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**Equalities and Human Rights Committee**  
**Comataidh Co-ionannachd agus Còraichean Daonna**

**Historical Sexual Offences (Pardons  
and Disregards) (Scotland) Bill Stage 1  
Report**



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# Equalities and Human Rights Committee

To consider and report on matters relating to equal opportunities and upon the observance of equal opportunities within the Parliament (and any additional matter added under Rule 6.1.5A). In these Rules, “equal opportunities” includes the prevention, elimination or regulation of discrimination between persons on grounds of sex or marital status, on racial grounds or on grounds of disability, age, sexual orientation, language or social origin or of other personal attributes, including beliefs or opinions such as religious beliefs or political opinions. Human rights, including Convention rights (within the meaning of section 1 of the Human Rights Act 1998) and other human rights contained in any international convention, treaty or other international instrument ratified by the United Kingdom.



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# Message from the Convener

Since its establishment, the Scottish Parliament has worked to create a more just, equal and fair society for all the people of Scotland. This includes putting right the mistakes of the past, and lifting the burden of discrimination from the shoulders of those who experienced prejudice and intolerance. With the Historical Sexual Offences (Pardons and Disregards) (Scotland) Bill, we take another step along the journey of building a truly equal Scotland for all.

The Equalities and Human Rights Committee is proud to unanimously back this important piece of legislation. This Bill recognises that gay and bisexual men in Scotland were criminalised by laws in the past. For those convicted for same-sex sexual activity that is now legal, this Bill stands alongside an apology offered by the First Minister which recognises these men were victims, not perpetrators.

The pardon, which will be granted to men both living and deceased, acknowledges this fact in law. Importantly, the disregard scheme the Bill establishes will provide a way for men with historical convictions in Scotland to remove the unfair impact those convictions may still have on their lives.

The Committee encourages those men who have a historical conviction, and wish to ensure that it no longer affects them when seeking certain jobs or voluntary positions, to apply for a disregard.

Christina McKelvie MSP

# Introduction

1. The Historical Sexual Offences (Pardons and Disregards) (Scotland) Bill, ('the Bill') was introduced into the Scottish Parliament by the Cabinet Secretary for Justice, Michael Matheson MSP, on 6 November 2017. The Bill was referred to the Equalities and Human Rights Committee for Stage 1 consideration.
2. The Committee issued a call for written evidence on 21 November 2017, and this resulted in 10 responses. Links to the submissions received are available in the endnotes to the report.
3. The Committee took oral evidence on the Bill between 1 February and 1 March 2018. The Committee received oral evidence, in public, from Tim Hopkins of the Equality Network, Anne Marie Hicks of the Crown Office and Procurator Fiscal Service, Gillian Mawdsley of the Law Society of Scotland, Detective Superintendent Stuart Houston and Raymond McIntyre of Police Scotland and Paul Twocock of Stonewall UK. The Committee concluded its public oral evidence taking by hearing from the Cabinet Secretary for Justice, Michael Matheson MSP ('the Cabinet Secretary'). Links to the Official Reports of those evidence sessions are also available in the endnotes to the report.
4. The Committee also undertook a private oral evidence session with two witnesses who have convictions for historical sexual offences of a type covered by the Bill. This session was held in private to protect the identity of the witnesses in question. A link to a note of the evidence session is available in the endnotes to the report.
5. The Committee would like to thank everyone who provided written and oral evidence.

# BACKGROUND AND PURPOSE OF THE BILL

## Background

### *Changing attitudes to LGBTI people in Scotland*

6. The first two decades of the 21<sup>st</sup> century have seen a dramatic change in the attitude of societies across Western Europe towards LGBTI people <sup>1</sup>. This change has seen many governments dismantle a wide variety of discriminatory laws.
7. This change was reflected in the most recent Scottish Social Attitudes Survey of 2015 <sup>2</sup> which showed that in just over 15 years, the number of people in Scottish society holding a positive view of same sex relationships had risen from 37% in 2000, to 69% by 2015, while those holding negative views had decreased from 48% to 18% over the same period.

### *Historical background to same sex offences in Scotland*

8. In 1967 same sex activity in private, between two men over 21, was legalised in England and Wales. The 1967 reform did not extend to Scotland for a further 13 years.
9. In 1994 the age of consent for sex between men was lowered <sup>3</sup> from 21 to 18. On 8 January 2001 the age of consent for male same sex activity in Scotland was lowered to 16 years old, <sup>4</sup> some 116 years after their opposite sex counterparts.
10. Criminal offences like importuning (e.g. where a man “chats up” another man) remained until 2009. The final deletion from Scots criminal law of anti-gay terminology such as “lewd, indecent or libidinous practice or behaviour” and “sodomy” was only completed on 16 December 2013. <sup>5</sup>
11. Tim Hopkins of the Equality Network noted that “it is probable that the majority of Scotland’s 20th century gay and bisexual men at some point broke the laws of the time on sexual activity between men. Most were never prosecuted.” <sup>6</sup> He also pointed out that while some men were prosecuted under the specific “homosexual offences” laws, many were convicted using laws such as shameless indecency, local government by-laws or under the broad scope of Breach of the Peace.
12. Speaking on the need for the Bill, Tim Hopkins said that Scotland could fall behind other countries like Canada and New Zealand, who are already legislating in this area. He remarked the Bill “is something that shows that, along with those countries, Scotland is a country that is no longer willing to accept discrimination against LGBTI people.” <sup>7</sup>

### *Impact on men criminalised for a sexual offence now legal*

13. Many of the witnesses spoke of the impact historical sexual convictions have had on the lives of men. However, the most impactful evidence we received was the

evidence we took in private session with Witness A and Witness B. Their stories are set out, in a separate note.<sup>8</sup> Both spoke movingly about the long term impact their historical sexual convictions had had on their lives. For example, Witness A told us about how his conviction had hindered his career because he feared applying for jobs which required a disclosure check. Witness B spoke of the embarrassment his conviction caused in relation to his work with voluntary groups.

## Purpose of the Bill

14. According to the Policy Memorandum, the purpose of the Bill is to “formally acknowledge the wrongfulness and discriminatory effect of past convictions for certain historical sexual offences”<sup>9</sup> which criminalised same-sex sexual activity between men that would now be legal. This purpose is set out in Section 1
15. Section 1 achieves this by providing for a pardon to apply automatically to all men convicted of such offences (living and deceased). It also establishes a statutory process to allow such men to apply to the Scottish Ministers to have records of relevant criminal offences disregarded. In relation to the pardon, it confirms that no rights are derived from the pardon and that convictions are not overturned; it is a purely symbolic measure.

### *Scottish Government Apology*

16. On 7 November 2017, the day after the Bill was introduced, the First Minister of Scotland, Nicola Sturgeon MSP apologised on behalf of the State to men convicted of historical same sex offences in Scotland. In her address to the Parliament she said—
 

” The bill that we have introduced will right an historic wrong. However, I want to go further today, and to do something that legislation on its own cannot do [...] For people who were convicted of same-sex sexual activity that is now legal, the wrong has been committed by the state, not by the individuals—the wrong has been done to them. Those individuals therefore deserve an unqualified apology, as well as a pardon [...] as First Minister, I categorically, unequivocally and whole-heartedly apologise for those laws and for the hurt and the harm that they have caused to so many people. Nothing that Parliament does can erase those injustices, but I hope that this apology, alongside our new legislation, will provide some comfort to the people who have endured them.”<sup>10</sup>
17. There was unequivocal cross-party support in the Parliament for the apology, and for the legislation. In our evidence taking, many witnesses highlighted the importance of the apology offered by the First Minister and the endorsement of the apology by other party leaders.

