

The Case for Keeping Section 28

protection from manipulation



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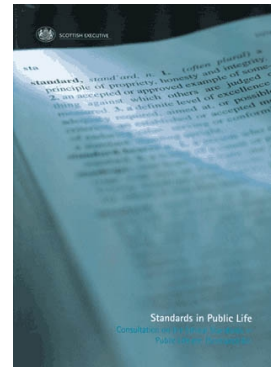
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Chapter 1: The Repeal of Section 28 in Scotland



Introduction

The Scottish Executive want to repeal Section 28, the law which bans local authorities from promoting homosexuality in schools and elsewhere.

The central case made by the Scottish Executive in their Consultation Paper (See Appendix 2) is that the legal ban on promoting homosexuality is unnecessary. Section 28 has no useful purpose, they say, it merely enshrines prejudice against homosexuals.

Wendy Alexander MSP, the Minister for Communities denies that the Executive want to promote homosexuality in schools.¹ She argues, as does the Executive in the consultation paper, that: “The suitability of what is taught is ensured by local and national advice, support and quality assurance.”²

It is this claim which this publication shows is untrue. This chapter considers the arguments put forward by the Scottish Executive.

Chapter 2 shows *there is* a problem of homosexuality being promoted to young people at public expense.

Using the same guidance local authorities and health authorities arrive at completely different conclusions. In parts of Scotland sex education is clearly within a moral framework, the institution of marriage has a central place, and the views of parents are given primacy.

But in other areas sexual activity is presented in a value-free way. Commitment does not matter. The one night stand is equivalent to marriage. Homosexuality is just another kind of sexual relationship. Grampian Health Board argue that homosexuality should be positively presented, but marriage “avoided at all cost!”³

Section 28 has clearly had a very considerable restraining effect. The companion publication *Bankrolling Gay Proselytism* gives clear examples of this.

But Councils have been surreptitiously getting round the law. In the case of some authorities, such as Glasgow, there has been little attempt to hide what is going on.

But the problems are not just in Glasgow as the truly shocking evidence shows.

Many will find the examples in Chapter 2 deeply offensive. Yet all these activities described are being funded by Scottish tax-payers. We believe that in the present debate it is vital that the evidence is presented.

But first some key statistics.

Some key facts:

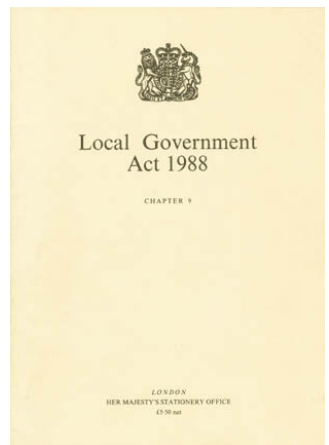
- Only 0.1% of all households are headed by a homosexual couple according to the Government’s General Household Survey (GHS)⁶
- 70% of children live in a married family; 7% in a household where the adults cohabit; 24% in a lone parent household. (GHS)⁴
- Two thirds of all children in lone parent households lost a parent through divorce, separation or death. (GHS)⁵
- Only 0.3% of men in Great Britain are *exclusively* homosexual throughout their lives according to the largest study of its kind ever carried out in the UK.⁷
- But some 1% of Scots men have had a homosexual “partner” *in the past five years*.⁸ The figure for Great Britain is 1.4%.⁹
- Most of those men who have engaged in homosexual activity grow out of it. In the majority of cases those who continue to engage in homosexual activity as adults also have female sexual partners. (Detailed statistics can be found on page 9 of The Christian Institute’s *Bankrolling Gay Proselytism*)
- 70% of Scots men believe that sex between two men is always or mostly wrong.¹⁰

What is Section 28?

“Section 28” is Section 28 of the Local Government Act 1988 which inserted a new Section 2A into the Local Government Act 1986.

