



EO/S2/04/16/A

EQUAL OPPORTUNITIES COMMITTEE

AGENDA

16th Meeting, 2004 (Session 2)

Tuesday 2 November 2004

The Committee will meet at 10.00 am in Committee Room 2.

1. **Items in private:** The Committee will consider whether to take items 3 and 4 in private.
2. **Petitions:** The Committee will consider the following petitions —
 - PE522 by Ms Carol Main, calling for the Scottish Parliament to encourage the Scottish Executive to investigate and remedy the issue of the lack of care homes for young physically disabled people in Scotland, including the Tayside area.
 - PE752 by Catherine Harper, on behalf of Scottish Women Against Pornography, calling for the Scottish Parliament to enact legislation to define pornographic material as incitement to sexual hatred and to make such incitement an offence similar to that of incitement to racial hatred.
3. **Budget process 2005-06:** The Committee will consider an approach paper on the draft Budget 2005-06.
4. **Disability inquiry:** The Committee will consider an approach paper.

The following papers are attached:

Agenda Item 2

- EO.S2.04.16.01 - [Paper on petition PE522](#)
- EO.S2.04.16.02 - [Paper on petition PE752](#)

Agenda Item 3

- EO.S2.04.16.03(P) - Private approach paper

Agenda Item 4

EO.S2.04.16.04(P) - Private approach paper

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Equal Opportunities Committee

Tuesday 2 November 2004

Petition PE522

Introduction

1. The Equal Opportunities Committee considered the following petition at its meetings of 10 February and 20 April 2004—

PE522 Petition by Ms Carol Main, calling for the Scottish Parliament to encourage the Scottish Executive to investigate and remedy the issue of lack of care homes for young physically disabled people in Scotland, including the Tayside area.

Background

2. The Committee first considered PE522 at its meeting of 10 February 2004 and agreed to write to the Minister to request an update on progress in respect of research into the care needs of young disabled people. The Deputy Minister for Health and Community Care responded in March 2004, outlining the remit of a working group established by the Scottish Executive to discuss with stakeholders the required aims and focus of research in this area. At the time of the Minister's response the working group had met twice and had identified key issues and potential sources of information.

3. However, members were concerned about the length of time that had passed since undertakings from the Executive to the Health and Community Care Committee in 2002. The Committee, at its meeting of 20 April 2004, therefore agreed to reply to the Deputy Minister and request information in relation to the research specification and the Executive's proposed timetable for taking forward consideration of the issues involved.

4. The Committee received a reply from the Deputy Minister on 13 May 2004 (correspondence attached), who explained that, due to misgivings about the wide remit of the initial plan, the working group had disbanded and a scoping study to focus the research was to be conducted by the Executive. The Executive has stated that the working group will be consulted on the specification of the scoping study.

5. It would appear from existing correspondence that Capability Scotland found that one of the main issues arising from consideration of the petition was the lack of available data in relation to provision for young disabled people in Scotland. Capability Scotland was represented on the working group which, by consensus, was disbanded to allow for scoping to be taken forward.

Discussion

6. Given the lack of available information in relation to provision for younger disabled people, the Committee is invited to consider whether it would wish to establish via correspondence with the Scottish Executive, the remit of the final scoping study. On receipt of a response from the Scottish Executive, the Committee may wish to pursue matters further.

7. The Committee may also wish to consider how to take matters forward in the context of its disability inquiry. Whilst specific provision of care homes for younger physically disabled people can be considered a community care issue for the Health Committee, creating opportunities for and the life experiences of younger disabled people is an issue for the inquiry. The Committee may therefore wish to consider whether there is any scope for engagement with the petitioner in relation to the inquiry.

Steve Farrell
Clerk to the Committee
October 2004

LETTER FROM THE DEPUTY MINISTER FOR HEALTH & COMMUNITY CARE

1. Thank you for your letter of 23 April regarding petition PE522 from Mrs Carol Main regarding care homes for young physically disabled people.
2. I understand your concern about timescales. As you are aware it was originally proposed that a Research Advisory Group would meet three or four times to develop a research specification for a study on the needs of younger people with physical disabilities and dementia and the services which they can receive. Although the Executive did not make a specific commitment regarding care homes for younger people, the main aims of the group were to:
 - review the available literature on the needs of adults under 65 with a physical disability and/or early onset dementia, and the ways in which these needs are met;
 - map out the current services, both generic and specialist, available to people under 65 with a physical disability and/or early onset dementia; and
 - explore the experiences of adults under 65 with a physical disability and/or early onset dementia and their families/carers.
3. However, following an assessment of progress in April, after two meetings, the specification was still some way from completion. Moreover there were misgivings that the initial plan, to cover the needs of both young people with physical disabilities and people with early onset dementia, was too ambitious in its range.
4. The consensus now is that we need to begin by focusing on one or two specific areas and therefore the Executive will commission a scoping study to identify these. The group has meanwhile disbanded but will be consulted on the specification for the scoping study, which should be completed by the end of the month.
5. I am sorry I cannot be more specific at present but I can assure you that the work is being taken forward and is an important area of community care policy.