### *Conclusion*

18. The last anti-gay references were only removed from the criminal statute book in Scotland in late 2013. We recognise this Bill not only acts to redress the wrongs of the past on the lives of those men still suffering the effects of historical offences in Scotland. It is also an important and symbolic statement of principle of the kind of

society Scotland seeks to be in the 21<sup>st</sup> century. Legislation to address the legacy of discriminatory same sex criminal convictions in Scotland is long overdue and we welcome the introduction of the Bill.

## Range of offences

19. Section 2 of the Bill defines the range of the offences to be defined as “historical sexual offences” under the Bill, and for which an individual would be able to apply for a disregard in Scotland.
20. It also defines what “sexual activity between men” constitutes for the purposes of the Bill. That definition includes “any physical or affectionate activity between males of any age with is of a type which is characteristic of persons involved in an intimate personal relationship”. Importantly, this definition also includes “conduct intended to introduce or procure such activity” intended to cover offences relating to importuning. In other words, instances where men were convicted of approaching, or “chatting up” other men.
21. Witnesses who commented on the range of offences covered by this section praised the approach adopted by the Bill in defining sexual activity. It was felt this showed that lessons had been learned from the existing pardons and disregards scheme operating in England and Wales, by taking a sufficiently broad approach to definitions in order to catch all offences under which gay and bisexual men were likely to be convicted in the past in a discriminatory way.
22. Section 2 includes offences in both primary legislation, as well as other forms of legislation under which men were charged, such as local authority by-laws.
23. Both the Equality Network <sup>11</sup> and Stonewall UK <sup>12</sup> welcomed this approach, stating that one of the main reasons for failed applications for disregards in England and Wales was because certain offences, such as importuning, were not covered.
24. On the range of offences covered, the Cabinet Secretary stated the approach in Scotland was intended to make the legislation as inclusive as possible. He recognised that the “scope of the disregard scheme in England and Wales is limited to crimes of gross indecency and buggery; it does not cover offences that were used to criminalise activities such as—but not limited to—soliciting for prostitution.”  
<sup>13</sup> The scheme in Scotland was designed to avoid this limited approach.

## Conclusions and recommendations

25. We commend the broad approach taken by the Scottish Government in defining offences under the Bill to include offences such as importuning, as well as defining what constitutes “sexual activity between men”. This is the right approach to take.

26. **We ask the Scottish Government to liaise closely with the UK Home Office on any potential changes to be made to the range of offences covered by**

**the disregards scheme in England and Wales. This will be important to avoid confusion around the different offences covered by each scheme, especially where an individual may have an historic conviction in both jurisdictions. Any public awareness activities related to the disregard scheme in Scotland will need to make these differences clear.**

# PART 2 – PARDON FOR HISTORICAL SEXUAL OFFENCES

## The automatic pardon

27. Section 3 of the Bill grants an automatic pardon to all men convicted of a historical sexual offence, if the conduct constituting the offence, if occurring in the same circumstances, would not be an offence on the day on which section 3 comes into force.
28. The pardon does not set aside the criminal records of men who have been convicted of historical same sex offences. The automatic nature of the pardon means that “no one needs to do anything to receive a pardon”.<sup>14</sup> It will apply to all men convicted of offences which come within the scope of the Bill. This covers all consenting sexual acts between men who were over the age of consent for sexual activity as it is defined today, and where there was not a relationship of trust or responsibility.
29. A pardon will also extend posthumously to all men who were convicted under Scots law of historical offences within the scope of the Bill who will have died before the pardon comes into effect.

### *Appropriateness of a pardon*

30. The pardon to be granted by the Bill differs significantly from the one in operation in England and Wales in that it automatically applies to all men with relevant convictions. This fact was welcomed by all of the witnesses from whom we heard.
31. Nevertheless, some expressed frustration at the concept of a ‘pardon’ being used because they saw it in the context of being absolved from a crime which they committed. Speaking about the impact the automatic pardon would have on his life, Witness A told us-
 

” That means nothing to me and at the end of the day, that doesn’t change anything, sadly, it doesn’t take that away. I’ve still got to face the conviction when I apply for jobs. I’ve got to go through these questions, time and time and time again.”<sup>15</sup>
32. One written submission received stated that the “word pardon is an insult to those homosexual men who did absolutely nothing wrong.”<sup>16</sup> Tim Hopkins highlighted the views of some gay men in England and Wales in 2017 saying “they were uncomfortable about being told that they were pardoned, because that implied that they had done something wrong and were now generously being given a pardon—that is what a pardon normally means. That is why it was important to us to say that it must be made clear that men in that situation did nothing wrong.”<sup>17</sup>
33. He considered it important however, to link the purpose of the Bill (as set out section 1) with the apology made by the First Minister in order to allay any concerns about what the pardon means in Scotland.<sup>18</sup>

34. This frustration was acknowledged by the First Minister in the Parliament on 7 November 2017, when she stated-
- ” A pardon is, of course, the correct legal remedy to apply for the convictions that we are talking about, but the term “pardon” might still, to some people, imply that Parliament sees those people as having done something wrong. That is, after all, a common context in which a pardon might be granted. However, as all of us know, that is not the case here. For people who were convicted of same-sex sexual activity that is now legal, the wrong has been committed by the state, not by the individuals—the wrong has been done to them.”<sup>19</sup>
35. In evidence to the Committee, the Cabinet Secretary reiterated the purpose of the Bill and pointed to the calls made by the LGBTI community for an apology to be provided alongside the provision of a pardon and disregards scheme.<sup>20</sup>

*Confusion about the effect of a pardon*

36. Paul Twocock of Stonewall UK highlighted that one of the key lessons “from England and Wales is about the confusion between a pardon and a disregard. [...] When people hear the word “pardon”, they often think that it means that the crime has been deleted. They do not understand that, if they have a historical sexual offence, it will come up on a barring-scheme or criminal-records report if they apply for a job where that is relevant, so they will still feel the impact.”<sup>21</sup>
37. Others groups such as the Equality Network and Police Scotland spoke of the need for the pardon to be clearly publicised and understood, both in its scope and how it differed from the disregard scheme.