This provides that:

- “(1) A local authority shall not:
- (a) intentionally promote homosexuality or publish material with the intention of promoting homosexuality;
 - (b) promote the teaching in any maintained school of the acceptability of homosexuality as a pretended family relationship.
- (2) Nothing in subsection (1) above shall be taken to prohibit the doing of anything for the purpose of treating or preventing the spread of disease.”



Why was Section 28 introduced?

Section 28 was introduced because some local authorities, particularly in London, were spending large sums of public money promoting homosexuality in schools.

In addition some Councils sought to make schools present “homosexual families” as perfectly normal.

What does Section 28 ban?

Local authorities were always the problem, not individual schools, school boards or teachers. Section 28 therefore only applies to local authorities.

It bans local authorities from using public money to promote homosexuality and from presenting homosexual families as acceptable.

As a result, homosexuality cannot be promoted through the sex education policy of the local authority. It is also illegal for a local authority to require teachers to teach that homosexual “parents” (two male homosexuals or two lesbians) are just as acceptable as conventional heterosexual parents.

What does Section 28 allow?

Official guidance issued by the Secretary of State for Scotland in 1988 states:

“Section 28 *does not affect* the activities of teachers. It will *not* prevent the *objective* discussion of homosexuality in the classroom or the counselling of pupils concerned about their sexuality.”¹¹ [Emphasis added]

“Local authorities *will not be prevented* by this section from offering the full range of their services to homosexuals, on the same basis as to all inhabitants of their areas. So long as they are not deliberately setting out to promote homosexuality they may, for example, include in their public libraries books and periodicals about homosexuality or written by homosexuals, and fund theatre and other arts events with homosexual themes”.¹² [Emphasis added]

Section 28 cannot be used to stop local authorities from treating or preventing disease including AIDS. The section states this explicitly and Government guidance further makes clear that local authorities may provide services to homosexuals including “counselling, health care and health education”.¹³

Two legal opinions have been obtained by groups *opposed to* Section 28.

In June 1988 Lord Gifford QC in giving an opinion for the Association of London Authorities (ALA) and the National Council for Civil Liberties (NCCL) argued that
“..it is important to note that teachers retain the right, indeed the duty, to protect the welfare of their pupils. That will clearly involve teachers in protecting pupils from bullying and victimisation from other children who may taunt them because they or their parents are believed to be lesbian or gay.”¹⁴

“Questions of a teacher’s own sexuality may arise, and nothing in the law prevents a teacher from referring to his or her own sexual orientation.”¹⁵

An earlier legal opinion by Michael Barnes QC also for the ALA concurred with Lord Gifford QC. ¹⁶

What has been the effect of Section 28?

It has stopped Scottish Councils (even Glasgow) from promoting homosexuality in schools.

It has not stopped Councils promoting homosexuality *outside* of schools using a legal loophole by claiming to promote health.

It has not stopped Health Authorities from promoting homosexuality and funding materials designed to get young people to accept homosexual practice. *Health Authorities are not bound by Section 28.*

It has not stopped Glasgow City Council breaking the law through funding the gay festival *Glasgay* which is more than just an arts festival and includes homoerotica and a highly politicised gay rights agenda.*

*Legal advice by Andrew Hardie QC (now the Lord Advocate) stopped Edinburgh City Council funding a much more modest event than *Glasgay*. Mr Hardie said Edinburgh’s proposed support of the event would be illegal under Section 28. How much more so would support of *Glasgay* be illegal.

Why does the Scottish Executive want to repeal Section 28?

Three reasons are stated in the consultation paper (See Appendix 2):

Education: “Repeal of Section 2A will allow schools and teachers to develop (and local authorities to support) programmes that deal with homosexuality....”¹⁷

Bullying: “too many professionals currently fear the possible legal consequences of tackling homophobic bullying head on.”¹⁸

Voluntary Groups: “Repeal of Section 2A will ensure that voluntary groups serving the gay and lesbian community are no longer excluded from local authority support.”¹⁹

All these three claims about the legal effects of Section 28 are directly contradicted by Scottish Office Circular 9/1988 (see Appendix 3) and by legal advice to the Association of London Authorities and NCCL.

