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Official Report

EQUAL OPPORTUNITIES COMMITTEE

Thursday 25 June 2015

Session 4

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EQUAL OPPORTUNITIES COMMITTEE

13th Meeting 2015, Session 4

CONVENER

*Margaret McCulloch (Central Scotland) (Lab)

DEPUTY CONVENER

*Sandra White (Glasgow Kelvin) (SNP)

COMMITTEE MEMBERS

*Christian Allard (North East Scotland) (SNP)

*Jayne Baxter (Mid Scotland and Fife) (Lab)

*John Finnie (Highlands and Islands) (Ind)

*Annabel Goldie (West Scotland) (Con)

*John Mason (Glasgow Shettleston) (SNP)

*attended

THE FOLLOWING ALSO PARTICIPATED:

Dr Akwugo Emejulu (University of Edinburgh)

Dr Gina Netto (Heriot-Watt University)

Olawale Olabamiji (Ethnic Minorities Law Centre)

Chris Oswald (Equality and Human Rights Commission)

CLERK TO THE COMMITTEE

Ruth McGill

LOCATION

The James Clerk Maxwell Room (CR4)

Scottish Parliament

Equal Opportunities Committee

Thursday 25 June 2015

[The Convener opened the meeting at 09:30]

Race, Ethnicity and Employment

The Convener (Margaret McCulloch): I welcome everyone to the 13th meeting in 2015 of the Equal Opportunities Committee. Please switch off any electronic devices or put them into flight mode.

I will start with introductions. We are supported at the table by the clerking and research staff, official reporters and broadcasting services. Around the room, we are supported by the security office. I welcome observers in the public gallery.

I am the committee's convener. Members will now introduce themselves in turn, starting on my right.

Sandra White (Glasgow Kelvin) (SNP): Good morning. I am the committee's deputy convener.

John Finnie (Highlands and Islands) (Ind): Madainn mhath—good morning. I am an MSP for the Highlands and Islands.

Christian Allard (North East Scotland) (SNP): I am an MSP for North East Scotland.

Jayne Baxter (Mid Scotland and Fife) (Lab): I am an MSP for Mid Scotland and Fife.

John Mason (Glasgow Shettleston) (SNP): I am the MSP for Glasgow Shettleston.

The Convener: We have one agenda item today: an evidence session on removing barriers as part of our inquiry on race, ethnicity and employment. I invite the witnesses to introduce themselves and to outline the work of their organisations and any current projects.

Dr Akwugo Emejulu (University of Edinburgh): Good morning. I am a senior lecturer at the University of Edinburgh and the co-director of the centre for education for racial equality in Scotland. My research focuses on the political sociology of race and exploring racial ethnic inequalities in Scotland and beyond.

Dr Gina Netto (Heriot-Watt University): I am associate professor at the institute for social policy, housing, environment and real estate at Heriot-Watt University. I have a long-standing interest in issues relating to race and ethnicity. In more recent years, I have concentrated on the sharper end of extreme poverty and have looked

at issues relating to low-paid work, extreme housing exclusion and, latterly, destitution among a number of different groups. Those are on-going interests.

Olawale Olabamiji (Ethnic Minorities Law Centre): Good morning. I am a solicitor who works with the Ethnic Minorities Law Centre in Glasgow. The centre was established in 1991 to provide free advice and representation to the minority ethnic community on problems such as immigration, employment, discrimination and criminal injury. In 2006, we established an office in Edinburgh to provide the same service.

I part co-ordinate a project, which is being funded by the Big Lottery for the next three years, to extend our services to the whole of Scotland. We provide training to other advisory agencies the length and breadth of Scotland in our area of practice, and we also have a second-tier advice system, whereby minority ethnic people who have a problem in our area of practice can phone to ask questions.

Chris Oswald (Equality and Human Rights Commission): Good morning. I am the head of policy and communications at the Equality and Human Rights Commission in Scotland. The EHRC is a Great Britain body that works across England, Scotland and Wales. We promote equality across the nine strands of equality that are covered by the Equality Act 2010, and we have a small legal casework service through which we take cases and intervene in other cases.

We have full primacy over equal opportunities legislation across Great Britain. We share our human rights remit in Scotland with the Scottish Human Rights Commission. We are involved in about seven or eight specific projects that relate to race equality and employment. I could list them or they might just come up as we go through our discussions.

The Convener: If witnesses want to answer a question, they should indicate to me or to the clerk who is sitting to my left that they want to speak. We will take it in turns.

John Mason: Good morning. We are looking at the area of race, ethnicity and employment. For many people, especially young people, the starting point is modern apprenticeships, but we are getting the impression that the share of people from black and ethnic minorities in modern apprenticeships is not proportionate. Do you think that that is the case? Is there is a problem?

Chris Oswald: We published the first research on apprenticeship schemes across Great Britain two years ago, and that was the first time that the ethnic minority data became visible. Prior to that, Skills Development Scotland had published only gender data.

The most recent data that I have seen came out about two or three weeks ago. It showed that 1.4 per cent of modern apprenticeships in Scotland are held by ethnic minorities, compared with a base population that we would say, as a minimum, would be 4 per cent. In specific areas such as Glasgow, we would expect that base population to be far higher, whereas in areas such as Orkney, we would expect it to be far lower.

The issue that you raise has been a persistent problem since we first looked at the data in 2012. We have been working with the employability team alongside the Wood commission, and we have highlighted three issues in particular to Wood and to the Scottish Government, and in conversation with Skills Development Scotland.

The first issue is the unreliability of the current data. We in Scotland do not capture data about applications for modern apprenticeships, so although we know that the resulting share is 1.4 per cent, we do not know how many people are actually applying for apprenticeships.

The second issue is that no targets have been in place. It would appear that, for many years, Skills Development Scotland—as a public body bound by the Equality Act 2010 and its specific duties—has not been keeping as close an eye on this area as we would expect. Through Wood and in our conversations with Skills Development Scotland, we have encouraged the establishment of targets—not quotas—for attainment.

The third area of work in which we have been involved with SDS relates specifically to procurement and contracting. There is a responsibility, as public money is disbursed to colleges, employers and training providers, for those targets and the Government's desire to boost ethnic minority participation to be reflected in the contracts. We have been working on that recently with SDS.

John Mason: Is the 1.4 per cent—the figure is obviously different in different places—spread across all types of apprenticeships? Are there particular subjects or areas that are doing better or worse on ethnic minority participation?

Chris Oswald: The most recent quarterly data that has been published does not go into that sort of detail, nor does it go into the specific ethnicities.

We have a global figure. It could be that there are no Chinese people participating, or they could be the entire cohort—we simply do not know that. SDS would be able to answer that.

From memory—again, I can go back to the research and supply the committee with written evidence—there was a bias in ethnic minority participation towards administration and public service areas. Areas such as construction, which

is one of the big modern apprenticeship areas, were particularly weak. That is reflected in the census data, which shows particularly low levels of ethnic minority people in those types of industries. Other than that, I am not sure off the top of my head, or from looking at my notes. Can I come back to you on that?