*Acknowledgement and posthumous pardons*

38. All the witnesses giving evidence on the Bill welcomed the fact the pardon will apply posthumously to those men who had died while still having a historical conviction for a same sex sexual offence that is now legal. Both Stonewall UK and the Crown Office and Procurator Fiscal Service (COPFS) recognised the need for the Bill to be fair to all men who were convicted of historical offences, not just to those who go on to apply for a disregard.<sup>22</sup>
39. On the issue of whether the families of deceased men, especially those who may have taken their own lives, should have a mechanism to apply for some acknowledgement of a pardon, Detective Superintendent Stuart Houston of Police Scotland highlighted that there may be difficulties “if there were no police record of the conviction or (which) court was involved.”<sup>23</sup>
40. Paul Twocock said there might be a small but “important” number of families who might want to apply for recognition of a pardon for a deceased relative. He asked “whether it would be feasible to develop a process in which—even if the answer is that, after searching, the records are found to no longer exist—at least the family can have confirmation that their loved one has received the automatic pardon.”<sup>24</sup>

## Conclusions and Recommendations

41. We acknowledge that, for some, the concept of a “pardon” being granted in these circumstances, in the traditionally understood sense of the word, causes a problem. However, we are of the view that when taken alongside section 1 of the Bill, and the apology of the First Minister and other party leaders, the intention and effect of the pardon is clear.
42. Based on lessons learned from England and Wales, we consider there is a risk that the practical meaning of a pardon in Scotland could be lost on the general public. While the text of the Bill, and the apology of the First Minister and remarks of the other party spokespersons are recorded online and in the Official Report of the Scottish Parliament, the visibility of this series of acknowledgements may not be easily found or understood in the future.
43. **We ask the Scottish Government to ensure these separate but interdependent aspects of Scotland’s response to the “wrongfulness” of these historical convictions are drawn together into a single clear format. This can be utilised in all online and printed materials, publicity campaigns, or actions undertaken by other organisations (e.g. record holders, third sector groups etc.).**

## PART 3 – THE DISREGARD PROCESS

### Operation of a disregards scheme

44. Sections 5 to 11 of the Bill establish a disregard scheme. Men convicted of historical offences which come within the scope of the Bill, and who wish their convictions to be disregarded for the purposes of disclosures, will be able to apply to the Scottish Ministers for a disregard.

#### *The importance of the disregard scheme*

45. Many witnesses recognised that, as the practical mechanism to deal with historical convictions, the successful design and implementation of the disregards scheme will be central to the success of the Bill.
46. Some witnesses highlighted the need for clarity to ensure those applying for a disregard in Scotland understood the scheme was broader than the one in England and Wales.<sup>25</sup> This was especially true for men with convictions like "importuning" or "intent to commit a homosexual act in a public place".
47. Paul Twocock explained UK Ministers had order making powers to expand the list of offences for which a disregard can be applied in the rest of the UK. He said the UK Home Office was currently working on drafting regulations and Stonewall was advocating for importuning and soliciting to be included as relevant offences. He believed the approach taken by the Scottish Government in the Bill would assist in making the case for this change in England and Wales.<sup>26</sup>
48. Both Witness A and Witness B spoke of the importance the disregard scheme would have for them personally. In their private evidence session, they explained the impact their historical convictions were still having on their lives today, and highlighted how the disregard scheme would address this burden.
49. In the course of his work, Witness A had to undergo enhanced disclosures searches of criminal records for Protection of Vulnerable Groups (PVG) checks. He was convicted in the early 1990s of intent to commit a homosexual act in a public place after police arrested him for kissing a man on a public street.
50. Speaking about the impact his conviction had on his employment experience, Witness A worried "whether people will believe that's what [I was] really charged with", when having to explain when applying for jobs that his conviction for a 'homosexual act' was really for kissing another man in public. He told us-
- ” it's not a nice thing to have to go through constantly. Could I have been higher up the employment ladder? Yes, most probably. I am now second in a very senior position with my current employer. But could that have happened sooner if I'd had the courage to go for other jobs, maybe? It's the same with internal promotions, if it's with a different department or director, you have to go through explaining the whole thing all over again. It puts you off applying for any positions that may come up.<sup>27</sup>

51. In the early 1980s Witness B was charged with “loitering in a public convenience for a use other than as a lavatory or toilet apartment”, under a provision of a local authority by-law dating from the mid-1930s. He pled guilty in court and was fined “40 shillings”. It was only after he retired, and became active in the charity sector, that this conviction caused a problem. Commenting on the impact it had on his life he said-

” I was fined 40 shillings for loitering nearly 40 years ago and it still shows up on my enhanced disclosure check today. Someone fined under the same by-law for failing to clear snow from the path outside their door would also have been fined 40 shillings, but my guess is that that conviction wouldn’t show up 40 years later on an enhanced disclosure check for them. From my point of view this has been dredging up an incident from the past which is an embarrassment to me as many of the people I deal with in my charitable work are older and quite vulnerable. It just seems totally irrelevant to my experience.  
28

### *Public point of access to the disregard scheme*

52. Many witnesses spoke of the need for the application system for a disregard to be uncomplicated and as user friendly as possible. Tim Hopkins said because of the complexity of both the application form and the system “we estimate that only about 2 per cent of the people in England and Wales with those convictions who are still living have applied for the disregard”. He also stated that the process may raise issues from the past “that perhaps they do not want to be reminded of.”<sup>29</sup>

53. Witness B expressed his views about being required to fill in a disregards application form similar to the one used by the UK Home Office-<sup>30</sup>

” it is a bit off-putting in the sense they ask you to give full details and I’m not sure that should be necessary. I would have thought simply if you knew the offence, that should really be all that I should have to do to apply. And it should be up to the authorities then, if they need to ask you further questions, that’s fine. As I understand it the burden of proof is on the authorities and the general tendency of the Bill is leaning towards accepting an application for a disregard rather than turning it down.<sup>31</sup>

54. Paul Twocock said there was a need for partnership between the various authorities in Scotland, and groups like Stonewall and the Equality Network to ensure that both the public face of the disregard scheme and the official disregard process, were as user friendly, secure and efficient as possible.

55. The Cabinet Secretary acknowledged the importance of making the application process for a disregard as user friendly and approachable as possible. He stated the Government was “giving quite a lot of thought to how [it] makes the application form as straightforward as possible while ensuring that it provides the necessary information” to allow Ministers to consider an application.<sup>32</sup>

56. Furthermore, he stated that the Scottish Government planned to test the application system, and the procedures underpinning it, before the scheme came into effect. He hoped key third sector organisations would form part of the wider application and advice process.<sup>33</sup>

## Operation of the disregard system

### *Official records, record keepers and historical integrity*

57. Under section 10 of the Bill, when a disregard application is successfully granted by the Scottish Ministers, information held by “relevant record keepers” in official records about the disregarded conviction must be removed from those official records. This is to ensure this information is not disclosed in any future records check, such as for a background check for individuals to work with Protected and Vulnerable Groups (PVG).
58. Official applications for disregards will be received by the Scottish Ministers, so in effect civil servants will administer the operation of the disregard scheme.
59. The need for a secure and effective system throughout the operation of disregard scheme between the applicant, the Scottish Ministers, and the key record holding agencies was emphasised several times. This was especially true in terms of identifying records held by Police Scotland through the operation of the Criminal History System, the Scottish Courts and Tribunal Service (SCTS) in relation to court records, and the COPFS for records on prosecutions.
60. Detective Superintendent Houston stated that the application system “should be a clear, efficient and quick process” when a request comes in for a records search in respect to a disregard process. He also said it would be “crucial that we ensure that the application process [...] is a secure network that allows that to feed into the criminal records system, which is held by Police Scotland [...] a person’s criminal record is confidential material.”<sup>34</sup>
61. Raymond McIntyre, Criminal Records Manager with Police Scotland concurred, saying “it is about getting the right people involved in deciding how we structure the process and go about it”. He pointed out that Police Scotland had made suggestions on the work required to ensure an “effective, efficient and consistent” delivery of applications and how records are searched and disregarded.”<sup>35</sup>
62. To date, Police Scotland had identified up to 1261 offences recorded against 994 people which fall within the scope of the Bill. They said that this number of identifiable offences “will increase” as offences under Section 7 of the Sexual Offences (Scotland) Act 1976, which are covered by the Bill, had not yet been included in the offences Police Scotland had identified.<sup>36</sup>
63. The SCTS referred to the fact that all records associated with criminal cases are ultimately transferred to the National Records of Scotland (NRS), with High Court records being transferred after 10 years, and Sheriff Court records after 25 years. It also pointed out that archived court records held by NRS would not delete disregarded convictions but “that there would be scope for an annotation to be made to such a record as a result of the Bill”.<sup>37</sup>
64. Several witnesses said there was a need to ensure that while official records were properly amended in the wake of a successful application, it was important that the disregard system did not inadvertently rewrite history by deleting evidence of this period. Tim Hopkins of the Equality Network considered it right that there would still

