

Commission on Parliamentary Reform

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The Equality Network is a national Scottish charity working for equality and human rights for lesbian, gay, bisexual, transgender and intersex (LGBTI) people. Since 1999, we have engaged often, on LGBTI equality issues, with both the Scottish Parliament and the Scottish Executive / Government, and we welcome the opportunity to respond to the Commission. Our views are structured around the Commission's questions.

Has the Scottish Parliament engaged effectively?

The Equality Network was founded in 1997, and for the first two years of our work, most of our engagement was with the UK Government (mostly the Scottish Office) and the UK Parliament. We find engagement with the Scottish Parliament to be easier and more effective than engagement with the UK Parliament either was before devolution, or is now. There are a number of reasons for this, including:

- The Scottish Parliament is physically closer and so more accessible
- The ethos of the Scottish Parliament, from the four Consultative Steering Group (CSG) principles onwards, places more emphasis on openness and engagement
- One of the four CSG principles is to promote equal opportunities, providing a direction towards equality
- Related to that principle, the Scottish Parliament has had since 1999 an Equal Opportunities (now Equalities and Human Rights) Committee (which predates by years the Women and Equalities Committee at Westminster)
- All Scottish Government bills require equality and human rights impact statements
- The bill procedures at the Scottish Parliament are more open and accessible. Stage 1 evidence taking is far better than the limited version more recently introduced at Westminster, and the stage 1 reports produced by Committees can lead to significant changes to bills.

Our experience of engagement with the Parliament

Our experiences of engagement include the following.

Submitting stage 1 evidence on bills. We have done this for a range of bills. On some occasions we submitted written evidence only; on others we were also asked to give oral evidence (to a number of committees for different bills over the years,

including Equal Opportunities, Justice and Education). We have found this to be a positive experience. In our experience, Committees treat witnesses well, and members listen to and engage in a meaningful way with the oral evidence we give. Often, our written or oral evidence has been referred to in the stage 1 report, and it is possible to see how the evidence has influenced the Committee's views.

Stage 1 debate briefing. Where we submit stage 1 evidence on a bill, we will often also send a briefing to all MSPs shortly before the stage 1 debate, perhaps referring to the stage 1 Committee report. Clearly, MSPs receive a significant number of such briefings for most bills, but we have generally found that one or more MSPs is prepared to raise in the debate issues we mention in our briefing.

Seeking stage 2 amendments. Again, we have done this for a number of bills. This has involved working with one or more MSPs, usually members of the lead Committee, asking them to consider submitting amendments. Often we would do this having already referred to the amendments we felt were needed, in our stage 1 evidence, and we may then be able to refer to recommendations in the stage 1 report on the specific issues we raise. Again, our experience has been positive. It has generally been possible to find an MSP (whether a Committee member or not) willing to propose an amendment, and Committees will then discuss the amendment with the Minister. Committee members' understanding of the issues is in our experience good. In some cases, the Government have agreed to support an amendment we suggested, and sometimes Committees are willing to vote through an amendment when not supported by the Government.

Stage 2 briefing. We quite often submit briefings to Committee members on stage 2 amendments that have an effect on LGBTI equality. Again, we have found that members are open to considering the points that we make, and may refer to them in debate.

Seeking stage 3 amendments. There have been some cases where we have believed that a bill still needs amendment to ensure LGBTI equality, after stage 2. In that case, we would seek an MSP willing to submit an amendment at stage 3.

Stage 3 briefing. As with stage 2, we quite often prepare a briefing on specific amendments at stage 3, and send it to all MSPs.

Separate from the legislative process, we have been invited to give oral evidence on policy matters on a number of occasions to the Equal Opportunities Committee, and our positive comments above about the willingness of the Committee to engage meaningfully, apply again.

Although we have not submitted any petitions ourselves, we have on occasion helped LGBTI community members to submit a petition to the Public Petitions Committee. We think the petitions system is of varied usefulness for petitioners. Sometimes, perhaps related to the volume of petitions, a petition seems to get very little consideration. On other occasions, the PP Committee does a lot of work on a petition (although the Scottish Government may of course decline to take action).

We have also worked together with MSPs to organise a number of receptions for LGBTI community members to meet MSPs. These have ranged from small events in Committee rooms, to events with a couple of hundred attendees in the Garden Lobby. We find that these work well. (Our only complaint would be the pricing of the Parliament catering!)