John Mason: Yes, that is fine.

Dr Netto: We carried out a major study on low-paid work in Scotland and England. We found that modern apprenticeships were used by ethnic minorities and were seen as very valuable, but the study showed that a very small number of ethnic minorities had been through the modern apprenticeship schemes. The study included ethnic minorities as well as the white majority, and the benefits of modern apprenticeships were equally valuable to people from ethnic minority groups as they were to the majority population.

There is a need for much greater publicity about the nature of modern apprenticeships and what they involve, and about the valuable bridge that they provide between training and employment. Apprenticeships are a valuable route, especially given the disproportionate representation of people from ethnic minorities in low-paid work, and in the wider context of growing in-work poverty among all groups. Apprenticeships are a valuable means of moving beyond low-paid work, including for ethnic minorities.

We need much more positive action to promote modern apprenticeships among diverse sections of the population. We need to involve voluntary organisations and ethnic minority community organisations in the work to improve the uptake of modern apprenticeships among diverse communities. Skills Development Scotland could work a little more closely with training providers as well as community organisations to increase the uptake of modern apprenticeships.

There is also a need for employers, when they recruit apprentices for modern apprenticeships, to be more aware of the need to recruit from a diverse workforce. Employers also need to ensure that training opportunities are available for all sections of the workforce. In our study of low-paid workers, we found that although many public sector organisations adhere to formal equal opportunities policies and processes, in their informal processes, such as those for access to training and development opportunities, there can be exclusionary practice. Quite a lot of progress has been made on recognition of formal equal opportunities policies and practices, but organisations need to be more sensitive to informal processes, which can exclude people from benefiting from developmental opportunities to escape from low-paid work.

John Mason: Given that modern apprenticeships are linked to jobs, is the employer the most important person in changing things?

Dr Netto: The picture is complex. The employer is certainly involved. Employers have a role in deciding whom they recruit and whom they identify as appropriate for modern apprenticeships, but there is also work to do to widen knowledge about modern apprenticeships among the population at large, including minority groups, which may not know about modern apprenticeships. Also, community organisations might not realise that there is a lot of Government investment in modern apprenticeships.

John Mason: Basically, from what Mr Oswald said, because we do not know who is applying, we do not know whether people are applying and not getting the apprenticeships or whether, as you say, they do not know about them and therefore do not apply.

Dr Netto: There could well be barriers at the point of application, as well as the issue of who is informed about apprenticeships.

Dr Emejulu: To add to what Gina Netto and Chris Oswald said, we need to look at the educational pathways for minority ethnic young people. We should remember that, for the most part, minority ethnic young people have better educational outcomes than their white counterparts so, in many ways, modern apprenticeships are not for them, because they are overperforming. Therefore, that group would not traditionally see modern apprenticeships as being for them. That is another issue that we have to consider. There might well be barriers and not enough information about apprenticeships, but there is also an issue about whether the system is fit for purpose for an incredibly highly skilled and qualified young workforce. There is perhaps a mismatch between educational outcomes and the role and purpose of apprenticeships to begin with.

John Mason: So potentially—I am not saying that this is the case—it could be a good thing that there are fewer ethnic minority people in modern apprenticeships, because more of them are doing academic and other forms of education.

Dr Emejulu: No, because the labour market outcomes for minority ethnic young people are that they are still unemployed or underemployed and overconcentrated in low-skilled and low-paid work. There is still a problem. There is still an ethnic penalty that minority ethnic young people experience, although clearly we do not have the data on that. However, whether that is to do with accessing apprenticeships or when people are out in the labour market, something is still going on—well, institutionalised racism is what is going on—that depresses their outcomes.

There is something going on here, but I feel that it is important to note that modern apprenticeships are not the magic bullet. We see different kinds of educational aspirations among minority ethnic young people, so modern apprenticeships will capture only a small but important group and will not address the broader issue.

09:45

John Mason: Your submission was interesting and you made the point that there is a huge range of ethnic minorities—those who have been here for two or three generations and have tremendous English, as well as others who may have come in more recently and are struggling. When you say that there are different aspirations, do you mean that there is a variety of aspirations within that range of people?

Dr Emejulu: Of course. In the Scottish Parliament information centre paper by Suzi Macpherson, she outlines incredibly well how, regardless of their ethnic background, all minority ethnic young people—whether they arrived in 2007 or whether they come from families that have been here for three or four generations—are still performing better and are not seeing any kind of benefit in the labour market as a result. We have to take seriously the issue of institutionalised discrimination in the labour market, and targeting apprenticeships better for minority ethnic young people is only one small part of that process.

Dr Netto: As Akwugo Emejulu continued, she covered some of the points that I wanted to cover, but I also want to say that it is not a uniform picture. Aspirations are changing and we should not presume that modern apprenticeships would not be attractive to some sections of the population; people in some deprived minority ethnic communities, in particular, might well find those apprenticeships very attractive. At the moment, there is a problem with high unemployment in certain communities, and modern apprenticeships provide a route into employment that people might well take up. Even if they might be viewed as overqualified, they might well see an apprenticeship as a route into employment that they would not otherwise benefit from.

Those opportunities need to be publicised, and we also need to take a closer look at the nature of the apprenticeships, to ensure that they are appropriate for people with different levels of skills and qualifications. They should also be seen not just as a route into employment but as a route to career progression, as part of a working-to-learn culture within organisations. Apprenticeship schemes should be seen more broadly as tools to promote working-to-learn environments, as

opposed to the learning-to-work cultures of some organisations.

The Convener: I remind witnesses to keep their answers concise, as we have quite a few people who want to come in.

Dr Netto: Okay—sorry.

Olawale Olabamiji: The barriers to career progression are even more pronounced when we look at the legal profession, for instance, in which you are expected to have two years of traineeship. Apart from the Ethnic Minorities Law Centre, I am not aware of other organisations in Scotland—although I am happy to be corrected—where people from minority ethnic backgrounds have opportunities to gain access to the mainstream legal profession. I think that the issue is more pronounced here in Scotland than it is in England.

John Finnie: This may be a dangerous question to ask a panel with two academics on it, but I am going to ask it anyway. We obviously receive a lot of papers, and we are grateful for the information that we have had from you, notwithstanding Chris Oswald's comments about research. We are advised that there is a dearth of robust data to inform decision making. I do not want to suggest that the rest of our morning is wasted, but are those gaps such that we cannot draw a sufficiently accurate picture?

Dr Netto: What gaps are you referring to specifically?

John Finnie: I am referring to the gaps that I am told exist in the range of data that we have. We do not have robust enough information from which to draw absolute conclusions.

