.

8. More time needs to be spent by Committees actively talking to groups and organisations in the Communities across Scotland. This should include Trades Councils and Councils.

9. More publicity should be given to requests by Committees for written submissions to inquiries. Efforts should be actively made to ensure that these requests reach the widest possible range of groups and organisations.

10. In taking consultations out to communities across Scotland the fullest consideration should be given to carry the widest range of audio visual tools.

If you have any queries on any of these comments and/or wish further information please do not hesitate to contact me.

Kevin Hutchens
Delegate to Aberdeen Trades Council
Aberdeen Trades Council
September 2002

SUBMISSION FROM ABERDEENSHIRE COUNCIL

INQUIRY INTO MAINSTREAMING EQUALITY INTO THE ACTIVITIES OF COMMITTEES OF THE SCOTTISH PARLIAMENT

The Chief Executive of the Council has asked me to respond to your letter 9 July 2002 and I am pleased to make a few comments about the above document.

The work of the Equal Opportunities Committee is commendable. It is however sad to reflect that in 2002 fairness and equity is not already engrained in our politicians and our society as a whole. The media in recent days has highlighted the challenges facing Scotland. If 25% of Scots have a problem with people whose skin happens to be of a different colour then that is a problem for the rest of us, including our politicians.

The consultation documents themselves provide us with the following indicators of where we may be at in terms of equality:

- To meet the needs of visually impaired the font should preferably be aligned to the left only and upper and lower case should be used.
- There is no reference to these papers being provided in other languages including British Sign Language (BSL).
- Paragraph 10 perhaps does the Committee a disservice. Do Scottish people not come from all over the world? Why not give serious consideration to what works elsewhere?
The Committee should be able to learn a great deal in the coming months from the experiences of Scottish local authorities and other public bodies in implementing the Race Relations (Amendment) Act 2000. Local authorities and others should become experts in scrutinising policies and the like. Much can also be learned from the experiences of such bodies in England and Wales. Beacon Councils recognised as centres of excellence in promoting racial equality are particularly useful sources of knowledge.

As for training diversity training is a must for politicians and officials. The need to be aware of our own prejudices, cultural knowledge and sensitivities is crucial in creating a fair and just Scotland where everyone has the opportunity to fulfil their potential, where no one is excluded and where we respect each other for what we are.

As for Paragraph 14 I look forward to the analysis of your results and would be interested in obtaining a copy of your equalities checklist.

Providing a fair and just society will as the Committee is aware have considerable financial implications. To date the rhetoric and the legislation has not been adequately resourced and this needs to be remedied.

Finally although consultation is welcomed it is the outcome of the consultation that is most crucial. Government needs not only to listen but also to act accordingly. In the field of race relations an example of this would be with regards to the attempts to have the category “black” removed from the classification systems employed by public authorities.

An example of where consultation was not initiated and perhaps should have been was in relation to the Scottish Executive Education Department’s recent Ethnic Background Survey for school children.

I hope you find these comments useful and wish the Committee all the best with its valuable work.

Ken MacLennan
Policy Officer (Race Equality)
Aberdeenshire Council
September 2002
I refer to your recent correspondence and enclosures relative to the above subject. I believe the approach suggested to mainstreaming equality is sensible and recognises the need to identify and consult with stakeholders at an early stage in any work. I agree with the suggestion that equality proofing should not be a stand-alone process and that equality of opportunity should permeate all stages of the legislative process.

As the mainstreaming equality process is to be applied to policy formulation, some of the outcomes may be difficult to define and therefore it may be worth considering how such outcomes will be identified and measured. It seems logical that any monitoring of mainstreaming equality should have performance measurements to ensure that the impact of any new Bill can be shown to add value in respect of the Parliament's aims. This would also allow some form of assessment or post-implementation review in line with Best Value ethos.

Given the nature of the work of the Parliament, any monitoring would be a massive task. However, independent scrutiny of the mainstreaming equality process would be useful. The proposed approach is thorough, however I believe all elements of corporate human activity can benefit from external scrutiny. This is something the public sector routinely demonstrates in the form of audits and inspections.

An important consideration is the need to ensure there is an awareness of the implications of legislation in respect of traditions, cultures and lifestyles. It is important not to assume knowledge in this area and to consult effectively with all key stakeholders with regard to potential impact. Any potential impact on other services, in this case the Police Service, needs to be assessed and recognised. If the impact will require activity, such as data collection, then the issue of additional funding or staffing will require to be addressed.

There is an expectation that once it has been decided to collect data it will always be available and called upon at any time. The burden of data collection is real and must be used as an appropriate tool that adds value to the process. Increasingly, data collected is not subject to useful analysis and often the results are not fed back to organisations.

It would be helpful if the Bill sponsor also considered the impact of data collection on core business, the financial implications of the Bill and the ability of key stakeholders to deliver the desired outcomes. Such considerations often come at the end of the current process and the overall effect is to dilute the qualitative outcomes desired.

I also note that an opportunity exists for greater consideration of the collateral impact of legislation on organisations that are not key to the main thrust of the legislation but may require to change practices as a result.

The definition of mainstreaming equality as outlined in paragraph 6 of the main consultation document is not as comprehensive as the definition given in the Scottish Parliament Standing Orders, Rule 6.9. It would make sense that both of these statements are consistent.
The definition of paragraph 6 does not mention age. This is a key area that will be covered by legislation from 2006 onwards. Many organisations, in following good practice, already have age, as a category, built into their Equal Opportunities Policies.

There is no mention in the document of the action to be taken to ensure that any gaps or weaknesses in policies in relation to consultation in these areas are overcome. It may be appropriate for the Bill sponsor to incorporate an action plan that will address this.

The section of the Report entitled “Equality Guideline 2 – Information Base” refers to the development of a database of EO contacts and consultees. This database must reflect the diversity of the Scottish population and include “hard to reach” groups and individuals in addition to the more obvious sources. The database will need to be updated on an ongoing basis.

The section “Equality Guideline 3 – Consultation” states that committees should include equal opportunities considerations as part of their overall criteria for selecting witnesses. It is important that people are not excluded from this process on the basis of economic factors or other access issues. The Bill sponsor may also consider redefining the consultation strategy to detail the process for the selection of stakeholders.

The Parliament’s relationship with relevant representative pressure groups could change if a challenging but positive and consultative relationship is established with them. Such a process can be lengthy but is rewarding, especially when genuine consultation takes place.

In order to ensure that the process has robust foundations, I feel that consultation is a key element although this may be difficult when dealing with Lesbian, Gay, Bisexual and Transgender (LGBT) community. An individual’s sexuality is not always something they wish to disclose. However, at the same time, they may well be affected by policy decisions whatever their position with regard to the disclosure of their sexuality.

I would therefore be interested to know what mechanisms the Scottish Parliament proposes to use to consult with LGBT members of society. I am aware of some work being carried out by the Equality Network based in Edinburgh, who have initiated a project entitled “Your Scotland” which aims to involve LGBT groups and individuals directly in the work of the Scottish Executive. I am sure that when these links are established a number of agencies will wish to take advantage of the improved access to the political decision making process. This would assist the Scottish Parliament in achieving the three clear aims relating to consultation which are expressed in the document, ie deciding what to consult upon, deciding who to consult with and deciding the format of each consultation exercise.

I feel mainstreaming equality should aim to maximise the number of representative minority groups and individuals consulted. Whilst such consultation is not an end in itself, such a process should ensure the number of complaints regarding unduly expensive policies will fall, resulting in the general acceptability to society of future policies.
The issue of training is mentioned only briefly (point 13). In my opinion, effective training will be critical to the success of any mainstreaming equality process. The Equal Opportunities Commission will require to consider the training of committee member and related staff. I would suggest that some of the MSPs who sit on committees of the Parliament might not perceive the need for training in the area of Equal Opportunities/Diversity.

The paper appears to outline sensible criteria for mainstreaming equality. I would point out that, in its present form, the paper contains only the barest outline and there is very little by way of reference to external audit and accountability. It certainly falls short in detailing the level of review and reporting already contained in current legislation. Mainstreaming equality itself will ultimately depend on individual awareness and those who administer the procedure.

Ian J Latimer
Chief Constable
ACPOS
August 2002

SUBMISSION FROM ANGUS COUNCIL

INQUIRY INTO MAINSTREAMING EQUALITY INTO THE ACTIVITIES OF COMMITTEES OF THE SCOTTISH PARLIAMENT

I refer to your letter to our Chief Executive inviting written comments on the initial proposals of the Equal Opportunities Committee with regard to how best equality might be mainstreamed into the activities of Committees of the Scottish Parliament.

While Angus Council always welcomes the opportunity to give evidence to Committees of the Scottish Parliament, it is not particularly well qualified to make comment on internal procedural matters connected with the working of the Parliament. That said, the Council does not take issue with anything that is being proposed in the consultation paper. However, it is suggested that throughout the stages outlined in the Annex there should be evidence that an impact assessment has been done analysing both the direct and indirect impact of policies and actions on different groups. There should also be a review mechanism to ensure that real progress is made towards equality.

It is noted that the Public Bill Procedures in the Parliament's Standing Orders provide in Rule 9.3.3 for the sponsor of a Bill to include, among other things, an assessment of the effects, if any, of the Bill on equal opportunities. It is considered helpful, therefore, for equality guideline 1 (dealing with primary legislation) to include a requirement on committees to consider if the Bill sponsor has satisfactorily complied with the five issues listed. This procedural requirement would seem to display an effective approach to mainstreaming equality.
The Council's own commitment to equal opportunities is set out in our Equal Opportunities Policy, a copy of which is enclosed for your Committee's information. There may be good practice or relevant processes within this policy which will be of interest to your Inquiry.

In conclusion, the Council believes that the proposals in the consultation document, if implemented, are a reasonable demonstration of the commitment of the Scottish Parliament to mainstream equalities issues.

I hope the above comments are helpful. If you have any queries, please do not hesitate to contact Charlie Hood on (01307) 473461.

Catherine A Coull
Director of Law and Administration
Angus Council
September 2002

REPORT NO 194/01

ANGUS COUNCIL - POLICY & RESOURCES COMMITTEE - 6 FEBRUARY 2001

EQUAL OPPORTUNITIES

REPORT BY DIRECTOR OF PERSONNEL

ABSTRACT

The Corporate Equal Opportunities Group has developed an Equal Opportunities Policy including a Statement of Intent and Codes of Practice on equal opportunities, and an action plan in line with guidance on Best Value and Equalities issued by COSLA.

1. RECOMMENDATION(S)

   It is recommended that the Policy & Resources Committee:

   (i) Agree the attached Equal Opportunities Policy for Angus Council.

   (ii) Note the attached Action Plan which will take forward the equal opportunities policy in line with Best Value.

2. INTRODUCTION

   A Member/Officer Group was established in May 1996 to develop an Equal Opportunities strategy. A report from the Member/Officer Group was submitted to the Policy & Resources Committee on 10 December 1996. The Action Plan, developed to implement the recommendations of the Member/Officer Group, "authorised the Chief Executive to identify a lead officer to co-ordinate equal opportunities issues on a corporate basis through arranging meetings involving a representative from each Department".

   The Corporate Equal Opportunities Group which was established during 1997 has been meeting once every two months to further equal opportunities'
objectives. During that time the group has concentrated on equal opportunities in respect of the statutory areas ie, race, sex and disability. Discussions have focused on equality of opportunity in relation to service delivery with specific sub groups being established to look at our obligations under the Disability Discrimination Act and those in relation to the Commission for Racial Equalities document “Racial Equality means Quality”. A copy of the remit of the Corporate Equal Opportunities Group is attached for members' information. (Appendix 1)

3. GUIDANCE ON BEST VALUE AND EQUALITIES

COSLA have produced a document "Guidance On Best Value and Equalities" which has been issued to all Local Authorities. This guidance resulted from the work of the Task Force on Best Value which identified that Compulsory Competitive Tendering had an adverse affect on equality of opportunity. It is therefore essential that equal opportunities is integrated within the Best Value framework. It is recommended that equal opportunities are mainstreamed into all aspects of the work of the Council. To ensure that this happens a comprehensive Equal Opportunities Policy has been prepared by the Corporate Equal Opportunities Group and considered by the Chief Officers' Management Team.

This Policy highlights the Council's intent in respect of equal opportunities along with specific Codes of Practice on service delivery, access to Council information, communication and consultation of members of the community and monitoring. It also incorporates the Code of Practice on equal opportunities in employment which has already been agreed by the Council and which includes a policy statement in respect of race. The Equal Opportunities Policy is attached at Appendix 2.

COSLA's guidance on Best Value and Equalities includes a checklist of action points which should be committed to by all Councils. These are attached at Appendix 3. The Corporate Equal Opportunities Group has undertaken a review of these action points, noted the present position and also has identified proposed action areas to be addressed. The summary of the action areas are outlined in Appendix 4 and members of the Policy & Resources Committee are asked to note the content of this action plan.

4. FINANCIAL IMPLICATIONS

There are no financial implications arising from the content of this report.

5. HUMAN RIGHTS ACT

The adoption of an Equal Opportunities policy sits well in the rights based culture now imposed by the Human Rights Act 1998. The Council requires to consider as an integral part of its decision making, Articles 9 and 14, namely, the right to freedom of thought, conscience and religion and the prohibition of discrimination.
This includes discrimination on the basis of sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status.

It is considered that by adopting this policy, the Council will raise the awareness of the right to freedom from discrimination. In addition, by implementing the policy all members and officers of the Council will be complying with the Human Rights Act 1998.

6. CONSULTATION

The Chief Executive and all Chief Officers have been consulted on this report.

7. CONCLUSION

It has been identified by the original Government/COSLA joint Task Group on Best Value that equal opportunities is an area which should be addressed. COSLA has now produced guidance on Best Value and equalities for Councils which outlines good practice to be implemented. The Corporate Equal Opportunities Group has considered the recommendations arising from this guidance and has developed an Equal Opportunities Policy to address requirements. The group has also developed an action plan to ensure that all the areas requiring to be addressed are dealt with in accordance with Best Value.

JANICE TORBET
Director of Personnel

NOTE No background papers, as defined by Section 50D of the Local Government (Scotland) Act 1973, (other than any containing confidential or exempt information) were relied on to any material extent in preparing the above Report.

EQUAL OPPORTUNITIES APPENDIX 1

Remit

a. To raise awareness of equal opportunities issues with employees of the Council so that

- they could promote equality of opportunity and service delivery and
- contribute to the development of the Council's Equal Opportunities Strategies, Policies etc
b. To be used as a sounding board by Chief Officers and Managers on issues of equal opportunities implications and to provide views on these issues to departments for their consideration.

c. To develop a range of Angus specific draft Equal Opportunities Policies/Statements with regard to the areas or race, sex and disability.

d. To share information with all departments of the Council on equal opportunities with a view to extending good practice.

e. To encourage staff within the Council to identify issues of inequality and suggest ways in which these matters can be addressed and/or resolved.

APPENDIX 2

EQUAL OPPORTUNITIES POLICY

STATEMENT OF INTENT

Angus Council supports the principle of equal opportunities in the provision of its services to the community and in relation to employment. The Council opposes all forms of unlawful or unfair discrimination on the grounds of race, ethnic or national origin, religion, age, sexual and marital status and disability.

To this end the Council believes that it should adopt and promote policies which are in the best interest of the community of Angus and which aim to:

Provide accessible services to the whole community wherever possible

Promote accessibility to information regarding Council services

Make the best possible use of our workforce and attract, develop and retain good quality staff improving employment practices where possible

Develop and maintain communication and consultative links with the Angus community

Continuously monitor the level of progress achieved by the Council's Equal Opportunities Policy.

The Council will endeavour to pursue these aims by implementing the following Codes of Practice. However, the Council also recognises that in implementing these Codes financial and administrative considerations must be taken into account.

Equal Opportunities and Service Delivery
Equal Opportunities and Access to Council Information
Equal Opportunities in Employment
Communication and Consultation with Citizens/Customers and the Angus Community Monitoring Equal Opportunities
APPENDIX 2

CODE OF PRACTICE ON EQUAL OPPORTUNITIES AND ACCESS TO COUNCIL INFORMATION

Aims

The Council aims to ensure that all members of the community have equal access to information regarding Council services regardless of race, ethnic or national origin, religion, age, sexual and marital status and disability.

Guiding Principles

All members of the community will be able to access information on Council services available through local Access Offices or through the Access Line. In addition, members of rural communities can have access to information on the Council's website through information and communications technology facilities located within village halls.

Facilities to interpret Council information will be made available wherever a need is identified ie translation into other languages, audio tapes, signing support, facilities for the blind and sight impaired.

Where appropriate, this Code of Practice will form an integral part of Council training to provide employees with an awareness and an appreciation of the importance of ensuring that the whole community have access to Council information.

Implementation

Responsibility for the initial implementation, day to day operation and continuous development of this code lies with the Council's Departmental Directors and Heads of Service.

Monitoring

All aspects of this Code will be monitored in accordance with the Council's Code of Practice on Monitoring Equal Opportunities.

Complaints

Any member of the community who considers that they have been treated unfairly or discriminated against in relation to this Code of Practice may raise a complaint through the Council's corporate complaints procedure.

APPENDIX 2

CODE OF PRACTICE ON EQUAL OPPORTUNITIES AND SERVICE DELIVERY

Aims

The Council is committed to the provision of quality services to the Angus community and opposes any discrimination in relation to the delivery of these services on the
grounds of race, ethnic or national origin, religion, age, sexual and marital status and disability.

**Guiding Principles**
All members of the community will have equal access to service provision regardless of race, ethnic or national origin, religion, age, sexual and marital status and disability.

Where appropriate this Code will form an integral part of the Council's training and induction processes to provide employees with an awareness and an appreciation of the importance of ensuring that all users of Council services receive quality service provision regardless of their race, ethnic or national origin, religion, age, sexual or marital status, disability, geographic location and/or employment status.

The Council will comply with statutory obligations placed on it by anti-discriminatory legislation.

The Council will endeavour to apply equality of opportunity in relation to applications for grant assistance and grant aid for partnership organisations.

**Implementation**
Responsibility for the initial implementation, day to day operation and continuous development of this Code lies with the Council's Department Directors and Heads of Service.

**Monitoring**
All aspects of this Code will be monitored in accordance with the Council's Code of Practice on Monitoring Equal Opportunities.

**Complaints**
Any service user who considers that they have been treated unfairly or discriminated against in relation to this Code of Practice may raise a complaint through the Council's corporate complaints procedure.

**APPENDIX 2**

**CODE OF PRACTICE ON COMMUNICATION AND CONSULTATION WITH MEMBERS THE COMMUNITY**

**Aims**
The Council aims to ensure that it develops and maintains effective methods of communication and consultation with all members of the community regardless of race, ethnic or national origin, religion, age, sexual and marital status and disability.
Guiding Principles

Area Forums and Citizens Panels will be used to encourage representation from the whole spectrum of the Community to develop and maintain communication and consultative links with the Council. These methods of communication will be regularly reviewed to ensure that they continue to promote equality of participation by the whole community.

Community interest groups including external Equalities Groups will be encouraged to attend various Council meetings where relevant.

Service level agreements will be established with equalities groups and the voluntary sector where appropriate.

Funding criteria for voluntary bodies and community organisations will stipulate that they must have an equal opportunities policy.

Specialist and interpretation facilities will be provided at Area Forums, Citizens Panels, Council meetings and departmental meetings where a need is identified to assist participation by all staff and members of the community involved.

A database will be established of staff within the Council who have sign language, foreign languages etc and who can contribute to interpretation facilities.

Council Departments will ensure that all relevant community groups are included in consultation exercises on issues affecting the community.

Communication and Consultative links established between the Council and the community will be advertised within the community.

Where appropriate, this code will form an integral part of Council training to provide employees with an awareness and an appreciation of the importance of establishing effective communication and consultative links with members of the community and customers of Angus Council.

Implementation

Responsibility for the initial implementation, day to day operation and continuous development of this code lies with the Council's Department Directors and Heads of Service.

Monitoring

All aspects of this code will be monitored in accordance with the Council's Code of Practice on Monitoring Equal Opportunities.

Complaints

Any member of the community who considers that they have been treated unfairly or discriminated against in relation to this Code of Practice may raise a complaint through the Council's Corporate Complaints Procedure.
APPENDIX 2

CODE OF PRACTICE ON EQUAL OPPORTUNITIES IN EMPLOYMENT

Aims
The Council opposes all discrimination in employment on the grounds of race, ethnic or national origin, religion, age, sexual and marital status and disability. The Council will comply with statutory obligations placed on it by anti-discriminatory legislation.

The sole valid criteria for employment will be merit and all job applicants will be considered equally on that basis.

Guiding Principles

Recruitment and Retention
Applicants from groups currently under represented in the workforce will be positively encouraged.

No applicants will be placed at a disadvantage by a requirement or condition which has a disproportionately adverse effect on their personal status.

Positive steps will be taken to provide increased employment opportunities for people with disabilities and to find suitable alternative employment elsewhere within the Council for existing employees who become disabled in the course of their employment with the Council.

The Council guarantees to interview all disabled applicants who meet the essential criteria for a job vacancy.

It is the Council's policy that employees retire at age 65. Outwith the scope of that policy, dates of birth will play no part in employment decisions.

Information provided at the application stage concerning an applicant’s race, ethnic or national origin, religion, age, sexual or marital status will be used for monitoring purposes only and will play no part in any employment decisions.

Training and Development
Where appropriate, this Code of Practice will form an integral part of Council training to provide employees with an awareness and an appreciation of the importance of equality of opportunity for everyone.

Training on how to recognise discrimination and harassment in the workplace will be made available to employees. The Council will endeavour to raise awareness amongst its employees of this type of behaviour.

Positive measures will be taken to encourage the development of internal support networks for women within the Council.
All Council training will be assessed to ensure that its content and delivery is in accordance with this Code of Practice.

All employees will have equal access to information on training and development opportunities offered by the Council.

**Conditions of Employment**

The Council will ensure that where practicable, employees with disabilities are provided with the necessary support and equipment to enable them to carry out their duties and responsibilities efficiently in a safe working environment.

Remuneration will be based on qualifications, skill and relevant experience.

All employees will have the opportunity to raise issues in relation to their working arrangements, training and development needs and any other condition of their employment regardless of their race, ethnic or national origin, religion, age, sexual and marital status and disability.

The Council will endeavour to ensure that its terms and conditions of employment are sensitive to, and do not indirectly discriminate against any employee on the grounds of their race, ethnic or national origin, religion, age, sexual and marital status and disability.

Positive practices will be developed to assist employees in the balance of working and personal responsibilities.

The Council will ensure that procedures adopted to grade jobs within the Council do not discriminate on the grounds of sex.

**Implementation**

Responsibility for the initial implementation and continuous development of this code lies with the Director of Personnel. The responsibility for the day to day operation of the code lies with the Council's Departmental Directors and Heads of Service.

**Monitoring**

All aspects of this code will be monitored in accordance with the Council's Code of Practice on Monitoring Equal Opportunities.

**Complaints**

Any employee or job applicant who considers that they may have been treated unfairly or discriminated against in relation to this Code of Practice may raise a complaint through the Council's Corporate Complaints Procedure.
APPENDIX 2

CODE OF PRACTICE ON MONITORING

Aims
The Council believes that to ensure effective and meaningful equal opportunities its policies and practices must be monitored on a continuous basis.

This Code of Practice aims to ensure that monitoring procedures are carried out to assess the effectiveness of the Council's Equal Opportunities Policy and to provide factual information and a base line from which strategies and initiatives can be developed specific to the Council's needs.

Guiding Principles

Service Delivery/Access to Services and Council Information
Each Department will put in place appropriate monitoring arrangements in relation to their own specific services.

Communication and Consultation with Citizens/Customers
Each Department will put in place appropriate monitoring arrangements to ensure effective and meaningful communication and consultation is carried out.

Recruitment and Retention
All job applicants will be asked to provide information relating to their sex, marital status, disability, race, ethnic and national origin, and current employment status. This information will be treated confidentially and used for monitoring purposes only.

Training and Development
All Council training will be assessed to ensure that its content and delivery is in accordance with the Council's Equal Opportunities Policy.

Conditions of Employment
Conditions of Employment within the Council will be continuously analysed with a view to assessing their fair application.

Implementation
Responsibility for implementing this Code lies with Council's Departmental Directors and Heads of Service Monitoring will also be incorporated within the Councils Performance Management System, the "balanced scorecard" at Corporate and Departmental level.

Monitoring
The effectiveness of this Code will be monitored by the standards of service delivered to the community and the level of progress achieved by women, ethnic groups, people with disabilities, unemployed people etc in relation to their access to Council services, employment opportunities and development and career progression within the Council. The Code will also be monitored by the level of assistance it provides in response to complaints raised through the Council's procedure for investigating complaints of unfair discrimination or treatment.
APPENDIX 2

STATEMENT OF INTENT - RACIAL EQUALITY POLICY

Angus Council has a statutory duty under Section 71 of The Race Relations Act 1976: -

1. to eliminate unlawful discrimination; and
2. to promote equality of opportunity and good relations between persons of different racial groups

In addition the Local Government Act 1988 sets out a framework within which local authorities can ensure that companies applying for inclusion in select or approved lists, bidding for contracts and working under contract, take reasonable steps to comply with the Race Relations Act.

The Council is committed to ensuring that racial equality is achieved in all respects of recruitment and employment service planning and delivery and will ensure that no individual is discriminated against, directly or indirectly on the grounds of colour, race, nationality or ethnic or national origin. Each department is to consider its commitment to promote equality of opportunity in the delivery of services.

The Council will strive to ensure that racial equality is achieved through: -

the development of an action plan for the implementation of racial equality policies within each department.

the Council’s complaints procedure will be used to process complaints from members of the community who feel they have been treated unfairly on the grounds of their race. compliance with the requirements of the Race Relations Act 1976.

the monitoring of the racial equality policy at regular intervals.

the promotion of the racial equality policy throughout all Council Departments and within communities.

consultation with all sectors of the community regarding the planning and delivery of services, especially those groups whose views may be under-represented.

Legal Obligations - Race Relations Act 1976

Section 71 places upon local authorities a statutory duty “to make appropriate arrangements to ensure that its various functions are carried out with due regard to the need to eliminate unlawful discrimination and to promote equality of opportunity and good relations between people of different racial groups”.