be historical records as it was important we could look back on the history of discrimination.<sup>38</sup>

65. Witness B believed—“wiping out records is wiping out history, and this is a bad bit of history and it should be on record [...] no matter how uncomfortable it may be [...] so it’s a matter of making sure that records which are disregarded are not open to the public as it were, but the record of this all having happened is still there.”<sup>39</sup>

#### *Disclosure requests from outwith Scotland*

66. The Committee considered issues around applications for enhanced disclosures from other jurisdictions, and how the provisions of Bill may be applied in such circumstances. For example, where a request is made from outside Scotland for a disclosure on an individual with a historical conviction in Scotland.
67. Similarly, it was recognised by Tim Hopkins of the Equality Network that Scottish-based job applicants may hold historic convictions in another jurisdiction which, if they had occurred in Scotland, could come within the scope of the Bill for a disregard.<sup>40</sup>
68. SCTS said that “an individual from another jurisdiction may request an extract conviction, required for example to satisfy visa applications, or another party may request an extract conviction to use as evidence against an offender in a related court case, for example in family proceedings.” Currently, SCTS staff would ensure that the terms of the Rehabilitation of Offenders Act 1974 were complied with before issuing an extract conviction.<sup>41</sup> Clarity was sought on how the Bill would affect this.

#### *Updating other record holders*

69. Several witnesses considered the issue of how records held by other organisations, such as the NHS, Scottish Prison Service and employer organisations, would be impacted by the provisions of the Bill.
70. For example, the Scottish Prison Service may retain records of medical or psychiatric treatment of men imprisoned for offences which come within the scope of the Bill. Similarly, the NHS may also hold medical records of treatments, such as aversion therapy or hormonal/chemical treatments, on men who were “treated” as an alternative to a custodial sentence.
71. Another category of possible record holders would be employer organisations, or voluntary/third sector groups who carry out enhanced background checks of job applicants and staff in order to work with protected or vulnerable groups. Such organisations may hold records as a result of past disclosure applications. While these would be subject to the legal requirement of Data Protection laws, disregard applicants may seek information on how such records would be treated.
72. Disclosure Scotland suggested it could bridge the gap between the application of the Bill, official record keepers, and the way in which other record keepers are informed about the pardon and disregard scheme. These included sign-posting disclosure applicants to the disregard scheme, publicising the scheme online, and proactively informing employer organisations and the 3,694 bodies registered with them about the provisions of the Bill.<sup>42</sup>

73. The Cabinet Secretary stated that the key "official record keeper" organisations, namely Police Scotland, COPFS and the SCTS would work closely on the implementation of the disregard system and how criminal records would be handled and disregarded.
74. The Cabinet Secretary undertook to discuss with the SCTS how records transferred to the NRS might reflect the developments of the pardon and disregard scheme, while seeking to maintain the historical record of Scotland's past.<sup>43</sup> Furthermore, the Cabinet Secretary undertook to liaise with SCTS on the issue of whether extract convictions in relation to unspent convictions, where that conviction has been disregarded, needed to be included under Section 10 of the Bill.<sup>44</sup>
75. Referring to the potential for disclosure applications from outwith Scotland, the Cabinet Secretary highlighted some of the challenges in extending the Bill "on an extrajurisdictional basis". He stated that Disclosure Scotland currently has an arrangement with 12 other European Union member states in terms of sharing information on enhanced disclosure checks. Disclosure Scotland considers offences that have taken place outwith Scotland only when an enhanced disclosure check is undertaken".<sup>45</sup>

## Conclusions and recommendations

76. The Committee heard opinion from various witnesses as to whether the disregard scheme should be automatic. While some supported this view, the majority felt that this would prove too intrusive and complex.

**77. We believe the design and delivery of the application system will be key to encouraging men with historical convictions to apply for a disregard. We ask the Scottish Government to take all steps available to ensure the system, and any application form, is as straightforward and user friendly as possible. The Government should also cooperate closely with key stakeholders on the design and rollout of the application system.**

78. We commend Disclosure Scotland for its positive and constructive approach in relation to its role in the implementation of the Bill.

**79. We ask the Scottish Government to consider the implications of the Bill for records held by other organisations who do not hold criminal records (such as the National Records of Scotland, the NHS, the Scottish Prison Service, employer groups).**

**80. The Government may wish to consider whether such organisations should be defined under the Bill as a category of record holder. Such organisations may require guidance on the Bill and how it may impact records they hold (for example, requests that a notation be added to patient records).**

81. This approach could also be important in ensuring the historical record of this period in Scotland's past is not inadvertently lost through well-meaning but unnecessary deletion, or destruction, of historical records by other organisations.

**82. We ask the Scottish Government to clarify the implications of the Bill for extract convictions as highlighted by the Scottish Courts and Tribunal Service.**

**83. We note the comments made, in written and oral evidence, in relation to disclosure applications involving offences from other jurisdictions. We ask the Scottish Government to ensure that clarity is provided to official record holders on the implications of the Bill in such circumstances.**

84. This may be important in dealing with cases where offences which come with the scope of the disregards system in Scotland (e.g. importuning) are not covered by disregard systems in other jurisdictions, such as in England and Wales.

**85. In reference to the international agreements Disclosure Scotland has in place with other European Union member states on enhanced disclosure, we ask the Scottish Government to consider how the disclosure scheme may be affected by the UK's withdrawal from the EU and what provisions may need to be put in place with the UK and EU authorities to address this.**

## Other aspects of the Disregard scheme

### *Presumption to disregard, automatic and posthumous disregards*

86. Considerable reference was made in evidence to the possibility of having an automatic, or part-automatic system of disregard for historical convictions records, as well as a system of posthumous disregards to allow the families of deceased men with historical convictions to have their records amended. Some evidence pointed out that individuals were wronged by the state and should not now have to proactively seek redress.