Dr Netto: That is true in some respects, but not in others. If you look at the other end of the spectrum—at the top jobs—you will see that, across the board, the numbers are very small. As you go higher up the organisational ladder, the representation of ethnic minorities becomes smaller and smaller. There is a fairly clear picture of their representation in public sector organisations, such as local authorities and the national health service.

The Convener: How can we get up-to-date data when it is down to the individual to identify their background when they complete their application? It is up to an individual to say whether they are white, Asian, disabled or whatever. How can we have 100 per cent accurate information if giving that information is voluntary?

Chris Oswald: The Equality and Human Rights Commission is looking at that area just now. We are assessing the performance of public bodies on all the employment data that they had to publish across the different characteristics on 30 April this year. There are big gaps in that data.

I am not singling out Greater Glasgow and Clyde NHS Board for any reason other than that I recall the data, but 75 per cent of people in that health board declared their ethnicity. That means that 10,000 members of staff did not. That is such a huge gap that we cannot really say anything particularly meaningful about that data.

We found that GB employment data is often collapsed into very broad categories, such as "Asian" or "African and Caribbean". We really need granularity, as the outcomes for different communities are sometimes wildly different.

On how we can encourage more people to identify their background, we are currently working with the Scottish Government and the Close the Gap equal pay project specifically to look at the reasons for the data gaps—sometimes they are administrative, as people do not have the systems in place—and whether the questions that are asked are putting people off.

It is interesting that the question that is asked is often the census question, which has a very high completion rate. We hear back from public sector bodies—I think that this would be mirrored in the private sector—that, although they are able to capture data about new starts reasonably reliably, they have difficulty capturing data from people who have been in place for a long time.

Mr Finnie makes a good point. I do not think that we can say that we cannot draw anything from the data, but we have to accept that it is incomplete and at times unreliable. It tells us only the outcome—it does not tell us why there are concentrations of groups in particular industries, why the picture has not changed much over time, and what is creating the barrier. Is that down to a lack of information or a lack of desire to go into particular areas of industry? The real difficulty is that we need more research on that.

The Convener: Two committee members would like to come in briefly on the back of that. We then need to move on to the next question.

Christian Allard: I would like some clarification on the data. Chris Oswald said that only 1.4 per cent of modern apprenticeship starts were from black and minority ethnic groups, whereas people in those groups make up 4 per cent of the population. I refer to what Dr Emejulu said. We have data that show that a lot of people are going into higher education. Could the difference of around 3 per cent be explained by that? Has research been done on that?

Chris Oswald: Again, I very much agree that there is a huge spectrum of experience. Overall, far higher numbers of people are involved in higher and further education. That is one explanation that is particularly relevant for some ethnic minority groups—for example, the Pakistani

community. Also, women's economic activity in that critical age range is far lower.

Christian Allard: That becomes a gender issue.

Chris Oswald: Yes. However, that is not carried across to other ethnic groups, so there is real variation. We are more likely to see people in higher education, people who are unemployed and, in some communities, far lower levels of economic activity.

Christian Allard: That is very important for our inquiry.

My second question is for Dr Emejulu. You talked about people who are more likely to be in low-paid, low-skilled work. The data that we are collecting includes older people—adults—who come here as migrants. They have not been through the education system here, which makes it very difficult to compare the data on education. How would you suggest we look at things in our inquiry so that we do not get confused? When we look at people in employment, how can we separate the people who were not educated here from the people who were educated here?

Dr Emejulu: The very straightforward answer, which I argue in my paper, is that we need a much more subtle and complex understanding of who we mean by the term "ethnic minority". At the moment, the term is applied to everyone who is not a white Scot, which is not sufficient.

I guess that I am an ethnic minority. I am American and I have lived here for about 15 years. My experience is lumped in with that of Polish migrants, which is lumped in with fourth-generation Scottish Pakistanis. What do we all have in common, besides not being white Scots? I would strongly encourage the committee—if I can do so—to be clear about who you mean. If you want to capture the experiences of recent migrants from eastern Europe, say that. Do not use labels such as "minority ethnic", because people will ask whether you are talking about people who were born and bred in Scotland but who are people of colour. That is the issue. You need to be specific about who you mean, so that you can better track people.

I know that you wanted to move on, convener, but I want to return to John Finnie's question about whether we have enough data. Yes, we have enough data. There are questions about monitoring and how public bodies capture and analyse data, but I am sitting next to Gina Netto, who is one of the leading researchers in Scotland and has been doing this work for almost 20 years. We know what the issue is. The issue is institutionalised racism and a lack of action to address the problems. We should not confuse the problem—

John Finnie: No criticism was implied in the question. Indeed, it offered you the opportunity—

Dr Emejulu: I am getting all riled up.

It is not a question of a want of data. I do a lot of sociological research to try to explain why and how not enough action is being taken. It is important not to confuse the problems with public body data collection with the actual lived experiences of educational and labour market inequality.

The Convener: Thank you. The next question is from Jayne Baxter.

Jayne Baxter: My question is still on the themes of employability and employment support and advice. Could the various support agencies do anything better, or anything additional, to improve outcomes for ethnic minority people who are seeking employment? What could be done better or differently?

Dr Netto: It is important to disentangle people's needs. The primary needs of many—but not all—refugees who are allowed to work include English classes for speakers of other languages, to ensure that they have access to that vital stepping stone into the labour market. New migrants' requirements for entering the labour market are very different from those of people who were born and brought up in Scotland and who see Scotland as their home. There is a lot of work to be done to widen the opportunities that are available through things such as careers advice in schools, the work that voluntary organisations undertake with young people and outreach work by major employers who use apprenticeship schemes. A lot of outreach work can be undertaken, and it can be done in a very targeted way.

10:00

Chris Oswald spoke about targets, but outreach can also be targeted geographically. Specific areas—in Glasgow, for example—where established minority groups live could be targeted. You could say, "There are these opportunities here, and so far, we don't seem to have many people from ethnic minorities applying." You could make simple statements about the opportunities being open to all. Despite a higher proportion of people having good educational qualifications, there will be interest because the alternative is unemployment or working in the family business. Aspirations are changing, and young people do not want to work in a shop that is owned by the family business—they have wider aspirations. I am not talking about all of them, as some of them will pursue work in the family business, but some will be interested in wider opportunities and will see them as stepping stones. They are already armed

with educational qualifications and they might well see such opportunities as stepping stones.

Chris Oswald: I was struck by Liam McArthur's questions in the chamber about the complete absence of ethnic minority headteachers in Scotland. The data is almost complete, so we can rely on it. That raises the question of whether positive action is required across Great Britain. Positive action programmes are lawful, whereas positive discrimination is not, except in exceptional circumstances.

The Convener: We will come to positive action later.

Chris Oswald: Sorry. I will back away from that just now, then.

The Convener: Thank you. Do you want to say anything else?

Chris Oswald: No.