Section 20 makes it unlawful for anyone concerned with the provision of goods, facilities or services to the public to discriminate on racial grounds by refusing or deliberately omitting to provide them, or with regard to their quality or the manner in which or the terms on which they are provided.
APPENDIX 3

GUIDANCE ON BEST VALUE AND EQUALITIES - ACTION POINTS

1. Ensure equal opportunities is included as one of the Council’s core values
2. Ensure inclusion of Equalities issues within the Council's strategic objectives
3. Ensure that there is top-level commitment at both elected member and officer level to mainstreaming equalities
4. Ensure there are effective decision making and scrutiny structures to harness that commitment
5. Ensure that equalities objectives, actions plans, targets and agreed timescales are dovetailed within strategic/service planning processes
6. Ensure the Council's employment policy and practice delivers equal opportunities
7. Ensure provision of corporate/specialist support and training programmes
8. Know the composition of the community the Council serves. Are some groups over or under-using particular services?
9. Review existing methods of consultation, particularly in regard to whether equalities groups are under-represented and take action to redress any imbalance.
10. Find more innovative ways to consult those individuals and groups who do not respond to the more traditional consultative mechanisms which take account of their needs and interests. For example, the use of new technology in reaching housebound and other severely disabled people.
11. Consider setting up specific forums for equalities groups
12. Work with existing community consultative bodies and advocates to strengthen their 'representativeness' and their capacity to work in partnership with the Council.
13. Ensure all leaflets and publicity material is written in plain English and available in ethnic minority languages, Braille, large print, tape etc
14. Provide interpretation facilities and signing support where needed
15. Undertake a review of performance information currently collected in relation to employment and services provision that will form the basis of measuring progress towards equality
16. Identify gaps in information, particularly in relation to gender, race/ethnicity and disability, and prepare an action plan over a realistic timescale to fill those gaps
17. Integrate equalities performance measures into the Council's performance information systems
18. Ensure that the review programme takes account of areas where review is necessary to improve/achieve equalities
19. Ensure that the way reviews are conducted take account of equalities issues
20. Ensure that equalities groups are consulted at all stages of the process
21. Ensure equalities impact of alternative forms of service delivery is assessed
22. Ensure that improvement plans incorporate equalities targets
23. Undertake a review of what information is currently reported on equalities issues, the existing mechanisms used and in what format
24. Ensure that the development of the Council's Public Performance reporting takes account of the equalities issues
25. Consider reporting on performance in delivering equal opportunities in a thematic report
27. Consider the role of specialist equal opportunities officers in facilitating internal scrutiny by elected members
28. Consider how best to involve equalities groups in the scrutiny process
29. Ensure that equality requirements are taken into account in the Council's procurement strategy
30. Consider how the Council can give assistance to contractors in complying with equalities legislation
31. Ensure that Council's Voluntary Sector and Volunteering policy statements are in line with their equalities objectives
32. Ensure that criteria for funding voluntary and community organisations include standards which require arrangements to be in place to deliver equality of opportunity in terms of employment, membership and service delivery
33. Ensure that the Council's employment policies and implementation of the Single Status agreement are fully in line with their commitment to equal opportunities and Codes of Practice
## APPENDIX 4

### EQUAL OPPORTUNITIES AND BEST VALUE REVIEW (Including Action Plan)

<table>
<thead>
<tr>
<th>COSLA Action Areas</th>
<th>Present Position</th>
<th>Proposed Action/Areas to be addressed</th>
<th>Responsible Officer/Group</th>
<th>Target Date</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Strategic Approach Action Points 1, 2, 3, 4, 5</td>
<td>Inclusion in corporate priorities as a strategic objective. Commitment from Elected Members to mainstreaming equal opportunities into departmental service plans. Remit of Corporate Equal Opportunities Group to promote and raise awareness of equalities issues; provide advice and guidance on best practice. Contribute to the development of equal opportunities</td>
<td>When the Corporate Plan is next reviewed agree to consider the status of equal opportunities within it. Make a strategic commitment towards equalities issues being formally reported to Committee on a regular basis.</td>
<td>Chief Executive/Head of Policy &amp; Performance Unit Chair of Corporate Equal Opportunities Group</td>
<td>2003 April 2001</td>
</tr>
</tbody>
</table>
policy for the Council. Link between equalities issues and the corporate strategic planning process are outlined in appendix 1.
<table>
<thead>
<tr>
<th>COSLA Action Areas</th>
<th>Present Position</th>
<th>Proposed Action/Areas to be addressed</th>
<th>Responsible Officer/Group</th>
<th>Target Date</th>
</tr>
</thead>
<tbody>
<tr>
<td>2 Consultation Action Points 9,10,11,12, 13,14,20</td>
<td>Area Forums, Citizens Panels, “care groups”. Representation encouraged from whole spectrum of community.</td>
<td>Work with consultative groups to establish the most effective methods to consult on equal opportunities.</td>
<td>CEOG and Policy &amp; Performance Unit</td>
<td>September 2001</td>
</tr>
<tr>
<td></td>
<td>External equalities groups attend Council working groups as required.</td>
<td>Policy and Performance Unit and individual departments to ensure that all community groups are taken account of during consultation exercises.</td>
<td>Head of Policy &amp; Performance Unit</td>
<td>December 2001</td>
</tr>
<tr>
<td></td>
<td>SLA’s established with community groups and the voluntary sector</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Community access to IT facilities in burghs and rural areas.</td>
<td>Develop IT links with the community further by putting e-mail addresses on all paper communications.</td>
<td>Director of Information and Technology &amp; Public Relations Manager</td>
<td>July 2001</td>
</tr>
<tr>
<td></td>
<td>Social Work information offered in large print, audio and Braille</td>
<td>Ensure links available between the Council and the community are advertised to all community groups.</td>
<td>Public Relations Manager</td>
<td>December 2001</td>
</tr>
<tr>
<td></td>
<td>Recruitment advisory notes awarded Plain English society</td>
<td>Statement on all Council public and publicity information offering Braille, audio, translation services if needed.</td>
<td>Public Relations Manager</td>
<td>April 2001</td>
</tr>
<tr>
<td>“Crystal Mark”.</td>
<td>Interpretation facilities and signing support is provided where needed.</td>
<td>Establish a database of Council staff who have sign language, foreign languages etc via leaflet to be issued to all staff with pay statements.</td>
<td>Director of Personnel</td>
<td>February 2001</td>
</tr>
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<tr>
<td>Signing at Area Forums on a pilot basis.</td>
<td>Consider the provision of a translation service for information into ethnic languages where a need is identified.</td>
<td>Individual Departments</td>
<td>On going</td>
<td></td>
</tr>
<tr>
<td>COSLA Action Areas</td>
<td>Present Position</td>
<td>Proposed Action/Areas to be addressed</td>
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<td>Target Date</td>
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</tr>
<tr>
<td>Awareness of equal opportunity issues is provided through Recruitment and Selection training</td>
<td>Ensure equal opportunities is mainstreamed within all corporate training programmes.</td>
<td>Director of Personnel</td>
<td>June 2001</td>
<td></td>
</tr>
<tr>
<td>Recruitment Monitoring database can provide information on age, marital status, disability and origin.</td>
<td>Gather information in relation to training and promotion opportunities</td>
<td>Director of Personnel</td>
<td>On going</td>
<td></td>
</tr>
<tr>
<td>Information held on service provision and employment to enable response to external requests eg Audit Scotland, Scottish Executive, other government and statutory</td>
<td>Profile on existing workforce - carry out annual audit using same categories as recruitment monitoring, audit numbers of part time workers, employees with caring and parental responsibilities.</td>
<td>Director of Personnel</td>
<td>September 2001</td>
<td></td>
</tr>
<tr>
<td>agencies</td>
<td>Assess criteria for service provision to ensure it is not discriminatory in terms of gender, race/ethnicity and disability.</td>
<td>CEOG</td>
<td>August 2001</td>
<td></td>
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<td></td>
</tr>
<tr>
<td></td>
<td>Consider equality targets in relation to gender, race/ethnicity and disability.</td>
<td>CEOG</td>
<td>December 2001</td>
<td></td>
</tr>
<tr>
<td>COSLA Action Areas</td>
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</tr>
<tr>
<td>4 Procurement</td>
<td>Equal Opportunities Policy documentation requested in respect of tenders.</td>
<td>Ensure documentation requested on all tenders.</td>
<td>Director of Law &amp; Administration</td>
<td>September 2001</td>
</tr>
<tr>
<td></td>
<td>Funding criteria for, and service level agreements with, voluntary bodies and community organisations stipulate that they must have an equal opportunities policy.</td>
<td>Offer access to Council advice and encourage good practice amongst contractors to help comply with equalities legislation.</td>
<td>Individual Departments</td>
<td>Dependent on above timescale</td>
</tr>
<tr>
<td>5 Performance Reporting</td>
<td>Corporate balanced scorecard includes equal opportunities as a priority.</td>
<td>Produce results of Best Value/Equal Opportunities review in thematic report format.</td>
<td>CEOG</td>
<td>April 2002</td>
</tr>
<tr>
<td>(a) Public Performance Reporting</td>
<td>Equalities issues are reported annually in the Council’s Annual Report.</td>
<td>Develop annual equalities action plan with timescales.</td>
<td>CEOG</td>
<td>April 2001</td>
</tr>
<tr>
<td></td>
<td>Equality of</td>
<td>Ensure corporate service</td>
<td>Best Value Steering Group</td>
<td>On going</td>
</tr>
<tr>
<td>(b) Service Reviews Action Points 17, 18, 19, 20, 23, 24, 25</td>
<td>opportunity referred to in departmental service plans.</td>
<td>review process includes recognition of equalities issues.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>COSLA Action Areas</td>
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<tr>
<td>6 Monitoring Action Points 8, 15, 26, 27</td>
<td>Current information on composition of the community provided by 1991 Census.</td>
<td>Use Area Forums, Citizens Panels etc to gather information on current community profile and its use of Council services</td>
<td>Head of Policy &amp; Performance Unit</td>
<td>September 2001</td>
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<td>Information monitoring departmental performance of equalities issues is collated using well established sources to respond to external requests for information.</td>
<td>Establish route for Corporate Equal Opportunities Group to report progress and developments on a regular and formal basis</td>
<td>CEOG</td>
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<td>Specific equal opportunities issues are reported to the Personnel and Property Services Committee on an ad hoc basis.</td>
<td>Recommend to Personnel and Property Services Committee approval of the Corporate Equal Opportunities Group remit and the action points arising from this review.</td>
<td>Director of Personnel</td>
<td>January 2001</td>
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<td>Review mainstreaming of equal opportunities in light of the Council's future performance on equalities.</td>
<td>CEOG</td>
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Chief Officers to ensure that departmental service plans include a commitment to equal opportunities.

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SUBMISSION FROM ARGYLL AND BUTE COUNCIL

Equal Opportunities and Race Equality

In light of the new duty to promote racial equality, Argyll and Bute Council has established a group to look into Equal Opportunities and Race Equality and develop the Council’s policies in this area.

The Council has an Equal Opportunities Policy with regard to employment practices and copies are available from Personnel Services on request.

Authors of all committee reports are required to consider the Equal Opportunity implications of their proposals and outline these implications in their reports.

Jennifer Swanson
Argyll & Bute Council
August 2002

SUBMISSION FROM THE BLACK ENVIRONMENT NETWORK

Mainstreaming equality into the activities of committees of the Scottish Parliament

1. The Equal Opportunities Committee proposed mainstreaming equality are;

2. Primary Legislation (³Bills²) - To carry out mainstreaming activities effectively and ensure that equal opportunities considerations are included in all of their work involving legislative activity.

3. Information Base - Equal opportunities criteria should be considered at all stages of the legislative process. In order to carry out mainstreaming activities effectively and to ensure that equal opportunities considerations are included in all of their work, committees need to have access to high quality information.

4. Consultation - Committees regularly consult with a variety of individuals and organisations in the course of their work. Equal opportunities criteria should underpin the process and mechanisms which facilitate these consultations.

Response on behalf of Black Environment Network(BEN):

5. I am writing on behalf of the Black Environment Network (BEN) in response to your inquiry into mainstreaming equality into the activities of committees of the Scottish Parliament.
6. BEN has worked for the last fifteen years looking at how organisations working in the built and natural environment can effectively mainstream ethnic participation by engaging with ethnic communities throughout the UK in a way which delivers active participation while meeting the social and cultural needs and concerns of ethnic communities.

7. Our work has therefore, been at the forefront of mainstreaming ethnic diversity in organisations.

Equality Guideline 1 - Primary legislation (³Bills)

8. The Bill sponsor and any committee activity undertaken must consult with individuals or organisations with specialist knowledge in equal opportunities and the subject area of the bill.

9. For example if a countryside bill is being assessed on the implications of the bill on ethnic communities, then the Bill sponsor and any committee activity must consult with individuals and specialist organisations with knowledge in countryside issues and ethnic communities.

10. This approach will help prevent token gestures where consultees(contacted stakeholders), witnesses and advisors do not have the capacity to contribute fully to effective discussions.

Equality Guideline 2 - Information Base

11. Information must be relevant and appropriate to the subject area of the committee rather than just using general disaggregated statistics from census figures. For example, if the Scottish Parliament’s Environment Committee is examining disability and environment issues, general disaggregated census statistics on disability in Scotland will not be helpful but rather specific information by an external organisation on disability and the environment will be a more effective tool in mainstreaming equality.

12. Monitoring should be done not just on training but also baseline and other review processes must be carried out to ensure Equal opportunities does not just exist on paper as is usually the case, but is being achieved in practice.

Equality Guideline 3 – Consultation

13. Refer to comments on Guidelines 1 & 2

14. Many under represented groups do not have any say in decisions regarding topics and the appropriateness of the format of consultation. They are therefore locked into a cycle of under representation.
15. Committees should therefore aim to contact individuals and organisations with specialist skills in addressing under representation of particular groups on specific themes of consultation, for advice.

SUBMISSION FROM CACFOA

Response into the Enquiry into Mainstreaming Equality into the Activities of Committees of the Scottish Parliament

Primary Legislation – Stage 1

Bill Sponsor

Fourth bullet point – it should state here that consideration should be given to language used and its ease of understanding. Difficult language contravenes the Race Relations Amendment Act, as minority communities, (not only ethnic minorities), cannot easily understand it, therefore causing an adverse impact at the outset.

Committee Activity

First bullet point - .......in selecting witnesses and advisers, (should include “and Committee Members”)

Equality Guideline 2 – Information Base

Monitoring

As set out in the Race Relations Amendment Act the responsibility to consult on specific policies and practices is paramount, therefore it is not enough to state in this section that databases should be regularly updated. It should be stated exactly who is responsible for this task and where such information can be accessed. Any such database should be held at a central point and access limited only to those with permission (with consideration to the Data Protection Act). It is also important to give consideration to who is consulted, why, when and on what issue in order to gain the best impact without isolating certain groups, therefore a monitoring system should be set up and “Guidelines on Consultation” issued.

Training – It is not enough to say that “relevant training is carried out” this should state that a training policy will be developed to cover issues like, who, when, who will deliver the training etc.

Equality Guideline 3 – Consultation
Same issues as *Monitoring* above.

It is important that committees be aware that not all individuals who may be in the *Consultation* loop will be wholly representative. As consultation is a key task, the Scottish Parliament should give consideration to how the databases are set up, accessed and updated to provide the fullest representation. It is also important, as stated earlier that it is clear who is responsible for this task.

**SUBMISSION FROM CASTLEMILK CHURCHES TOGETHER REFUGEE CENTRE**

**Comments On Mainstreaming Equality Consultation Paper**

The proposals in the consultation paper are generally welcome

I have some specific comments.

Para 13 states that committees will be ENCOURAGED to use the guidelines. A stronger wording would be preferable.

Para 14 refers to the use of an equalities check list. Will the analysis of the result of this scrutiny be made public? It should be.

In our experience consultation with members of ethic minority groups maybe improved by the provision of interpreters; funding should be allocated for his. Consideration should also be given to producing more committee papers and consultation documents in ethnic minority languages.

There should be a mechanism for consultations that ensures that members of minority groups are included in consultation. If this mechanism exists we are not aware of it; it should then be more widely publicised.

Eileen J G Baxendale  
Honorary Secretary  
Castlemilk Churches Together Refugee Centre  
July 2002

**SUBMISSION FROM CENTRE FOR EDUCATION FOR RACIAL EQUALITY IN SCOTLAND**

**INQUIRY INTO MAINSTREAMING EQUALITY INTO THE ACTIVITIES OF COMMITTEES OF THE SCOTTISH PARLIAMENT**

CERES appreciates the opportunity to comment on the Scottish Parliament's proposal for mainstreaming equality issues and perspectives in its committee structure and processes.
Overall, the mainstreaming initiative is welcomed as an important element in achieving a more inclusive and social justice oriented approach to the initiating, overseeing and monitoring of the effects of legislation, and in the scrutiny of the activities of the Scottish Executive.

SPECIFIC COMMENTS

Introduction
(1) The Equal Opportunities Committee (EOC) paper provides a clear and helpful introduction emphasising the importance of embedding equality perspectives in the key roles and functions of Parliamentary committees

(2) Point 13 of the Introduction it is acknowledged that the production and the issue of the Mainstreaming Equality Guidelines is the beginning of a process ‘encourage...committees to use them’. CERES is aware that the EOC and the Equality Unit recognise that the achievement of equality outcomes is an interactive, dynamic and developmental process which is in some areas long term, in others, less so. CERES therefore wishes to encourage the Parliament to implement the proposed guidelines as comprehensively as is possible and supports the provision of high quality equality/diversity training (point 13 Introduction) to all political and civil service personnel who staff committees.

Such training should be seen as one element in bringing about a ‘culture change’ in an institution’s approach to mainstreaming equality, the aim of which is to minimise tokenism and the ‘tick-box’ response to implementation, while encouraging an informed and empathetic orientation to eliminating discrimination and promoting equal opportunities.

The programme of staff development currently being undertaken by Scottish police forces in response to the Stephen Lawrence Enquiry may provide valuable insights in this field. We stress the importance of recruiting trainers who are competent in training methodology but more importantly should have analysis and experience of subtle forms of discrimination as well as a comprehensive understanding of the principles and practice behind mainstreaming.

CERES would be pleased to share our training expertise and our expertise on equality issues in Scotland with officers in the Scottish Parliament who are taking forward staff development for MSPs and others in this area.

(3) Equality Guideline 1—Primary Legislation. The Guideline is seen as a valuable contribution towards the aims of inclusiveness. In encouraging responsiveness to the ‘integration of EO principles, strategies and practice’ (Introduction, point 6) into the framing and implementation of legislation. It should assist in reducing the marginalisation and disempowerment of key groups of people living in Scotland.
However it will be in terms of its practical impact that the Guideline will be judged. If it results in effectively widening access to the law-making process, thereby producing better legislative outcomes with less negative (if "unwitting") effects it will be of value. If its requirements are taken on board only grudgingly, the effects will be negligible or even negative—should cynicism set in. To maximise the positive impact of the Guideline will, in CERES's view, require a sustained, committed and skillful effort on the part of those supporting the initiative. CERES would be pleased to play our part in providing support particularly in the area of race equality and education.

(4) Equality Guideline 2—Information Base
CERES fully supports the development of an appropriate EO-related data base and is encouraged that the resources of the Central Research Unit are being applied to this task.

CERES considers that the gathering and refinement of data in the equalities field, vital as it is in the framing and monitoring of policy, should be accompanied by greater interaction and interchange between the Scottish Parliament and those representing the variety of Scotland's communities. The heightened significance given to improving information on the constantly developing field of equality legislation is also welcomed.

(5) Equality Guideline 3—Consultation
The specific attention to EO considerations in the consultation processes undertaken by committees is welcomed and viewed as a concrete step towards inclusiveness.

CERES believes that the value of embedding EO in a wider consultation process outweighs any difficulties, which may be encountered. Again, it should produce better outcomes in terms of legislation, enquiries and scrutiny. It will be important, however, to ensure that there is a genuine broadening of access for those formerly unrepresented.

**GENERAL COMMENTS**

CERES supports the mainstreaming initiative both as a sign that a lead in this field is being given 'from the top' and, hopefully, as a practical measure which will improve the attention given by the Scottish Parliament to equality issues.

CERES does not see these matters as marginal but rather as at the core of questions relating to Scottish identity, and of decisions regarding the economy, social relations, the law and education.

The field of education and race equality is our particular concern, where greater awareness of and attention to such factors as language diversity, access to learning opportunities/employment and curriculum content (among many others) could eventually result in a better understood and resourced multicultural and anti-racist educational environment in Scotland.
We believe that in mainstreaming equality issues in the business of its committees the Scottish Parliament is taking a mature and important step in improving its efficacy across the spectrum of its activities. Too often the inclusion of an equality perspective has been ‘ad hoc’ and dependant on the commitment and presence of particular individuals, mainstreaming, if conducted routinely and seriously will begin to institutionalize equality issues.

Allan Bell
Development Officer
CERES
September 2002

SUBMISSION FROM THE COMMISSION FOR RACIAL EQUALITY

INQUIRY INTO MAINSTREAMING EQUALITY INTO THE ACTIVITIES OF COMMITTEES OF THE SCOTTISH PARLIAMENT

INTRODUCTION

The Commission for Racial Equality (CRE) welcomes this opportunity to respond to the Equal Opportunities Committee’s consultation on its Inquiry into Mainstreaming Equality into the Activity of Committees of the Scottish Parliament.

The CRE is charged with three duties under the Race Relations Act, 1976:

- working towards the elimination of racial discrimination;
- promoting equality of opportunity and good race relations between persons of different racial groups generally;
- keeping under review the working of the Act.

Under the Race Relations (Amendment) Act 2000 (the 2000 Act), which came into effect in April 2000, named public authorities are subject to a general statutory duty to ensure that, in carrying out their functions, they have due regard to the need

a) to eliminate unlawful racial discrimination and
b) to promote equality of opportunity and good relations between persons of different racial groups.

Specific duties have also been introduced by Order in the Scottish Parliament. Specified public authorities will be required to publish the steps they have taken to meet the general duty in a Race Equality Scheme (RES.). The RES must contain details of the public body’s arrangements for

i) assessing and consulting on the likely impact of proposed policies on the promotion of racial equality
ii) monitoring its policies for any adverse impact on the promotion of race equality.
iii) publishing the results of such assessments, consultations, and monitoring with respect to the above

ensuring public access to information and services which it provides; and

iv) training staff in connection with the duties imposed by section 71(1) of the RRAA and associated orders.

KEY MESSAGES

All committees have responsibility on equality matters

The CRE welcomes the key role played to date by the Equal Opportunities Committee in progressing equality matters across the work of the Parliament and in holding the Executive to account. However, the CRE is concerned that not all committees are systematically examining their work for equality implications. The CRE considers it crucial that all committees of the Parliament take ownership of equality matters and we therefore welcome the Equal Opportunities Committee’s initiative in developing this guidance. The CRE would underline the importance of developing appropriate support structures and welcomes the intention to organise related training for committees.

The concept of “mainstreaming” needs to reassessed

The CRE feels that the concept of “mainstreaming” equalities needs to be reassessed and reinvigorated to ensure that it does not become emptied of meaning or developed into ways of working which have little practical result. An example of this is where general duties to encourage equal opportunities have been achieved in legislation to date. While hard won and demonstrative of commitment to equalities mainstreaming, we have to question what effect they will have in practice without specific measures to support the general requirement.

Parliament must monitor race duties

The Parliament must monitor and scrutinise the implementation of the new race duties under the Race Relations Act as amended (see above). It is crucial that the Parliament takes ownership of the duties in this way, to ensure progress on race equality across the public sector. Parliamentarians must also be aware that the Scottish Ministers are subject to the duties to promote race equality: the question which should be asked of every policy and legislative development is, how are racial inequalities identified and addressed in this case?
THE GUIDELINES

Equality Guideline 1 – Primary Legislation

Primary legislation: Stage 1

We feel that the consultation paper identifies the main considerations which committees should address at stage 1:

- What information is available on the operation of inequalities, including evidence of differential impact? How has the Bill sponsor addressed this?
- What consultation with stakeholders has taken place/should have taken place?
- Does the Bill clearly set out its intended effects?

We feel that these are in line with the mainstreaming checklist which the CRE and EOC produced in partnership for MSPs in 1999 – please see appendix 1 for details.

However, in addition, the CRE feels strongly that scrutiny by committees must now take explicit account of the new duties on the Scottish Executive and other public bodies to promote race equality. These duties represent a significant step forward in equalities legislation by placing a positive rather than an anti-discriminatory requirement on public bodies.

An additional question which should be asked of every policy and legislative development is, how are racial inequalities identified and addressed in this case? How is the Executive fulfilling its duty to promote race equality in this case?

For example, it is of concern to the CRE that the Mental Health (Scotland) Bill shows little evidence of having been assessed for potential impact on race equality, despite the fact that research indicates a pattern of inequality with respect to ethnic minority service users in the mental health system. How then is the Executive fulfilling its statutory duty to promote race equality in this case? How is it ensuring that the legislation reflects the Millan Principles of Equality and Diversity?

Primary legislation: Stage 2

The CRE feels that the consultation paper does not adequately address the possibilities for promoting equality at Stage 2, when committees have control of legislation. It is often only at this stage when concerns raised at Stage 1 can be addressed through amendments to legislation which has not addressed equalities matters. Indeed many of the equal opportunities duties in legislation to date have been achieved at Stage 2 or later. The CRE would also note that a significant amount of consultative and lobbying work both by itself and other external organisations was required to achieve key equalities duties.

The CRE therefore feels that the guidelines should take a more proactive approach to the possibilities offered at Stage 2. Committees should analyse...
concerns raised at stage 1 and seek to address them through the legislative process: through proposed amendments and through holding Ministers to account.

**Equality Guideline 2 – Information Base**

The CRE welcomes the identification of the need for an effective information base. The CRE has consistently stated that we can only make progress by developing a baseline of information about and understanding of how discrimination and racism operates. A key message is that there is a need to develop a reliable sector-specific base of equality statistics alongside a sustained programme of research. What is also required alongside data collection is a sustained programme of research. Committees should take the lead in promoting this, as part of their inquiry work, their scrutiny of legislation and holding Ministers to account.

Under the Race Relations Act as amended, many public-sector bodies are now under a duty to undertake ethnic monitoring, not only in relation to employment but also in relation to service provision. Committees should be aware of that and should work to ensure a joined-up approach to monitoring, which provides essential data about the operation of inequalities. For example, the CRE would like to see an ethnic monitoring duty placed on all bodies with a function under the *Mental Health (Scotland) Bill*. Local authorities and health boards are already subject to a statutory duty to monitor policies for adverse impact on the promotion of race equality. We consider it of key importance that there is a consistent approach to monitoring across the bodies providing mental health functions. An ethnic monitoring duty on the face of the Bill would ensure that. The CRE would urge committees to proactively address the need for equality data in their work of scrutinising and amending legislation.