Tom McCabe
Deputy Minister For Health & Community Care
13 May 2004

Equal Opportunities Committee

Tuesday, 2 November 2004

Petition PE752

Introduction

1. The following petition has been referred to the Equal Opportunities Committee for its consideration—

PE752 Petition by Catherine Harper, on behalf of Scottish Women Against Pornography, calling for the Scottish Parliament to define pornographic material as incitement to sexual hatred and to make such incitement an offence similar to that of incitement to racial hatred.

2. The petitioner has also supplied copies of pornographic material in support of her concerns, which has not been circulated due to its graphic content but is available from the Clerks.

Aim

3. The aim of this paper is to set out the background and possible courses of action in relation to PE752 for the Committee's consideration.

Background

PE476 and Gender Reporter's Report

4. In January 2003, the Justice 2 Committee considered PE476, also from Scottish Women Against Pornography, which called for a review of legislation relating to the display of obscene material. It agreed to take no further action on the petition, following a commitment by the Executive to consider undertaking research on the links between violence and pornography.

5. The Equal Opportunities Committee considered many of the issues contained in this petition via the Gender Reporter's Report at its meeting of 9 March 2004 and agreed to take matters forward with the Scottish Executive Minister in correspondence.

6. The Minister responded to the Equal Opportunities Committee on 7 May 2004, stating that—

"the Justice Department had agreed to consider whether it would be useful to commission new research on possible links between pornography and violence against women. However a literature review of the existing research in this area showed that for every study that purports to demonstrate a harmful effect associated with the consumption of pornography, there was another study which rejected any such effects. It was concluded in the circumstances that further research would not be a beneficial use of the

limited Scottish Executive research budget. I am advised that the Justice Department has no current plans to commission research in this area. However, the Executive will keep this issue under review."

The current petition

7. At its meeting of 29 June 2004, the Public Petitions Committee agreed to refer PE752 to the Equal Opportunities Committee for its consideration. As detailed above, PE752 proposes that the Scottish Parliament should define pornography as incitement to sexual hatred and to make such an incitement an offence similar to that of incitement to racial hatred. Members will note that the law in relation to incitement to racial hatred is contained in Part III of the Public Order Act 1986, which also applies to Scotland. The Act includes publication of racist material and showing of recordings of racist material as acts intended or likely to stir up racial hatred.

Legal position

8. The Scottish Parliament's legal office has suggested that there would in principle be no reason why the scheme adopted in the Public Order Act 1986 could not be applied to define sexual hatred towards women.

9. The Committee will also in its considerations wish to be mindful of the legal context of reserved equal opportunities legislation.

The Working Group on Hate Crime

10. The petition, given its reference to discrimination against a particular social group, falls within the remit of the Working Group on Hate Crime, established by the Scottish Executive in summer 2003. The remit of this group was—

"To look at the current criminal justice system and consider improvements, including legislation, which might be made to deal with crimes based on hatred towards social groups."

11. The Working Group undertook a consultation, which closed at the end of April 2004 and reported its findings to Ministers at the end of August 2004. The Scottish Executive published the findings of the group in September 2004.

12. Members will note that **Recommendation 3** of the Working Group report states that "The Scottish Executive should review the area of criminal law on violence against women and continue to investigate the link between the undermining of women in society and crimes of violence against women with a view to combating both. A statutory aggravation for domestic abuse should also be considered by the Executive."¹

¹ Page 4, Working Group on Hate Crime Report, Scottish Executive, September 2004

Discussion

13. The Committee may wish to consider the Executive's response of 7 May 2004 in relation to research in the subject area, given its relevance to the issues raised in PE752. A copy of the correspondence is attached to this paper.

14. The Committee may also wish to consider whether it would wish to draw this petition to the attention of the Justice Committees, particularly in relation to any work that may arise in response to the recommendations of the Working Group on Hate Crime.

Steve Farrell
Clerk to the Committee
October 2004

LETTER FROM THE MINISTER FOR COMMUNITIES

DISPLAY OF PORNOGRAPHIC IMAGES IN RETAIL OUTLETS

1. Thank you for your letter of 11 March. I apologise for the delay in replying to you.
2. You ask in your letter whether there are any recent developments in terms of the Scottish Executive's position in relation to this matter and whether any further research has been undertaken or commissioned. You also ask whether we have any information in respect of public attitudes to the prominent display of such material in retail outlets.
3. On the research question, the Gender Reporter's Report attached to your letter sets out the most current position. This is that the Justice Department has agreed to consider whether it would be useful to commission new research on possible links between pornography and violence against women. However a literature review of existing research in this area showed that for every study that purports to demonstrate a harmful effect associated with the consumption of pornography, there was another study which rejected any such effects. It was concluded in the circumstances that further research would not be a beneficial use of the limited Scottish Executive research budget. I am advised that the Justice Department has no current plans to commission research in this area. However, the Executive will keep this issue under review.
4. I am copying this letter to Annabel Goldie, chair of Justice 2 Committee.

Margaret Curran MSP
Minister for Communities
7 May 2004