Olawale Olabamiji: We discovered that the majority of minority ethnic people who access our service are highly educated but underemployed. For them to be able to gain access to employment, there must be something in place to allow them to acquire the experience that employers are looking for. More often than not, those people are overqualified—we have people with a PhD doing cleaning jobs and people with a master's degree working in care homes. Perhaps there are no volunteering opportunities—we do not have the data to establish that—but there is a barrier that stops people gaining the experience that would enable them to move into mainstream employment.

Sandra White: I just want to clarify something, and to pick up on what Gina Netto said. You say that people with a PhD or a master's degree are working in care homes and cleaning jobs. Are those people migrants or are they people who were born and bred here but cannot get a job at PhD level? As Gina Netto said, it is important that we focus on specific groups. Are the people you speak to migrants, and are those the only jobs that they have been offered?

Olawale Olabamiji: Most of them are migrants, but some of them are minority ethnic people who were born here.

Sandra White: I just wanted to clarify that. As Gina Netto said, there is a difference between people who were brought up in our educational system not attaining higher-skilled jobs and migrants who have come here with qualifications but who are not able to get jobs.

Olawale Olabamiji: Because they want to extend their visas so that they can live legally in the United Kingdom, most migrants want to progress their educational career in order to attain

the 10 years that are required when they apply to settle in the UK. As a result of having to study for a very long period of time, they do not have the opportunity to put into practice what they have learned, which would result in their gaining employment in the mainstream. If something could be done in that area, it would assist migrants in that category to progress.

Jayne Baxter: Is there an appetite among the agencies that deliver employment support to get better at what they are doing? Are there any incentives for them to improve their outcomes? What can we do to incentivise them? Do we need carrots or sticks? How do we get the agencies to address the issue and work harder to achieve better outcomes?

Dr Netto: One route is to monitor and review those organisations to ensure that they are taking their public sector equality duty seriously. We can also encourage organisations to review the progress that they are making on ensuring that their workforce is diverse and reflects the local population. Of course, that varies from area to area—the picture in, say, the Highlands and Islands might be different from that in Glasgow. We need to be sensitive to the local population and ensure that organisations such as the national health service and local authorities reflect the local population that they serve. If those organisations take on people from the local community, they will not only provide employment but be able to provide better services to those groups.

Chris Oswald: I very much agree with Dr Netto that the public sector equality duty is absolutely central, but the problem is that for the past eight or nine years the vast majority of the public sector has been downsizing rather than recruiting. That means that ethnic minorities are attempting to penetrate organisations that, by an unfortunate coincidence, are shrinking at the same time.

It therefore becomes particularly incumbent on the bodies that have responsibilities under the public sector duty, particularly with regard to training, education and development, to put in additional effort. With regard to the contractual arrangements that Skills Development Scotland might have had with colleges or training providers, I have to say that that type of push has not been evident. It is starting to become far more evident, but given that the race equality duty has been in force in one way or another since 2002, those public bodies could and should have been directing their efforts at these areas for a long time now, and we are not seeing any significant change. You cannot make direct comparisons between the apprenticeship schemes in Scotland and in England and Wales, but I find it interesting that, in England and Wales, ethnic minority participation in those schemes is more or less at

the expected level while in Scotland the level is lower, which is very unusual.

The Convener: On employment support and advice, I note that according to Scottish Government statistics—the pupil census—the Chinese group achieved the highest qualifications. Is anyone speaking to groups at the point at which they leave the education system or monitoring their destinations once they leave school or further and higher education to get a feel for their employment choices?

Dr Emejulu: Some interesting work has been done on transitions. Speaking very broadly, I think that, for the most part, the minority ethnic young people who go through higher education are concentrated in identifiable professions such as solicitors and engineers. It comes back to my previous point about the mismatch between apprenticeships, educational aspirations and outcomes. Most apprenticeships lead to jobs in construction and so on—or, at least, that is the stereotype—but that does not necessarily match what minority ethnic young people tell us about where they see their future careers.

The Convener: What needs to be done in schools to better inform pupils about the various options?

Chris Oswald: The Chinese and Indian communities are particularly interesting. The census suggests that just under 40 per cent of the Indian community is involved in some kind of wholesale retail activity, while about a third of the Chinese community is involved in catering or hotels.

I think that we are seeing a generational divide. Particularly in the Indian and Chinese communities, parents are investing significantly in their children's success. They are directing their children towards professions and universities, often at their own expense. I cannot prove that, but it is a common pattern among migrants that people defer their own success to concentrate on that of their children. We see that less in other communities.

If we concentrate solely on young people, we will miss a huge pool of talent. I am talking about people who have high qualifications but who have settled for service industry work—which, in the middle of a recession, is very precarious—to concentrate on their children's future success. As well as differences between communities, we are seeing quite sharp differences within communities and between genders within communities.

John Mason: That would suggest that, if we wait a generation, the issue will sort itself out.

Chris Oswald: Unfortunately, the data that I have looked at from the 1991 and 2001 censuses

suggests that the issue is not sorting itself out and that we still have very high concentrations—particularly in the Asian and Chinese communities—of employment in service industries; it seems to be rolling through the generations. I agree that that pattern does not quite make sense in the way that it should make sense, but it suggests that people's employment aspirations are being blunted at some point and they are going into traditional family businesses and areas that they perceive to be safe. As we know, the level of self-employment is far higher among ethnic minority communities than it is across the general community.

John Finnie: We have covered some of the background that has given rise to workplace discrimination. My question is for Chris Oswald and Olawale Olabamiji. Are the issues that have been mentioned reflected in the discrimination cases that come to you? To what extent are we learning lessons from those cases?

Olawale Olabamiji: Most of the people who come to us are minority ethnic people. As far as discrimination in places of employment is concerned, when clients complain of being discriminated against, the majority of them pin it on their race. They say that their employer is doing something to them and they believe that that is because of their nationality or their colour.

There is another problem, which has arisen following the introduction of the employment tribunal fee. We have realised that it has significantly reduced the number of discrimination cases that get to the employment tribunal. When someone alleges that he has been discriminated against by his employer—he might have been unfairly dismissed, for example—he is expected to pay £1,200 in order to lodge his claim at the employment tribunal. We are talking about someone who might not have worked for two months, who does not have any money. Most cases of discrimination, especially discrimination that is based on race, go unreported and do not proceed to the employment tribunal stage.

On top of that, minority ethnic people are vulnerable when it comes to employment. Some of them would rather not report discrimination; they would prefer to keep their job and to be on the receiving end rather than sue their employer. They think, "It took me four years to get a job. If I take them to court, where will I get another job?" Such discrimination goes on and on until the point at which our client feels that there is nothing that they can do other than sue their employer.

Most such cases will go unreported and will not proceed to the tribunal stage because of the employment tribunal fee and because the majority of people who are in that position want to keep

their job, as they know what they had to go through before they got it.

10:15

Chris Oswald: I have data on employment tribunal applications in Scotland in front of me, which show that there were 157 race cases in 2012-13 and 90 in 2013-14; this year, to date—I am lacking about a third of the data—there have been 65. There has definitely been a drop in the number, but the drop has not been as distinct as the drop in the number of sex discrimination and equal pay cases, which has been decimated.