1. Education

As has been seen the legal advice from the Scottish Office itself and from opponents of Section 28 makes clear that objective discussion of homosexuality can already take place in schools. Nothing prevents *objective* consideration of homosexuality. This is already permitted.

But the Scottish Executive are concerned about teaching “programmes that deal with homosexuality”. It is currently illegal for local authorities to fund homosexual teaching programmes which *promote* homosexuality. These will become legal with the repeal of Section 28.

2. Bullying

The Scottish Executive believes that “one of the most convincing arguments for repeal is the way it could reduce the incidence of homophobic bullying in Scottish schools. A significant feature of bullying in schools is the issue of sexual orientation.”²⁰

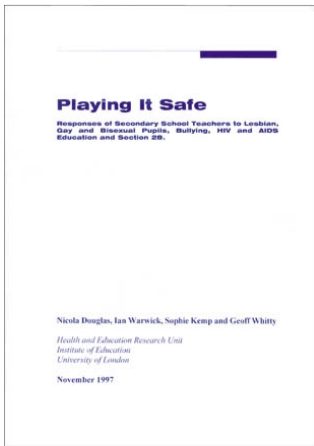
But the legal advice for the Association of London Authorities (who oppose Section 28) states clearly that

“..it is important to note that teachers retain the right, indeed the duty, to protect the welfare of their pupils. That will clearly involve teachers in protecting pupils from bullying and victimisation from other children who may taunt them because they or their parents are believed to be lesbian or gay.”²¹

Stonewall, the English gay rights group, commissioned a report on homophobic bullying from the London Institute of Education. This report concluded

“To date there has been no systematic survey on the experiences of young lesbian, gay men and bisexuals in relation to homophobic bullying.”²²

There is no systematic research. The Scottish Executive has no research. Only anecdotes. There may well be *some* pupils who identify as homosexuals and are bullied. That does not give the Scottish Executive the right to claim that homophobic bullying is “a significant feature” of bullying in schools.



If there is no systematic research, how can the Scottish Executive claim to know anything about “the incidence of homophobic bullying”. In fact the only research claiming an overview (and this is not systematic) has been conducted for Stonewall.

Stonewall’s report claims that 82% of teachers “were aware of homophobic verbal bullying”.²³ But the first page of the report states that homophobic bullying was defined as one pupil abusing another with the words “lesbian, gay, queer or lezzie.”²⁴

Children can be cruel. They use such terms of abuse. They also use many others, such as “spastic”. The Stonewall research merely proves that “lesbian, gay, queer or lezzie” are common terms of abuse amongst children. The targets of the name-calling did not identify themselves as homosexual. As one teacher said quoted in the report:

“queer or lez or whatever is used against a pupil, not because of their sexuality but because the other pupils perceive that as being a form of verbal abuse, so it isn’t necessarily related to the pupils’ sexuality or perceived sexuality, it’s more just a general term.”²⁵

3. Voluntary Groups

The Scottish Executive believes that

“Repeal of Section 2A will ensure that voluntary groups serving the gay and lesbian community are no longer excluded from local authority support.”²⁶

But as this report shows, Councils are already funding Scottish gay rights groups. This is on the basis that Councils provide services to homosexuals, which according to the Scottish Office’s own legal advice eleven years ago, is perfectly legal provided that homosexuality is not promoted.

At the moment the only problem Councils have in funding homosexual voluntary groups is if the activity promotes homosexuality. This presumably is the constraint that the Scottish Executive want lifted.



Key Stage 3 (11-14)

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Two publications which suggest how homosexuality can be pro-



Why is the repeal of Section 28 so worrying?