More recently, we have become the secretariat for the new Cross-Party Group on LGBTI+ issues. This is the first time we have been involved in a CPG. As secretariat, we have found the procedures to work well, and to be quite transparent, via the CPG webpage. The Standards Committee clerks are helpful. There is a division between things that can be done by us as secretariat, and things that can only be done by one of the MSP co-conveners' staff (booking rooms and the catering for meetings). We would be happy to do these as well if we were authorised to.

Our overall experience is that MSPs are very willing to engage meaningfully with us (whether or not they agree with our policy asks). We have also found that Committee clerking teams are helpful and supportive. We would say that we have had some success in influencing those bills which have had a significant effect on LGBTI equality, through stage 1 evidence, and by suggesting amendments which have then been adopted. We should add that we also engage directly with the Scottish Government on these issues, both at the pre-legislative and legislative stages.

We find it relatively easy to stay informed about developments in the Parliament. The Parliament website is generally good, with excellent material published promptly, although changes to the website design, made from time to time, have not always been for the better. In particular, the visual accessibility of the website has got worse because of the use of light grey text instead of black as originally. We find that the current "beta" version of the online business bulletin is not quite as easy to use as the former version – for example, we have found it difficult to find archived business bulletins since the new version.

The online Parliament TV system is effective and seems to be comprehensive in its coverage of proceedings, both live and archive. However, sometimes the servers seem to become overloaded, meaning that people watching live coverage miss parts of the debate when the video drops out.

If we have one top suggestion, it is that the Parliament and Committees should seek where possible to engage directly with "grass-roots" members of the public. Individual MSPs do that all the time of course with constituents. Sometimes, although not always, we have felt that Committees seem to prefer to engage more with organisations like us (for example when taking oral evidence), perhaps because we are relatively experienced, than, as we often suggest, with a panel of grass-roots community members about a policy affecting them. Having said that, there have been some very good examples, such as the Equal Opportunities Committee's engagement with trans people on the Sewel motion on the UK Gender Recognition Bill in 2004, and, more recently, that Committee's informal chat sessions with community members from equalities groups early in session 5.

In terms of ways to increase engagement, our view is that it is important to engage with people on their own terms. Holding an engagement event at the Parliament,

with a pre-published agenda, is great for engaging organisations like us, and we will always try to involve grass-roots LGBTI community members as well. But to engage more widely would require going out to communities, in venues people already use, at times that suit them, and with an open, listening approach, so that they can set the agenda for the discussion.

Distinct identity?

Our feeling is that most LGBTI people have a good idea of the distinction between the UK and Scottish Parliaments, and Governments, and of the general split of devolved and reserved issues. This is despite some of the UK media often being unclear about the distinction between Scotland, England, and other parts of the UK, in their coverage of matters that are devolved in Scotland, such as the NHS. We suspect that the role of the Scotland Office may be less well recognised.

There may be more confusion about the division of devolved responsibilities within Scotland, between the Scottish Government and local government, and public services such as the NHS.

Similarly, we think that there is some confusion between the different roles of the Scottish Parliament and Scottish Government, and this confusion is sometimes apparent in media reporting also.

We wonder whether one of the national broadcasters in Scotland would be interested in producing an accessible series about the work of the Parliament, MSPs and those who engage with the Parliament?

Checks and balances

Our experience of the Committee system is that it can work well in holding the Government to account. A good example was the session 4 Equal Opportunities Committee's work as lead Committee for the Marriage and Civil Partnership (Scotland) Bill, where the Committee suggested a number of improvements to the bill and then passed amendments at stage 2 (not all with Government support) to improve it. In that case, the Committee did not have a Government majority (it had 3 SNP and 4 non-SNP members), and was chaired by a Labour MSP. However, we are not sure that the lack of a Government majority was the reason for the Committee's effectiveness; it may have been simply that the Government had made clear that the bill was a matter of conscience and parties made clear that there would be free votes.

We very much welcome the fact that under the Scotland Act the courts can overturn or amend Scottish Parliament legislation if, for example, it is found to breach the ECHR, and can potentially require the Scottish Government to take action to fix a breach. This potential check encourages better legislation, including for example the Convention Rights (Compliance) (Scotland) Act 2001. We hope that, whatever the UK Government may do to the Human Rights Act 1998, and to the UK's membership of the Council of Europe, those constitutional protections will remain. We would like to see Scotland's written constitution broadened beyond the provisions of the current Scotland Act, to give further justiciable constitutional protections.