Allied to this is the need for rigorous monitoring frameworks and impact inquiries to ensure that outcome and impact can be successfully tracked. Only is this way can we be sure that new ways of working and new duties under the Race Relations Act will result in meaningful change. The second term of the Scottish Parliament will be important in terms of identifying meaningful change and this requires inquiries into how it is impacting in specific areas in terms of promoting equal opportunities.

For example, the *Standards in Scotland’s Schools Act* places a duty on education authorities to publish an annual statement of their education objectives which includes an account “of the way in which they will, in providing school education, encourage equal opportunities and in particular the observance of the equal opportunity requirements.” But how are education authorities fulfilling that requirement? How is equality being built into their planning and what impact has this had for people on the ground? Also, has the Executive kept its commitments in relation to guidance and subordinate legislation?
Equality Guideline 3 – Consultation

It is clear that while key agencies are taking the opportunities offered by paper consultations and working groups, there is still a deficiency in building more genuinely inclusive consultation to engage the wider community and excluded groups, which is critical to identify needs and set in place measurable objectives. The CRE therefore welcomes the development of an EOC database of EO contacts and consultees. Alongside this, various consultation methods – focus groups, local meetings, surveys as well as oral and written evidence-giving in the Parliament – should be employed to ensure wider access to the work of the Parliament.

The Equal Opportunities Committee Inquiry into Gypsy Travellers and Public Sector Policies provides a good example of where an initiative to consult with an external community has clearly informed policy development. The various methods of consultation employed by the committee also enabled genuine participation. Committee members visited Gypsy Traveller sites for example to see conditions and to engage with people outside the formal environment of the Parliament.

Clearly, processes for effective consultation must be developed across the work of the Parliament. The CRE therefore welcomes the recommendation of the guidelines that all committees should include equal opportunities criteria in deciding consultations and should take equal opportunities considerations into account as part of their overall criteria for choosing an inquiry topic.

It is also important that that the views gathered feed clearly and consistently into parliamentary strategy on legislative and policy development. Gathering information is important, but so is managing that information and acting upon it. The CRE would like to see more equality-focused inquiries, more proactive work by parliamentarians to amend legislation on equalities grounds, and debate about possible new legislation which may be required. For example, the CRE has consistently urged the Parliament to specifically address religious hatred by examining the need to review criminal justice legislation to provide protection to faith communities.

KEY RECOMMENDATIONS:

The guidelines must be adequately supported to ensure implementation

♦ The guidelines must also address outcomes: committees should be encouraged to undertake impact inquiries on equality matters and to hold Ministers to account against the Equality Strategy and
commitments made in relation to subordinate legislation and guidance

- The guidelines should explicitly address the monitoring and promotion of the race equality duties under the Race Relations Act as amended
- The guidelines should promote a more proactive role for committees, for example in relation to amending legislation at stage 2 and initiating inquiries and new Bills relating to equalities matters

SUBMISSION FROM THE DISABLED PERSONS HOUSING SERVICE

Inquiry Into Mainstreaming Equality into the activities of Committees of the Scottish Parliament

The Disabled Persons Housing Service welcomes the Equal Opportunities Committee’s Inquiry into Mainstreaming Equality and applauds this latest example of the energy and commitment shown by the Committee in pursuit of the long-term objective of mainstreaming equality.

The DPHS offers comments and observations on this consultation paper from the point of view of a user-led organisation working with and for disabled people\(^1\) and operating at the interface of health, housing and social work services. DPHS comments are also informed by the organisation’s core values, where a person-centred focus and a holistic approach are regarded as paramount in delivering quality and sustainable housing solutions, as well as equality of housing opportunity.

On the general question of mainstreaming equalities, both as an objective and as a cultural development, the DPHS has addressed this issue previously with the Equal Opportunities Committee, most recently at a meeting\(^2\) earlier this year and where the issue was an examination of the mainstreaming of the Scottish Budget. The DPHS said then:

“The DPHS would argue that there are probably two significant elements which, for disabled people, would provide such a catalyst and pave the way for mainstreaming equalities being achievable and deliverable within a 15-20 year timescale. Firstly, there is a need to provide the Executive with a sharper focus and heavier weight to the mainstreaming dynamic. While the Equalities Unit is clearly doing good work in this context, it cannot provide the same weight to driving delivery and cross-cutting as would a Minister for Disabled People. A Minister in the Scottish Executive with such a portfolio would be able to build on the work of the Equalities Unit and drive the pace, direction and delivery of change required within an acceptable time frame.

\(^1\)‘Impairment’ is the lack of part or all of a limb, or having a defective limb, organ or mechanism of the body; ‘Disability’ is the loss or limitation of opportunities that prevents people who have impairments from taking part in the normal life of the community on an equal level with others due to physical and social barriers (Swain et al., 1993)

\(^2\) extract from DPHS formal evidence presented at the 30th April session of the PEOC
Secondly, there is a clear need to adopt an approach where those people for whom inequalities are the everyday experience are made real and equal partners in the work of today which will create the mainstreaming culture of tomorrow and deliver equality. The DPHS has already demonstrated practical examples of this in relation to the Housing (Scotland) Act 2001. It is our belief that sustainable and credible mainstreaming outcomes will only be delivered with the active involvement of user-led organisations such as DPHS, Centres for Independent Living, Positive Action in Housing, and others. This will require substantial and explicit resource commitments from the Scottish Executive.”

The DPHS believes this remains a highly relevant commentary on mainstreaming and that it provides a necessary wider context in looking at how best to mainstream equality into the work and activities of Parliament’s Committees.

While mainstreaming equalities is increasingly expressed as the clear political will, and working agendas, of MSPs and the Scottish Executive, others show signs of not being ready to harness this momentum for change. Perhaps the tardiness flows from the challenges involved, with these being both cultural as well as practical. Culturally, mainstreaming requires a mindset change from accepting that only specialist or issue-based service responses are possible and it is all as a result of the statutory sector being unable to deliver what is required. The aim is to re-engineer and reform the culture of statutory sector services so that services reflect and are informed by the diversity of communities served. The practical challenges include moving on from equalities work being regarded as an add-on or separate strand to core activity or services. Instead, work on equalities must cross-cut everything that is done and inform how everything is done.

Delivering equalities can only ever enjoy partial success if it remains the work of special structures, whether in the voluntary or statutory sector. Sustainable, permanent and universal equalities demand that the mainstream structures necessary for everyday living have equalities work, values and awareness running through their veins – the staff who are the lifeblood of any organisation. Tattooing ‘working towards equal opportunities’ on various parts of the corporate body is a poor substitute.

To assist a structured analysis of responses, the DPHS has used the topics identified at section 16 of the consultation paper as a framework within which to construct a commentary on and critique of the current work undertaken in mainstreaming equalities.

**Issues raised by the paper**

The Scottish parliament cannot work in isolation from what is or is not taking place in the wider world on eliminating inequalities. Taking a singular or primary focus on re-engineering policy and practice in the public sector will have the effect of creating parallel worlds in which people will, as they move from public to private and back again, encounter markedly different equality
experiences. The DPHS has most recently drawn attention to this flawed approach in the context provided by the First Report of the Housing Improvement Task Force. In the DPHS response\(^3\) submitted on that Report, attention was drawn to the outcomes from a failure to adopt a holistic approach:

“In that section of the report dealing with what are described as ‘key issues’, the DPHS believes that the genesis of the report – criticism of the Housing (Scotland) Bill for dealing almost exclusively with the social rented sector only – has failed to prompt what is required. At Stage 2 of the Bill, the DPHS commented in a briefing\(^4\):

“The Disabled Persons Housing Service takes the view that the Bill has not fully engaged with the many aspects of what constitutes the housing market in Scotland, either in terms of the (current and planned) responsibilities of existing key players or in terms of the existing dynamics and relationships. It thus follows that the new order which would flow from the totality of the changes planned within the Bill will be limited in its impact on how well the housing market delivers what it is that people and communities need. That said, the DPHS welcomes many of the issues identified with the Social Justice Committee’s Stage 1 Report as representing opportunities to enhance the potential impact of the Bill in those areas where equality is a major issue.

In particular, the DPHS continues to view the absence of legislation on the role and contribution of the private sector to the housing market as being a fatal flaw. The narrow focus of legislating only for the contribution of social rented sector perpetuates the discredited approach in concept and delivery which has resulted in a sustained failure to tackle the fundamental nature of Scotland’s housing problems. It is only by focusing on the entire housing market and how it operates, that legislation, regulation and guidance can be brought to bear in a manner which markedly improves the options and choices in housing available to all people and all communities. While the planned Housing Improvement Task Force is welcome, and the proposed Index of Housing Quality is a sound concept, the fundamental thinking inherent in treating the two sectors separately in the legislative approach underscores an outdated attitude and acts as a real barrier to joined-up working on housing problems faced by people.”

This analysis remains relevant today, and the report perpetuates the flawed approach in continuing to examine, analyse, and recommend action from a baseline which sustains a demarcation between private and public sector housing, instead of treating – and thus formulating policy change - the entire housing market as a whole. Until this entirely artificial divide is acknowledged and properly addressed, efforts in tackling the ineffectiveness of the housing market in meeting all the housing needs of all communities of people will continue to deliver fragmented and variable and unequal results.”

\(^3\) Housing Improvement Task Force First Report – a response from the Disabled Persons Housing Service, May 2002
\(^4\) ‘Housing (Scotland) Bill – A Briefing from the DPHS’, April 2001
If mainstreaming equalities is to deliver a universal equality of opportunity for those communities of Scottish people who are currently marginalised and excluded, the strategic work of the Scottish Parliament and its Committees in this area will require to adopt an holistic approach. It is thus inevitable that additional mechanisms and methodologies, including primary legislation, will be required to introduce to the private sector the same nature, pace and quality of change as is introduced to the public sector.

**Features of an effective approach to mainstreaming equality**

There are any number of features which the DPHS would look for in an effective approach, mindful always of the imperative set out in the previous section – that an overarching and holistic approach is required if equality of opportunity is to be universal. The following are probably the most critical features if that objective is to be achieved.

**The culture of consultation** – the DPHS has long been concerned with certain aspects of the culture of consultation which has emerged alongside the work of the parliament. Where ministers and others have required substantial advice and guidance on policy issues, it is not uncommon for a ‘Task Force’ or similar to be formed. All too often, the ‘usual suspects’ are rounded up and, given that they are invariably drawn from amongst the established players who are responsible for the problems to which answers are sought, their advice and guidance to ministers and others frequently falls short of the substantive and sustainable action required. The DPHS has identified the consequence of this flaw in relation to the work being done to implement the Housing (Scotland) Act 2001. In its evidence to the Equal Opportunities Committee earlier this year\(^5\), the DPHS highlighted:

“In the same section, reference is made to the piloting of mainstreaming equality in housing within the Executive, and the Housing (Scotland) Act 2001 is cited as a particular focus for this. In the many draft guidance and other papers flowing from the Act, the DPHS has found that the impact of the mainstreaming pilot has, in reality, been minimal. In some of the draft papers published this year and dealing with a Short Scottish Secure Tenancy, Tenant Participation, and Unintentionally Homeless Applicants, the DPHS response has drawn attention to those areas which require significant amendment if the draft guidance papers are to mainstream equality.”

More specifically, the DPHS addressed this issue within its response\(^6\) to the First Report of the Housing Improvement Task Force:

“the DPHS believes this reveals further flaws in the work of the HITF. Firstly, the composition of the Task Force itself reveals a continuation of the ‘usual suspects’ membership tendency in the formation of such bodies. The lack of representation from traditionally excluded communities and who could bring an informed, cross-cutting analysis of the housing market failings, is a failure

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\(^5\) extract from DPHS formal evidence presented at the 30th April session of the PEOC  
\(^6\) Housing Improvement Task Force First Report – a response from the Disabled Persons Housing Service, May 2002
which will affect the ongoing work and outputs of the Task Force. Continuing
to rely on those who have been closely involved in evolving the housing
market we have today for ideas on how to tackle its failings will yield few of
the radical solutions required. Continuing to consult with traditionally
excluded communities of people in an ‘arms length’ framework forms a barrier
to those communities being part of the real partnerships for change which
need to be created if the housing market is to change.”

The DPHS recommendation then – “that the Task Force membership include
representation from excluded communities of people, including black minority
ethnic communities and disabled people” – has relevance for all work being
done in the area of mainstreaming equality.

**Compiling quality baseline data on inequalities** – in order to achieve the
ultimate objective, work will be necessary in tackling the causes and sources
of current inequalities. In order for that work to be focused and effective,
accurate and reliable data on current inequalities needs to be available. For
example, data currently on home ownership shows that while 38% of disabled
people are home owners, this compares with 63% of the general population
being home owners. This clearly represents an inequality in how the housing
market meets the needs and aspirations of disabled people, and in turn
provides a focus on where work needs to take place.

Collection of such data will need to be on a national and regional basis.

**Training** – those staff involved in work where mainstreaming equalities is a
policy and corporate objective will require to be fully equipped with the tool-kit
needed for the job. Part of that tool-kit has to include training in providing an
understanding of the causes and sources of inequality. In this context and as
just one practical example of what is required, the DPHS supports the
recommendation made by UNISON in its evidence to the Committee in
January 20027, when it called for mandatory training being provided by all
employers on the social model of disability.

**Setting targets** – on the assumption that quality data baselines are
established and inform what is known about the extent and nature of
inequalities, it then follows that there should be the setting of a series of
national targets for reducing the key indicators of inequality. Precedent is
available for this approach in any number of areas, not the least being in the
form of the proposed Index of Housing Quality, as well as in the new
performance management framework published by Communities Scotland for
all landlord performance, where meeting the needs of disabled people and
BME groups is to be specifically measured, both in actual defined
performance criteria, as well as in profile the extent of these communities
within the locality served by landlords.

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238, para. 27
Equality impact assessments – an essential part of any coherent and multi-faceted approach to mainstreaming equality has to be in assessing the impact of what work is being done in pursuit of agreed targets and informed by quality data baselines. Monitoring progress against targets, many of which would be detailed within statutory sector locality strategies, would fit within the cultures already mentioned and be accommodated easily within the systems which are being developed to, for example, log, monitor and analyse the data on landlord and Index of Housing Quality performance.

Identifying outcomes from an effective approach

See comments in previous section on setting targets.

Monitoring the mainstreaming dynamic within the work of Committees

If it is accepted that mainstreaming equalities work undertaken anywhere should lead to tangible and measurable outcomes, it is reasonable to expect that the work of Committees in this context should be subject to the same rigorous analysis.

In monitoring this, the DPHS takes the view that this is best done through a culture of self-assessment, and that all Committees should be required to produce an annual report on how mainstreaming of equalities has affected their scrutiny of legislation. It is suggested that to provide for a degree of uniformity and transparency in reporting, Committee reports should adopt a report framework as provided by the guidelines in Annex A of the consultation paper – ‘Mainstreaming Equality Guidelines’. There are, however, two further criteria which should be added to Stage 1. Firstly, that the intended effects of the Bill includes a clear statement on how its terms and provisions will lead to specific and quantified reductions in or elimination of inequalities. Secondly, that the additional information made available with the Bill includes references to quality data baselines on inequality measures, or proposals to establish these where they are known not to exist.

Mainstreaming equality guidelines

In terms of consultation, witnesses and advisers used by Committees in their legislative scrutiny function, the DPHS would again emphasise the flaws in the contemporary culture of consultation and the over-reliance on the discredited ‘usual suspects’ [see previous comments at page 5, ‘Features of an effective approach’].

Good Practice

Mainstreaming equalities must encourage permanent change. It can never be enough to resolve the housing needs of today’s disabled person and accept that next year and the year after that, another disabled person will encounter the same barriers and need the same information and advice to get round those barriers.
To illustrate with an example of good practice. The Housing (Scotland) Act 2001 now places an obligation on local authorities to map the current housing provision for people with ‘special’ needs, as well as quantify the unmet housing needs of that same community of people. This reflects and was informed by pioneering work developed by the DPHS and used as a basis for providing disabled people with quality information on what choices and options were open to them. Similarly, profiling unmet housing needs of disabled people allowed the DPHS to exert a powerful and informed influence on future planned provision across all sectors in the housing market.

Once local authorities undertake this work and are thus able to provide the same quality of information to disabled people, mainstreaming of equalities is given practical effect. The potential consequences? The DPHS will no longer require to do this work and can reconfigure its service profile to focus more effort in other areas where the housing market fails disabled people. Alternatively, local authorities could commission a DPHS to do this work for them. In truth, this is of secondary importance. It is not who does what that matters, it is that a quality of information on housing options will now be available to disabled people on similar terms to that for non-disabled people.

Implementation issues

As has been argued, the ‘usual suspects’ culture of consultation and advice needs to be dismantled and replaced with people who represent marginalised and excluded communities. This has resource implications and will require capacity building amongst those communities.

Władysław Mejka
Director
DPHS
September 2002

SUBMISSION FROM THE DISABILITY RIGHTS COMMISSION

Mainstreaming Equality Into The Activities Of The Scottish Parliament

Introduction

As 1 in seven of the population in Scotland are disabled we could say that:

1 in 7 MSP’s in a Committee,
1 in 7 people who attend Committees to give evidence,
1 in 7 people who work in the Scottish Parliament,
1 in 7 Committee business observers, and
1 in 7 ‘consumers’

will be disabled people.
Only one of the above statements is likely to be true: the last one.

Instead disabled people in Scotland today are more likely to be unemployed\(^8\), have no formal qualifications\(^9\) and to live in households with an income less than £10,000 pa\(^{10}\). They may experience discrimination in employment opportunities and in accessing a whole range of services including transport, health, education, leisure, heritage, housing and the built environment all of which may make it less likely that they will participate in the Parliamentary process, for example as employees of organisations invited to give evidence.

The DRC is striving for change that will bring an end to all forms of discrimination facing disabled people on a daily basis. This will help to ensure that each of the statements at the top of this page are equally likely to be true.

Summary of key conclusions

All Committee members and relevant officers should be aware of, understand and accept a common ideal of mainstreaming and its purpose and practice. Effective organisational communication will be essential in achieving this goal.

Further investigation and research of mainstreaming approaches in practice would give a greater insight into its usefulness in achieving desirable outcomes.

Practical absorption of the mainstreaming principle should be incorporated intuitively at the planning and development stage all work. The current draft Guidelines could themselves usefully be mainstreamed into existing Guidelines, procedures and practices to assist this process.

Disabled people are not a homogenous group and the guidelines should therefore include degrees of proactivity, flexibility and responsiveness and the principle, and the content of the Guidelines, should be operated as widely as possible in the work of the Parliament.

Evaluation and monitoring of mainstreaming will be essential parts of the mainstreaming process and outcomes of these should be utilised to identify successes and barriers and to develop mainstreaming further.

The Equal Opportunities Committee could lead on monitoring and evaluating the work of other Committees and supporting them and providing a focal point. Ideally, evaluation could address the outcomes of mainstreaming equalities on legislation in practice and not only on the legislative process.

Mainstreaming of equal opportunities, like any initiatives requires the input of resources. Resources in this case could include financial, information, tools and knowledge.

\(^8\) Labour Force Survey, Winter 2001  
\(^{10}\) Scottish Household Survey, CRU, Scottish Executive, 1999
Access to the legislative process and to consultation for disabled people require practical consideration, which must be specifically addressed.

All Inquiries could address equal opportunities as a criterion for Inquiries

The draft Guidelines are short and would benefit from being fleshed out. They could offer practical advice and signposts and illustrate desirable outcomes and how they should achieved and evaluated.

Comments on the consultation paper

The following section gives our responses to some of the key questions asked in the consultation document.

Issues raised by the consultation paper

i. The Principle of Mainstreaming in the Scottish Parliament
The Disability Rights Commission commends the Scottish Parliament’s attention to equal opportunities and developments since ‘Shaping Scotland’s Parliament’, the report of the Consultative Steering Group (CSG). We also welcome the development of proposals by the Equal Opportunities Committee on how best to mainstream equalities into the activities of the Scottish Parliament and the publication, for consultation, of draft Mainstreaming Equality Guidelines.

These proposals will help to steer the work of the Parliament towards the ideal presented in the CSG report that equalities must ‘be integral to the infrastructure, procedures and policies’ of the Scottish Parliament. We believe that the best way to achieve this ideal is to ensure that all policies, practices and procedures designed to deliver equality, are themselves mainstreamed into the routine policies, practices and procedures and the everyday work of the Parliament from the outset.

ii. Applying Schedule 5 of the Scotland Act to draft Legislation
A vital feature of the Scottish Parliament is how it addresses equal opportunities within the devolved context. Schedule 5 of the Scotland Act specifically sets out that the role of the Parliament is to encourage and observe equal opportunities, as opposed to regulating or enforcing them. There has been debate and several different interpretations of what Schedule 5 LD2 enables the Parliament and legislation in Scotland to cover.

Mainstreaming should address how to introduce consistency and clarity to this role in relation to draft legislation and the application of Schedule 5 in practice. It will be important therefore for Committees to share both a common and an exacting understanding of the application of Schedule 5.

iii. Sharing Responsibility
We recognise the key role of the Equal Opportunities Committee to date as a catalyst in the early years of the Parliament’s life whilst other Committees
continue to develop the relevant knowledge and practice\textsuperscript{11}. We consider that achieving the goal of equal opportunities will stem from the Parliament collectively understanding, accepting and sharing responsibility for equal opportunities rather than relying solely on the expertise and actions of dedicated and knowledgeable groups. Implementation of the draft Guidelines alongside further mainstreaming activities will ensure that the Scottish Parliament, as a whole, takes responsibility for equal opportunities.

iv. Awareness of Mainstreaming
Our experience of mainstreaming, to date, is that it is not widely known or understood. This may be due, at least in part, to the myriad ways in which it can be communicated, implied or interpreted. Also, the practice and effectiveness, or otherwise, of mainstreaming equality, including disability issues in Scotland is yet to be examined and reported on in detail. The DRC would welcome further research of the mainstreaming principle and approaches to give a greater insight into its usefulness and effectiveness in achieving desirable outcomes.

v. Timing of Implementation
The CSG report emphasised that measures taken to enact equal opportunities, if they are to be effective, need to be ‘built in’ from the beginning, rather than ‘bolted on’ at the end.

Given that the founding and mainstream procedures and Guidelines for the Parliament are already in place, the introduction of the mainstreaming principle at this time means that they are not yet a part of the mainstream and considered to be ‘built in’. It will be important to ensure that this is taken into account as the Guidelines evolve and mature.

What features would be displayed by an effective approach to mainstreaming

We offer the following features as essential or desirable elements of an effective approach to mainstreaming -

i. Cultural absorption
To be most effective the principle of mainstreaming must itself be integrated into the culture of an organisation and equality issues considered and acted upon intuitively. The Guidelines, as well as being a reference document, could be utilised to foster a culture a culture that takes account of equal opportunities as a matter of course.

Communication will be a major factor in achieving the fullest possible absorption of mainstreaming within the Parliament and its stakeholders to ensure that all involved are equally aware of, understand and accept the principle. Initially this will mean developing a clear definition of mainstreaming and what it looks like in practice that can be communicated to, understood and accepted by all MSP’s and staff including, not just those concerned with

developing policies, practices and procedures but also those who manage and deliver them, those who fund them and those who plan.

ii. Practical absorption
In tandem with cultural absorption, above, it is important that consideration is given to practical applications. For example, the practical absorption of mainstreaming by individual Committees would ensure that they consider equal opportunities, as a matter of course e.g. by questioning the impact of policies on equal opportunities. Additionally this will mean ensuring that processes are able to take account of disability issues intuitively rather than through special application e.g. in invitations to organisations to give evidence as well as in the information that Committees would expect to be provided by the Executive about any new legislation

Practical absorption of mainstreaming would, ideally, be accomplished whenever a new policy or service was developed or project initiated and is therefore ‘built in’ and not ‘bolted on’ or forgotten about altogether. This would ensure that the whole process being developed including, for example, guidance, forms, training, location, timing, information and, crucially, monitoring would instinctively take full account of disability issues and that these were not treated as separate add-ons.

Practical considerations would also extend to how developments and systems newly revised to take account of mainstreaming are promoted to staff and other stakeholders. Benefits of this approach are not restricted to end users but to the Parliament as a whole by avoiding the need for duplication and added effort through having two systems, two sets of forms, two sets of guidance etc and by being more effective in involving key stakeholders who are disabled.

iii. Responsive and flexible
Disabled people are not a homogeneous group and different disabilities require different adaptations some of which may be conflicting. Approaches taken to deliver equality must take this into account and be developed to be responsive and flexible.

The guidelines, for example, will need to allow for proactivity, flexibility and responsiveness to the requirements of different groups including recognising the requirements of older disabled people, disabled school children, families of disabled people and people with different types or severity of disability as well as taking into account the different lifestyles and aspirations of individuals.

iv. Evaluation
Evaluation and monitoring are widely accepted as essential to the development and application of any process and this is no less so for mainstreaming. It will be important for Committees of the Parliament to develop a process of evaluating the impact of mainstreaming including both qualitative and quantitative outcomes. Whilst ideally such evaluation should
take place on an ongoing basis we feel that as a minimum an annual process of considering the impact of mainstreaming would be useful.

The outcomes of such evaluation could be used to further develop the concept of mainstreaming and its application by identifying successes to be built upon and also barriers to be addressed. The monitoring process should also provide a route for sharing this valuable information between Committees and other areas of the community of the Parliament.

v. Resources
The effective development, implementation, review and continuation of mainstreaming of disability issues will require resource. In Parliamentary terms this is likely to be one of time and finance. Committees will need to devote time at the outset to developing and implementing their approach. Financial resource will be necessary in some instances to overcome barriers to participation, for example. Other practical considerations that may require financial resource are likely to include provision of information, tool and knowledge resources such as awareness training, provision of support services, documentation being readily available in alternative formats etc. It is important that this is recognised and taken into account by those with responsibilities for these the application and for the funding of these functions

What would be the identifiable outcomes of an effective approach to mainstreaming equality?

i. Legislative outcomes
The mainstreaming approach is being utilised to ensure that Committees take account of equal opportunities whilst fulfilling their legislative functions. Therefore, the primary identifiable outcome will be legislation that is both effective in its goals and which takes account of equality of opportunity within the pertinent devolved framework.

It will be necessary therefore to consider outcomes in relation to the legislation in practice and its impact on disabled people's lives and not only on the impact of mainstreaming on the legislative process itself.

ii. Primary Legislation Activities
Potential outcomes for each of the primary legislative activities identified in the draft Guidelines could be records of evidence that the activities were undertaken and how, what was established by the doing the activity and what was done with the resulting information.