87. The Cabinet Secretary set out the principle by which the Scottish Government sought to approach the disregards applications -

” Whereas the pardon is a symbolic matter, the disregard scheme has a real practical benefit attached to it. The bill provides for a presumption in favour of granting the disregard.<sup>46</sup>

88. While sympathising with the sentiments for an automatic disregard system, the Cabinet Secretary warned of several serious complications which may result from such an approach. He cited the very large number of criminal records which would need to be identified, and the logistical and ethical implications of seeking out and contacting men with historical convictions. He also highlighted the risk of

unintended consequences and risks to individual's right to privacy, and problems arising where criminal records contains insufficient detail to allow Ministers to decide whether a disregard should be granted (e.g. in Breach of the Peace etc.).

89. Police Scotland, COPFS, the Law Society of Scotland and the Equality Network all agreed that the legal and practical obstacles presented by an automatic disregard system were formidable.<sup>47</sup>
90. Police Scotland also pointed to practical difficulties around a posthumous disregards system as criminal records of people who have died may already have been deleted. This could make it very difficult to identify the details of historical convictions of deceased men.<sup>48</sup>

## Conclusion and recommendations

91. We welcome the clarification from the Cabinet Secretary that there will be an presumption to grant a disregard.
92. While the Committee has sympathy with the desire for an automatic disregard system, we recognise that the practical and ethical ramifications of such an approach would outweigh any possible benefits. An automatic disregard system also presents a real danger that some men entitled to a disregard may be placed at a disadvantage where their records do not provide enough detail for Scottish Ministers to take a decision without their input, or, where individuals in question cannot be traced to get the necessary information required to make a decision on a disregard.
93. With respect to the issues raised in relation to the possibility of a posthumous disregard, again we note the evidence provided by Police Scotland and others in terms of what happens to the criminal records of deceased persons. We believe that a system of posthumous disregard could present a similar set of challenges to the concept of an automatic disregard scheme, especially if the relatives of a deceased person have insufficient knowledge of the circumstances of their loved one's conviction.

94. **Nevertheless, we recognise families of deceased men may wish to have their loved one's names "cleared". We ask the Scottish Government to consider how it could include a mechanism to achieve this within the wider system delivered by the Bill. Witnesses suggested one possible solution might be to create a type of certificate or letter of acknowledgement, which could provide comfort and a sense of redress and closure for the relatives of deceased men with convictions.**

## Supporting men with historical convictions

*Support for applicants (administrative, financial and emotional)*

95. One of the most important themes to emerge from our Stage 1 scrutiny of this Bill is the recognition that men who were convicted of same sex offences, which would

not be a crime in the Scotland in 2018, are victims not perpetrators. The process for applying for a disregard should, therefore, treat applicants with appropriate support and assistance.

96. One of the written submissions received commented on the barriers many applicants may face in engaging with the disregard scheme-

” People who were convicted may not know about this legislation as they may choose not to follow politics or are in a disenfranchised situation that causes them not to be able to take the appropriate action. Embarrassment at having to write, email or contact the Scottish Government to ask for their names to be removed. Elderly people who require support, and don't have it, would be unable to take the appropriate action. Lastly, any disenfranchised group e.g. drug addicts, alcoholics, people with mental health problems etc. not being aware of this legislation. <sup>49</sup>

97. Organisations such as Equality Network and Stonewall UK agreed with the suggestion that men seeking to make applications require to have the necessary support they need to engage with the process provided to them. <sup>50 51</sup> Tim Hopkins spoke of LGBT Health and Wellbeing as the main organisation providing direct front-line support to older LGBT people in Scotland and suggested it could make its helpline and other support available to applicants. <sup>52</sup>

98. Speaking of the lack of such a structured support system for men applying for a disregard in England and Wales, and the negative impact this may have had on the numbers of applications, Paul Twocock said-

” Frankly, there has been no structured or funded emotional support for people who have applied for a disregard, apart from that offered through the normal services of LGBT organisations [...] we developed guidance that we published on our website, we received inquiries through our telephone information service and we provided signposting to other services, including counselling services. <sup>53</sup>

99. Witnesses pointed to the potential financial costs which applicants may face if they needed assistance to engage with the disregard scheme. Also, it was stated that applicants with additional needs or requirements may require a process of support in order to provide the information which may be needed to identify records and allow Ministers to make a decision on an application for a disregard. <sup>54</sup>

#### *Legal aid, advice and the appeals system*

100. Section 8 of the Bill provides for an appeal system to the Sheriff Court where an application for a disregard is rejected by the Scottish Ministers.

101. Support issues were raised in the context of how the disregard scheme should work. The Law Society of Scotland pointed to a number of issues which may require further support for individuals. <sup>55</sup> These included-

- the need for applicants to be made aware of their rights, “especially in light of the heightened requirements for disclosure in today's highly competitive job market”;

- the need for the process for making an application to have a conviction disregarded is as simple and straightforward as possible;
  - the potential need “where relevant and appropriate” for legal aid to be available to those making an application, and especially where a failed application results in an appeal to the Sherriff Court.
102. While there was recognition that there were several very experienced third sector groups supporting the LGBTI community, who could provide a support service, the Law Society remarked that “awareness building should not be left to LGBT organisations and would ultimately be the responsibility of the Scottish Government”.<sup>56</sup>
103. Responding to the discussion on a support system for applicants the Cabinet Secretary was broadly supportive of providing the necessary framework to make the Bill work. On the provision of legal aid, he said-
- ” my intention is to make the application process as straightforward as possible. I would like to avoid the need for individuals who wish to apply for a disregard to have to engage any professional expertise to support them in making that application.”<sup>57</sup>
104. However, he confirmed the Government was examining “the existing rules on legal aid and considering how legal aid may be made available to someone” making an appeal to the Sheriff Court.
105. On financial and administrative support the Cabinet Secretary said that the “idea of providing financial resource to facilitate awareness and understanding of the proposed legislation is something to which we are already giving consideration”.<sup>58</sup>
106. In terms of providing practical assistance to men in making applications, the Cabinet Secretary stated-
- ” I hope that individuals will be able to contact the third sector organisations with which we are working [...] I am happy to explore whether we can seek assistance from third sector organisations, which may be able to provide support to individuals who require assistance in completing the form. That may include not only practical assistance but emotional support, given that people who are going through the process will be reliving difficult incidents from their past.”<sup>59</sup>

## Conclusions and recommendations

107. **We recommend an appropriate framework of support is put in place by the Scottish Government to assist individuals to engage with the disregard scheme. This should also extend to the family of deceased men who wish to engage with the system. Key third sector organisations could play a central role in this, however, we believe the Scottish Government must take the lead in coordinating the response and provide necessary financial resources to underpin this work.**

108. **In advance of Stage 2, we also ask the Scottish Government to provide an update on its approach to the provision of legal aid to disregard applicants, especially in the event of an appeal to the courts, and the methods by which appropriate legal support could be provided to applicants throughout the process in order to provide advice on rights and other matters.**

## Delegated Powers and guidance

### *Delegated Powers Memorandum and report from the DPLR Committee*

109. Sections 14 and 15 of the Bill provide for regulations, guidance and ancillary provisions to be made via delegated powers under the Bill. This includes provisions introduced in Section 10(5) of the Bill on regulations in respect of official record keepers.
110. On 20 December 2017 the Delegated Powers and Law Reform Committee reported that it is content with the delegated powers provisions contained in the Bill.<sup>60</sup>