- Local authorities will be able to promote homosexuality in schools.
- They will be able to impose this on schools.
- The Scottish Executive have clearly stated that they want to allow “schools and teachers to develop (and local authorities to support) programmes that deal with homosexuality...”²⁷
- Since objective discussion of homosexuality is already legal, the only teaching programmes prevented by Section 28 are those which promote homosexuality. Is this what the Scottish Executive wants?
- Unlike parents in England and Wales, Scottish parents have no right to have their children withdrawn from sex education *or to have prior notice* about what will be taught.
- Even if there was such a parental right of withdrawal, homosexuality could be promoted outside of sex education, for example, in English or History lessons.
- In England and Wales, there is a legal framework for sex education apart from Section 28. Sex education must be given “in such a manner as to encourage....pupils to have due regard to moral considerations and the value of family life.” [Section 403 Education Act 1996.]
- There is no such legal framework in Scotland.

All of this means that the Scottish Executive are about to embark on legislation which profoundly undermines the values of most Scottish homes and breaches the rights of parents to have their children educated in accordance with their convictions. (See Appendix 1 - Article 2 of the First Protocol to the European Convention on Human Rights).

Scottish Sex Education

Because of the way in which the curriculum is organised in Scotland, schools have considerable freedom as to how they organise sex education. It could form a part of a health education course, or it could be taught through a range of subjects in a “cross curricular” approach.

Teachers in Scottish Schools are guided in what they teach by the 5 - 14 national curriculum guidelines. These were issued by the Scottish Office over a period from 1991- 1993 in the form of Circulars. They are not statutory. However school inspections will consider whether children are meeting the attainment targets laid down in the guidelines.

Elements of sex education are covered in national guidance for Health Education, but also in Personal and Social Development and Religious and Moral Education.²⁸

England and Wales

Here, sex education is determined by the Governing Body (the equivalent of the school board) and there is a parental right of withdrawal. However national curriculum science covers basic teaching on human reproduction from which there is no right of withdrawal.

Sex Education must have “due regard to moral considerations and the value of family life”.²⁹ There is no such provision in Scotland.

Further problems with the Scottish Executive Proposals

The Scottish Executive say that they want teaching programmes to cover homosexuality. There would be no statutory right of withdrawal from these lessons. Neither would there be any right to be informed as to when the lessons take place.

There is a further difficulty because teaching on homosexuality could be taught in a range of subjects, outside sex education.

Already there have been teaching resources published which advocate that homosexuality be taught in English, Art and History.

How the law must be changed

Section 28 should be retained. The law must be changed so that parents:

- have a right to know what is taught in sex education;
- have a right to be consulted about what is taught;
- have a right to know when it is taught;
- can withdraw their children from any sex education they object to;
- have a right to expect that schools will promote marriage; and
- have a right to expect that any teaching on homosexuality must respect the view of the the majority of the population (and its religious traditions) that homosexual practice is morally wrong.

Teachers who object to a particular programme of sex education must be permitted not to teach it on grounds of conscience.

Chapter 2: Matters of concern

Sex Education: The good, the bad and the ugly

There are very wide variations in the values promoted by the sex education policies of Scottish Councils. Using the same guidance issued by the Scottish Office some local Councils strongly promote marriage, personal responsibility and parental involvement, whilst others marginalise parents and promote the view that all sexual behaviour is morally neutral or equally moral.

Some teaching materials used by local authorities clearly promote the view that sex is for adults, whilst others imply that it is for children and go into tremendous detail about activities of which many adults would be completely unaware. Some local authorities and health authorities are clearly promoting homosexual activity. Some are even funding organisations which celebrate sexual activity in public.

The good

North Ayrshire Council's Sex Education Policy, one of the best in Scotland, clearly outlines a rationale of sex education which combats premature sexual behaviour. Council policy requires that schools give primacy to the views of parents and that they be consulted and given clear information. The Council requires that schools give parents the right to withdraw their children from any aspect of sex education they do not agree with.³⁰



The Council supports child-centred and open approach to sex education provided that it does not become “laissez-faire and value free”.³¹

The policy directives issued by the Council also acknowledge that religious beliefs are central in any approach to sexual education and “care and sensitivity” must be employed.³²

The Western Isles does not introduce human reproduction until Primary 7 and only then is it considered with “associated moral codes”.³³ Personal responsibility is a strong theme running through the guidelines.