Third parties invited to participate in these activities e.g. stakeholders could be given an opportunity to comment on their participation. Records of this evidence could be maintained and opened to review.

iii. Consultation
Input from stakeholders on consultation opportunities is essential to ensure that they are not hindered in giving evidence to or being consulted by Committees. A Committee may seek evidence, either orally or in writing from
relevant organisations. However, it may be that the same limited group of organisations give evidence repeatedly. However, a different or additional perspective may be available from consultation with other groups who are less equipped to give evidence in the formal manner. There are likely to be smaller or local groups, including out with the central belt that have not previously been recorded in the Information Base. A measurable outcome could be what steps have been taken and how successful they were in including smaller, locally based groups or individuals.

Accessibility of the consultation is another important consideration for disabled people. Physical accessibility of venues, information and participation, notice given, timing, location and provision of support all have an impact on the access to evidence giving and the consultation process for disabled people. Committees could record and report on how they have attracted input to consultation from disabled people or representative groups, what impact their input has had on the final outcome and how the process was made accessible for them.

iv. Inquiry topics
Committees are required to consider equality as part of their criteria for choosing inquiry topics. It would be useful if equality were addressed as a standard element of each Inquiry, regardless of whether the Inquiry topic was chosen on the basis of equal opportunities considerations at the selection stage. This course of action would ensure that every Inquiry subject was investigated to identify the equality perspective and potential impact. At the very least, consideration would be given to whether there was an equality perspective in any shape or form. (See also e.ii.)

Monitoring the manner in which committees mainstream equality

i. Role of Equal Opportunities Committee
We see the pivotal and leading role of the Equal Opportunities Committee continuing. However the emphasis would shift towards supporting fellow Committees in delivering equal opportunities within their individual remits. This may include offering advice and support based on expertise and also playing a central role in monitoring the impact of mainstreaming equal opportunities into the work of Committees providing evidence of application and ensuring consistency and quality.

ii. Addressing Other Key Principles
Further to d.i. above, the Equal Opportunities Committee could lead on addressing the application of mainstreaming equalities throughout the other three Key Principles identified in the report of the CSG. For example, the Scottish Parliament aims to be open and transparent and these principles should themselves take account of equal opportunities.

Comments on proposed Mainstreaming Equality Guidelines

i. Mainstreaming the Guidelines
The Guidelines will be an important tool in achieving the mainstreaming principle through the influence they will exert on the activities of all Committees to have regard to equality of opportunity including in the scrutiny and progressing of legislation.

At present, the draft Guidelines are separate and isolated from those other guidelines which steer Committee work. The Guidelines should adhere to the principle they underpin and be mainstreamed throughout the relevant Parliamentary Guidance. This is likely to enhance their practical application and it will be easier for users to have one set of guidance to refer to.

For example, Guidance for Operation of Committees, Section 15 Information Gathering, refers to opportunities to hold open meetings. These guidelines could include a recommendation that organisers of open meetings take steps to ensure that both venues and meetings are fully accessible and that this is promoted through general marketing of the event to encourage disabled people to attend.

Specific guidance would still be required to give practical information and advice on disability and access issues. This guidance could be signposted from all relevant mainstream Guidelines. As mainstream guidance is already in circulation this could be achieved through inserts into existing guidance until such time as they can practicably be re-issued.

ii. Coverage of Guidelines
The CSG report states that equality ‘must be a mandatory consideration throughout the workings of the Parliament.’ However the consultation document declares that the proposed Guidelines would be used only ‘in appropriate circumstances.’

Whilst clarification is required on what is meant by this, we would recommend that the Guidelines be utilised and promoted throughout all the work of the Committees of the Scottish Parliament to reflect the reality that disabled people are not just disabled and their lives are not governed or provided for solely by legislation and frameworks that address social justice and equal opportunities issues. Disabled people may also be business owners, parents, activists, farmers, homeowners, hill-walkers and car drivers, to name a few. They may even be victims or perpetuators of crime and subject to criminal justice legislation.

iii. Limitations of application
This Inquiry and the draft guidelines are limited to the activities of Parliamentary Committees and we are mindful of the structures and procedures of the Parliament, which dictate this. However we suggest that it would be beneficial if the experience and outputs of this exercise were shared with other elements of the Parliament e.g. operation of Cross Party Groups. The Consultative Steering Group definition of mainstreaming\(^\text{12}\) concurs and

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\(^{12}\) Paragraph 3 of consultation document, July 2002.
would seem to support a joined-up approach across the work of the Parliament as a single body serving the people of Scotland.

iv. Definition of Mainstreaming
The consultation document identifies with the definition of mainstreaming given by the CSG. However, the draft Guidelines themselves do not contain this information.

Notwithstanding our earlier comment on mainstreaming the guidelines themselves, we recommend that the draft guidelines be augmented to include this information and to explain clearly to the future user what mainstreaming is in relation to equality and the purpose of the guidelines.

v. Aiming for good standards – use of checklists
One component, of which we are aware, in use to enact mainstreaming is the use of checklists. These can be a useful tool and have, to date, been used to good effect by the Equal Opportunities Committee as a means of ensuring that both Committees and the Executive are focused on the range of aspects to be taken into account. However, checklists can support a habit of producing passive or perfunctory responses resulting in baseline standards being applied rather than encouraging continuous improvement. We would hope that the inclusion of checklists would become less necessary as mainstreaming becomes more part of the lifeblood of the work of the Parliament.

vi. Detail of Guidelines
The draft Guidelines as published have been designed to be short and not overly prescriptive. We understand the reasons why this approach has been adopted so as not to overburden Committees. However we feel that some Committees may wish for further detail as to how the guidelines should be implemented. We suggest that the Guidelines could usefully be augmented by the inclusion of practical advice and signposts and illustration of desirable outcomes and outputs.

In particular, monitoring processes are highlighted in the draft Guidelines in relation to Guideline 2. Information Base and Guideline 3. Consultation. It would be desirable for the guidelines to expand on this and to provide illustration and further detail of evaluation methods and development goals based on data accrued through monitoring processes. This will also ensure consistency of approach and provide opportunities for comparison and therefore improvement and transparency across the body of the Parliament.

Are there any implementation issues?
Awareness and understanding of the principle and practice of mainstreaming throughout any organisation is crucial. As a relatively new concept the development of an awareness of it throughout the Parliament is a crucial issue for effective implementation given that there are several different definitions and interpretations currently in use. Further, there is a need for a clear and agreed definition to be communicated, adopted and accepted by the Parliament. As well as assisting the effective progression of mainstreaming
internally, this will ensure that organisations likely to be working with the Committees are clear as to what is being undertaken as well as expected of them.

A further implementation issue pertinent to the work of any organisation is the acknowledgement that mainstreaming of equalities is not purely a paper exercise. Equality, achieved by whatever means or principle requires knowledge, evidence, understanding, input, tools, commitment, monitoring, development and resources including finance. For the Guidelines to be effective will require the Parliament as whole to accept the challenge that this will entail. Progress to date and the commitment of the Parliament in taking forward equal opportunities suggests that this to become a reality.

Heather Fisken
Policy Analyst
Disability Rights Commission
September 2002

SUBMISSION FROM DUNDEE CITY COUNCIL

Inquiry Into Mainstreaming Equality Into the Activities of Committees of the Scottish Parliament

1. I thank you for your letter dated 9 July 2002 and appreciate the concise content and format of the consultation document.

2. The definition at Para 6 is useful, though not the same as that used by the Scottish Executive. It might be better if one definition were used across the public sector, and I am sure that the EOC, CRE and DRC would be helpful in this process.

3. In Paragraph 7, mainstreaming by any definition must include financial matters. While it is generally true that mainstreaming equality into existing structures can reduce the costs of implementing equality measures, it is vital that monitoring of expenditure takes account of whether benefits are fairly distributed across all sections of the community. Committee members should, therefore, be made aware of how the financing of proposals impacts in different groups, and be prepared to cost positive measures where necessary. This would not amount to a responsibility to “equality proof” the budget but would help to raise awareness of these issues.

4. In paragraph 13, would it not be possible to require, rather than encourage Committees to refer to the guidelines and the use made of them in any report they produce or consider, as is the practice of many Local Authorities.
5. The reference to the provision of appropriate training is to be welcomed. To ensure that the training is not conducted on a one off basis with the risk that skills would be lost through time or that new committee members and staff would miss it, there should be a rolling programme of training backed up by a written support pack for each individual.

6. I trust the above comments will be of assistance to the Equal Opportunities Committee.

Alex Stephen
Chief Executive
Dundee City Council

SUBMISSION FROM EAST AYRSHIRE COUNCIL

Inquiry Into Mainstreaming Equality Into the Activities of Committees of the Scottish Parliament

Thank you for your invitation to comment on the above.

In our view, the draft mainstreaming equality into the development of policy and delivery of our services and therefore would welcome such an approach.

The proposals would also seem to be timely in respect of the introduction of the Race Relations (Amendment) Act in that they support the fundamental objective of promoting race equality in the community.

Finally, I believe it would be helpful to the Council’s equality work if your finalised mainstreaming documentation and support structures are circulated with a view to extending the practice within local government.

I trust that these comments are helpful to you.

David Montgomery
Chief Executive
Easy Ayrshire Council
October 2002

SUBMISSION FROM EAST RENFREWSHIRE COUNCIL

INQUIRY INTO MAINSTREAMING EQUALITY INTO THE ACTIVITIES OF COMMITTEES OF THE SCOTTISH PARLIAMENT

General

Since power is central to unlawful discrimination, we would like to propose an addition to the definition of mainstreaming equality the following:
“In essence, mainstreaming equality entails the steps we take to ensure that the exercise of power in the course of policy-making and implementation or service-planning and delivery, instead of having an adverse impact on anybody or group on the basis of class, gender, race, disability, sexuality etc, leads to their active inclusion in the activities of the organisation and the society within which it is located”.

We would suggest that parliament, in attempting to mainstream equality, does not focus solely on procedural aspects but, more importantly, on outcomes. In other words, mainstreaming should be seen to be having a positive impact on the life chances of excluded and disadvantaged groups in Scottish society.

**Features of an effective approach to mainstreaming equality**

We would include the following as the main features of an effective approach to mainstreaming equalities:

1. Education and training measures which inform the organisation and its customers on the nature and extent of unlawful discrimination and equips them with the skills to tackle its various manifestations.
2. A database which informs the organisation and its customers on issues such as the extent to which various sections of the population are excluded from its structures, processes, activities, resources and services.
3. Scrutiny systems, which enable the organisation and its customers to maintain vigilance and thereby avoid the actions that result in the exclusion or marginalisation of less powerful sections of its customers.
4. Positive action measures and programmes to tackle instances of exclusion from the structures, processes, activities, resources and services.
5. Structures to ensure effective accountability to that organisation’s customers, especially those excluded from its structures, processes, activities and resources so that progress to eliminate exclusion can be monitored and evaluated.

**The identifiable outcomes of an effective approach to mainstreaming**

We would include the following in the expected outcomes:

- The habit of taking on the views of excluded or less powerful groups becomes second nature to policy makers and implementers;
- The perspectives of diverse groups in society are reflected in policy making and implementation;
- A greater sense of inclusion and belonging is felt by less powerful or traditionally excluded groups;
- A significant reduction in the problems which bedevil less powerful or traditionally excluded groups;
- A change in the composition of parliament to reflect the diversity of the Scottish population; and
- A significant improvement in community cohesion;
How to monitor the manner in which committees mainstream equality

The framework for monitoring the manner in which committees mainstream equality could include:

- Clear guidelines on how such mainstreaming should be carried out;
- Disseminating such guidelines to key stakeholders and the communities;
- Including the public in evaluating the performance of committees on mainstreaming;
- Using outreach measures to seek community opinion on the performance of committees; and
- Combining internal and external assessors with expertise to assist in the monitoring exercise.

The proposed Mainstreaming Equality Guidelines

We welcome the proposed guidelines for mainstreaming equality because they will serve as an important set of tools to assist parliament in its attempt to promote equality, fairness, justice and inclusion. We are in agreement with the general thrust of the guidelines. We would, however, urge parliament to include the concept of power in the definition of mainstreaming equality.

Examples of good practice

We attach a copy of our Mainstreaming strategy for your information.

Relevant processes worth highlighting

We would suggest the following as processes worth highlighting:

- Securing the commitment of all MSPs to the mainstreaming agenda;
- Carrying out public education to ensure community understanding and ownership of the mainstreaming agenda;
- Committing relevant resources to the task of mainstreaming;
- Carrying out needs and impact assessments, as required, in order to get a measure of the challenges needing attention;
- Establishing joined-up working between committees to aid mainstreaming;
- Monitoring implementation and evaluating outcomes; and
- Publishing the results of mainstreaming and demonstrating the benefits of mainstreaming.

Implementation Issues

For the guidelines to be successfully implemented, Bill sponsors would have to take soundings on the likely impact of their proposals on disadvantaged groups. This would require relevant means of communication to disseminate information. Given that excluded communities often lack confidence in the structures from which they are excluded, it is important that any consultations carried out are seen by disadvantaged groups to be bearing results.
The notion of differential impacts of policies is not one that is universally shared. A long and sustained programme of public education would, therefore, be required to enable politicians to feel confident to acknowledge, publicly, such differential impacts without the fear of paying a political price.

With regard to consultation, the full participation of disadvantaged groups in determining the best mechanism for consultation is an important pre-requisite for success.

With regard to witnesses and advisers during committee work, the resource implications of inviting witnesses or advisers from organisations representing minority communities of any kind would have to be sought if the views of such groups are to be fully reflected in the work of committees.

While no formal requirements are being proposed for stage 2 of primary legislation we welcome the questions proposed for that stage in the process because there is the likelihood that the full implications of a bill may not become clear to key stakeholders until much later in the legislative process.

East Renfrewshire Council Policy On Equal Opportunities In Service Delivery And Employment

Policy Statement

East Renfrewshire Council will work with other agencies in line with the Council’s overall statement of purpose and core values, to empower disadvantaged vulnerable and under represented sections of the community with a view to enabling them to enjoy equality of access to training opportunities, jobs and services with the rest of the community.

East Renfrewshire Council believes that every individual has the right to be treated with dignity and fairness. The Council therefore will not accept discrimination in any shape or form in breach of these principles and will do everything in its power to eradicate it.

Anyone, whether in training or an employee, service user or customer of the Council, who considers he/she has suffered or is suffering from unequal treatment on any grounds, is encouraged to make a complaint and the Council guarantees that any such complaint will be dealt with as a matter of priority.

Aims And Intentions

This document outlines East Renfrewshire Council’s aims and intentions in terms of its equal opportunities policy on employment and service delivery. This policy applies to all departments and to all grades of trainees and employees.
The aim of the Council’s equal opportunities policy is to work with other agencies in line with the Council’s overall statement of purpose and core values, to empower disadvantaged, vulnerable and under represented sections of the community with a view to enabling them to enjoy equality of access to training opportunities, jobs and services with the rest of the community.

As an employer and provider of services, East Renfrewshire Council is committed to promoting equality of opportunity. No service user, customer, employee or trainee should receive less favourable treatment than any other on any grounds including the following:

- race, colour, nationality, ethnic or national origins,
- disability, age, sex, sexuality, marital status, religion,
- responsibility for dependants, employment status,
- political belief,
- or trade union activity,

or is disadvantaged by conditions or requirements which cannot be shown to be justifiable.

Responsibility for monitoring the implementation of the policy lies with the Council through Policy and Resources Committee, however it will be the duty of each departmental Director to implement and actively promote equality of opportunity.

The Council undertakes to discuss with the local community groups and Trade Unions the objectives, content and implementation of this policy as well as arrangements for evaluation and review.

In addition, although the primary responsibility for the policy rests with the Council as an employer and provider of services, each employee of the Council has a duty and responsibility to behave in accordance with the objectives of this policy. It is recognised that individual employees acting on behalf of the Council at all levels have responsibilities both in law and in terms of this policy. Specifically, trainees and employees should:

- **Co-operate with measures introduced by the Council to promote equal opportunities and eliminate discrimination.**
- **Not discriminate either unlawfully or in terms of this policy, against other trainees, employees, job applicants, service users or customers of the Council**
- **Draw to the attention of management any suspected discriminatory acts or practices**
- **Not victimise any individuals who have made complaints or provided information for discrimination for discrimination.**
- **Not harass, victimise or intimidate other trainees or employees on any grounds or otherwise act in a discriminatory manner.**
Breach of the policy, or its associated Codes of practice, by trainees and employees in the course of their duty will be viewed seriously and may result in disciplinary action.

The Council undertakes to make the contents of this policy known to all trainees and employees and to provide training and guidance for managers/supervisors, employees and trainees to ensure that they understand their responsibilities both in law and under the policy.

To implement its equality objectives, the Council will develop a serious of Codes of Practice and operational procedures. These will be produced as appendices to the Equal Opportunities Policy, and will be available from the Corporate Equality Unit or the Corporate Personnel Division.

This policy is in accordance with the Codes of Practice used by the Equal Opportunities Commission, the Commission for Racial Equality and Disability Rights Commission and the under noted legislation:

- **Equal Pay Act (as amended) 1970**
- **Sex Discrimination Act 1975**
- **Race Relations Act 1976**
- **Rehabilitation of Offenders Act 1974 (Exceptions) order 1975**
- **Disability Discrimination Act 1995**

**Equal Opportunities In Service Delivery**

Legislation makes it unlawful for anyone who is concerned with the provision of goods, facilities and services to the public or a section of the public to discriminate by refusing or deliberately omitting to provide service. It is also unlawful to discriminate unfairly in the quality or terms of service provision or by making it unreasonably difficult or impossible for the recipient to make use of the service. (Reference Sex Discrimination Act, Race Relations Act and Disability Discrimination Acts.)

Given that Council services are provided for the whole population, it is crucial that every attempt is made to provide equal access for all members of the local community. The Council acknowledges that it is not sufficient to say that services are available to all. Effective methods must be developed to consult the local community about standards of service and types of service provision, communicate the existence of these consultative policies and the resultant services to the local community and therefore obtain feedback on the effectiveness of service provision, reviewing policy as appropriate.

All trainees and employees of the Council in direct contact with the public or representing the Council will be given appropriate training to enable them to implement service delivery policies. This training may include for example, awareness of multi-cultural or disability issues.
East Renfrewshire Council will work towards developing a commitment for service users, which will include an undertaking to:

- provide services of a high standard, which acknowledge and meet the needs of different groups in the local community
- consult regularly with the local community to find out if services are appropriate and accessible
- treat all members of the public fairly without discrimination
- treat all complaints seriously and develop an accessible complaints procedure
- regularly review and improve services to ensure they meet standards

Equal Opportunities In Employment

As an employer, East Renfrewshire Council recognises the importance of equality of opportunity in employment for trainees, existing employees and job applicants. The Council accepts that social and cultural processes disadvantage certain groups and individuals in society and will take positive steps to redress the situation. It recognises that there can be both discrimination and practices which have discriminatory effects. This policy is designed to eliminate discrimination on unlawful or unfair grounds, to promote positive action, to redress the effects of past discrimination and to promote equality to employment.

Equality of opportunity makes good sense and will enable East Renfrewshire council to:

- recruit and retain quality staff to deliver services
- reflect the composition and diversity of the local community
- combat discrimination both in the workforce and in the local community

The Equal Opportunities in Employment Policy will apply to recruitment, selection, promotion, transfer, facilities, training, benefits, procedures, terms and conditions of employment.

The Council will pursue practices designed to promote equality and eliminate discrimination in employment. It will develop procedures and systems for monitoring the effectiveness of the policy and where appropriate, positive action programmes will be developed in accordance with the provisions of the relevant legislation.

Responsibility for monitoring the Equal Opportunities in Employment Policy lies with the Head of Corporate Personnel who will report on this matter to the Policy and Resources (Personnel) Sub Committee. In addition, the Head of Corporate Personnel will:
• provide guidance to Directors of Departments on effective recruitment procedures
• review and develop the Council’s employment procedures and practices
• co-ordinate the monitoring of this policy

The Council undertakes to make an initial analysis of the workforce and regularly monitor the application of the policy with the aid of statistical analysis.

Complaints regarding recruitment or unequal treatment of an employee should be directed to the Head of Corporate Personnel using one of the agreed procedures namely the recruitment and selection complaints procedure, the discrimination, harassment, bullying and victimisation procedure, or the grievance procedure. A copy of the appropriate procedure is available from the Corporate Personnel Division.

**Equal Opportunities in Employment Policy Appendices**

1. Summary of legislation and definition of terms used.
2. Recruitment and Selection Procedures.
5. Race Equality Policy.
6. Training and Development.
7. Maternity Leave Scheme.
8. Maternity Support Scheme.
11. Discrimination, Harassment Bullying and Victimisation Procedure.
13. Post Interview Counselling.

**SUBMISSION FROM THE EQUAL OPPORTUNITIES COMMISSION**

**EQUAL OPPORTUNITIES COMMITTEE INQUIRY INTO MAINSTREAMING EQUALITY INTO THE ACTIVITIES OF COMMITTEES OF THE SCOTTISH PARLIAMENT**

**INTRODUCTION**

The Equal Opportunities Commission (EOC) was set up by the Sex Discrimination Act 1975 (the SDA). Its duties are to work towards the elimination of discrimination between women and men, to promote equality of opportunity between women and men generally, and to keep under review the workings of the Sex Discrimination and Equal Pay Acts. The Equal
Opportunities Commission (EOC) is a non-departmental public body, funded through grant-in-aid. Our sponsor department is the Women and Equality Unit at the Department for Trade and Industry. The Equal Opportunities Commission is the leading agency working to eliminate sex discrimination in 21st Century Britain.

The EOC’s statutory responsibility relates specifically to gender equality, and that is where the Commission’s main expertise is. However, issues of gender equality are integral to all other equality groups, including those areas regulated by statute and those identified in Schedule 5 of The Scotland Act.

The EOC commends the Committee for undertaking an inquiry into mainstreaming equality into the activities of Committees of the Parliament and welcomes the opportunity to comment on the proposals.

While we understand the need for concise guidance for busy committee members, the guidelines as prepared are unlikely to assist the members of committee in capacity building in respect of mainstreaming nor will they assist in the rigorous scrutiny required for mainstreaming to be achieved.

Mainstreaming

Mainstreaming is a strategy that aims to make equality considerations a regular part of the mainstream policy process. Mainstreaming is a strategy that has evolved and been elaborated since the early 1990’s. It represents a conceptual shift away from the idea that women, black and ethnic minorities and people with disabilities are a/the problem or that they are the exclusive concern of specialist equalities agencies. Underlying the concept of mainstreaming is the fact that not all groups or individuals in a society have the same ease in accessing opportunities. In order for all groups of people to be equally able to access the services and facilities, mainstream policies need to take account of the different capacities, situations and resources of different groups and how this affects their ability to benefit and participate.

Mainstreaming goes beyond equality proofing in that it involves not only the explicit incorporation of an equality focus into policy development and implementation, but also, the mobilisation of all policies behind the objective of achieving equality.

A number of tools underpin a mainstreaming strategy. Among those identified in the literature are and from evaluations are:

- clear political commitment and ownership of the mainstreaming strategy - this includes allocation of resources both financial and personnel to operate the strategy;

- information and understanding about the legal and policy context;

- explicitly incorporating an equality perspective into policy development through: development of data-gathering processes, setting targets and indicators;
- equality impact assessment procedures to establish the equality implications of any particular policy or practice prior to its implementation;

- design of monitoring systems for measuring change, including the development of communication structures to report and review progress;

- ongoing training and capacity building at all levels of the administration;

- piloting of mainstreaming approach in a number of sectoral departments;

- internal co-ordination structures in administrations.

These tools underpin a mainstreaming strategy, they do not constitute the strategy itself nor are they capable of advancing the objective of equality unless they are part of a virtuous cycle of intervention in the policy-making cycle.

Parliamentary Committees

In respect of the work of the Equal Opportunities Committee of the Scottish Parliament and the work of the other policy committees the following are key requisites for success

- the development of a capacity for Gender Equality Impact Assessment

- the development of specific sectoral expertise

These are the key tools for mainstreaming equality. In terms of the scrutiny of legislation, the key tasks are to ensure that the legislation or proposed policy explicitly incorporates an equality perspective and demonstrates that both the process and the purpose of both adopt a mainstreaming approach.

The following tools are applied in respect of mainstreaming gender as this is the primary focus of the EOC. However, the process of systematic intervention and follow through can be applied to all the equality strands encapsulated in the Equality Strategy. For example, The Public Appointments and Public Bodies (Scotland) Bill, provided for the appointment of a Commissioner for Public Appointments. The Bill made reference to equality and diversity as part of Commissioner’s modus operandi. However, it was less clear how gender equality/equality will be built in the work of the Commissioner for Public Appointments and the bodies that fall within the scope of Bill. The commitment of equality could have been demonstrated by the Bill stipulating that an understanding of, and specific expertise in, equality issues be part of the core competence of the applicants for the job of Commissioner. Furthermore, this understanding and expertise could also be a criteria for all appointments to public bodies.
Identifying the issues

**Question**: is it evident that the Bill teams and policy-makers have considered the different impact that this programme/legislation/policy intervention might have on different groups?

How can you find out about the potential impact and how this might be different for women and men (research, studies, statistical data). If there are gaps in your information how will you ensure that you have more information in the future – for example:
- by collecting gender disaggregated data,
- by commissioning new studies or needs analysis
- by consultation with relevant groups.

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**Setting right baseline data for policy-making – re-designing indicators for childcare policy in Modena (Italy)**

In Modena, in the Italian region Emilia Romagna, a study has recently been undertaken by a consortium of Universities and public organisations with the aim of elaborating adequate data for the design of a new local childcare policy.

Stemming from the observation that gender information was often missing from administrative data and local surveys, the research team undertook a new local survey (CAAP 2002) and developed a new indicator (ISE – Index of the Economic Situation) deemed appropriate to describe the effective wealth of men and women (not just considering net income but also a range of family assets).

The new indicator and the analysis developed demonstrated the need to reshape radically the provision of childcare services and related subsidies, in that the existing policy did not respond to the needs of those most in need (ie. unemployed mothers were not likely to see their children admitted in nurseries and therefore had to sustain higher fixed costs to participate to the labour market).

The research proved that for a family with a low ISE and both working-parents, the presence of a child under the year of age, implied that one of the parents (namely the mother) was forced to interrupt employment and face the consequences of the difficulties in re-entering the labour market.