I agree with the point about people not wanting to go to a tribunal, which they regard as the last card to throw down on the table. There has never been a high number of race discrimination cases going through in Scotland. It is clear that some people are affected by race discrimination in employment but find other ways to deal with it, whether it is by walking away from a job or accepting that something is unfair but that they cannot do anything about it.

I think that tribunal fees have had an impact, but the impact on the number of race discrimination cases has been nothing like the impact on equal pay and sex discrimination cases.

Dr Netto: I alluded earlier to a major study that we did a couple of years ago on low-paid work, which showed interesting patterns of discrimination. The most blatant forms of discrimination were not evident. People talked about more subtle forms of discrimination, for example in access to training and development opportunities; they saw other colleagues being taken under someone's wing, offered opportunities and given advice, while they were excluded from all that. That is a more subtle kind of discrimination in a workplace culture in which some people do not get to know about all the opportunities that are available because there are those who are "in" and part of the mainstream, and those who are on the margins.

As well as looking at formal equal opportunities policies and processes, we need to pay more attention to the informal aspects that I have indicated, because the two areas are intertwined. If people do not hear about development opportunities or access to training, they do not get to benefit from them and therefore do not get opportunities to progress in the workplace. Informal and formal practices are closely related in that sense.

Another form of discrimination that people talked about in our study involved volumes of work: some migrants who were doing low-paid work felt that they were regarded as physically stronger, so they were given more work to do because of their

physical strength. Another form of discrimination was that more highly skilled people said that they were given more complex work to do than other people at the same level as them.

Such evidence has to be interpreted quite carefully in qualitative research on how people perceive their treatment. However, we talked to a wide range of people, and there was enough evidence to substantiate what people were saying. Rather than there being just isolated examples, there was a pattern of more subtle forms of discrimination taking place in our workplaces.

Olawale Olabamiji: When we realised that the majority of minority ethnic people who access our services do so because of complaints of racial discrimination in employment matters—I hope that I am not jumping the gun on this—we set up our youth discrimination project and began to do workshops in secondary schools to educate young people on the issue. We do that work because we realised that most discrimination happens because of stereotyping that stems from cultural differences. We began to take positive action by going from secondary school to secondary school to educate young people about how they can report discrimination and how they can deal with it and find succour if it happens.

John Finnie: The proponents of fees for employment tribunals have already achieved their aim, and that is rewarding bad employment practices and racial practices in the workplace. Gina Netto touched on the issue of promotion. However, I want to look at a couple of steps before that. What do we know about people being selected for interview and, thereafter, the likelihood of people being appointed to a post if they have been called for interview? Is there information about that?

Dr Netto: Research has been conducted on that, admittedly quite a few years ago. The research looked at people's success at being shortlisted and found that people with ethnic minority names were much less likely to be shortlisted, even though they had comparable qualifications to people from the white majority population. They were less likely to be called for interview and less likely to be selected at interview.

That research was done some considerable time ago, but we do not have more recent research that would tell us whether things are any different.

John Finnie: The promotion experience would suggest that things are not any different.

Sandra White: There were various issues that I wanted to raise, but you have already covered a number of them. We have talked about the role of careers advice, outreach workers and so on in

relation to improving employment opportunities. I heard what Olawale Olabamiji said about outreach working in schools. Would you say that starting in school education is important? Could we also involve the local communities, and perhaps trade unions as well? The unions could give advice on the apprenticeship aspects. I am trying to ask what measures, apart from those that we have already spoken about, could be taken to ensure that these opportunities are given to everyone.

Dr Emejulu: In my submission to the committee I talked about how I think that there is something problematic about assuming that this is an issue with labour supply. Do you know what I mean? The question of why minority ethnic people are not being selected for interview or not being recruited or promoted is assumed somehow to be the problem of labour supply, an issue of the deficits—people not understanding, not having the information and all the rest of it. It is important that we say that it is not that; it is a problem for employers. Action needs to be taken by employers.

I echo the advice that SPICe has given about extending to minority ethnic candidates the two ticks scheme that is currently in place for people with disabilities. That kind of positive, targeted action is needed to ensure that minority ethnic people get some sort of equality in the recruitment and selection process. It is only when we put that kind of pressure on employers that we will see some sort of action.

That is not to say that outreach work is not important; of course it is. All of that is crucial. I emphasise again that it is not a problem of labour supply; it is a problem of employers not living up to their public duties.

Olawale Olabamiji: I was about to raise the point that the last speaker has just made. If you look at the cause—the barriers that prevent minority ethnic people from gaining employment or moving into the mainstream in their career—in my view it is a kind of stereotyping.

An example that comes to mind concerns one of my colleagues, who is from a minority ethnic background. He shared his experience that before he was able to gain his first employment he had to change his name. Someone told him that he would not be able to get a job with the kind of long name that was on his CV. The change of name worked like magic. When he changed his name, this is what I mean about stereotyping—what my colleague narrated. The employer will be thinking, “He’s from an ethnic minority background. He’s not going to be fluent in English. If he’s a migrant on a work visa, what if that visa comes to an end? I’ll be responsible for extending his visa or leave to remain in the UK. In that case, I would rather go

for somebody who I won’t have to do anything for to retain in my employment.”

There is one thing that can be done. If a minority ethnic person who is on a work visa loses his job today, he has 60 days to get another job. Even if he has 10 children or five children living in the United Kingdom, he has to be out of the UK within two months of losing his job. It means that, once that person gets a job, he will do anything he can to keep it. That leads to the issue of discrimination going unreported. A European economic area national who finds himself out of a job can go on employment support allowance for at least six months. That kind of leeway would give an opportunity and stability for minority ethnic people, especially those who are on work visas. Based on that experience, they want to do everything they can to keep their job. In addition to ESOL classes being run for the minority ethnic community in order to improve their proficiency in English, that would make them appealing to employers.

Cultural awareness training for employers would go a long way. Most of these things are a kind of a stereotype. In our work, we discovered that if employers become aware of other people’s cultures, there can be a kind of a soft landing and an incentive to employ more ethnic minorities.

Sandra White: I want to develop that a bit. I am interested in the two ticks scheme—I know that we will come on to that. I want to ask Chris Oswald about his work dealing with the legislation on discrimination. When you look at data, would a two ticks scheme make it easier for you to take action against employers who discriminate? Would that be the way forward, or do you have enough tools in the box at the moment to take employers to tribunals and so on for discrimination?

Chris Oswald: It depends on what we mean by the two ticks scheme. Equality legislation is what we would describe as asymmetric. You can always lawfully positively discriminate in favour of disabled people. That has been a principal of equality legislation for many years. That is the exception—it applies only to disabled people. If you were to prefer ethnic minority candidates at interview, you could be accused of positive discrimination, which would be unlawful. We need to be careful about what we are doing.