Shetland Islands Council has a very general policy which no one would find objectionable.³⁴ The Council’s health education policy says parents should have “the opportunity to identify and express their needs for health education.”³⁵

The bad and the ugly

The *Scottish Borders Council* tell children that value-free sex is healthy sex. *Health Education in Primary Schools* produced by the Council says that: “Healthy sexuality includes a person’s right to enjoy their sexuality free from fear, shame, guilt or coercion”.³⁶



So sex education is to be presented in an amoral way. But this is far from the worst that is to be seen. The examples which follow look at resources, policies and projects funded by Scottish local authorities and health authorities.

Many will find the examples offensive and shocking.

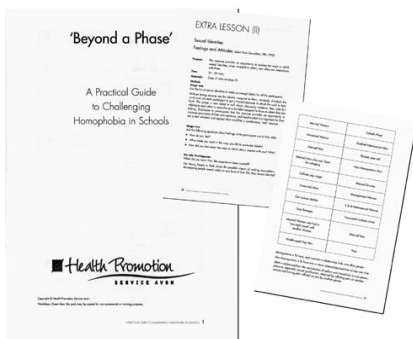
Fife Council and “Beyond a phase”

A video encouraging school children as young as 13 to experiment with same sex partners has been purchased by both Fife Education Authority and by a school in Inverness.³⁷

Produced by Avon Health Promotion Services in England, the video and lesson plans aim to “explore ways in which sexuality can be included in the curriculum.”³⁸

Scenarios in which pupils are required to imagine themselves include:

“Michael is 15 and his boyfriend wants him to have sex. He really wants to but he is nervous. Michael knows he should use a condom but doesn’t know where to go for help. What should he do? Consider: ... What might you do?”³⁹



Other characters they are asked to act out include: “Married man who was ‘done’ for cottaging... S & M heterosexual woman... Transvestite cabaret artist”.⁴⁰ “Cottaging” is slang term for homosexual sex in public lavatories. S & M is short for sado-masochistic. These terms are defined in the teacher’s handbook so that pupils can understand.

It is also suggested in the guide that teachers should ask pupils, “If your sexuality was known about, would you be able to: ... Adopt a child? ... Marry your partner? ... Have sex legally at 16? ... Have the sex you want when you want it? ... Expect positive role models at school?”⁴¹ Amongst the “skills” which the teaching pack seeks to give to children are the ability to “cope with ‘coming out’ and questioning one’s sexuality” and “making positive sexual choices”.⁴²

The video particularly targets “Young people questioning their sexuality”.⁴³ Towards the end of the 15 minute video, intended for children 13 years old and above, one of the young people, ‘Karl’, suggests that children should “try experimenting with other boys and girls and see who you feel most comfortable with.”⁴⁴



Whilst parents and teachers alike have criticised the pack, the Scottish Executive are happy for it to be used, stating “Parents would have to be made aware if Fife intended to use this.”⁴⁵ Of course, there is no legal requirement upon councils or schools to notify parents of the use of such material. However in theory Section 28 should stop Fife actually using this material with children in schools.

Fife Men Project

Scottish tax-payers are funding a homosexual group that gives advice on performing illegal sexual acts. Fife Men Project produces information on looking for gay sex in public⁴⁶ and advises gays on sex in public toilets⁴⁷. The group is funded by the Scottish Office and is responsible to Fife Health Board.⁴⁸

The project runs a web site that uses obscene language.⁴⁹ Among copies of its various publications a booklet written by Solicitor, John Keir, outlines the law on “cottaging and cruising”⁵⁰. A separate document gives advice on what to do if “busted” by the police.⁵¹

The web site states that “The project promotes positive sexual health for men who have sex with men. While acknowledging the aspects of cottaging or cruising that may place men at social and criminal risk, the project also respects the reality of people consenting to sexual activities in public places.”⁵²

Personal Relationships and Developing Sexuality

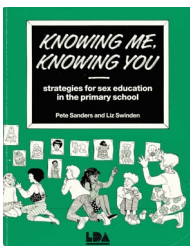
The University of Strathclyde, Department of Education Studies, produced a teacher training guide in 1994 called *Personal Relationships and Developing Sexuality - A staff resource for teachers*. The Department was formerly Jordanhill Teacher Training College.