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**Gender Impact Assessment**

One possible tool to utilise would be to apply Gender Impact Assessment (GIA) to the process. Gender Impact Assessment is a tool designed to compare and contrast, according to gender relevant criteria, the current situation with the expected outcome resulting from the introduction of a proposed strategy and consequent action. The purpose is to identify those factors that cause
inequalities and suggest action needed to eliminate them. GIA begins with an analysis of different experience of men and women in respect of a number of criteria – resources, participation, norms and values and rights. Once a difference is acknowledged, strategies or policies can be amended to take account of the differences, to focus more specifically and to be implemented in a gender sensitive manner.

Application
The following extract shows how this model may be applied to the area of sport and leisure.\(^{13}\)

**Gender and Sport and Leisure**

Increasing attention has been given to gender issues in respect of sport and leisure in Ireland and elsewhere. A number of key differences for women and men have been identified including: different resources in terms of time, money and information; different patterns and rates of participation; issues around access and safety and security; different preferences between men and women and boys and girls. There is also a clear link with other sectoral interventions like urban development, tourism, transport and agriculture and rural development. An integrated approach to provision in all of these areas will create synergies and more efficient intervention. In order to address different needs and situations, researchers have been drawing out and quantifying the issues that can be tackled through mainstreaming gender equality in sports and leisure provision.

- **Participation**: There are different participation rates in sports for women and men. Fewer than four out of ten women participate in any sport in Ireland. In contrast more than half of men participate in sport. The types of sport and leisure activities pursued by men and women also vary. Golf, walking, and football are some of the most popular sport and leisure activities with men. Swimming is the most popular sport with women (with a quarter of a million participating in swimming in the past year) followed by keep fit and aerobics.\(^{14}\) Keep fit and aerobics are the fastest growing sports categories for women. Nevertheless for older women, those in lower social classes, and those living outside urban areas, there are significantly reduced levels of participation compared with other groups\(^{15}\).

In Ireland, research for the Department of Justice, Equality and Law Reform showed that males are also more likely to participate more frequently in sport, 22 per cent of men travel to sport activities more than 4 times a week compared to 9 per cent of women. Other issues affecting rates and types of activity are the fact that women are twice as likely to travel to leisure activities with a child and that many women, particularly

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\(^{13}\) Prepared as part of a series of factsheets on mainstreaming gender equality in the Irish National Development Plan (NDP). The NDP provides a national framework for the investment of €51 billion over seven years in Irish infrastructure, education, training, industry, agriculture, forestry, fishing, tourism, social inclusion, rural and regional development.

\(^{14}\) An Equal Future Policy and Women in the 1990s: A Report for the Council for the Status of Women

\(^{15}\) The Henley Centre Ireland, in association with Lansdowne Market Research, completed a study of sport participation in Ireland titled ‘Leisure Futures’
those from ethnic minorities, prefer single sex activities.\footnote{The Department of Education (1996) A National Survey of Involvement in Sport and Physical Activity, Health Promotion Unit, Department of Education.} These variations between women and men in participation rates and preferences in the types of activities undertaken, indicate that intervention to increase participation needs to consider factors such as the types of activities offered, the way opportunities are marketed/targeted, travel and access and the availability of childcare.

- **Resources:** Time - The reason most often cited for spending less time on leisure pursuits is increased work commitments (especially so among males), while the second is 'more family commitments'. Women with family responsibilities are particularly likely to be constrained by a lack of time. Time constraints are a problem that is increasingly recognised by providers of leisure services. A report for the Council for the Status of Women refers to one local council in North East England which offers a free ironing service for women attending their aerobics class.\footnote{An Equal Future Policy and Women in the 1990s: A Report for the Council for the Status of Women.}

  **Money** – Recreational sport and activities such as aerobics are not necessarily considered as *sports*. This has led to situations where these activities, more commonly taken up by women, receive less funding from national or local authorities.\footnote{Council of Europe (2001) Steering Committee for Equality between Women and Men: Workshop on Gender Mainstreaming for Chairs and Secretaries of Steering Committees of the Council of Europe. Strasbourg, 5 September.}

At an individual level, availability of financial resources is also an issue affecting participation in sports and leisure pursuits. Participation in sports can be expensive. While women’s participation in the workforce in Scotland has continued to grow, many women remain in the lowest paid, lowest status occupations. Affordable rates for participation, childcare provision and the provision of family activities are particularly important to encourage broader participation.

**Facilities** - Lack of appropriate facilities are another constraint to participation in sport and leisure activities. This is more often a particular problem for women as they generally participate in indoor sports, which are less likely to be available in their local area. Women with young children find their access to facilities further limited because many sporting and recreational facilities do not provide adequate childcare facilities.

- **Access, safety and security:** For women accessing both indoor and outdoor sport and leisure facilities, safety and security is an important consideration. A report for the government of New South Wales on the provision of sports facilities in Australia, found that a constraint on girls and women's participation in sport was that they don't feel safe or comfortable using sporting facilities. It went on to suggest women and girls are more likely to participate in sport or physical activity if they believe the environment in which they will be participating is safe and meets their needs. Where sports centres are provided they are often located outside cities in areas
which are hard to get to or less safe for women.\textsuperscript{19} The issue of access to facilities is compounded for women with disabilities, those living in rural or remote areas, older women and women with children.\textsuperscript{20} Facilities should be designed to be safe and secure, convenient in terms of their location and accessibility on foot, by public transport, bicycle or private car and even, in some cases, by specially provided transport. The need to be aware of these types of issues led to the proposition in Scotland's National Strategy for Sport that women be consulted in the planning of recreation programmes.\textsuperscript{21}

- **Representation in decision-making**: Women were found to be under-represented in the leadership and decision making of sport and sports related organisations. The Brighton Declaration on Women and Sport advised that *policies and programmes and design structures be developed which increase the number of women coaches, advisers, decision makers, officials, administrators and sports personnel at all levels with special attention given to recruitment development and retention*.\textsuperscript{22}

- **Norms and values: Coaching and Professional Opportunities**: Sport 21 Scotland's National Strategy for Sport, Scottish Sports Council: An initiative targeting women came about as a result of research identifying an interest among women and the lack of coaching and facilities for women. The Scottish Women's Football Association, in conjunction with selected local authorities and community/development officers from the Scottish Football Association, has established seven development centres for girls. Each centre offers the participants two six-week blocks of coaching. The centres provide girls with the opportunity to learn new football skills in a safe and enjoyable environment. *Sportscoach UK*: works in partnership with local authorities and governing bodies of sport to encourage the recruitment and development of women into coaching. Together with WSF and the four sports of Football, Rugby Union and League and Cricket the Women into High Performance Coaching programme has been launched. www.sportscoachuk.org

In order to identify the issues in the different sectors, this model could be applied across the range of committees operating in the Scottish Parliament.

**Finance Committee**

The consultation document states that “it is not intended that a committee is responsible for ‘equality proofing’ any budget” and refers to the Finance Committee Report to the Parliament on Stage 1 of the 2003-4 budget process. However, like our colleagues in EWBG, the EOC considers that it is very important to stress the relevance of mainstreaming equality in all the


\textsuperscript{20} Sport 21 Scotland's National Strategy for Sport, Scottish Sports Council.

\textsuperscript{21} Sport 21 Scotland's National Strategy for Sport, Scottish Sports Council

\textsuperscript{22} Brighton Declaration on Women and Sport, in *Women, Sport and the Challenge of Change: Conference Proceedings* (Sports Council, 1994).
activities of committees. The Finance Committee scrutiny of Bills should provide the crucial link between policy objectives and spending allocations.

The EOC would recommend that guidelines on scrutinising financial proposals and financial administration of the Scottish Executive are included within the mainstreaming equality guidelines for Committees. While this is a complex process, the development of guidelines in this area would mark out the Scottish Parliament and Committees as the progenitor of good practice.

**Better Monitoring and Reporting**

While a number of reporting mechanisms exist within the Scottish Parliament, it is crucial that achievements in terms of equality are monitored and that progress is charted. Consideration could be given to a requirement to provide quantified objectives and monitoring indicators concerning gender/equality. This would highlight the necessity of establishing the base-line situation and obtaining appropriate data and information. Having established baselines and set targets, it is crucial that a rigorous and responsive monitoring system is put in place. Once the monitoring system is in place, it can benefit from ongoing modification.

**Capacity-Building**

Mainstreaming requires both an understanding of and capacity to apply equality considerations to legislation and policy-making. This demands focused, sectoral based training and capacity building with regular review and updates. **Sweden** has the innovative and well-documented system of ‘flying experts’ and since 1994 has organised courses in gender equality for ministers, state secretaries, press secretaries and political advisers, heads of division and other personnel at ministries and other public administration authorities, committee secretaries and commissioners. In **Ireland**, the Department of Justice, Equality and Law Reform provided written guidance in the form of **factsheets** and targeted **training** on gender mainstreaming in respect of the operational programmes on Housing, Transport and Agriculture and Rural Development. This activity was funded through the Irish National Development Plan (NDP).

The **factsheets** provide a synthesis of the current gender situation in each of the areas under examination, presenting possible recommendations for mainstreaming, supported by international case studies. They have been published and diffused broadly among civil servants and programme managers. In addition, training sessions have been organised around sectoral guidance with application of the GIA model.

**Annex 1 : Gender Impact Assessment**

Gender Impact Assessment is one of the methods used to identify the different needs, situations and resources of women and men in respect of the policy process. It has been conceptualised as a **lens** through which the different situations and needs of women and men can be seen – it should also provide a mechanism through which other characteristics like age, ethnicity or race, disability are identified.
Gender Impact Assessment is a tool designed to compare and contrast, according to gender relevant criteria, the current situation with the expected outcome resulting from the introduction of a proposed strategy and consequent action. The purpose is to identify those factors that cause inequalities and suggest action needed to eliminate them. GIA begins with an analysis of different experience of men and women in respect of a number of criteria – resources, participation, norms and values and rights. Once a difference is acknowledged, strategies or policies can be amended to take account of the differences, to focus more specifically and to be implemented in a gender sensitive manner.

**Resources:** Are there differences between the resources available to members of the communities of interest in terms of *time, income and opportunities*, and what are the implications of this?

**Participation:** Is there a different share of men and women in the target group/communities of interest and among decision-makers. Who gets to make an input at formulation stage and in developing projects?

**Norms and values:** Could ‘gendered choices’ or traditional expectations affect the activity in question (e.g. the likely education and career choices, choices relating to the division of domestic labour)

**Rights:** e.g. where full-time and part-time work have different rights attached, this impacts differently on men and women, as more women work part-time.

Having done the analysis, the next step is to apply Gender Impact Assessment through the following steps.

| Identification of the gender dimension of proposals, which involves assessing whether and how gender is taken into account. |
| Estimation of the nature and magnitude of possible impacts, assessing whether the policy proposal maintains a discriminating perception of women or men and whether it has discriminatory results for their daily life. |
| Modification of proposals where appropriate, preventing negative impacts and, where feasible or appropriate, promoting positive ones. |

**Annex 2: Developing equality impact assessment procedures**

There are clear examples in Canada of strenuous efforts to ensure that gender and diversity considerations are taken into account through the policy-making process (and particularly in the drafting of legislation). The Department of Justice Canada sets specific guidelines for incorporating equality considerations throughout the process of legislation drafting, to be used by all persons involved. Equality specialists in the Department of Justice’s Legislation Section are available for advice. When civil servants following the guidance to check legislation are not satisfied that (gender)
equality issues have been adequately considered and addressed, they can refer the issue back to the client department for a gender equality analysis.

Canada’s Department of Indian Affairs and Northern Development (DIAND) has issued guidelines for conducting gender equality analysis (A Guide to Gender Equality Analysis, Indian and Northern Affairs, Canada (2000)) to be used by all Department staff. Mechanisms for checking that gender analysis is carried out are built into the system by requiring that gender analysis must be demonstrated at certain points (eg when approval is sought for proposals, policies and actions).

In **Sweden**, special terms of reference were introduced in 1994 to ensure that gender impact is included in the reports of government committees of inquiry. The Division of Gender Equality has also drawn up a gender equality analysis method (consisting of four questions), to be tested in different ministerial divisions. However, there are no written guidelines to help Ministry staff to integrate equalities considerations into their work preparing legislation. There have been discussions about introducing guidelines, but there were concerns that it would be difficult to develop ones which were flexible enough to deal with the complexity of the issues, and a checklist is not considered suitable. The Equality Affairs Division currently screens draft legislation (the main relevant proposals), highlighting the importance of this division having good relationships with relevant ministries.

In **Ireland**, the latest wage agreement, the National Programme for Prosperity and Fairness, provides for equality proofing of public policy. A guide to equality proofing has been produced alongside a discussion paper on data collection.

Equal Opportunities Commission
October 2002

**SUBMISSION FROM ENGENDER WOMEN’S BUDGET GROUP**

**EQUAL OPPORTUNITIES COMMITTEE INQUIRY INTO MAINSTREAMING EQUALITY INTO THE ACTIVITIES OF COMMITTEES OF THE SCOTTISH PARLIAMENT**

This response has been prepared by Engender Women’s Budget Group (EWBG), a self-organising group within Engender, an information, research and networking organisation for women in Scotland. Established in May 2000, EWBG has members from a range of organisations including statutory organisations, trades unions, the voluntary sector and higher education and has a part-time development worker.

The core aim of EWBG is to ensure that gender impact analysis is embedded within the Scottish public policy process. In working towards that aim, EWBG has consistently argued for adoption of a mainstreaming approach to the
budget to ensure that issues relating to equality are an integral feature of the budgetary process at all levels and stages and that this is made explicit within relevant budget documents (EWBG 2002a).

INTRODUCTION

EWBG is pleased to note that the Committee is undertaking an inquiry into mainstreaming equality into the activities of Committees of the Parliament and welcomes the opportunity to comment on the proposals.

Part of EWBG’s work on the AER for 2003-4 was a commentary on the scrutiny process. In the commentary, EWBG identified that no discussion or passing mention only was given to gender in five of the Committees during evidence sessions on the AER, including the Enterprise and Lifelong Learning Committee, Local Government Committee and the Transport and Environment Committee (EWBG 2002b). In view of the low profile given to gender and wider equality issues in some subject areas during the budget scrutiny process, the proposed guidance is timely and will be very helpful in raising awareness of equality mainstreaming in the scrutiny role of Committees in the future.

Overall, EWBG is very supportive of the approach and the guidelines proposed for committees. However, there are two main concerns that EWBG wishes to raise with the Committee. The first concern relates to equality mainstreaming and the budget scrutiny process (para 7 of the consultation document). The second concern is that, although the merit of concise guidance for busy committee members is recognised, the guidelines are, in our view, very brief. Some suggestions are made for inclusion of additional explanations, questions and examples.

EQUALITY MAINSTREAMING AND BUDGET SCRUTINY

The consultation document states that “it is not intended that a committee is responsible for ‘equality proofing’ any budget” and refers to the Finance Committee Report to the Parliament on Stage 1 of the 2003-4 budget process. However, EWBG considers that it is very important to stress the relevance of mainstreaming equality in all the activities of committees. The budget and the Executive’s spending proposals are, in effect, ‘policy in action’ and as such represent a critical area in which equality mainstreaming considerations should apply.

The Finance Committee’s Report to the Parliament (para. 38) recommends that “the Executive and the Equal Opportunities Committee agree a working definition of ‘equality proofing budgets’ and a mechanism for ensuring the equality strategy is reflected in budgetary allocations”. EWBG agrees that mechanisms are needed to ensure that the equality strategy is reflected in budgetary allocations. All committees should include equal opportunities considerations as part of their scrutiny of ‘the financial proposals and financial administration of the Scottish Executive’. Such scrutiny should include identification of the progress made by the Scottish Executive and/or relevant
Departments and funded bodies towards ‘equality proofing’ spending and spending proposals.

In view of the importance of budgetary matters, and taking account of the limited scrutiny on equality issues identified in paragraph 4 above, EWBG recommends that guidelines on scrutinising financial proposals and financial administration of the Scottish Executive are included within the mainstreaming equality guidelines for Committees and that they reflect the approach contained in Annex A of the consultation paper and take account of the suggested expansion of guidelines discussed below (paragraphs. 10 to 16 below). Although guidelines may be one of the anticipated outputs arising from the Finance Committee recommendation, it is crucial that they are in place in advance of Stage 1 of the next budget round. It is also recommended that consideration is given to the production of supplementary guidance at the start of Stage 1 of the budget process each year identifying the key policies, objectives, targets or themes relating to equality issues that should be addressed in relation to that year’s budget.

Some suggestions are provided below for guidelines to assist with scrutinising financial proposals and financial administration, including the Annual Expenditure Report. Aspects of the draft guidelines contained in the consultation document covering information base, monitoring and consultation would also apply in considering and taking evidence on financial proposals and financial administration. It is also recognised that not all questions would be relevant in all circumstances.

Does the documentation reflect the Scottish Executive’s commitment to mainstream equality?

Have any specified requirements in relation to mainstreaming equalities been met?

Has the Scottish Executive assessed the implications for all equal opportunities categories identified in the remit of the Equal Opportunities Committee, including the impact on all key stakeholders?
Where there are objectives or targets contained within the documentation, do they include measures to address inequalities?

Will the proposals be experienced differently by women or men or different groups of women and men, girls and boys?

How do the proposals disadvantage women or men or groups of women or men, girls and boys?

What consideration has been given to mitigate any negative impact for one or more of the equal opportunities categories and what action is being taken to reduce the impact or to create a more balanced impact across equality groups?
(AER) What progress has been made by Scottish Executive Departments and funded bodies towards ‘equality proofing’ spending and spending proposals?

**MAINSTREAMING EQUALITY GUIDELINES**

In this part of the response, some suggestions are made concerning additional material for inclusion in the mainstreaming guidelines outlined in Annex A. Although the effect of these suggestions is to make the guidelines into a longer document, EWBG believes that this is necessary for clarity and understanding of the issues. It may also be useful to include an overview on a single page with the guidelines (for example, see the overview in Gender Impact Assessment: A Framework for Gender Mainstreaming, produced by the Women and Equality Unit).

**Background**

In view of the need to raise awareness and understanding of equality mainstreaming, it is recommended that a brief summary of the definition of mainstreaming equality and the commitment and priority given is included at the beginning of the ‘background’ section. This could be brief, possibly along the lines of paragraphs 3 to 6 of the consultation document, but should provide some definitions for clarity, including the equal opportunities categories that need to be considered.

It would also be helpful to illustrate the extent and range of potential stakeholders. In some circumstances the link between subject areas (for example transport or rural affairs) and the mainstreaming equality agenda is not obvious. Some examples of less obvious connections would assist with understanding and wider application of equality mainstreaming principles. One example is that women and men have different travel and transport requirements and these should be reflected in the design of services from interchanges, infrastructure, passenger information systems to provision of personal safety infrastructure (CCTV), bus corridors, shelters and stops. (EWBG 2002a) Scrutiny of transport legislation, spending, policy or development would not be mainstreamed effectively unless the different need and priorities of women and men were taken into account. Similar arguments can be made for other equality groups.

EWBG wishes to stress the importance of gender in an equality mainstreaming approach. Underlying the concept of gender mainstreaming is the recognition that women and men do not have the same situations, needs and resources. Gender differences are socially constructed and sustained, the effects of which impact on the entire population. Men and women have very different socially determined roles, responsibilities and capabilities, which means they are faced with different sets of socially constructed constraints. These distinct sets of constraints cut across the whole equalities agenda, in that gender differences affect, and in some instances reinforce, other structural differences determined by, for example, race and ethnicity, age, disability and sexual orientation. Policies that appear gender neutral may, in fact, be gender blind and in some instances may actually exacerbate existing gender inequalities. By taking account of the different needs and situations of
women and men, policy-makers can ensure better policy targeting, more effective delivery and greater equality. It is important to assess budgets, policies, legislation and their effects, not only from the perspective of households, it is also important to look within households and assess the impact from the point of view of individual women and men.

Primary Legislation

It will be important that Bill sponsors are provided with guidance to assist them in assessing the implications of a Bill for equal opportunities categories before the Bill reaches Committee. The need for equal opportunities criteria to be considered at all stages of the legislative process is also recognised within the consultation document. Guidelines for sponsors would be in tune with an equality mainstreaming approach and will be particularly relevant in areas of legislation where the links are not directly obvious, such as the example described at para 12 above. However, it is recognised that its may not be the responsibility of the Equal Opportunities Committee to take this issue forward.

Where negative impacts from a proposal are identified from research, monitoring, briefing information or advice, there is a need to consider mitigation. It is suggested that two additional questions are added to the end of the considerations for stage 1: “how does the proposed legislation disadvantage women or men or groups of women or men” and “what consideration has been given to mitigate any negative impact and what action can be taken to reduce the impact or to create a more balance impact across equality groups?”

Equality Guidelines 2 – Information Base/ Monitoring

EWBG strongly agrees that there is a need for the range of information sources identified to include information on equal opportunities issues. Research and monitoring has an important role to play in taking forward equality mainstreaming and information relating to equality considerations from research, monitoring, briefings or commissioned work needs to go beyond counting for sex, disability, ethnic origin and other equality criteria. In terms of gender, EWBG has argued that:

“consideration of gender issues must be included in specifications for all relevant research, consultancy, monitoring and evaluation. The specifications should include not only profiling by sex, but also a requirement that gender issues are addressed as part of the work being undertaken, including discussion of findings and recommendations. This would assist the development of appropriate objectives and target setting and understanding of the gender impact of policies and spending.” (EWBG, 2002a)

Until the point is reached where specifications for research and briefings require consideration of equal opportunities issues as a matter of routine, members of committees can encourage inclusion of appropriate information by asking for details relating to equality groups when requesting briefings, information or commissioning work. To assist with that process, guidance along the lines of that included for Primary legislation – stage 1 would be
useful. Guidance from external experts and groups may also be helpful in identifying appropriate questions. To facilitate access to such groups we suggest that an appendix is attached to the guidance that provides contact details for a range of organisations that are prepared to provide assistance to committees.

Conclusions

EWBG strongly supports the Equal Opportunities Committee’s plans to develop guidelines on mainstreaming equalities and broadly agrees with the existing contents of the proposed guidelines. The comments provided above have been concerned mainly with proposing additions to the existing guidelines to assist clarity and understanding. The need for guidelines to assist scrutiny of finance and the budget is a significant additional requirement in the guidelines in our view.

In addition, EWBG considers that there is a need for Committee inquiries to give effective consideration to equal opportunities issues. As has been stated above, the links are not always obvious and guidance that includes examples would help to ensure that equalities issues are considered more often and in more depth than has been the case in the past. Such guidelines should also include consideration of negative or perverse effects for particular groups and the steps that are being taken to mitigate or reduce such effects. The role of gender in an equality mainstreaming approach has been highlighted above (para 13). Gender is central to an equality mainstreaming approach and EWBG recommends that this is reflected in the guidance developed for Committees.

References


Women and Equality Unit, Gender Impact Assessment: a framework for Gender Mainstreaming. Cabinet Office

(http://www.womenandequalityunit.gov.uk/gender_mainstreaming/gender_impact_assessment/contents.htm)

Engender Women’s Budget Group
September 2002
SUBMISSION FROM FAIR PLAY

INQUIRY INTO MAINSTREAMING EQUALITY INTO THE ACTIVITIES OF COMMITTEES OF THE SCOTTISH PARLIAMENT

Background

1. Fair Play exists to increase opportunities for women to participate in the labour market in a competitive and socially inclusive economy by promoting best practice in equal opportunities.

2. Fair Play’s work falls under 3 key themes:
   Developing equal opportunities practice with employers across Scotland;
   Ensuring equality of opportunity becomes mainstream in skills development, and business and economic growth;
   Raising awareness of family friendly working policies and practice.

3. Fair Play is therefore well placed to comment on the Equal Opportunities Committee’s inquiry into mainstreaming equality into the activities of the committees of the Scottish Parliament.

Definition of mainstreaming

4. Fair Play suggests that the definition of mainstreaming should tally with the equal opportunities categories as identified in the Committee’s remit, i.e.

   "equal opportunities" includes the prevention, elimination or regulation of discrimination between persons on grounds of sex or marital status, on racial grounds, or on grounds of disability, age, sexual orientation, language or social origin, or of other personal attributes, including beliefs or opinions, such as religious beliefs or political opinions.

5. While Fair Play supports the Committee’s definition of mainstreaming equality, we suggest that age should be explicitly included. As the Committee will know, the UK Government has recently produced guidance for employers on how to ensure they are not discriminating on age. Fair Play believes that equal opportunities policies should incorporate age as part of good practice.

6. Fair Play welcomes the decision of the Committee to design a process specifically for the Scottish Parliament, rather than importing one from elsewhere. We also welcome the decision to involve stakeholders from the outset, and the emphasis on developing “pragmatic guidelines and practical techniques” to ensure effective mainstreaming of equal opportunities in the activities of all committees of the Scottish Parliament. We also welcome the
recognition that training will be required in the use of the guidelines and techniques.

Detailed comments

**Fair Play’s comments on selected questions raised in the consultation are set out below.**

Features displayed by an effective approach to mainstreaming equality

7. In order to be effective, the process should be underpinned by a thorough audit of the current situation, using disaggregated information and incorporating a needs analysis. The process of asking people what they need should be systematic, transparent and open. We have to think more intelligently about how to collect information for monitoring. Information could be gathered by means of snapshots, for example, or through customer satisfaction questionnaires. It is important to streamline the collection of data and to explain to people why it is being collected and what it will be used for. It should be seen as an exchange of useful information rather than an intrusion.

8. The Parliament and Executive should continue to collect disaggregated data and extend pressure to others to ensure that all data is disaggregated. One obvious stumbling block to the gathering of disaggregated data has been the banks’ refusal to divulge the numbers of women seeking business finance from them (on grounds of client confidentiality). This makes it difficult for those formulating economic development policy to gain an accurate baseline picture of the levels of entrepreneurship amongst women. Fair Play’s publication, Publicly Funded Training and Data Collection – A Gender Perspective (1998), may be helpful in this respect. The changes it suggested to data collection were aimed at helping individual organisations and groups of organisations, such as New Deal Partnerships and Social Inclusion Partnerships, to implement policy statements on mainstreaming of equal opportunities in training and employment. Although the institutional landscape has changed since 1998, many of the key points regarding data collection remain relevant.

9. The audit must then identify any gaps and speculate as to how these might be addressed. Targets must be clear, transparent and measurable. It must be made clear from the outset what the indicators of change will be, and a clear, responsive monitoring framework and a robust evaluation framework must be put in place so that mistakes can be learned from. After evaluating the current position, an assessment should be carried out to identify how the policy or intervention can be mobilised to achieve equality. Intervention must be systematic and incremental so that each stage reinforces the next stage in the process.