### *Guidance on the disregard scheme*

111. The successful implementation of the pardons and disregard scheme will depend on the coordinated action of various key stakeholders, from the Scottish Ministers, to the official record keepers, to Disclosure Scotland and to third sector LGBTI organisations.
112. Other record holders, such as the NRS and employer organisations, may require additional guidance on the implications of the Bill for records they hold, especially in relation to job applications or enhanced disclosure checks. Several witnesses stressed the importance of getting guidance to support the operation of the Bill right, as well as the need for a cooperative approach to the development of guidance.<sup>61</sup>
113. Disclosure Scotland referred to over 3,600 registered organisations it would seek to inform about the Bill, and Police Scotland's latest estimate for the number of potential valid convictions held in its Criminal History System was over 1,200.
114. The Cabinet Secretary confirmed that any guidance or regulations made under the Bill, as introduced, would be subject to the negative procedure.<sup>62</sup>

115. **In light of the importance of guidance and regulations made under the Bill to the successful implementation of the disregard scheme, the Committee believes the Parliament should have an opportunity to consider any regulations brought forward in more detail. Therefore, we recommend that delegated powers made under the Bill in relation to guidance and regulations be made by affirmative procedure.**

## Costs of the Bill and numbers of applications

### *Financial Memorandum*

116. The Financial Memorandum estimates the overall costs for the Bill to be up to a total of £64,800 in Year 1 of the disregards scheme, decreasing to £34,800 in Year 2 and £17,800 by Year 5 of the scheme, based on the estimated number of applications the Government expects to receive. The memorandum includes costings for assumed application rates at 50%, 100% and 200% above the expected estimate. At the highest estimate, the overall cost for the Bill in Year 1, 3 and 5 would be £110,400, £80,400 and £36,800 respectively.

### *Estimated number of applications*

117. The Equality Network estimated the likely number of disregard applications which could be expected in the first five years of the scheme would be small based on the responses to its survey about the Bill in which, out of 736 responses received, only four indicated they had historical convictions which come within the scope of the Bill. Only two of them said they intended to apply for a disregard.<sup>63</sup>

118. Tim Hopkins went on to estimate that the number of people in Scotland who would qualify for the pardon who were still alive would be in a small number of hundreds. This represented less than 1% of the number of gay and bisexual men in Scotland. Other witnesses agreed with the estimate for applications, and therefore, the likely costs of the Bill would be small.

119. The Cabinet Secretary estimated that the Scottish Government could expect to receive approximately 25 applications for a disregard in the five year period after the scheme comes into force. However, he recognised there may be more applications than the English system, owing to wider scope of offences which are covered by the Bill.<sup>64</sup>

### *Financial compensation*

120. Several witnesses discussed the issue of financial compensation schemes, most notably in Germany, where a payment of between €3,000 and €6,000 was made as compensation to men who had been convicted of historical same sex offences. Tim Hopkins stated that to the best of his knowledge, Germany was the only country where such a payment was made to men as part of a disregard or pardon process.<sup>65</sup> Also, the family of deceased men were entitled to apply for a pardon in Germany.

121. The Equality Network also highlighted the very small number of survey respondents who spoke of financial compensation, “eight people in total, out of the 736 who responded to the survey, suggested compensation” should be paid.<sup>66</sup>

122. Paul Twocock pointed to the potential unfairness of making an automatic payment to men who receive a disregard under the Bill-

” all sorts of historic wrongs have been committed in the past against the wider LGBT+ communities [...] It would be unfair to compensate one part of the community that experienced one type of discrimination but not look at compensation for other parts of the community.<sup>67</sup>

123. Commenting on compensation during the private evidence session on 22 February, Witness B said-“40 years ago they fined me the equivalent of 40 shillings. What are they going to do, give me back my 40 shillings?”<sup>68</sup>
124. He agreed that most men with historical convictions would not be seeking financial compensation, but instead they wanted vindication and peace of mind. He suggested that any funds which would have been spent on a compensation scheme should instead go into publicising the Bill and providing support to applicants.

#### *Other costs*

125. There may be other costs associated with the Bill and the support mechanisms put in place to assist disregard applicants-
- Potential costs for individuals engaging with, and applying to, the disregard scheme;
  - Costs to agencies such as Disclosure Scotland for administrative work associated with the Bill;
  - Legal aid costs and costs associated with the appeals system;
  - Costs to third sector LGBTI groups for the provision of administrative, emotional and legal support to applicants and/or their families;
  - Additional costs if provision is made for a form of written confirmation of a pardon, or a posthumous pardon, in the form of a certificate or letter.
126. Responding to the evidence on costs and compensation, the Cabinet Secretary echoed the concerns of witnesses that a fixed payment would be unfair to those who suffered other forms of historical discrimination but were not convicted of an offence coming under the scope of the Bill.<sup>69</sup>
127. In terms of the costs of the Financial Memorandum, he conceded that it was difficult to draw a conclusion on the numbers of men who may seek a disregard based on the experience in England and Wales. On one hand, the size of the LGBTI community is smaller in Scotland, however, the Scottish legislation is wider in scope than its equivalent in England and Wales, which may mean proportionately more men may seek a disregard in Scotland. This would have an associated cost implication.

## Conclusions

**128. We agree that the payment of a sum for financial compensation, similar to the system in Germany, is not appropriate in the Scottish context. Instead, any additional financial resource should be focussed on supporting applicants, and on promoting knowledge and understanding of the pardon and disregards scheme.**

129. We accept the Scottish Government has provided its best estimate of the costs for the Bill as set out in the Financial Memorandum. We draw the Scottish Government's attention to the recommendations we have made in relation to written

recognition of a pardon and support systems for men applying for a disregard. This may add slightly to the overall cost of the Bill.

## Equalities, island communities and commencement

### *Impact on equal opportunities and human rights*

130. We note paragraphs 44 to 48 of the Policy Memorandum on the estimated impact of the Bill on the promotion of equal opportunities and right to respect for private life under Article 8 of the European Convention of Human Rights.

### *Island communities and local government*

131. We note the Policy Memorandum states the Scottish Government is satisfied that the Bill has no differential effect upon island or rural communities, or detrimental effect on local authorities.
132. We ask the Scottish Government to be mindful that most third sector organisations which support the LGBTI community may be centred in urban Scotland. Therefore, there may be some applicants in isolated communities who might face additional challenges in accessing relevant support systems.

- 133. When implementing the Bill we ask the Scottish Government to address how to support potential applicants in more remote communities, if necessary in coordination with existing local authority support mechanisms for the LGBTI community in such areas.**

### *Commencement*

134. Section 17 of the Bill specifies that the primary provisions relating to the pardon and the disregard scheme will come into force on a date, or dates, to be appointed by the Scottish Ministers by order. We are mindful that there may be individuals who wish to apply for a disregard and who, for reasons of age or illness, may not wish to wait an extended period of time to receive a pardon and make an application.