This in-service course for teachers is directly based on the Scottish Office guidance on health education. It shows what interpretation can be put on the existing guidelines.

Pupils cover a whole range of sexual activities in great detail. It is difficult to see how children who are not sexually active could remain so after receiving this kind of sex education.

It is not until Secondary 3 (13/14 year olds) that the concept of marriage is introduced.⁵³

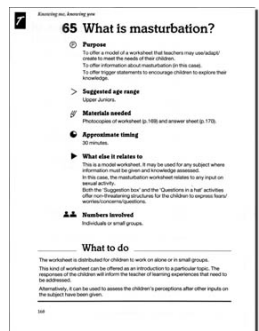
Strathclyde University recommend two “core resource books”, one of which was at the centre of parental concerns back in the late 1980s before Section 28 came into being.



Knowing me, Knowing you

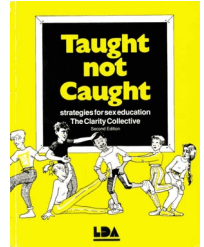
Primary teachers are told that a “core resource” book is *Knowing me, Knowing you*.⁵⁴ This book advises that defining the family is “impossible” because “sometimes a family may consist of a parent who is in a long term relationship with someone of the same sex”. The book argues that homosexuality should be covered in the primary school because of “homophobia”.⁵⁵

Strathclyde University recommend specific lessons from this book including one to fulfil Jordanhill’s attainment target on knowledge and understanding of masturbation.⁵⁶ A half hour “model” lesson on the subject for ten year olds (which can be dealt with in groups or on an individual basis) tells children it is “very exciting indeed” (Lesson 65).⁵⁷



Taught not Caught

The course also says that the book *Taught not Caught* is a “core resource” for secondary pupils.⁵⁸ It is arguable that it was the use of this highly controversial book by London Councils in the late 1980s (along with *Jenny lives with Eric and Martin*) that led to the introduction of Section 28, the law which bans local authorities from promoting homosexuality in schools.⁵⁹



Specific lessons from this book recommended at Secondary 3 by the course include:

- A 1 hour lesson designed to “increase tolerance towards a range of expressions of sexuality”. 16 scenarios are provided (Activity 62).⁶⁰
- A 45-60 minute lesson entitled “What are the options” which considers the advantages and disadvantages of heavy petting compared to full sexual intercourse (Activity 46).⁶¹

A recommended 40-50 minute lesson for Secondary 5 discusses a range of views about homosexuality and lesbianism none of which include the belief that homosexual practice is wrong (Activity 44).⁶²

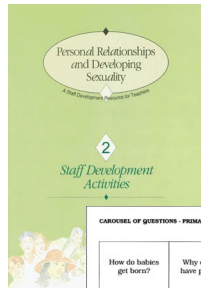
Strathclyde recommends *Taught not Caught* as “imaginative and original.”⁶³ and a “helpful resource” for teaching children about “understanding one’s sexuality”.⁶⁴ (Stage S3/S4, ages 13 to 15)

It also recommends *Taught not Caught* for instructing children about “different family structures... Accepting that every family structure is to be valued”.⁶⁵ (S3/S4)

Taught Not Caught has been republished eight times since its original publication in 1985. The introduction begins with an assertion that:

“A purely heterosexist approach to sex education ignores the fact that by no means all sexual orientations are towards the opposite sex. It is important to recognise that perhaps one person in ten may be homosexual in any group. An increase in understanding of homosexuality among the rest of the group may also be important.”⁶⁶