We also know from the Scottish social attitudes survey that positive discrimination, whenever it has been proposed, is deeply unpopular. It may favour people in the short term, but we do not know. The issue needs a great deal more attention.

Sandra White: Is enough work on discriminatory practices being done with employers?

Chris Oswald: No. If I had control over the resourcing of the Equality and Human Rights Commission, obviously I would suggest that we might be getting a little bit more.

A number of ethnic minority organisations have pointed out to me that there is a particular deficit. Ten or 15 years ago, there were a lot more caseworkers and advice agencies on the ground. Racial equality councils took employment tribunal work. Now, with the exception of the Ethnic Minorities Law Centre, there are very few skilled people on the ground that you could go to. Remember that, in employment law, people have three months to lodge a complaint. If they do not realise that they have a complaint, if they do not seek advice quickly and if they do not have someone on their side who is knowledgeable and experienced in the relevant issues, they have no case.

10:30

Given those factors, combined with the disinclination of anyone, black or white, to go before an employment tribunal, as it is a stressful experience that could backfire on them in the future, my emphasis would be much more on what public bodies, in particular, are doing around issues such as procurement. We have seen examples around issues such as the living wage in which the Scottish Government is able to lever social benefits out of public sector procurement. I want there to be incentivisation for people to do the right thing, but I also want there to be disincentives if they do not do the right thing.

However, I stress that the outcome data is a combination of choice, circumstance and discrimination. It is hard to say that one group's unemployment is purely about discrimination. Other factors could include choice, education or location—with regard to that last issue, our data shows that there are different employment outcomes for the same communities depending on whether they are in Glasgow or Edinburgh.

Sandra White: That is interesting.

The Convener: Around 98 per cent of businesses are small or medium-sized enterprises. We know that the public sector is active with regard to recruiting people from ethnic minority backgrounds. Employers in SMEs need more information about how to access groups of ethnic minorities in order to advertise their vacancies.

Do you think that some employers are frightened to recruit from ethnic minorities because, if the person is not doing the job satisfactorily during their probationary period, they might be accused of racial discrimination if they decide not to continue to employ them? Is that a

possibility? If so, what can organisations such as yours do to educate those businesses?

Dr Netto: I have no evidence that there is a fear around underperformance that is causing employers to be reluctant to take people on. I have not come across that at all. In the private sector, there are a lot of informal networks through which people are employed—often, positions are not even advertised. To be fair, that sometimes works in certain groups' favour. For example, a Polish person might get a job through a network of Polish people who are involved in cleaning. That works in the favour of some private sector employers, as they do not need to advertise. However, although it might provide employment for people in that community, it is only low-paid work, so they are trapped in that kind of employment, because that is what is available.

Christian Allard: We talked about positive discrimination. What would be your advice for Parliament and the Government with regard to trying to encourage positive discrimination? Given the tone around the debate about ethnic minorities and migrants, is there a way to approach the issues so that the public understand the need for positive discrimination? Do you think that there is too negative a view of positive discrimination among the public?

Chris Oswald: I will try to cover the legal issues. Positive discrimination is almost always unlawful. There are certain circumstances in which it is not, such as if there is a genuine occupational requirement that an employee come from a certain background. For example, Shakti Women's Aid, which works with women who have experienced domestic abuse, could advertise for a Bangladeshi worker because of the cultural issues that are involved.

As is set out in our paper, there are very few other circumstances in which that can happen, and the provision is rarely used. I do not see a particular desire to change that at the moment in Great Britain and I would wonder what the consequences of changing it would be. Positive action is something entirely different and I will happily cover that.

Christian Allard: That is the problem. When you talk about positive action, the public automatically think that it is positive discrimination. Am I right or am I wrong?

Chris Oswald: You are absolutely right. We saw an example of that just a couple of weeks ago when a BBC weatherman encouraged disabled people to come forward. The BBC was not holding jobs for disabled people; it was just encouraging them to apply. That was completely misinterpreted by the press and then by the public.

Would it be helpful if I set out exactly what positive action is?

The Convener: On you go.

Chris Oswald: There are lawful schemes for positive action. If it is known or can be demonstrated that an industry or a profession has lower numbers of applicants or successful candidates from a particular group—whether that is a specific ethnic minority group, such as Chinese people, or in terms of gender or disability—training courses, work experience and shadowing can be set up to better equip people to compete. Employers cannot reserve posts or set up quotas on the basis of ethnicity. Positive action takes people up to the point of an interview and supports them up to then.

Two good examples of positive action are happening in Scotland. Positive Action Training in Housing—PATH—has been going for many years. It is a relatively small operation that it would be helpful to extend. It helps ethnic minority people get into the housing profession, where we know that there is a huge deficit.

Similarly, NHS Lothian has lottery funding to work on career progression for ethnic minority medical staff, as there has always been an accusation of a glass ceiling. It gets people to the point of having greater skills, greater knowledge and greater training. It does not reserve a job for them. That is the way that it is just now in Scotland.

If we were to move forward from the current situation to suggest positive discrimination, we would need to have quite a serious debate about what we mean by that and what the potential consequences might be. I am not saying that we should not do that; I am just saying that we need to talk about it.

Dr Netto: I agree with everything that Chris Oswald said. Given all that we have been speaking about, people have qualifications, but the issue is in labour supply—it is about recognition of skills, so positive discrimination is not required.

My understanding is that, if there were two candidates—one ethnic minority and one white—positive discrimination would mean taking the person with fewer qualifications from an ethnic minority background to increase representation in the workforce. However, qualifications are not the problem. The problem is not that people from ethnic minority backgrounds are coming in with fewer qualifications; it is quite the reverse. It is about making sure that they get recognised at the point of interview and recruitment—it is to do with the application and recruitment stages.

I see no need for positive discrimination, but I see a need for a lot more positive action and a lot

more onus on employers to ensure that their workforce is representative. There is a need for better awareness among employers and for embarrassment as well if their workforce is not representative in a Scotland that prides itself on being very accepting of people from other countries. There should be embarrassment if a workforce is not representative of what is typically a very welcoming attitude towards people from other countries.

Dr Emejulu: As long as positive discrimination is off the table, I feel that policy makers will not be able to redress deep-seated racial inequalities in the labour market. As long as it is outside the realm of policy, we will not be able to deal with many of the issues that we have been talking about today. I am sorry, but I disagree with my esteemed colleagues on that point.

We should reflect on where we see positive discrimination. We see it in political parties. In the Conservative Party, the Labour Party and the Scottish National Party, we have seen that we cannot get women to stand unless there are all-female shortlists. Political parties have done that—*[Interruption.]* I see that Ms Goldie does not agree. I am sorry, Ms Goldie, but as you know, it is coming. Again and again, we find that women cannot get selected without some sort of quota system. Clearly, the political parties have seen that, unless there is some sort of positive discrimination, there will be systemic reproduced sexism and racism in who is selected and who gets to represent us.