- 135. We ask the Scottish Government to give an indication of when it expects the pardon and disregard scheme to be brought into force.**

## PART 4 – OTHER ISSUES

### Gender identity and confidentiality

#### *Gender recognition and identity*

136. Privacy and confidentiality issues were raised with us around the disregards system and the potential for some individuals who may seek a disregard to have transitioned to a new gender identity. Paul Twocock said-

” An interesting aspect of confidentiality that the committee should perhaps consider is that there are individuals who have been prosecuted under offences in the past who have since changed their gender identity. There is a real issue about exposure of that transition in how the process will work: we should give due regard to how the process deals with such cases.<sup>70</sup>

137. On this point the Cabinet Secretary said-

” If [a person has] changed their gender and they still have a criminal record that is identified as theirs as a result of being prosecuted before 1980, that would be the case. The reality is that, if someone has changed their gender, their criminal record, with any previous convictions that they received, remains with them. They would still be covered by the legislation as it stands.<sup>71</sup>

#### *Confidentiality, data protection and the new GDP regulations*

138. Several witnesses highlighted the need for the disregard scheme, the way it engages with applicants, the publicity around it and how it will ensure confidentiality.

139. Police Scotland spoke of the need to ensure all records are shared in a secure and confidential format.<sup>72</sup> Raymond McIntyre spoke of the role of Disclosure Scotland in the PVG scheme and the removal of offences from people’s central records but it does not automatically update records held by employer organisations. He warned-

” there is a challenge around that. That would become part of the marketing and education campaign that would need to accompany the bill to ensure that all organisations that are recipients of police information—even if it is historical—action their own records, as they are required to do under the Data Protection Act 1998.<sup>73</sup>

### Conclusion and recommendations

140. We recognise some applicants may need to engage in the application process through a trusted third party representative so as not to inadvertently disclose information about their sexuality, or convictions, to others (e.g. where relatives may open correspondence or read emails etc.). This is especially true when an applicant has additional support needs and requires assistance to engage with the system (filling in forms etc.). Also, applicants who have, or are in the process of, changing their gender might also wish to ensure their privacy is maintained.

141. It is noted that passage of the Bill through the Parliament coincided with the coming into force of the new EU-wide General Data Protection Regulations<sup>74</sup> (GDPR) across the UK from 25 May 2018. As a result, many record holding organisations across the public sector and elsewhere are reviewing and updating the records they hold on individuals and their records retention procedures.

142. **We seek assurance from the Scottish Government that the processes put in place around the disregard scheme will ensure the confidentiality and privacy of the personal information of applicants.**

## Publicity, awareness raising campaign and use of language

143. Many witnesses highlighted the importance of designing an effective, targeted and appropriate campaign to publicise the pardon and disregard scheme. Both Equality Network and Stonewall UK pointed to the failure to properly explain the pardons and disregards scheme in England and Wales as a key reason for the low level of disregards applications.
144. Paul Twocock called for a “well resourced, thought-out and short campaign” which should include the active participation of key LGBTI stakeholder organisations to assist in planning and delivering.<sup>75</sup>

### *The Use of language*

145. Gillian Mawdsley of the Law Society of Scotland highlighted the importance of the language used in both the Bill, and in the pardon and disregard scheme and the need for sensitivity and respect.<sup>76</sup>
146. She referred to the inherently derogatory and inappropriate language used in the relevant historical legislation, and which may also exist in criminal records and stated that care must be given to planning how applicants were communicated with in respect of this language.
147. The Cabinet Secretary highlighted the benefits of learning from the mistakes made in the disregards process in place in England and Wales, such as avoiding an overly complicated application form.<sup>77</sup>
148. He acknowledged the importance of getting the content, format and tone right, recognising that “part of the challenge for the public information campaign in Scotland will be to find sensitive ways in which to explain how the legislation operates and the types of offences for which a disregard can be applied. That must be carried out sensitively, because we do not want to compound what was discriminatory legislation in the past, of which many people are no longer aware, by unduly raising awareness of it.”<sup>78</sup>

## Conclusion

149. It is clear that damage has been caused to many LGBTI people by the derogatory, homophobic and stigmatising language of the past. This may be especially true for those who grew up in the era of criminalisation and who may form the largest proportion of those applying for a disregard.
150. Due care must be taken to ensure the tone of the publicity campaign is respectful and sensitive. Getting the publicity and marketing of the pardon and disregard scheme right will be fundamental to the success of the Bill.

## Former Armed Forces personnel

151. A reserved area of UK policy arose in our scrutiny of the Bill in connection with LGBTI personnel dismissed from HM Armed Forces.
152. A former member of Royal Navy living in Scotland, who was dismissed in 1992 for being a lesbian, asked that LGBTI personnel dismissed from the military prior to January 2000, be included in the provisions of the Bill.<sup>79</sup> She explained how she felt—
- ” We have never had a formal apology, only a watery one issued by the MOD in the press, which I and others subject to the same treatment, weren't even aware of? It would make a huge difference to our sense of belonging and mental health.”<sup>80</sup>
153. As all matters relating to the UK military are reserved to the UK Government and Parliament, this request is not within the legislative competence of the Scottish Parliament. Nevertheless, we considered it was important to explore this issue in a little more detail.
154. Tim Hopkins outlined the pardons system already in place for former members of HM Armed Forces in terms of legislation in England and Wales, stating that all such convictions have taken place under English law.<sup>81</sup> However, he went on to highlight some complicating factors such as “men who did not have such convictions were dismissed from the armed forces because they said that they were gay.” He also pointed out that women were dismissed from the armed forces for exactly the same reason, “even though they were not subject to court martial because their behaviour was not a criminal offence.”<sup>82</sup> Referring to the submission received from a former member of the Royal Navy he remarked that the Bill would not help someone in her situation, even though her dismissal is “affecting her now” because certain job applications will require her to declare why she was dismissed from the military.
155. Responding to questions on whether LGBTI ex-armed forces personnel would have any recourse under the provisions of the Bill, Anne Marie Hicks of COPFS said the Bill would not cover “anything that had occurred in another jurisdiction. If an offence was committed while someone was in the armed forces, I think that it would be a UK conviction, so the pardon scheme in England and Wales would have to be used.”<sup>83</sup>

156. Raymond McIntyre spoke of the position of ex-armed forces personnel in the Scottish criminal records system. He said it would be a matter of checking whether a reference to a historical criminal conviction under military law, such as a court martial held in Scotland under the Army Act 1955, would appear in the records held by Police Scotland. It would, he stated, “be a question of challenging the records that are held in Scotland and which would therefore come under the Scottish legislation”.<sup>84</sup>
157. Paul Twocock outlined the role Stonewall UK has played in advocating for reform in the areas of LGBTI ex-service personnel dismissed from HM Armed Forces pre-2000. He said that “the way in which men in the armed forces were dealt with for being gay or bi is an important issue, and there has been no clear acknowledgement by the state of that”. This, he continued, was an issue which “still needs to be addressed”.<sup>85</sup>
158. The Cabinet Secretary expressed sympathy on this issue. He confirmed that the issue was outwith the devolved powers of the Scottish Parliament. However, he undertook to liaise with the UK Ministry of Defence on any issue the Committee felt important in this regard, saying “the MOD should recognise that, as wider society is righting a wrong, the military also has the opportunity to do so.”<sup>86</sup>

## Conclusion and recommendation

159. The Committee wrote to the UK Secretary of State for Defence seeking clarification on a number of points raised in relation to LGBTI ex-personnel dismissed from HM Armed Forces.<sup>87</sup> A response had not received at the time this report was finalised.