This emphasis on homosexuality pervades much of the book. One lesson suggestion involves inviting a homosexual person to come in and answer the children’s questions about homosexuality.⁶⁷ Another lesson aims to “encourage public discussion about sexual preference and the myths and taboos surrounding homosexuality.”⁶⁸ Discussion sheets on the subjects of masturbation, lesbianism, male homosexuality and bisexuality, only give statements which affirm the validity of each of those activities. Other discussion pointers include multiple orgasms⁶⁹ and a story in which the class are encouraged to view a mother who tries to prevent her daughter from becoming sexually active as the most irresponsible person in the story.⁷⁰



2
Staff Development Activities

CAROUSEL OF QUESTIONS - PRIMARY		
How do babies get born?	Why do girls have periods?	What is a rent boy?
Does a period hurt?	What is a homosexual?	Why do boys have wet dreams?
What are wet dreams?	What is masturbation?	When women are pregnant, why don't they have periods?
Can I get a sexually transmitted disease?	What is sex?	What is sexual intercourse?
What does safe sex mean?	What is a condom used for?	What is a prostitute?

Teachers

The University of Strathclyde trains teachers to overcome their moral inhibitions when discussing these subjects and warns them that unless they get to grips with sexual language and slang words it may be “an insurmountable barrier when working with young people”.⁷¹

An indication of the sort of lesson content to emerge from the course is given by the way prospective primary teachers are trained to tackle questions such as “What is a rent boy?”, “Why do people buy magazines which have nudes in them?”, “What does f*** mean?” and “What is a lesbian?”⁷².

The course recommends Edinburgh Gay Switchboard & Lesbian line as a good source of information ⁷³(page 38).

Teachers who are particularly interested in gay rights can even take Jordanhill’s MSc degree in “Equality and Discrimination” which focuses on issues such as “homophobia” and has “considerable emphasis on the development of strategies for change”.⁷⁴

Improving sexual technique

Strathclyde University even advocates that teachers should help young people to appreciate different ways of improving their sexual technique and expanding their knowledge of the range of sexual practices they might engage in.

Pupils are taught to appreciate “the various ways of providing sexual and sensual responses and pleasure in a relationship” (S5/S6).⁷⁵

The sex education course gives children a distorted and incomplete view of sex. The course advocates that sexual activity be covered in obsessive detail right from the primary school. Many young people will not previously have even thought about many of the sexual activities suggested.

Look Back - Look Forward				
SUGGESTED STAGE: S5/S6				
THEME: PERSONAL DEVELOPMENT				
KNOWLEDGE AND UNDERSTANDING	SKILLS FOR ACTION	EXPLORING ATTITUDES AND VALUES	ACHIEVING BENEFITS/ RESOURCES	APPLYING SKILLS OF PERSONAL DEVELOPMENT
Think taking behaviour:	<ul style="list-style-type: none"> Investigate why people use computers and explore practical uses. Use social responsibility to think about people. Develop communication skills taking behaviour. Investigate the role of social media. 	Accepting the need to take responsibility for one's actions.	<ul style="list-style-type: none"> The S5/S6 Agony "Think again" "Think your game" Agony - Secondary Issues p.10-15 Challenge 3 - "How to make decisions" 	Make plans drawn by students. Visit Home Truths Theatre Group.
Take sexual pleasure:	<ul style="list-style-type: none"> Investigate a range of sexual and sensual activities and safer sex options. Investigate the role of social media. 	<ul style="list-style-type: none"> Accepting the need to take responsibility for one's actions. Appreciating the various ways of providing sexual and sensual responses and pleasure in a relationship. 	<ul style="list-style-type: none"> Agony (continued) Examples 44, 46, 50, 51, 52, 53 Agony "What is safer sex?" "Safe sex - what does it mean?" Communication for Personal Development - Book Activity - Consent "Yes You Say No, Say Maybe" p.16-17 - Book Activity - Consent Using Sex Naturally Agony, the Secondary Issues p.17 and 111. 	Develop personal contracts on the possibility of relationships. Activities of exploration programme. Develop self-care regulations. Consent - Learning Activity - Consent. Book - Association for National Family Planning - "Safe Sexuality - Book". Family Planning Association Booklets A6, A8, A9, A10.