10. It is essential that a training strategy is also developed as it is essential to the success of a mainstreaming approach that all policy actors have an understanding of how various factors structure opportunities and access to
everything from the labour market to participation in services. Policy makers have to be given support so that they can develop and understanding of and ability to carry out an equality impact assessment as part of the policy process. Fair Play would refer the Committee to the Gender Impact Assessment as a model that can be adapted to look more broadly at other equality issues.

11. An effective approach to mainstreaming equality will also be distinguished by a high degree of consultation, participation, representation and communication. There are issues of capacity building here as many under-represented groups are also under-resourced, and will encounter barriers in terms of the time, resources, skills and information required to respond effectively to consultation. Fair Play would make the point that this capacity building is critical to the success of the mainstreaming approach. We would also strongly make the point that it is essential to feed back to those consulted the reasons for the decisions the Committee eventually makes.

The proposed Mainstreaming Equality Guidelines

12. Fair Play notes that the Equal Opportunities Committee has scrutinised most Scottish Executive Bills using a standard equalities checklist since September 2001. Fair Play also notes the intention that the analysis of these results should be used to highlight existing areas of good practice and inform further discussion on how to develop the Mainstreaming Equality Guidelines.

13. Fair Play considers that the proposed Mainstreaming Equality Guidelines are very good but would stress again the importance of awareness raising and training for those working on every stage of the policy process. Equality will continue to be a bolt-on consideration unless policy makers have a thorough understanding of the complex causes and effects of inequality. Fair Play would suggest that equality experts could work alongside policy makers from the early stages of policy development, sharing their experience and helping policy makers carry out effective and wide-ranging equality impact assessments.

14. The Information Base is essential. Committees need to have access to high quality information in terms of disaggregated statistics and expert legal advice. It is a very good idea to have a central database of equal opportunities contacts and consultees, as there is a great deal of experience and enthusiasm that could be accessed by the committees. Briefing notes from relevant external groups should be invited and SPICe briefings should contain reference to equal opportunities issues.

Examples of good practice

15. Fair Play would draw the Committee’s attention to the HERA 2001 Indicators Guide for a Gender Mainstreaming Approach (HERA 2001). Section 3 of the Guide outlines a number of case studies, including a case study on mainstreaming equality in the European Structural Programmes in Scotland. We would also point to the Scottish Executive’s Toolkit for
Mainstreaming Equal Opportunities in the European Structural Funds as an example of good practice.

Relevant processes to be highlighted

16. It is essential to continue to explicitly recognise that the achievement of equality requires a transformation in the way policy is made. There will have to be a significant level of awareness-raising and training among many of those involved in the activities of the Parliament’s committees.

Implementation issues

17. Mainstreaming will only succeed if it is well understood, accepted politically and systematically supported and implemented.

Anne Meikle  
Fair Play Scotland  
Co-ordinator  
October 2002

SUBMISSION FROM FALKIRK COUNCIL

Inquiry Into Mainstreaming Equality Into Activities of Committees of the Scottish Parliament

I refer to the above and having considered the contents of the consultation document, I would make the following comments:

- The document is jargonistic in places.
- Although the consultation document is comprehensive there is no action plan attached.
- There is a concern about the effectiveness of the Committees in holding the Executive to account. The scrutiny of legislation by Committees can be effective if the role of the Committees can be seen to be independent, i.e. accountable to the public and external partners.
- Committees must also ensure that the processes are accessible.
- It should be noted that all Committees have a vital role to play not only through examining legislative policy developments for equality implications but also in gathering external evidence and options reflecting the findings in their work.
- The key to the introduction of a mainstreaming approach is effective communication.

I hope these comments are of assistance to you and I welcome the proposal to mainstream equality into the activities of the Committees of the Scottish Parliament.

Stuart Ritchie
SUBMISSION FROM FRIENDS OF GLASGOW WEST

Inquiry into Mainstreaming Equality into Activities of Committees of the Scottish Parliament

Difficulty in attending at Committee meeting times where people have an employment with fixed working hours.

The one problem which we wish to highlight is that while it is in general a good idea to restrict the activities of the committees to within the normal working day, this can make it difficult or impossible for people with fixed working hours, such as teachers, to attend freely.

Such people would need to get permission from their employer to be absent from work to attend the committee, and this may be difficult, especially when the reason for their attending may have no connection with their employment.

Loss of income in relation to the hours of absence from work may also be a problem.

We would be grateful if you could review your arrangements for such cases.

Ann Laird  
Convener  
Friends of Glasgow West  
September 2002

SUBMISSION FROM GREATER GLASGOW NHS BOARD

Inquiry into Mainstreaming Equality into the Activities of Committees of the Scottish Parliament.

Thank you very much for the opportunity to submit evidence in response to your consultation paper on mainstreaming equality into the activity of Scottish Parliamentary Committees.

Whilst the NHS Board as no specific observations or comments to make regarding the consultation paper, I would like to affirm that we, like the rest of the NHS in Scotland, are committed to the principles of equality and have adopted the Commission for Racial Equality’s Leadership Challenge. A tangible illustration of our commitment is given by the Board’s recent approval of a new Race Equality Policy. I have enclosed a copy of this in the hope that you may find it helpful in the course of your deliberations.
Please do not hesitate to contact me again should you require any additional information.

Tom Divers  
Chief Executive  
Greater Glasgow NHS Board  
September 2002

Race Equality Policy

POLICY STATEMENT

The aim of the Race Equality Policy is to ensure that NHS Greater Glasgow as employers and service providers comply with legislation and policy guidance through delivering on the detail and spirit of the Race Relations Act 1976, the Human Rights Act 1998, Race Relations (Amendment) Act 2000, and the Scottish Executive Health Department ‘Fair for All’ guidance.

POLICY OBJECTIVES

NHS Greater Glasgow affirms its commitment to actively promoting racial equality and eliminating racial discrimination. It will achieve this aim through delivering on the policy objectives of:

Energising the Organisation

- Establishing a clear policy on race equality encompassing its role as an employer and service provider.
- Establishing and monitoring action plans to ensure the implementation of the policy.
- Training of all staff to ensure racial equality, anti-discriminatory practice, and cultural competency in the planning and delivery of services.
- Appointing an Executive Director with lead responsibility for the organisation.

Demographics

- Establishing and developing a robust database on all minority ethnic populations and their health needs in conjunction with partner organisations

Access and Service Delivery

- Auditing access to health services by ethnicity.
- Ensuring that religious and cultural needs of individuals are met, including personal care, food, spiritual care and gender issues.
- Providing interpreting support and translated materials to improve communication and clinical effectiveness, and through developing targeted advocacy support.

Human Resources

- **Integrating race equality issues into human resource strategies through the implementation and monitoring of policies and procedures.**

Community Engagement and Development

- Establishing mechanisms and processes to listen to local ethnic minority communities and ensure their involvement in the planning and delivery of services.
- **Supporting and strengthening minority ethnic communities to act as partners in service development and communication.**

The Law

The three key areas of racial equality legislation impacting on NHS Scotland are:

**The 1976 Race Relations Act** - made it unlawful to discriminate on the grounds of race in employment, training and related matters, education, and in the provision of goods, facilities and services.

**The Race Relations (Amendment) Act 2000** – enhances the 1976 Race Relations Act through making provision to:

- outlaw race discrimination in all public functions
- place a general duty on public bodies, including the NHS, to promote race equality in employment and service planning and delivery
- give powers to governments to impose specific duties on public bodies to promote race equality, and
- enable the Commission for Racial Equality (CRE) to enforce these specific duties through a codes of practice to guide public sector agencies as to their responsibilities.

Overall the emphasis of the Amendment Act is on mainstreaming racial equality practice at all levels within public bodies.

**The European Convention Human Rights Act (1998)** – binds the parliaments of the UK and Scotland, and all public authorities to consider the human rights aspects of their work which under Article 14 explicitly prohibits discrimination on the grounds of race.

Policy Drivers
The Scottish Executive policy response to Parliament’s change agenda includes a shift from the concept of the ‘average citizen’ to one that recognises diversity of all citizens. These are:

**The Social Justice / Equality Agendas** - are to the forefront of the thinking and work of the Scottish Parliament, the thrust of which is to ensure the inclusion and engagement of those people in Scottish society that have been hitherto disadvantaged in/excluded from decision making processes and mainstream service provision. *In particular, the Scottish Executive’s Equality Strategy will be supported by the CRE’s codes of practice and the Race Equality Advisory Forum report (2000) on ensuring racial equality in service provision.*

**The Scottish Health Plan** - encompasses ethnicity within its framework for tackling inequalities in health, and the unified health boards charged with the responsibility for planning and delivering services to meet diverse needs of the communities they serve.

**Achieving Better Services for Patients** – directs Boards and Trusts in relation to their responsibilities for extending patient and public involvement in the NHS.

**Fair for All** – provides a baseline on race equality practice within NHS Scotland and lead to clear guidance from the Scottish Executive Health Department to unified NHS Boards on mainstreaming racial equality. Multicultural approaches may be appropriate where it is considered that this is the best way of meeting local community health needs.

**Partnership Information Network (PIN) Guidelines** – provide guidance and direction to NHS organisations on ensuring exemplary human resource practice including racial equality and diversity.

**Principles**

The operating principles key to the implementation of this policy and associated action plans are:

- Equality of access and service provision for all service users.
- Respect for diversity within communities as well as across communities.
- Accountability and transparency.
- Partnership with users and communities.
- Evidence based approaches to service provision.
- Integral monitoring and evaluation.
- The need for comprehensive training, development and awareness raising.

**Implementation / Action Plans**
The framework for action plans will be based on the themes emerging from the Scottish Executives’ ‘Fair for All’ report and the Health Department Letter (HDL(2002)51), and has taken into account the review of Greater Glasgow Health Board’s Race Equality in Health and Health Care Policy (1996), an audit carried out by Glasgow Healthy City Partnership, and the report from the Scottish Executives’ Race Equality Advisory Forum. NHS Greater Glasgow organisations will develop action plans on employment, and service planning and delivery. These plans will be specific and time bound, have identified lead officers, and where appropriate identified resources. Cross cutting themes will be tackled on a Greater Glasgow wide basis.

Open and transparent review and monitoring processes will be established. Annual reports must demonstrate progress against agreed action plans.

Energising the Organisation

Action plans will be incrementally developed and monitored through consultation with minority ethnic communities to ensure NHS Greater Glasgow’s organisations adopt a comprehensive approach to racial equality and cultural competence in their service delivery and employment practices.

Training of staff at all levels in the NHS Greater Glasgow organisations to ensure practical application of racial equality and cultural competency in the planning and delivery of services. Training will focus on informing staff of their responsibilities under the race relations legislation, developing their understanding of minority ethnic cultures and anti-discriminatory practice, and building confidence in working with minority ethnic populations. This approach is central to the ‘mainstreaming’ agenda as outlined in the legislation and will equip staff to meet the distinctive needs of minority ethnic communities.

- NHS Greater Glasgow organisations will have responsibilities in ensuring newly recruited staff have an understanding of, and competence in, dealing with the minority ethnic clients who use health services.
- An Executive Director with lead responsibility for race equality will be appointed.

Demographics

- As a starting point for planning and redesign of services NHS Greater Glasgow organisations will establish and develop a comprehensive database on the health needs of all minority ethnic populations in conjunction with partner organisations.

Access and Service Delivery

- Monitoring the use of services by ethnicity will be a cornerstone to review and future developments. Barriers in access to services will be identified and acted upon.
• All policy, strategy and service development and review will consider ethnicity as part of standard processes. Initially any new policies and strategies, or service development will be required to assess the impact of their proposals on minority ethnic populations. Over time, the impact of established policies, strategies and services will be screened as part of their review processes to establish that they are non-discriminatory in terms of race. The same process must be applied while commissioning non-NHS providers’ services and in joint commissioning of services.

• NHS Greater Glasgow organisations will develop action plans to ensure that the religious and cultural needs of individuals are met, including personal care, food, spiritual care and gender issues.

• NHS Greater Glasgow aims to ensure better clinical outcomes, improved quality of communication and greater satisfaction with services by the use of interpreting and advocacy services, as well as through community consultation, where appropriate. Communications in an appropriate format and language are required to inform minority ethnic communities of available services and health information.

• A senior manager will be designated in Greater Glasgow NHS Board and each NHS Trust with the responsibility for ensuring racial equality is central to service development, delivery and review.

**Human Resources**

• NHS Greater Glasgow organisations will monitor ethnicity of all new appointments, and retrospectively, will compare with the ethnicity of existing staff, to ensure the recruitment policy is consistent with and reflects equal opportunity.

• Human Resource policies will be monitored, and action taken, to ensure they are anti-discriminatory in practice. For example information on ethnicity will be collected on the application of disciplinary policies, training and development undertaken, bullying and harassment, and equal opportunities policies.

• Where monitoring shows under representation of minority ethnic staff, NHS Greater Glasgow organisations will take positive action to attract more applicants from members of minority ethnic communities. If required, appropriate training opportunities will be offered to encourage equal opportunity for applicants and equal skills competency for existing staff from minority ethnic communities.

• A senior manager in Greater Glasgow NHS Board and each NHS Trust will be responsible for reviewing employment issues in the race equality policy and its associated implementation.

**Community Engagement and Development**

• Listening to and actively engaging minority ethnic communities in all service planning and review processes will ensure their health needs are understood and met. A range of innovative consultation processes will be developed and feedback provided to the communities, as standard practice.
• **NHS Greater Glasgow will work to support and strengthen minority ethnic communities to act as partners in the development and implementation of action plans, and the processes of communicating with the communities.**

**Monitoring and Review**

*Progress on the implementation of the Race Equality Policy and associated action plans will be reported on an annual basis or more frequently, as and when required, for informing locally revised plans.*

**Accountability and Governance**

NHS Greater Glasgow will execute the Race Equality Policy through the Chief Executives of Greater Glasgow NHS Board and each NHS Trust. Chief Executives will receive a report from their respective management team annually, enabling an assessment of progress against objectives in the action plan.

The Performance Assessment Framework (PAF) will provide the template for planning, management, and review of NHS Greater Glasgow’s commitment to ensuring racial equality in both employment and service planning and delivery. Planning and policy groups will have a direct input to the performance management process. The PAF framework provides the structure for reporting progress back to the Scottish Executive and the national Ethnic Minorities Resource Centre in Scotland through the annual accountability review process.

An annual report will be submitted to the unified NHS Greater Glasgow Board encompassing progress in the local NHS organisations.

*In addition, each NHS Greater Glasgow organisation will submit an annual report to the Commission for Racial Equality on progress against the organisations Race Equality Action Plan.*

**SUBMISSION FROM GREATER GLASGOW HEALTH COUNCIL**

**Inquiry into mainstreaming equality into the activities of Committees of the Scottish Parliament**

Greater Glasgow Health Council welcomes the opportunity to respond to the guidelines set out in the consultation paper issued in July 2002 on the 'Inquiry into mainstreaming equality into the activities of Committees of the Scottish Parliament.'

The Health Council commends the pragmatic approach taken in drafting these guidelines. The Equal Opportunity Committee has clearly and succinctly defined what is intended by 'mainstreaming equality'. This definition is taken
forward and practical proposals made on how equality can be incorporated into the work of committees, the passing of ‘Bills’ and consultation exercises.

The Health Council would however like to raise the following issues.

- The guidelines require a change in culture, thinking and work practices – will training be available for staff and MSPs?
- There will be financial and resource implications in considering methods of engaging with and ensuring as full a representation of stakeholders as possible.
- The Health Council notes that under item 13. committees will be ‘encouraged’ rather than ‘required’ to use the ‘Mainstreaming Equality Guidelines’. This should be changed to ensure that Committees are held accountable and answerable for the implementation of guidelines.
- What routes will be open to any individual who has a grievance or complaint about how the guideline is being implemented – will this complaint be taken to the Committee Chair or the Equal Opportunities Committee?
- An audit tool (with representation from marginalised groups) is needed to look at how the guideline is being implemented and monitoring identifiable outcomes.
- The Health Council notes that this consultation paper is available in Braille, large print and audiotape. Is translation into ethnic minority languages available on request?

The Health Council thanks the Equal Opportunities Committee for the opportunity to comment on this important consultation, and hopes that the points listed above are helpful.

Louise Wheeler
Information and Administration Officer
Greater Glasgow Health Council
September 2002

SUBMISSION FROM THE HIGHLANDS & ISLANDS EQUALITY FORUM

The Highlands & Islands Equality Forum broadly supports the proposals outlined in the consultation document. I wish to highlight some specific areas where added clarity would seem beneficial. I refer to these by your paragraph numbers for ease and to save duplication of effort (mine, in typing!!)

Para 13 I suggest the word encourage could be strengthened to at least - ‘recommend’, or even better- ‘expect’. A commitment to training in this subject is also an essential feature in realistic development.

Para 14 I suggest that an analysis of existing good practice, as well as examples of previous mistakes, from various sources could be publicised as a learning tool.
Para 15 I support the increased use of equality proofing of documents and decisions.

Para 16.2 Possible features of an effective approach would include, widely available information on the topic of equality/ published evidence of examples of good practice, positive processes, research findings and the involvement of independent views.

Para 16.3 Possible outcomes which would be desirable would include,
- an increase in the involvement of Women, disabled people and minority ethnic people in SE activities and in other decision-making bodies.
- an increase in projects, support and resources for disadvantaged groups
- evidence of awareness raising campaigns, through promotion, publicity, education, media exposure especially in relation to anti-discrimination, tolerance, valuing diversity.

Para 16.7 To ensure relevance to all stakeholders in this complex agenda we ensure an appropriate framework for inclusion, this must include, appropriate timescales for consultation, appropriate language, a commitment to clear/plain English, the availability of alternative formats for information, availability of facilitators to support discussion, and a commitment to transparency.

Frances Powell
Project Leader
Highlands & Islands Equality Forum
UHI Millenium Institute
September 2002

SUBMISSION FROM LOTHIAN PRIMARY CARE TRUST

INQUIRY INTO MAINSTREAMING EQUALITY INTO THE ACTIVITIES OF COMMITTEES OF THE SCOTTISH PARLIAMENT

The proposals identified in the consultation paper are welcomed and should inform all of the statutory and voluntary sector organisations in Scotland and provide a lead to the private sector. The lead given through this paper should have a significant impact on diversity and equality becoming mainstreamed throughout Scotland.

Issues Raised by the paper:

- Will training in diversity be provided to all those involved in the Scottish Parliament and Scottish Executive to ensure that people have a full understanding of the need to tackle discrimination in its many forms and challenge people’s thinking?
The Standard Equalities Checklist should be made available to all organisations following consultation with key stakeholders and interest groups.

Features displayed by an effective approach to mainstreaming equality:
- Issues of equity are considered as standard in all decision-making ensuring a more equitable approach.

Identifiable outcomes:
- Should be able to monitor and review policies to ensure that diversity and equity have been considered at all stages of the process.

Monitoring mainstreaming of Equality:
- As good practice the Scottish Parliament should be subject to the same responsibilities as statutory bodies under the Race Relations (Amendment) Act 2000 and be required to produce an annual report to demonstrate the effectiveness of this policy.

Mainstreaming guidelines:
- These appear sound although dependence on a checklist should be only one tool to achieve the goals of the policy.

Implementation:
- The successful implementation of the policy will inevitably be dependent on the amount of training in raising awareness of the issues which need to be considered to ensure successful implementation.

I hope these points will be considered in the review of the consultation process and we look forward to hearing the results.

Lesley Boyd
Health Inequalities Manager
Lothian Primary Care Trust
September 2002

SUBMISSION FROM NHS GRAMPIAN

Inquiry into Mainstreaming Equality into the Activities of Committees of the Scottish Parliament

Further to my letter to you of 10 July 2002 regarding the above, I would like to thank you for the invitation to submit written evidence to the Scottish Parliament Equal Opportunities Committee. We support the initial proposals set out by the Committee on how best to mainstream equality into the activities of committees of the Scottish Parliament. We agree it is essential to promote inclusiveness and equality of opportunity for all and that this principle is mainstreamed into the activities of all government bodies and public authorities. Equality must be “built in” from the beginning and be an integral part of all our work.
We have no specific comments to make on the proposals other than to endorse the proposed approach to mainstream equality, and to welcome the publishing of the Mainstreaming Equality Guidelines which will support the endeavours of NHS Grampian to build equality into our infrastructure, procedures and policies. For example, we are currently progressing our work in the area of race equality, and in the spirit of working with our non-NHS partners, we are developing a partnership pan-Grampian approach to mainstreaming equality into our actions and emerging best practice for the provision of health and social care services for ethnic minority communities.

We look forward to receiving more information on the progress with developing the Mainstreaming Equality Guidelines.

Neil Campbell
Chief Executive
NHS Grampian
July 2002

SUBMISSION FROM NUS SCOTLAND WOMEN’S CAMPAIGN

Mainstreaming Equality into the activities of committees of the Scottish Parliament

1 NUS Scotland Women’s Campaign

NUS Scotland Women’s Campaign is an autonomous and formally constituted liberation campaign of the student movement in Scotland. It provides a democratic basis on which to determine the women’s campaign, and is governed by an elected committee and annual conference.

NUS Scotland Women’s Campaign is committed to highlighting gender inequalities within education and wider society.

2 Introduction

NUS Scotland Women’s campaign welcomes this inquiry and the opportunity to make comments on it at this stage.

NUS Scotland and NUS Scotland Women’s Campaign have taken part in a number of consultations carried out by the Scottish Parliament and so it is with the consultations section of the inquiry that we are most concerned. Wide consultation from a diverse range of sources can not only provide fresh ideas, insight and expert knowledge but also means that people feel more engaged with the political process.

3 Consultations
NUS Scotland Women’s Campaign supports the view that Equal Opportunities criteria should be at the centre of the consultation process. Equality and equal opportunities should not be an optional extra or belated afterthought in the drafting of legislation, but rather at the heart of the parliament and Scottish Executive’s deliberations, given the parliament’s clear commitment to social justice.

4 What to consult upon

It is important to pick bills to be consulted on carefully: there is a balance to be reached between overburdening equality organisations with unnecessary documentation, and underusing their expertise, and missing valuable input.

5 Who to consult with

It is crucial that consultations involve as many stakeholders as possible. In order to facilitate this a database of organisations and groups should be maintained. This would allow committees to easily find details of bodies to consult. Bodies consulted could, in turn consult their members or activists or raise awareness of the consultation amongst their own networks, further raising awareness and widening the scope of those participating.

6 Format

Consultations must be in a format that is accessible and inclusive. Long, wordy documents full of jargon put many people off. In order to maximise participation they must be clear and concise.

It would also be helpful, if there are areas which particularly require scrutiny as to possible problems or impact, that these are ‘flagged up’, so that organisations with specialist knowledge but few resources can identify issues relevant to their stakeholders.

The use of email and the Internet in consultations is positive and should be expanded. These mediums allow a wide range of people and organisations to participate quickly and easily.

Consultees should be encouraged to participate - whether it be with a fifty page document or a two paged one. Many organisations would be keen to participate in more consultations but do not have the time or resources

7 Alternative consultation methods

NUS Scotland Women’s Campaign is particularly impressed by the current series of consultations for a organised by the Scottish Executive Equality Unit. The three fora, Child Poverty, Rural Women Participating and Pay and Employment. These are reaching out to women throughout Scotland, allowing them to take part in the political process in a non intimidating way. By taking meetings out into the community, they can seem less threatening and
participants will be more willing to input into discussions, which in turn benefit the consultation.

NUS Scotland Women’s Campaign would like to see more of these fora on a range of issues. This is of particular importance in the area of education, where, for example, childcare issues for students with dependants have progressed significantly, but have been addressed in a piecemeal rather than holistic fashion.

NUS Scotland Women’s Campaign
September 2002

SUBMISSION FROM OPEN FUTURES LTD

With regards to your inquiry into mainstreaming equality into the activities of Parliamentary Committees, I would like to make the following points:

1. The most important aspect of any equality issue is the impact on the minority community affected.

2. The most fair, democratic and informative way to make such an assessment is to consult with the minority community (ies) affected by allowing them to be involved by expressing THEIR issues and proposed actions.

For example, Open Futures Ltd. facilitated two very successful events in Glasgow on "Racism and the Police" and "Future of the Equality Forum." We currently are facilitating five events for the Greater Glasgow Primary Trust on the NHS and minority communities, including events for the Asian Communities, African and Caribbean, Chinese and Asylum Seekers and Refugees. A last event will pull all the strands together across minorities in Glasgow. Another feature is the use of translators and native languages during the events.

Large group processes can be used with 20 to 500 people who organise their own agenda around burning issues and actions important to them. It would be ideal with Gaelic speakers and was successfully used in deprived communities such as the Gorbals, North Motherwell, Craigmillar, Hamilton and Wester Hailes.

With best regards, I remain

Kerry Napuk,
Director
Open Futures Ltd.
July 2002

SUBMISSION FROM ORKNEY COUNCIL
Inquiry Into Mainstreaming Equality Into the Activities of Committees of the Scottish Parliament.

I refer to your letter addressed to the Chief Executive in connection with the above.

Copies of your letter were forwarded to all Council departments for comment. I enclose for your information a copy of the observations received today from the Department of Community Social Services. Please accept my apology for the delay in responding to your letter.

Mainstreaming Equality.

What features would be displayed by an effective approach to mainstreaming equality?

- It would ensure that mainstreaming of equality does happen.
- It would ensure that the practise is included from the outset – saving time and money at a later date.
- It would become normal working practice to consider these equality issues.

What the identifiable outcomes of an effective approach to mainstreaming equality would be.

- ‘get it right first time’ approach to the equality issues – saving time and energy at consultation
- less objection to the documents / policies etc on these basis.
- consultation on the actual subject matter instead of the equality issues.

How to Monitor the manner in which committees mainstream equality

- surveys / questionnaires
- meetings
- audit

Comments on the proposed guidelines

Agree that equal opportunities criteria should be considered at all stages of the legislative process – including policy development. Guidelines – seem to be very comprehensive.

Implementation Issues

Difficulties may arise with manpower to ensure that the consultation docs include all groups. May also be difficult to identify those under-represented.

Margaret A B Sutherland
SUBMISSION FROM RENFREWSHIRE COUNCIL

Mainstreaming Equalities into the Activities of the Scottish Parliament

Generally speaking the proposals in the paper are welcomed and we support their implementation. They offer practical advice on the different types of actions that could be taken by parliamentary committees to incorporate equalities issues into the mainstream agenda of the Parliament. They offer a means of scrutinising the intentions of bill sponsors, as well as the activities and processes of the committees themselves.