If that is the case for political parties, why are we not doing the same things to tackle labour market discrimination? Evidence from the United States shows that affirmative action has transformed the labour market, particularly for white women and middle-class African Americans and Latinos. That is a policy success. As long as we cannot contemplate that, it will be an important policy tool that is off to the side.

I urge the committee to take a leadership role in shaping the public debate. Of course positive discrimination is not popular. Affirmative action in the United States is not popular, but oftentimes we do not do what is popular; we do what is right. There is a nice little value judgment here. I would love to see a debate about how we tackle such deep-seated discrimination systemically.

Christian Allard: How can we tackle the issue? Whether we have positive discrimination or positive action, how can we make the public and particularly employers aware?

Chris Oswald talked about parents. How do we get people to buy into the idea that we need to change? Do we need a campaign? For example, I recently participated in the “I am an immigrant”

campaign, which worked well. Do we need more of that type of campaign and more recognition that we are a diverse community?

Dr Emejulu: Yes. The success of the 50:50 campaign is fantastic, and there was success in getting Jane Austen on the £5 or £10 note, whichever it was. Until we talk openly about racism, we cannot address it. We need to name the problem as part of a public debate that is led by elected members and the public. Until we talk about and name these things, and until we accept that it will be uncomfortable and that people will get upset and all the rest of it, we cannot see change or contemplate the ramifications and consequences of considering an issue such as positive discrimination.

Annabel Goldie (West Scotland) (Con): I apologise to you, convener, to my committee colleagues and to the witnesses for my late arrival. It is a great pleasure to be here. I am sorry that I missed the introductory remarks, but I have picked up a lot from listening to the responses to questions.

I did not in any way wish to be disrespectful to Akwugo Emejulu earlier. My party has not gone down the route of all-female shortlists, yet we have a pretty impressive record of bringing forward females. One of my colleagues in the House of Lords is Baroness Nosheena Mobarik, who has been a tremendous star for my party. I just wanted to say that it is important to note that there are other elements to the debate.

On Christian Allard's questions about positive action, Chris Oswald referred to two positive examples—one was Positive Action Training in Housing and the other was NHS Lothian. It is interesting that NHS Lothian got lottery funding to do whatever it is doing. I am curious about two things. First, are those the only two examples of deploying positive action that we know about? Secondly, for the public sector, would we not expect that to be a core obligation that does not require extraneous funding?

10:45

Chris Oswald: We have not audited who is using formal positive action schemes. Those were the two examples that came to mind most readily. Positive action has popped up in different areas and professions; it is often associated with gender, and perhaps less so with ethnic minorities and race.

Positive action could be used in a lot of areas. I referred to Liam McArthur's research on headteachers in schools. It is astonishing that we have no ethnic minority headteachers in Scotland; we do not have a lot of ethnic minority principal or deputy principal teachers either. That seems to be

an area that is wide open for exploration of and potentially for development of a positive action scheme.

I was a little surprised about the lottery funding of the NHS Lothian positive action scheme, but clearly it needs to be funded from somewhere and the lottery saw it as being socially desirable to fund it.

We would say that positive action fits within the public sector duty, which covers 270 public bodies. That represents a significant amount of purchasing power and significant players in the employment labour market. Public bodies could do a lot, particularly by working together. I am not suggesting that Midlothian Council should go off and implement a scheme itself. If the Convention of Scottish Local Authorities as an organisation, the national health service as a bloc and further and higher education colleges worked together, we could make significant advances with positive action. It could get people to the point where they can compete and overcome some of the stereotypes that were around before.

The approach has always been significantly underused. It has been much more used for gender, but far less so for disability and race. As we see from the labour market statistics, some communities are in the position of potentially prospering, while other communities are not.

It always strikes me that we concentrate a lot on younger people and to a certain degree on new arrivals in Scotland, but my concern is for third and fourth-generation people from Pakistani, Indian and Chinese communities who are in low-paid, segregated and long-hours work. There is an awful lot that we could and should be doing to increase their opportunities and participation and to reduce their poverty, which we know is a significant factor that leads to worklessness.

Dr Netto: I confirm what Chris Oswald said. There are few established models of positive action in Scotland. Positive Action Training in Housing is the only one that I know of; I had not heard of the NHS example. I know that the housing model seems to work. People have tried to extend it to social work and other areas, because it seems obvious that, if it works in one field, it might work in another. I think that there were funding issues, because I have not seen it extended into other areas, although it seems to be a useful way of enabling more workforces to reflect the local population.

Because the issue of gender arose again, I will say that something that is related to positive action is making sure that there is affordable childcare provision that is appropriate for minority groups. We talked about the Pakistani and Bangladeshi populations, for example, in which women are

underrepresented in the labour market. Childcare issues could play a part in that, so we need to look at the provision of childcare that is culturally appropriate and affordable.

Annabel Goldie: That is helpful, because you have partially answered my next question. The examples that we have seem to be good, although there may be only a small number of them. I presume that, if we could provide greater education to other elements of the public sector or to employers in general about those examples of good practice, we might set the standard a bit higher. People might become more vigilant about how they approach employment policy.

Dr Netto: I am delighted to hear about the focus on educating employers and in looking at that side of the equation to ensure that they are equipped with the tools to recruit from and to look in their workforce for ethnic minorities. As Chris Oswald suggested, few top jobs are held by ethnic minorities. More work could be done to look in particular at what the blockages are and, in organisations where ethnic minorities are represented, what level they are at.

It has been suggested that performance management systems should be looked at. If managers could be held to account for looking at and ensuring that their staff's development needs were met, they would take that a lot more seriously.

Annabel Goldie: That is helpful.

Chris Oswald: On costs, this is very much a pump-priming exercise. Action is taken over a relatively short time, and the onus would probably fall on the public sector to fund it. That investment must be balanced against the consequences of sustained economic inactivity and low pay and against the strong perception of unfairness and distortion in the labour market around race. That has social consequences as well.

Annabel Goldie: My final question is for Chris Oswald. What regulatory measures is the Equality and Human Rights Commission taking? You have outlined some of the opportunities and facilities that are available to you, but is there anything else that we should know about?

Chris Oswald: We have recently completed not an investigation as such, but a large piece of research and influencing work around the cleaning sector across Great Britain. We identified a number of issues, particularly around migrant labour by ethnic minorities and women; there is a particular concentration of ethnic minority women in the industry.

We have also looked at the meat and poultry processing industry down south, and we are starting to do a little bit of exploratory work in

Scotland around fish processing and farming. We are not going into those studies with any expectations; at this point, we are simply going in to speak to people, because research has thrown up a number of problems in those areas. We are looking at recruitment agencies, as well as word-of-mouth recruitment—which is how eastern European communities in particular access recruitment—and at other informal systems, and we are looking at the pay gap between ethnic minority and white communities. We know that there is a pay gap; our research is to try to understand it and what it means.