160. **We recognise that issues relating to the UK Armed Forces are reserved matters to the UK Government and the Ministry of Defence. However, we urge the Scottish Government to engage with the Ministry of Defence on this issue. We also ask the Scottish Government to be mindful in its awareness raising campaign to signpost, where appropriate, ex-military personnel to the appropriate UK system to seek a pardon or disregard.**

# RECOMMENDATION ON THE GENERAL PRINCIPLES OF THE BILL

161. **The Equalities and Human Rights Committee recommends unanimously that the general principles of the Historical Sexual Offences (Pardons and Disregards) (Scotland) Bill be approved by the Scottish Parliament.**

- 1 LGBTI: Lesbian, Gay, Bisexual, Transgender and Intersex people
- 2 Sexual Orientation in Scotland 2017 - A Summary of the Evidence Base (Scottish Government): <http://www.gov.scot/Publications/2017/01/4911/7>
- 3 The Criminal Justice and Public Order Act 1994, Section 145: [https://www.legislation.gov.uk/ukpga/1994/33/pdfs/ukpga\\_19940033\\_en.pdf](https://www.legislation.gov.uk/ukpga/1994/33/pdfs/ukpga_19940033_en.pdf)
- 4 The Sexual Offences (Amendment) Act 2000 (Commencement No. 2) (Scotland) Order 2000: <https://www.legislation.gov.uk/ssi/2000/452/article/2/made>
- 5 Terms removed from the statute book when Section 52 of the 2009 Act was brought into force by the Sexual Offences (Scotland) Act 2009 (Commencement No. 2) Order 2013: <http://www.legislation.gov.uk/ssi/2013/341/made>
- 6 Equality Network written submission: [http://www.parliament.scot/S5\\_Equal\\_Opps/Inquiries/Submission\\_from\\_Equality\\_Network.pdf](http://www.parliament.scot/S5_Equal_Opps/Inquiries/Submission_from_Equality_Network.pdf)
- 7 Equalities and Human Rights Committee Official Report 1 February 2018, Col 21 <http://www.scottish.parliament.uk/parliamentarybusiness/report.aspx?r=11345&mode=pdf>
- 8 Note on private evidence session: [http://www.parliament.scot/S5\\_Equal\\_Opps/Note\\_of\\_Private\\_Evidnece\\_session\\_on\\_22\\_February\\_2018.pdf](http://www.parliament.scot/S5_Equal_Opps/Note_of_Private_Evidnece_session_on_22_February_2018.pdf)
- 9 Policy Memorandum Para 10
- 10 Scottish Parliament Official Report 7 November 2017 (Cols 7-8): <http://www.parliament.scot/parliamentarybusiness/report.aspx?r=11174&mode=pdf>
- 11 Equalities and Human Rights Committee Official Report 1 Feb 2018, Cols 4-5: <http://www.scottish.parliament.uk/parliamentarybusiness/report.aspx?r=11345&mode=pdf>
- 12 Equalities and Human Rights Committee Official Report 8 Feb 2018, Col 14: <http://www.scottish.parliament.uk/parliamentarybusiness/report.aspx?r=11345&mode=pdf>
- 13 Equalities and Human Rights Committee Official Report 1 March 2018, Col 26: <http://www.scottish.parliament.uk/parliamentarybusiness/report.aspx?r=11394&mode=pdf>
- 14 Policy Memo Par 14: [http://www.parliament.scot/Historical%20Sexual%20Offences%20\(Pardons%20and%20Disregards\)%20\(Scotland\)%20Bill/SPBill21PMS052017.pdf](http://www.parliament.scot/Historical%20Sexual%20Offences%20(Pardons%20and%20Disregards)%20(Scotland)%20Bill/SPBill21PMS052017.pdf)
- 15 Note on private evidence session: [http://www.parliament.scot/S5\\_Equal\\_Opps/Note\\_of\\_Private\\_Evidnece\\_session\\_on\\_22\\_February\\_2018.pdf](http://www.parliament.scot/S5_Equal_Opps/Note_of_Private_Evidnece_session_on_22_February_2018.pdf)
- 16 Submission from Owen P Ferry: [http://www.parliament.scot/S5\\_Equal\\_Opps/Inquiries/Submission\\_from\\_Ferry\\_-\\_Owen\\_P.pdf](http://www.parliament.scot/S5_Equal_Opps/Inquiries/Submission_from_Ferry_-_Owen_P.pdf)
- 17 Equalities and Human Rights Committee Official Report 1 Feb 2018, Col 4 <http://www.scottish.parliament.uk/parliamentarybusiness/report.aspx?r=11345&mode=pdf>

- 18 Equalities and Human Rights Committee Official Report 1 Feb 2018, Col 4  
<http://www.scottish.parliament.uk/parliamentarybusiness/report.aspx?r=11345&mode=pdf>
- 19 Scottish Parliament, Official report, 7 November 2017, Col 8:  
<http://www.parliament.scot/parliamentarybusiness/report.aspx?r=11174&mode=pdf>
- 20 Equalities and Human Rights Committee Official Report 1 March 2018, Col 16:  
<http://www.scottish.parliament.uk/parliamentarybusiness/report.aspx?r=11394&mode=pdf>
- 21 Equalities and Human Rights Committee Official Report 8 Feb 2018, Col 5  
<http://www.parliament.scot/parliamentarybusiness/report.aspx?r=11361&mode=pdf>
- 22 Equalities and Human Rights Committee Official Report, 8 Feb 2018, Col 4:  
<http://www.parliament.scot/parliamentarybusiness/report.aspx?r=11361&mode=pdf>
- 23 Equalities and Human Rights Committee Official Report 8 Feb 2018, Col 17:  
<http://www.parliament.scot/parliamentarybusiness/report.aspx?r=11361&mode=pdf>
- 24 Equalities and Human Rights Committee Official Report 8 Feb 2018, Col 20:  
<http://www.scottish.parliament.uk/parliamentarybusiness/report.aspx?r=11345&mode=pdf>
- 25 Equality Network, Stonewall UK
- 26 Equalities and Human Rights Committee Official Report 8 Feb 2018, Col 16:  
<http://www.scottish.parliament.uk/parliamentarybusiness/report.aspx?r=11345&mode=pdf>
- 27 Note on private evidence session: [http://www.parliament.scot/S5\\_Equal\\_Opps/Note\\_of\\_Private\\_Evidnece\\_session\\_on\\_22\\_February\\_2018.pdf](http://www.parliament.scot/S5_Equal_Opps/Note_of_Private_Evidnece_session_on_22_February_2018.pdf)
- 28 Note on private evidence session: [http://www.parliament.scot/S5\\_Equal\\_Opps/Note\\_of\\_Private\\_Evidnece\\_session\\_on\\_22\\_February\\_2018.pdf](http://www.parliament.scot/S5_Equal_Opps/Note_of_Private_Evidnece_session_on_22_February_2018.pdf)
- 29 Equalities and Human Rights Committee Official Report 1 Feb 2018, Col 4:  
<http://www.scottish.parliament.uk/parliamentarybusiness/report.aspx?r=11345&mode=pdf>
- 30 Disregarding Certain Criminal Convictions Chapter 4 Part 5 Protection of Freedoms Act 2012 Application Form & Guidance Notes for Applicants
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