We welcome the definition of mainstreaming equality as specified by the Equal Opportunities Committee. It would be appropriate for local personnel policies and procedures to be reviewed in light of this definition.

It is agreed that equality issues must be incorporated within the workings of all Committees of the Scottish Parliament. This will help to complement the other related activities being undertaken within the Scottish Executive and Parliament. Appropriate linkages should be made to these.

It is agreed that it would be useful to maintain a database of witnesses called to the Parliament in order to monitor the range of people being consulted with. As is suggested, efforts must also be made to involve those groups of people that have historically been excluded or who traditionally have been difficult to engage with.

In terms of consultation it is likely that national groups will be involved but the Parliament also needs to make active efforts to engage with local groups. One way in which this could be achieved would be through holding meetings at a local level and asking community groups and voluntary organisations to become involved.

The approach here might be usefully adopted in regard to other key principles which should be integrated into planning and policy making, such as their impact upon health improvement.

From a performance perspective, the parliament must consider how they will measure success or progress with mainstreaming, and what reasonable and meaningful performance indicators would be based upon clearly identified outcomes.

Charlie MacGregor
Head of Regeneration, Strategy and Communications
Renfrewshire Council
October 2002

SUBMISSION FROM ROYAL NATIONAL INSTITUTE OF THE BLIND, SCOTLAND (RNIB SCOTLAND)

Equal Opportunities Committee Consultation on Mainstreaming Equality

Introduction

RNIB Scotland warmly welcomes the opportunity to respond to this consultation. We also strongly support the aim of the Equal Opportunities Committee: to ensure that equality is seen as a responsibility of the whole Parliament not only of one committee.

RNIB Scotland

Royal National Institute of the Blind, Scotland (RNIB Scotland) is one of Scotland’s leading charities, working on behalf of the 180,000 people in Scotland with sight problems. We deliver a range of services in the fields of social work and rehabilitation, education, employment, family support, social care, accessible information, and the built environment. We also campaign for full civil rights for people with sight problems in Scotland.

RNIB Scotland is a devolved and rapidly growing part of RNIB, one of the largest charities in the UK. We address within Scotland the issues facing blind and partially sighted people, within the context of devolved political structures.

Our Views

Essential outcome of effective mainstreaming of equality is that all Parliament’s endeavours advance the inclusion of those groups/communities in Scotland who suffer from discrimination and/or who face social and economic exclusion. At very least no measures in Parliament should further discriminate or exclude.

To be effective, it will be essential to monitor impact of mainstreaming. This could be done by perhaps conducting a base-line assessment (questionnaire?) of how organisations with a particular interest in equality issues currently rate the Scottish Parliament’s efforts in relation to advancing the equality agendas. Future repeats of this questionnaire should indicate relative progress/satisfaction vis-à-vis mainstreaming of equality.

Similarly, as well as issuing Guidelines and offering equality training to MSP, it will also be necessary to monitor how the other Committees in practice have responded to the Guidelines. Perhaps this could be done by occasionally sampling pieces of legislation which have passed through Parliamentary
stages, seeking to identify how/if the Guidelines helped to ensure equality was advanced. Good practice of committees, as well as possible missed opportunities, would be identified by this monitoring.

Sharing EOC database of consultees with all Bill sponsors is a good idea.

While possibly beyond the scope of this enquiry, RNIB Scotland has concerns about equality-proofing stage 3 amendments. These can, on occasion, undermine the earlier-stages efforts of committees to ensure equality. Often stage three amendments are put-down at extremely short notice with very little consultation. Party whipping often applies. An example was the Executive amendments at stage three of the Freedom of Information (Scotland) Bill which effectively overturned the accessible-information amendments supported by RNIB Scotland and the Justice 1 committee.

Additional Comment

RNIB Scotland will happily assist in devising and delivering pan-disability equality training for MSP.

RNIB Scotland is content for this submission to be made public. We are also happy to make oral submission, if considered of value by committee.

Gordon Matheson
Parliamentary, Policy and Press Officer
RNIB Scotland
October 2002

SUBMISSION FROM RNID

Inquiry into Mainstreaming Equality into the Activities of the Scottish Parliament

Thank you for the opportunity to comment on this very important Inquiry on behalf of our 2000 individual RNID members in Scotland, and the 1 in 7 Scots who have some degree of hearing loss. We know from our own research that many Scots feel completely or partially excluded from the process of government because of their hearing loss, and we are determined to work with your Inquiry to ensure that they are included in all aspects of the Parliament and its committees.

As the largest membership and campaigning organisation of deaf and hard of hearing people in the UK, RNID provides advice to many organisations, large and small, public and private - on improving access to deaf and hard of hearing people. We were delighted to provide advice to government as active members of the Scottish Parliament Building Consultation Group and a number of key policy groups. Our "Louder Than Words Charter" is awarded to those deaf-aware organisations that can demonstrate the ability to comply with the spirit and the letter of the DDA and other relevant legislation in every aspect of their policies, premises, and staff training.
We recommend that the Parliament and its committees seek accreditation through externally verifiable standards such as the RNID Louder than Words Charter in order to provide assurance of best practice in mainstreaming equality, and we would be pleased to discuss this in more detail with you at your convenience.

Should you be interested in finding out more about the Charter, do not hesitate to call or email.

Rob Kay
RNID Scotland Manager
July 2002

SUBMISSION FROM SCOTTISH ENTERPRISE

Please find below our response to the “inquiry into mainstreaming equality into the activities of committees of the Scottish Parliament.

Overview

Overall, we see the Scottish Parliament’s focus on mainstreaming equalities as timely and appropriate. Specifically, we agree that “building in” equalities considerations, rather than having them “bolted on” is the more valid and effective approach.

Overall Approach to Meeting the Mainstreaming Challenge

We ourselves are taking the challenge of mainstreaming equalities equally seriously, driven by the guiding principle that universal services must be universally accessible. In adopting the “built-in” ethos we see the value of a two-pronged approach. Firstly, the adjustment of procedures and practices to incorporate and encourage adequate consideration of equal opportunities. This includes adjusting the processes and procedures used for developing policies, programmes and projects. Secondly, an ongoing and long term commitment to developing equal opportunities awareness across the organisation and nurturing the appropriate culture. Although mainstreaming, by its nature, must spread ownership across our organisational structure, we also recognise the need for developing and maintaining some level of central resource / expertise to support equalities activities.

Examples of Scottish Enterprise’s Own Approach

We have already taken several steps in implementing this two pronged approach. For example, earlier this year we established a network of Equal Opps Champions, with representation from each of our major business units and Local Enterprise Companies. The specific mission for the group is “To embed equal opportunities considerations within the mainstream of Scottish Enterprise policies and practices, specifically with respect to the provision of
products and services to the public”. The network of contacts aim to fulfil this mission through; supporting development & implementation of SE’s Equal Opps improvement plan, developing the EO culture and capabilities, coordinating and sharing best practice and supporting efforts to improve EO performance measurement.

One of the EO Champions early initiatives has been the development of an “assessment template”. This will be used to review SE’s major programmes and services to identify existing good practices and areas for improvement. We are currently in the process of scheduling these reviews and envisage they will be completed over the coming 3 months. We also intend to apply this template to new programmes and services at the design phase. A similar approach might be appropriate for the respective parliamentary committees.

In addition, SE has begun to incorporate equal opportunities considerations into our target setting processes. For example, SE has set business start-up targets, which focus on particular disadvantaged groups e.g. women and ethnic minority owned business start-ups. We see the careful selection of specific equal opps related targets as an important step in the overall approach to mainstreaming.

**Approach to Prioritisation**

Clearly the concept of “mainstreaming” justifiably aims to embed equalities consideration into all areas of parliamentary activity. However, we would recommend that some form of guidance be developed such that each committee can effectively review and assess which areas of their activities are of highest priority with respect to progressing equality and diversity objectives. Some elements of the approach recommended by the CRE for reviewing and prioritising policies and functions (in preparation of a Race Equality Scheme) might be adjusted and adopted for the purpose of prioritising with respect to the wider equalities agenda.

We are using a combination of factors to determine which of our own programmes and services should form the focus for our own equality reviews (using our assessment template reference earlier). These factors include: scale of expenditure, scale of reach (ie how many individuals or businesses are potentially served by a given programme or service) and existing evidence of problems or issues.

We hope you find this input helpful to your inquiry. If you have any points of clarification or follow-up, please contact Nial McCollam.

Nial McCollam
Equal Opportunities Co-ordinator
Scottish Enterprise
September 2002

SUBMISSION FROM THE SCOTTISH SOCIETY FOR AUTISM
Inquiry into Mainstreaming Equality into the Activities of Committees of the Scottish Parliament

The Scottish Society for Autism feels that to mainstream quality into the activities of the committees of the Scottish Parliament effectively, the views of all sections of society, including the autism community, should be taken into account at every relevant opportunity.

The Scottish Society for Autism
September 2002

SUBMISSION FROM SCOTTISH NATURAL HERITAGE

Inquiry into Mainstreaming Equality into the Activities of Committees of the Scottish Parliament

Thank you for forwarding a copy of the consultation paper into ‘Mainstreaming equality into the activities of Committees of the Scottish Parliament’, and for inviting SNH's comments.

SNH supports the integration of equal opportunities principles, strategies and practices into the every day work of Government and other public bodies and welcomes the production of Mainstream Equality Guidelines to be used by all Committees of the Scottish Parliament in promoting inclusiveness and equality of opportunity for all.

We do not, however, wish to comment in detail on the paper.

Iain Rennick
Head of Secretariat
Scottish Natural Heritage
September 2002

SUBMISSION FROM SOUTH AYRSHIRE COUNCIL

Inquiry into Mainstreaming Equality into the Activities of Committees of the Scottish Parliament

An Effective Approach.

Any effective approach to mainstreaming equality should include an understanding of the nature of “equality issues”. This is highlighted in the Equal Opportunities Committee’s definition of mainstreaming equality issues – “it entails rethinking mainstreaming provision to accommodate gender, race, disability and other dimensions of discrimination…” Too often equality or equal opportunities is seen as a reason for treating everyone equally.
Although this is not an approach taken by equality specialists it is very often an approach taken throughout an organisation. Care should be taken to ensure the “rethinking” is genuine and does not just involve continuing to think equality is already being successfully addressed.

Consultation with equality specialists and organisations is important, but it is important to ensure involvement in the early stages of development of policies. Joint working with specialist groups and organisations where decision making and recommendations are shared can be an effective way forward.

Monitoring the manner in which committees mainstream equality should not be done on the basis of a tick box or final sentence in reports. Evidence of involvement of specialist individuals, groups and organisations in the work of the committee could be included as a monitoring issue. Evidence of issues where rethinking as a result of equality issues has led to a change in the way things are done could also be included.

Training is an important aspect of any work to ensure equality is mainstreamed effectively. Mainstreaming will only be successful if there is a basic understanding throughout the organisation of why equality is important.

**Implementation**

The Race Relations (Amendment) Act 2000 has demonstrated the effective use of legislation to ensure implementation. This, backed up by the Commission for Racial Equality’s Codes of Practice, has been a very effective way of ensuring organisations take their responsibilities seriously.

Louise Fyfe
Equalities Adviser
South Ayrshire Council

**SUBMISSION FROM SOUTH LANARKSHIRE COUNCIL**

**Inquiry Into Mainstreaming Equality Into the Activities of Committees of the Scottish Parliament**

Thank you for your letter regarding mainstreaming equality into the activities of Committees of the Scottish Parliament.

This Council would support and endorse the proposals outlined in the consultation paper. Obviously achieving a mainstreaming approach to the Committee process is core to disseminating the principles of equality and diversity throughout the work of the Parliament. The proposals identify the key areas included in current guidance from the CRE on implementing the Race Relations Act 2000 including assessing proposals for adverse impact, ensuring consultation processes are inclusive and implementing systems to collect disaggregated data.
Given the current and forthcoming legislative framework on equalities and the duties on public bodies, it is important that the Parliament’s processes visibly demonstrate the commitment of central government.

I also noted the intention to provide appropriate training and would support this as a necessary part of implementing the guidelines.

Michael Docherty
Chief Executive
South Lanarkshire Council
September 2002

SUBMISSION FROM STIRLING COUNCIL

Inquiry Into Mainstreaming Equality Into the Activities of Committees of the Scottish Parliament.

I am writing in response to the consultation paper that you forwarded to my Chief Executive recently. I am encouraged that the Scottish Parliament has recognised the need for equalities issues to be mainstreamed. This is an approach that we have taken at Stirling Council for a number of years. It is our view that equality should underpin all services and functions is not an issue to be considered separately. I am therefore able to confirm that Stirling Council are broadly in support of the measures that you outline.

However, there are some specific comments that I would like to make on the document. In particular, I would like to see more detail on the role of a specialist equalities unit in the longer term, as I would hope that the short and medium term work would eliminate the need for such a team. I feel that it will be very difficult to mainstream and sustain shared ownership in the longer term if there is a perception that the equality agenda is in any way specialised or 'owned' by a particular unit.

I am also slightly concerned that no mention is made in paragraph 6 as to ageism. Given that this is high on the agenda, particularly with the formation of the Older Peoples’ Unit within the Scottish Executive, this is an area of discrimination which is becoming more apparent and receiving less publicity and attention than others. I realise that the list contained in paragraph 6 is not exhaustive, but this is a key area of discrimination and this could usefully be highlighted within the equalities agenda.

Finally, I would like to see more detail under the heading ‘What does mainstreaming equality mean?’ This seems to be the main substance of the paper in terms of implementation and could usefully be expanded on.

I hope that these comments are useful to you and I look forward to seeing the outcome of the Inquiry.
SUBMISSION FROM STONEWALL SCOTLAND

Response to consultation on mainstreaming equality into the activities of committees of the Scottish Parliament

Stonewall Scotland is the Scottish branch of the Stonewall Lobby Group – a UK wide organisation that has campaigned for social justice and legal equality for lesbian, gay and bisexual people since 1989. Our work in Scotland focuses predominantly on social justice and the effective implementation of changing legislation. We strongly believe that major attitudinal shifts are still needed for real change to occur in the way LGBT people are treated as citizens across the UK and as such we seek to reach the ‘hearts and minds’ of Scottish society and its institutions. Our work in Scotland fully encompasses the rights and experiences of transgender people.

We thank the Equal Opportunities Committee for the opportunity to comment on the overall principles of mainstreaming equality and specifically on their draft guidelines. Stonewall Scotland is firmly committed to effective mainstreaming of equality issues and believes that such an approach offers the potential to make the mainstream rich with diversity and difference. Our response looks primarily at the implications of such a mainstreaming strategy in relation to LGBT issues.

We have summarised general comments in the following section and then addressed the specific points raised in Section 16 of the consultation under the following headings;

How would an effective approach to mainstreaming look?

 Desired outcomes of effective mainstreaming

 Monitoring committees in their approach to mainstreaming equality

 Comments on proposed Mainstreaming Equality Guidelines

 Issues around implementation

 General comments

 There is clearly a need for a structured approach to mainstreaming equality, not just across the various Parliamentary Committees but also within Civil Service departments and other public bodies that work with or for the Parliament. Various initiatives have addressed certain specific needs, but we
believe there is now a requirement for a more strategic and holistic approach to this.

For the LGBT community, the key problem is that it has rarely been explicitly included in the kind of policy assessments that have informed the development of legislation and mainstream services in such areas as education, housing, transport, economic development and regeneration, community safety, health, social welfare, culture and leisure and employment. The impact upon people of differing sexual orientations and gender identities is only now starting to be considered.

The lack of visibility of LGBT people as citizens of Scotland is often presented as the main reason for their lack of targeting or recognition within governmental structures. However, as people are now starting to recognise that LGBT people can readily be assumed to be part of all populations, it becomes entirely reasonable to assume automatically that communities across Scotland will comprise people and households of differing sexual orientation and gender identity and policy should be developed on this basis.

There is a real problem with lack of data and information on LGBT communities in Scotland (and indeed across the UK). As a result of this, there is often a significant gap in understanding around what the experiences and needs of LGBT people may be and what the implications of mainstreaming are for them. The Scottish Executive is now undertaking basic research into LGBT information needs (and how to access that information) but there is still a real sense of being in a situation where “we don’t know what we don’t know” and perhaps worse “if you don’t look, you’ll rarely see”.

Basic population statistics on LGBT people simply don’t exist in the way that disaggregated data can be polled on the basis of gender, age, race/ethnicity, disability, rural / urban etc. Lack of recognition in the Census or initiatives such as the Scottish household survey means that LGBT people are effectively invisible. With relatively conservative estimates putting LGBT people at between 6-10% of the general population, this represents a significant minority in Scotland that is seldom recognised and often dismissed. Breaking the concept of ‘mainstreaming’ down into component parts of equality proofing, policy appraisal, impact assessment and action plans for improvement, would start clarifying the real steps that need to be taken.

We question whether the Parliament in resource terms currently has the capacity to undertake such work effectively. Equally whilst many people within Parliament and the Civil Service have a passing understanding of issues relating to gender, race and disability for example, there is less expertise around sexual orientation and gender identity – and there is even a minority view that remains prejudicial.

Mainstreaming implies that all people take responsibility for equality issues (albeit perhaps with specialised support of an Equality unit or the Equal Opportunities Committee) we believe that this will require a significant and generalised shift in knowledge, skills and attitudes in relation to issues of LGBT inclusion and equality.
As a result of the above two points we believe that (at least during an interim time of transition) it is essential to retain specialised knowledge and skills to work alongside mainstreamed initiatives. On a simple level, we believe that it would be catastrophic at this stage in the Parliament’s development to merge the work of the ‘specialised’ Equal Opportunities Committee into that of the other more functional committees.

**How would an effective approach to mainstreaming look?**

It should be non-hierarchical, treating ‘Equality of Opportunity for All’ as a holistic concept that is indivisible, albeit perhaps achieved in different ways.

Measured on equal outcomes not simply on equal inputs, thereby recognising that different challenges require different solutions.

It would not compromise under inappropriate political pressure but remain true to the principles and ethos of Equality.

It would have clear stages and actions so that ‘mainstreaming’ ceases to be a rather generalised term that people understand differently and instead becomes a short-hand for a clearly understood set of steps and actions that are applied consistently.

There should be requirements for a minimum level of information to be in place before effective mainstreaming can be considered. Eg. How many people will this effect, an assessment of the quantitative and qualitative impacts, what will be the benefits other than cost.

**Desired outcomes of effective mainstreaming**

Far broader equality appreciation and expertise across the Parliament and associated bodies.

The achievement of an integrated and proactive approach that is no longer reliant upon particular interest groups having to fight to be recognised as *warranting* equal treatment. Equality cannot be reliant on the efforts of un-financed NGO’s.

Genuine attitudinal advances supported by training, resources, political will and partnership working, will ensure that mainstreaming does not just become a ‘tick box’ exercise lacking in integrity and authenticity.

**Monitoring committees in their approach to mainstreaming equality**

Monitoring and evaluation should become a key part of the mainstreaming guidelines, with specific advice / and recommended tools on how to actually carry this out.
A system of ‘peer review’ could be used between committees to help ensure consistency and promote the idea of an organisation that is continuously learning from within itself.

Effective consultation needs to be integral and the quality of consultation techniques and responses should be reviewed.

There will need to be a recognition by each committee of what the ‘downstream’ effects of their decisions might be and this will lead into a longer term evaluation of the equality outcomes actually achieved by each committee, not simply the process they used at the outset.

Impact assessments should be used / commissioned by Committees at an early stage to ensure that decision-making is being based on full understanding.

**Comments on proposed Mainstreaming Equality Guidelines**

In general we feel that the guidelines are useful and accessible, although perhaps still open to widely varying interpretations by different committees as to how to deliver against the guidelines

Greater clarity therefore needed on balance between guidelines and requirements. Are there sanctions for not adopting such guidelines, are the guidelines open to selective application?

Guidelines should promote (require ?) equality consideration at concept / design stage of a bill and not just at drafting stage

Support, guidance and training will be essential in the effective application of these guidelines at all levels.

**Issues around implementation**

This whole process of equality mainstreaming must be seen as part of an ongoing context of checks and review that are intrinsic to the principles of good governance. It is not some kind of ‘politically correct add-on’

If a phased approach to mainstreaming of equality is adopted, then it is key that timescales and objectives for each phase are adhered to and any learning quickly integrated into the next phases. There is always a danger that a phased approach either creates / perpetuates a ‘hierarchy of equality’ (they tend to start with race and work through) or that later phases (often LGBT issues, gypsy/Roma peoples, age) get forgotten or seen as less important.

Given the paucity of legislation relating currently to equal opportunities for LGBT people, it is important that legislative scrutiny does not just check for compliance with existing law but also fully considers the broader impact on those affected. As LGBT people have been largely invisible in law (excepting largely punitive / discriminatory laws such as sexual offences / Section 28 that
are now being gradually dismantled) it is sometimes not hard to prove that a proposed Bill is compliant with what is already on statute - that does not necessarily mean that it will not have an adverse equality impact.

Whilst to a large extent, issues of gender are championed on a national and statutory basis by the EOC and issues of race and disability by the CRE and DRC respectively, it should not be forgotten that no similar bodies exist for sexual orientation, age, religion or other equality strands. This is important in that without a formally funded and representative ‘voice’ there is great pressure on small NGO / voluntary sector bodies to be proactive in raising concerns. Such organisations are not always adequately resourced to maintain an ongoing scrutiny of parliamentary process and public policy and as such the need for fuller awareness and expertise within the Parliament is even more important.

Finally there will be an ongoing need to consider how other public bodies are required to mainstream and proof equality in their policies and activities in areas that arise from Parliamentary legislation. The practical application of well-intentioned decisions may provide additional insight.

Ali Jarvis
Director
Stonewall Scotland
September 2002

SUBMISSION FROM UNISON SCOTLAND

Mainstreaming Equality into the Activities of Committees of the Scottish Parliament

Introduction:

UNISON Scotland welcomes the opportunity to submit evidence to this inquiry.

We are the largest trade union in Scotland and represent over 140,000 members. Since its inception, UNISON has enshrined within its rule book the principle of self organisation. Self Organisation is a key element of UNISON’s strategy for achieving equality. It plays a vital role in enabling members who face discrimination to participate in the union. Successful implementation of the union’s policies on equality depends on the fullest possible involvement of women, black members, disabled members and lesbian and gay members who have traditionally been under represented at all levels of the union. It has also allowed us to develop specialist knowledge in all areas of equality.

UNISON has long believed that a mainstreaming approach to equalities ensures that equality issues are not marginalised. It does not, however, mean the phasing out of specialist knowledge.
Part of the problem associated with mainstreaming is that many people either don’t understand the concept or place different interpretations on it.

It is therefore essential that the Parliament itself is clear by what it means by mainstreaming. A truly definitive meaning will undoubtedly not manifest itself for some considerable time which is why the Parliament - and indeed all organisations associated with equality issues – need to continually re-visit and re-appraise the definition and focus on experiences of mainstreaming.

**UNISON Response:**

Whilst UNISON welcomes the Committee’s decision to consult on this important issue, we believe it raises more questions than answers.

We would therefore make the following points:

The first point we would make is that there is a long way to go to successful mainstreaming of equalities in the Parliament. Whilst the high priority given to equality matters to date is commendable, we believe the definition proposed at paragraph 6 is flawed, and could be problematic to the successful implementation of genuine mainstreaming.

In paragraph 6 it is stated that mainstreaming equality:

“..entails rethinking mainstream provision to accommodate gender, race, disability and other dimensions of discrimination and disadvantage, including, class, sexuality and religion” (our italics)

This definition instantly sets up a hierarchy of discrimination with those currently legislated for being given prominence. There is no awareness here of the upcoming legislation on Directive 12 from the EU which should, hopefully, banish a great deal of this hierarchy of discrimination.

If a hierarchy develops in a supposedly mainstreamed system there will be a very clear focus on ensuring the top three are dealt with and lip service will be paid to the rest. The Executive needs to ensure that as a bare minimum, their ‘Equality proofing’ will require mainstreaming to be defined as having equal regard to all forms of discrimination.

When assessing direct service provision it is of course the case that they are likely to have primary regard to current legislation but again, the implementation of Directive 12 should change this. They will have to consider very carefully all forms of discrimination and have appropriate systems in place to ensure the correct attention is paid to all potentially discriminatory material/outcomes. There is a real danger that their mainstreaming could become tickboxing.

Other areas that need further examination are:-

Will the Equality Unit provide a monitoring or supportive role in this area;
Will mainstreaming look at the role of positive action or not.

**Conclusion:**

We hope the committee will give serious consideration to this submission and we would be happy to give further evidence if so required.

Matt Smith  
Scottish Secretary  
UNISON  
October 2002

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SUBMISSION FROM VICTIM SUPPORT SCOTLAND

Inquiry Into Mainstreaming Equality Into The Activities Of Committees Of The Scottish Parliament

Victim Support Scotland welcomes the opportunity to comment on the Scottish Parliament’s goal of mainstreaming equality into the committee process. To help with this goal we have the following comments to contribute:

**QUESTIONS**

1. What features would be displayed by an effective approach to mainstreaming?

Changes within an organisation depend upon staff to implement them. Staff need to be well informed of the changes, process to be implemented, why they are taking place and their contribution to the equality goals.

**Communication**

A communication system to ensure the goal is known could be established and articulated to all staff and MSP’s. Staff and MSPs are informed of the processes, why they are to be implemented and the wider equality goals of the Scottish Parliament.

**Accessibility**

Information, publicity material, venues and the consultation process will take into consideration access requirements and provide information in a variety of formats. Signers/interpreters and translators would also be available.

**Training**

To ensure staff understand what is expected of them and what the changes mean, mandatory training could be incorporated. This could include introductory information regarding the changes, prejudice reduction or awareness raising for example.
Disciplinary and grievance procedures

To support equality aims a process to deal with non-compliance of staff and MSPs could be developed. The disciplinary and grievance procedures could be amended to include discriminatory practices, inappropriate language and may be extended to victimisation and bullying which may have a racist, sexist, sectarian or homophobic component.

Additionally, the use of inappropriate personal material or use of the email system to pass on inappropriate or counterproductive material could also be included. Such measures communicate a commitment to the equality goals.

Roles and responsibilities

The paper highlights the importance of ensuring equality does not remain the responsibility of one person or department. However as equality is mainstreamed it is paramount that roles and responsibilities within departments as part of the dispersal are identified and specific people have key tasks as part of the implementation.