We have also been doing a lot of work on the associated issues of religion and belief in employment, in particular in respect of the barriers for Muslims and some Christian groups.

We establish the evidence in an area and, if appropriate, we move to inquiry mode. However, much more often we do intensive work with the industry and give guidance.

We have probably been most successful in relation to the meat and poultry industry. Our most effective intervention has been through our engagement with supermarkets to get them—the purchasers—to put pressure on the supply chain by saying, “We’re not happy about the way this is working. We want better social outcomes. We pride ourselves on being socially responsible and we want our suppliers to be socially responsible.” I am talking about the power of influence, which Gina Netto described in terms of the power of embarrassment. There is an awful lot of soft power that we could be using in those areas.

We could also be using hard powers through Government and local authority procurement in particular, because we expect to see far better outcomes for the big social and financial investment that the Government and other public bodies make.

The Convener: I call John Mason. I am sorry—Annabel Goldie wants to come back in. I thought that you had finished.

Annabel Goldie: Following all that, is anything being done to increase awareness and understanding of positive action?

Chris Oswald: We have guidance on positive action that is easily available on our website. Whether small employers would look for that, I cannot say. We are about to issue guidance that is tailored for the broadcasting industry; it will be launched in August at the Edinburgh television festival during the Edinburgh festival and would be applicable to any other industry.

John Mason: I want to go back to Dr Emejulu’s comment about positive discrimination, which I found interesting. I suppose that I find myself torn

on the matter. We have just heard Mr Oswald talking about “soft power”, “influence” and “embarrassment”, and other witnesses have referred to those approaches, too. I suppose that in a lot of areas that is the way to go, in terms of equal opportunities.

Mr Oswald’s example about political parties was interesting. My political party is the SNP, which made a decision a few years ago not to practise positive discrimination for women candidates—the majority of women in our party were against it—and just to keep on encouraging women to come through. However, we have made so little progress in that regard that the decision has been made to have positive discrimination for women. I think that the Labour Party was ahead of us on that one. Does there come a time when the softly-softly gentle approach has to be discarded because of lack of progress, and something more dramatic like positive discrimination has to be brought in? At the moment, positive discrimination in employment is illegal, but obviously the law could be changed.

The Convener: Do you want to comment on that, Akwugo?

John Mason: I think I know what you are going to say.

Dr Emejulu: You know my view, and I think that Chris Oswald has the same view.

The Convener: Chris? [*Laughter.*] Or is that a rhetorical question?

Chris Oswald: Thanks.

The Convener: Would you prefer not to comment, Chris? [*Laughter.*]

Chris Oswald: No—I will comment. We have looked at positive discrimination in relation to the proposal around appointment of women to public boards in Scotland. Our position is that in that context positive discrimination would, as the law stands, be unlawful: we would need to change the law to enable that. EHRC is a regulator and does not make policy, but we said very strongly in our written submission that Scotland needs, as a country, to have a discussion about positive discrimination. If we are going to have positive discrimination, let us do it consciously and talk about doing it not only in terms of gender, but in terms of ethnicity and disability, because the evidence of disparity of outcomes is just as strong in those areas as it is for gender. I strongly suggest also that we must not do that in a piecemeal way.

Positive discrimination has had a significant positive impact in America in creating, as Dr Emejulu mentioned, a black middle class that did not previously exist. It would be a major departure from the British and European practice that has

been built up over 30 or 40 years. I am not saying “Do not do it”: I am saying that we should be do it very consciously and have a very broad conversation about it because the concept has negative associations and attracts hostility.

John Mason: You mentioned disability. Am I right that we used to have a target for disability, which was about 3 or 4 per cent?

Chris Oswald: That was tied up with the two ticks scheme. The target was 3 per cent.

John Mason: Did that not work? Why was it dropped? I cannot remember.

Chris Oswald: Many disabled activists said that the scheme was patronising and that the target could become a ceiling rather than a floor. They felt that, in effect, a quota was being introduced.

Again, simply saying that we want to have X per cent of the workforce from a particular group does not necessarily get round the barriers for the rest of the people in the group who are trying to come up. We need to look much more carefully at the systems that are in place. For example, women might not be succeeding not only because of up-front sexism but because of a lack of affordable childcare, how the workplace is organised or subtle assumptions that are being made.

We said earlier that as occasional litigators—I think that this is also the experience of the Ethnic Minorities Law Centre—it is incredibly rare for us to see examples of up-front discrimination in which somebody is told “You’re not getting this job because of your colour.” That is very rare these days; discrimination is much more subtle and harder to find.

The Convener: Chris Oswald has mentioned procurement a few times and said earlier that colleges and training providers could consider using the procurement process to ensure that a target percentage of modern apprentices come from ethnic minority backgrounds. John Mason mentioned in passing that it is employers who recruit individuals for the modern apprenticeships programme. Maybe you can explain it to me, but I do not see how targeting training providers such as colleges, which have the contracts to deliver the modern apprenticeship programme, would mean that they could achieve targets that would be set through the procurement process if it is down to employers to recruit the apprentices.

11:00

Chris Oswald: I, too, was under that impression. However, I have spoken to Skills Development Scotland, which has assured me that a person does not have to be in employment to access a modern apprenticeship.

The Convener: I have first to declare an interest because I used to work in that field, and secondly to say that for a person to become a modern apprentice, they must be employed.

Chris Oswald: That had always been my understanding as well, so that is something that you may want to ask Skills Development Scotland about when it comes to give evidence.

However, for the employability fund, which is less prescriptive about whether the person needs to have an employer, the ethnic minority participation rate is 2 per cent, so that does not make a huge difference. Indian and Chinese people are concentrated in a particular industry—catering, wholesale and retail. There is an issue about what is being done to encourage that industry to put forward candidates for modern apprenticeships.

The Convener: That comes back to Skills Development Scotland, which determines what occupation areas it will fund. I believe that it funds manufacturing processes and care, so encouraging modern apprenticeships in those areas would be achievable. What other areas could the Government look at in order to encourage through the procurement process more uptake of ethnic minorities?

Dr Netto: A lot of low-paid work is outsourced—for example, cleaning and catering. Public sector organisations do a lot of contracting in of workers for those sectors, so we must ensure that suppliers are paying the living wage and that they have equal opportunities policies and processes for their workforce. I suppose that that is the carrot approach—I do not think that suppliers can be forced to do that. However, they can certainly be encouraged to do that, particularly when contracts are being renewed.

The Convener: Members have no more questions for the witnesses.

We have a bit of time left if any of the witnesses want to give us other information that they feel is important but which has not come out during the evidence session. Does anybody want to say anything? No. If you realise after you have gone that you have points to make that were not made during this question-and-answer session, please write to us with any information that you feel would benefit the committee's inquiry.

I thank all the witnesses for coming and for giving us such valuable insights and information.

Our next meeting will take place on 3 September.

Meeting closed at 11:03.

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