Consultation

Whilst the committees themselves provide the vehicle for consultation to inform the MSP’s a process of monitoring its effectiveness, or the continuation of the ‘equalities checklist’ may be useful. Consulting with relevant agencies and professionals in specific fields representing diverse communities will ensure the Parliament is responsive to need.

Monitoring and evaluation

Mechanisms to review and amend processes, policies and procedures will assist in the achievement of mainstreaming equality.

2. Outcome of an effective approach

A clear understanding of the needs and priorities of diverse groups and the implications of policy/funding decisions are demonstrated.

Clear communication and information processes exist and are made known to all staff.

Support needs are known and additional resources available to support these.

Staff demonstrate a commitment to equitable practices. This is demonstrated in the acceptance of the terms and conditions of employment, which are signed at the outset and are supported with training and a clear disciplinary procedure.

Feedback and complaints procedures are in place.
Use of inclusive language and recognition of Scotland’s diverse population is demonstrated in publicity, discussion and other materials both internally and externally.

3. How to monitor the manner in which committees mainstream equality.

Encourage committees to record the process. This would provide an insight into the difficulties, discussion and resolution of the aim.

Establish a timeline with clear tasks and goals identified for implementation.

Identify support needs.

Establish tangible goals that can be monitored for achievement.

Potentially extend the current equalities checklist, if effective.

4. The proposed mainstreaming equality guidelines

The guidelines represent an important step in the establishment of a fair and equitable committee process where the implications for each stakeholder are considered and effective consultation takes place that recognises the equal opportunities considerations.

To achieve this, guidelines 2 and 3 seem to be sufficient. However, when consulting with stakeholders, where organisations then extend this consultation to their members, additional resources could be made available to facilitate this process.

Furthermore, there may be groups who are consistently under involved in the participation process, if identified it may be necessary to devise further methods to gain their input.

Primary legislation

Bill sponsor – Will there be an checklist/criteria available to support the committee in its assessment of the implications of the proposal. How will the points under this section be demonstrated? Will there be a list of diverse sections of the community that need to be consulted?

Committee activity – Whilst asking the committees to ascertain the extent to which equal opportunities has been considered in the selecting of witnesses and advisers, is there objective criteria established or is it to be left to the committee itself to decide whether it has adequately met these points?

Are consequences attached to not considering equal opportunities criteria?

In consideration of the equal opportunities criteria, at each stage of the legislative process, a ‘questionnaire’ type checklist may focus discussion. It
also ensures all those involved appreciate what needs to be achieved. The implications for specific stakeholders could be incorporated here too.

General comments:

Establishing a clear definition of equality is important to outline and establish the ethos and values of the Parliament. All those involved need to be clear what equality is about. Equality, equity and diversity should be clarified and communicated. Commonly equality is synonymous with black and minority ethnic people and wheelchair users. Clarification would assist in working towards the same goal.

Generally, checklists and guidelines are useful to assist change in practices, policies and procedures. They also avoid misunderstandings and can form part of the induction of new staff as required.

A code of conduct, or job description to include non-discriminatory practice for MSP's may ensure their role, to represent and work for all people in Scotland and a commitment to equality.

As the Parliament and its mechanisms are working towards an equality agenda within Scotland and not just within the committee process, the Parliament could identify and allocate resources to organisations to facilitate the provision of equitable and accessible services.

A review of current equality practices may be useful to inform future practice.

Victim Support Scotland
October 2002

SUBMISSION FROM WEST DUNBARTONSHIRE COUNCIL

Inquiry into Mainstreaming Equality into the Activities of Committees of the Scottish Parliament.

I welcome the opportunity to make comment regarding the proposals of the above inquiry. West Dunbartonshire Council supports the view that the promotion of inclusiveness and equality of opportunities requires that it be integral to the infrastructure, procedures and policies of the Parliament. To recognise equality as a collective responsibility but support provided by a specialist unit avoids the marginalisation of the issues involved whilst still retaining a level of specialist knowledge where required.

The equality guidelines are comprehensive in that they address the key areas of integration at the policy development stage, the need for a sound information base and build in performance monitoring and measures.

In terms of monitoring committees mainstream activities simple self completing audit tools are often effective but would of course require
administrative support and evaluation, for example checklists of key questions.

Tim Huntingford
Chief Executive
West Dunbartonshire Council
September 2002

SUBMISSION FROM THE WEST OF SCOTLAND LESBIAN AND GAY FORUM

Inquiry Into Mainstreaming Equality Into The Activities Of Committees Of The Scottish Parliament

The West of Scotland Lesbian and Gay Forum is a coalition of both local and national LGBT organisations which serve the needs of people who identify as LGBT and live in the West of Scotland.

General:

The West of Scotland Lesbian and Gay Forum is supportive of the desire to ‘mainstream’ equality issues in to all aspects of the Scottish Parliament. However, this support is tentative at best as it presupposes a level of understanding and appreciation of the position of the LGBT community(ies) within Scotland which we do not believe is evident at the moment.

All too often the needs of people who identify as Lesbian, Gay, Bisexual or Transgendered are omitted from documents produced which purport to deal with equality/diversity issues. Therefore the Forum would argue that any system brought in to ‘mainstream’ equality issues must be robust enough to ensure that this does not happen.

The Forum also has concerns about the term ‘mainstreaming’ as it appears to be a piece of jargon which has gained considerable purchase without being clearly defined. The Forum believes that ‘integration’ would be a better term to use and even this would need to be further defined to ensure that everyone knows exactly what is intended to be achieved.

The complexities of ‘mainstreaming equality’ are also further compounded when considering people who identify as LGBT as they do not form a homogenous ‘community’ with the same needs. The individuals within Scotland who identify as Lesbian, Gay, Bisexual and Transgendered are diverse both in background and ongoing needs and these would need to be considered in far more detail if ‘mainstreaming’ was to be successful in ensuring the integration of their needs in to the ongoing work of the committees of the Scottish Parliament.
‘Mainstreaming’ equality also brings with it a need to ensure that all who would be involved in the process would need to suitably trained to ensure that a hierarchy of oppression was not created through their greater understanding of one equality issue compared to another. This is especially concerning to the Forum as all too often homophobia is viewed as the ‘last acceptable prejudice’ and whilst people may be forced to ‘talk the talk’ in terms of understanding the issue, they find it all to easy to not to ‘walk the walk’.

Responses to Questions asked in Consultation Document (Point 16)

An effective approach to mainstreaming equality must explain with considerable clarity the groups to be included. The creation of a hierarchy of oppression must be avoided at all times and the approach must be explicit in terms of its scope and range. It is not acceptable to mention some disadvantaged groups and then add sub clauses naming others. Or worse still, using phrases as ‘and so on’ or ‘etcetera’ serve to further compound discrimination.

The consultation paper is an example of this where ‘sexuality’ is taken away from the main equality issues and added to a sub list in point 6. This is not acceptable and shows an inherent lack of understanding of the power dynamic within both our society in general and equality issues in particular.

Outcomes from an effective ‘mainstreaming’ approach would be both qualitative and quantative and would become clear over time. Committee papers would give a clear indication of the extent to which true consideration of all equality issues were being dealt with – although this runs the danger of being too late for inclusion in ongoing work where examples were found of issues being omitted. The qualitative outcomes would come from perceived improvements in the Parliamentary committee structure’s ability to include all equality issues by the representatives of those dealing with the effects of discrimination. At the very least a structure would need to be put in place which gave the responsibility of monitoring the effectiveness of the ‘mainstreaming’ approach to a clearly identifiable individual/group. Who ever is given responsibility would also need to given power to redress situations where committees had failed to fully consider all equality issues.

Furthermore, the Forum would recommend the establishment of an advisory/steering group made up of representatives of equality organisations to provide assistance with the strategic development of this approach.

In considering the proposed Mainstreaming Equality Guidelines the Forum would recommend that they make explicit reference to all the groups within society whom they intend to cover. Failure to do so will lead to omissions (both accidental and deliberate) where the needs of some groups are prioritised over others. With this caveat the Forum would welcome the production of these guidelines.

The West of Scotland Lesbian and Gay Forum trusts this information is of use to the Parliament and would like to take this opportunity to stress its support of
an effective and comprehensive ‘mainstreaming’ approach. However this must be considered in detail to ensure that ‘mainstreaming’ does not lead to a compounding of discrimination faced by some in Scotland.

Should you require any further information please do not hesitate to contact me.

Charlie McMillan
Convenor
West of Scotland Lesbian and Gay Forum
September 2002
Report of Fact-Finding Visit to Inverness by Elaine Smith MSP

Date: 23 September 02
Location: UHI Millennium Institute, Inverness
Attending: Professor Bob Cormack – Director & Chief Executive, UHI
Gail Prince, Highlands & Islands Equality Forum
Adrian Kitson, Highland & Islands Enterprise
Linda Stewart, UHI Executive Office
Norman MacAskill, SCVO Highland
Janet Hackel, UHI Executive Office
Philomena de Lima, Inverness College
Shona Flanagan, Voluntary Action, Orkney (by video link)
Helen Mackie, Women @ Work Project, WEA
Rosemary MacKinnon, Highland Council
John Macdonald, Northern Constabulary

Introduction

1. During the Equal Opportunities Committee civic participation events while the Parliament was sitting in Aberdeen, the Highlands & Islands Equality Forum (HIEF) invited Elaine Smith to come to Inverness to find out about the work of the Forum.

2. The HIEF is funded from January 2002 to December 2003 under a Special Transitional Programme of the European Structural Funds. Partners in the Forum are Voluntary Action Lewis, Disability Alliance in the Scottish Highlands, UHI Millennium Institute, Voluntary Action Orkney, Highlands & Islands Enterprise, Voluntary Action Highland, Argyll Council for Voluntary Service, Highland Alliance for Racial Equality, SCVO Highland and Shetland Council for Social Service. A full set of handouts, including copies of slides, are being circulated to Members separately. (Note: these were circulated for the meeting on 29 October.)

3. The key objectives of the HIEF are to audit current equal opportunities activity, raise awareness of equal opportunities issues and facilitate equal opportunities training. Currently the HIEF is carrying out consultation events to audit current activity and identify best practice and training requirements. The Forum aims to set up an Advisory Group, which may include representation from the Equal Opportunities Commission, the Disability Rights Commission and the Commission for Racial Equality.

4. The HIEF plans to hold its first conference in late November, early December under the title: Equality? What is it? The Forum will be officially launched at the conference.

Issues Discussed

5. In respect of education it was noted that girls now consistently outperform boys at school but there was still a concern in respect of performance in relation to social
class and the extent to which there was still a gender imbalance in certain subjects, such as engineering. It was pointed out that girls tended not to do so well after school and the pervasiveness of social conditioning was discussed, as reflected in, for example, toys targeted at children. The importance of the Zero Tolerance Campaign and its focus on respect was also noted.

6. There was now an issue in terms of the underperformance of boys and what to do about it. A concern was also expressed about the type of male culture which was emerging through certain publications aimed at boys.

7. A prominent issue now was the translation of qualifications into the labour market.

8. It was noted that women were not particularly visible in a range of managerial level activities in the Highlands and Islands.

9. One of the participants pointed out that more would be achieved if there were a legal requirement for monitoring gender balance in employment.

10. The Highlands & Islands Enterprise (HIE) work on the development of a one-stop-shop approach to the provision of equalities information for new and existing businesses was discussed and how this linked with the equalities training and development packs being developed by the HIEF. A pack would be available covering all equalities areas and training would also be available. It was noted that there was a need to approach businesses with a combined package rather than with individual issues.

11. HIE carried out a range of activities and there was a need to look strategically and link with other organisations as well as businesses.

12. With regard to whether HIE linked funding for firms to the presence of an equal opportunities policy, it was noted that for training provider contracts there was a requirement to have or to be working towards the Scottish Quality Management Standard (SQMS)\(^1\), one element of which was equality and against which firms are audited annually.

13. It was noted that it appeared to be emerging from the current consultation process in the audit phase of the work of the HIEF that disability issues are a priority.

14. The UHI aimed to offer access to education for people in remote areas. As there was not a great deal of funding available, there was a need to make the best use of available funds. There was a need to look at both physical and social access and support for learners. The UHI tended to have a non-traditional student population compared to other universities, for example more older students and

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\(^1\) SQMS brings together the quality requirements of a number of key national agencies - Scottish Enterprise, Highlands and Islands Enterprise, The Scottish Executive and the Scottish Qualifications Authority. SQMS shows links to BS EN ISO 9000, Investors in People and Total Quality Management.
part-time students. The work was therefore more about social inclusion. The UHI worked through local further education colleges.

15. A specific example mentioned was the case of a student who could not get support to pay for a child minder as funding was only available to pay for a registered child minder. However, no registered child minder was available at that location. This was a particular problem in more remote rural areas.

16. It was noted that there was an issue of sustainability in getting people to become child minders in rural areas.

**Video link to Voluntary Action Orkney**

17. The HIEF provided for a local focus for equality work. It was mentioned as a positive aspect that through Voluntary Action Orkney, the work of the HIEF was not seen as Inverness based. 15 local representatives had attended for the consultative event and were keen to set up a local forum. The group was still waiting to see what the audit would show and therefore did not know whether the Orkney community would emerge as different from other communities.

18. It was noted that Orkney was still a very traditional community in the context of women in the workplace, with many women doing jobs for which they are over-qualified. In addition, it could appear to outsiders that there was a tendency for local people to be given jobs instead of outsiders.

19. Of 21 councillors in the local authority, only 2 were women. There was no forum for women to get together to discuss issues. This was an area which could benefit from the work of the HIEF.

20. It was noted that bringing more diversity to local bodies was an issue for the Forum. It was agreed that training would probably help, but there were issues about the type of training which would be available. It must deliver at local level. There was an additional cost impact, for example, of air fares for training which was not delivered locally if you were not on the mainland.

21. With an area which included 16 inhabited islands, it was also important to time events such as training to coincide with boat timetables. The need to use the various learning centres across Orkney was highlighted as was the importance of the video conferencing link.

**Women @ Work Project**

22. The key objective of the Women @ Work Project in the Highland Office was to support and promote the development of women in the HIE area. The three key themes were:

- women in management
- women in business
- women in public life

These themes were often merged. The project aimed to identify training needs and ways to meet those needs. The project sometimes facilitated the training.
23. It had been decided to establish networks across the Highlands in each HIE area with the aim that the networks would become self-sustaining but with continued central support. Networks had been established in Inverness, Forres, Strathspey, Lochaber and Ross-shire. Networks were planned for Skye, the Western Isles and Shetland.

24. The move towards becoming self-sustaining was identified as a difficulty although the project still attempted to support decision making by involving everyone in planning meetings.

25. Under the women in public life theme, the project had successfully applied for ESF funding. The funding was not aimed at training provision and the project had to look for other funding.

26. There were 2 annual conferences. All events were well attended and many of the training days were oversubscribed. There was a wide range of women who attended across the various networks, including women returning to work, small-business women, women from bigger organisations and women who were not currently working but keen to do so. The project was trying to get employers to allow women to come along to meetings.

27. It was noted that at Highland Council only 2 out of the 9 Directors were women and overall in management the figure was about 10% for women. The council had recently commissioned local consultants to run 10 women in management focus groups.

28. The need was highlighted to shift the traditional view of women’s work by, for example, getting more men into secretarial type work.

29. It was noted that a group of members from the Women @ Work Project were coming for a tour of the Scottish Parliament on Thursday 5 December and that they would very much appreciate meeting with women MSPs to discuss the aims of the project. Refreshments would be available in Room F1, Cannonball House from 12.30 on 5 December.

**Highland Alliance for Racial Equality (HARE)**

30. HARE was a multi agency group of both private and public bodies. Previously there had been no focus for race equality issues in the Highlands. Highland Council had taken over the chair this year.

31. Key issues were: developing a racial incident strategy and HARE were now looking at implementation; holding generic seminars on equality issues using Northern Constabulary.

32. The work had attracted the interest of the private sector, such as banks.

33. HARE had invited the CRE to the Highlands to support development work and the CRE had provided some funding to help HARE think through what to do.

34. Key issues for black and ethnic minorities in the Highlands included:
• access to information and advice
• access to services
• racial incidents
• no resources for capacity building among racial minority households.

35. Questions which needed asking were:
   • What are the differences between urban and rural areas?
   • Are there any?
   • Are they real?

36. Often the experiences themselves were not that different. The difference often lay more in the manner in which the issues were addressed. There was currently not enough evidence-based research being carried out.

37. There was a need to look at identity in a multidimensional way and look at equal opportunities holistically rather than trying to put people in neat boxes.

38. Concerns were expressed about the provision of equal opportunities training and the need for some kind of quality standard was highlighted. There was a question about how this could be co-ordinated across Scotland.

39. Equal opportunities training within the police force, which had started about 4 years ago, was discussed. It was noted that there was now a 5 week intensive course for equal opportunities which was quite ‘soul searching’. The course was delivered in-house but evaluated at national level.

40. It was noted that since the Macpherson and Jandoo reports the police had been forced into looking at what they were doing. Other bodies were now taking advantage of what the police were doing in these areas.

41. In terms of visibility, based on the figures for the Highlands & Islands less than 1% of the police staff would need to be from black or minority ethnic background and this would still not be visible. It was noted that the police themselves could seem to be invisible due to the size of the territory in which they worked.

42. Northern Constabulary had a retention problem for female staff but they were now making it easier for women to return to the force after having a family. There were currently few women in senior management in policing terms but this was improving.

43. The duty under the Race Relations (Amendment) Act 2001 would force a lot of other equal opportunities issues to be addressed. Soon the agenda would be about diversity, not race.

44. Another key issues was the LGBT community. There were few services and low visibility and there was no LGBT policy in the 4 police authorities in the Highlands & Islands.
45. Highland Council were seeking to develop 1 day diversity training for all staff perhaps in conjunction with specific training for certain services. The council was working on how to deliver training to hard to reach staff, for example part-time staff. The training was currently delivered in house and there was a need for training for trainers. Training and awareness raising were also needed for council members.

46. It was noted that it was hard to find good diversity trainers and it was pointed out that it was often ‘hit or miss’ who was asked to provide training. It was questionable whether training which challenged behaviour could effectively be delivered in-house. There were, however, also cost implications in carrying out training across whole organisations, for example, in the case of the 5 week diversity training. It was mentioned that trade unions were often in a position to offer such training.

47. Support was expressed for the proposed move to one equality commission. There was no great need for a parallel approach to equalities except where it was necessary to bring specific excluded groups up to par with the others, such as with LGBT people.

48. It was noted that there could be a conflict between some human rights and equal opportunities approaches. Examples given were: the case of a need to declare ethnicity on an application form and whether specific people or groups could then be easily identified; the case of a school where the majority non-BME parents complain that the race issue is not a majority issue.

49. There were concerns around rurality and equal opportunities, for example black and minority ethnic children being bullied on the school bus.

50. It was noted that LGBT issues had not been discussed in the morning session and it was pointed out that LGBT people were not very visible in H&I, there were no clubs etc. Even the name of the umbrella body for LGBT people – Reach Out Highland – did not clearly identify its stakeholder groups. LGBT issues were an even bigger target for mainstreaming in the north.

51. In the experience of one of the participants, many LGBT people in the Highlands & Islands were not ‘out of the closet’ and many went to Glasgow or Edinburgh in order to be able to avoid harassment.

52. There was low reporting to police of homophobic crime, and most workers in the abuse field did not recognise same-sex or women-caused abuse, although the police forces recognised this as abuse.

Conclusions and Recommendations

53. The Gender Reporter would like to thank the HIEF and all those who attended for the time and effort they put into making the visit so useful and informative. It was a very worthwhile visit which highlighted the importance of meeting groups outside of the Edinburgh area.
Equal Opportunities Committee
Gender Reporter – Note of Meeting

Introduction
1. The attached paper reports to the Committee issues raised at the meeting of the Gender Reporter with representatives from Scottish Women Against Pornography (SWAP) on Thursday 03 October 2002.

Background
2. Members will recall that I previously met with Linda Watson-Brown on 31 October 2000¹ and tabled a report to the Committee.

3. I met with SWAP to discuss general areas and the more specific issue of their recent petition to the Parliament (PE476) on indecent displays of pornographic magazines in such outlets as local shops and garages.

4. The petition calls for the Scottish Parliament to take immediate steps to (a) ensure that the Civic Government (Scotland) Act 1982 is fully and effectively enforced in relation to the display of obscene material, and (b) review this legislation to determine whether it is adequate or whether it requires amendment.

5. Following an initial appearance by the petitioners at Public Petitions Committee on 23 March 2002 and further consideration of replies from ACPOS and the Scottish Executive on 25 June 2002, the petition has now been referred to Justice 2 Committee.

Titles
6. Whilst the material in question is not only freely available, and indeed obtrusively on display, the precedent set at the Public Petitions Committee suggests that we should not refer to specific examples of titles, contents or vendors. Not only is this to prevent inadvertent offence to those reading the reports of this item, but it will also serve to prevent pandering to those who use material of this nature.

Scottish Women Against Pornography (SWAP)
7. SWAP considers that the display and content of many of the publications on display in local shops and garages clearly breaches the provisions of the Indecent Displays (Control) Act 1981. Their petition asks for full use of the provisions in sections 51 and 52 of the Civic Government (Scotland) Act 1982, dealing with “obscene material” and “indecent photographs of children”, respectively.

8. SWAP contend that the presence of what they classify as obscene material in locations such as local shops and garages, effectively “sexualises” an area of previously neutral activity. Furthermore the prevalence and display of such material clearly involves not just adults, but also children who visit such establishments.

¹ Cf. EO/00/21/06
9. Indeed, anecdotal evidence gathered by SWAP suggests that the displays are rotated during the day, in order to maximise purchases, further exposing the publications and the messages they give out. From this anecdotal evidence it appears that selling the magazines can make as much as £4,000 per week for the vendors.

10. SWAP believe that the publications and the contents, the manner in which they are sold and the general absence of redress when complaints are made contribute to a “normalisation of pornography”.

11. The absence of a satisfactory definition of obscenity concerns SWAP, who feel that the 1982 Act has now ceased to be effective and that a better definition of “obscenity” needs to be discussed and agreed.

Role of pornography in abuse
12. SWAP cited research by Ray Wyre, of the Gracewell Institute and Clinic, which showed that, of those surveyed, use of pornographic material was greater in the three week prior to an offence being committed in order to dis-inhibit themselves and normalise what they intended to do. Indeed, SWAP believe there is justification in saying that there is evidence of pornography playing a major role at every stage in the cycle of abuse.

Culture of normalisation
13. SWAP believe that the prevalence of, and messages sent by, pornography perpetuate an abusive and degrading portrayal of women and female sexuality. This in itself is bad enough: however, when one considers the Zero Tolerance campaign (funded by the Scottish Executive) with its message “Respect yourself, respect others, respect diversity”, it is entirely contradictory.

14. Some of the magazine titles, as set out in the Annex, also verge on the racist. SWAP advocated, as a test, substituting other Schedule 5 categories in the titles and seeing how much of a furore was made.

Recommendation
15. I recommend that:
   (I) the Committee note the report and the concerns expressed by SWAP and that (ii) the Committee agree to pass the note and relevant OR extracts from this meeting to Justice 2 Committee (copied to the Petitions Committee) to inform their discussion of the petition in due course.

Elaine Smith MSP
Gender Reporter to the Equal Opportunities Committee
October 2002
54. Members are invited to:
   (i) note the report;
   (ii) circulate it to the HIEF; and
   (iii) invite progress briefings from the HIEF.

Elaine Smith
Gender Reporter
October 2002
EQUAL OPPORTUNITIES COMMITTEE MEETING - 12 NOVEMBER 2002

Thank you for your letter dated November 2002 with further questions relating to the then Deputy Social Justice Minister's appearance at your Committee's stocktake on sexual orientation on 12 November. My apologies for the delay in responding.

I will take your questions in order:

1. **What are the numbers of gay men making use of the genito-urinary medicine (GUM) services?**

   Information is recorded about whether particular conditions are acquired through same sex contact. As a result figures are only available relating to diagnosis of particular conditions.

   In 1999/2000 GUM clinics recorded 607 men who presented with particular conditions acquired through same sex contact. This represents 6.9% of the total number of men presenting with those conditions. The total number of gay and bisexual men who attend GUM clinics will of course be higher than 607 as information about same sex contact is not recorded for those who are not diagnosed with particular conditions.

2. **What are the numbers of young LGBT people ringing the Breathing Space telephone helpline?**

   As a confidential service, *Breathing Space* does not request or hold this information.

3. **Outright Scotland’s submission to the Committee notes:**

   *There should be pre-registration and on-going awareness training on LGBT issues for all social-care workers, doctors, nurses and other professions allied to health care.*
Is the Minister aware of any such training being provided or planned for?

Although there is no specific central guidance on pre-registration LGBT training for professions allied to health, there are many local initiatives which have been developed. The promotion of equality, diversity and rights is integral to all education and training. For example, there are standards in social work education that state that all honours graduates must have the skills to promote social inclusion by identifying and responding to prejudice, institutional discrimination and structural inequality and to challenge discrimination in constructive ways.

The Health Department has recently appointed a patient focus and public involvement and training development manager to look at communication training for the NHS Scotland; diversity and inclusion are key features of the value strategies.

The Health Department has funded a three year LGBT Inclusion Health Project. The project will research and develop a mainstream approach to the effective inclusion of lesbian, gay, bisexual and transgender people in health planning and services. A complete review of current practice in relation to the health and community care needs of LGBT people across Scotland will be undertaken. This will be the basis of an inclusive strategy for use by policy makers and health/social care staff and will ensure the effective communication of this along with appropriate mechanisms for its ongoing delivery. This will be complemented by a training programme for health and social care staff and a series of awareness raising demonstration projects across Scotland in both rural and urban settings.

4. A number of submissions, notably from Professor Kenneth Norrie of Strathclyde University, have highlighted significant anomalies in the legal treatment of gay men. Can the Minister tell us what plans, if any, the Scottish Executive has to review and update the law in this respect?

We recognise the points made by Professor Norrie in his submission about differences in existing law. A number of sexual offence provisions refer specifically to the protection of females but there are alternative provisions in statute and common law that protect males. Although Scots law, both common and statute, use different terminology for offences involving males and females we believe that the law protects males and females equally.

We are committed to ensuring that our laws strike an appropriate and non-discriminatory balance between protection of the right of the individual to a private life, free from harassment. As you will know, most sex offences in Scotland are covered by the common law. One advantage of the common law in this area is the flexibility it offers to respond to a wide range of circumstances. Given this flexibility it is not necessary to undertake a full scale review of sex offence law in Scotland. However, we do keep the law under review, and to compliment the common law approach, we have introduced a range of statutory and other measures as appropriate in recent years.

DES MCNULTY