Those who devised the scheme probably believe balance is achieved because children are told that *they can* say no to sexual activity. But the implication of the whole course is that choosing the sexual behaviour you engage in is simply a matter of personal style. Rather than teaching that sex is for adults, it is implicit throughout that sex is also for children.

At Secondary 3 marriage finally gets a look in. But young people are taught to accept “that every family structure is to be valued”.⁷⁶ Marriage appears to be the only subject so embarrassing that Scottish schools should not really be dealing with it. Sixteen year olds are advised that they might want to ask their parents about marriage.

The impact of the Strathclyde course



Councils specifically recommending the Strathclyde course to teachers in their schools include Midlothian⁷⁷, Falkirk⁷⁸ and the Borders.⁷⁹ Of course this does not mean that these Councils would endorse everything in the Strathclyde sex education course. But the course contains highly controversial elements and an unqualified recommendation can mean that inexperienced teachers use the material uncritically. Some Councils actually endorse the two ‘core resource’ books.

Angus Council currently use the sex education guidelines issued by the former Tayside Council. To “reflect and reinforce Health Education Policy”⁸⁰ the guidelines recommend *Knowing Me, Knowing You* and *Taught Not Caught*.⁸¹ Borders Council also recommend *Knowing Me, Knowing You*.⁸²

Highlands Education Authority’s *Policy for Sex Education* says: “School policies on sex education should be available to all parents.”⁸³ The document also outlines teaching on “the right to decide not to be sexually active” and broad directions on the value of marriage.⁸⁴

Yet Highlands’ document, *Policy on Health Promotion and Education*, recommends *Knowing Me, Knowing You* and *Taught Not Caught*.⁸⁵ The policy states that the resources “have been singled out for mention as they provide a sound basic requirement. All can be borrowed from the Health Promotion Department.”⁸⁶

The specific recommendation by Strathclyde University of both of these two books has undoubtedly led to their wider use in Scotland.

Midlothian

A project led by Midlothian Education Department seeks “to improve the level and relevance of sex education for young people who are lesbian, gay, bisexual.”⁸⁷

To do this the Education Department are working with two gay groups, Stonewall Youth Project and Gay Men’s Health.

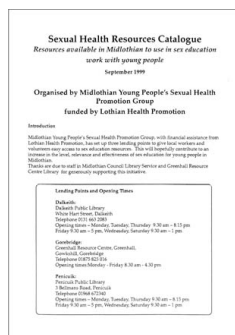
The project is outlined in an action plan produced by Midlothian Young People’s Sexual Health Promotion Group (MYP SHPG). The group “comprises of representatives from a range of agencies and is linked to other relevant planning structures including Midlothian Council Children’s Services Plan.”⁸⁸

The action plan also describes a project “to improve the availability of condoms in local pubs and other relevant venues.”⁸⁹ Lothian Health Promotion, part of Lothian Health Authority, is actively involved in the scheme.

The level of sexual education that MYP SHPG want to make more relevant is revealed in their catalogue of teaching resources. It includes a voyeuristic sex-model, the “Silicone Condom Demonstrator”. It is a “life-like model with ejaculation function which is useful in demonstrating how to, and not how to, use condoms.”⁹⁰ The ‘resource’ includes a syringe and a tub of artificial semen.

The model is stocked at two public libraries in Midlothian. Teachers and youth workers can borrow it from the Sexual Health section of Dalkeith and Penicuik public libraries. The resources are funded by Lothian Health Promotion and are organised by MYP SHPG. In their Resources Catalogue they say: “The stock available is intended to provide a core of useful sex education resources.”⁹¹

Also stocked by the two libraries is a book entitled “Talking about homosexuality in the secondary school”.⁹² This book is a manual for “broaching” gay issues with young people. It deals with ‘coming out’, and both homosexual and homophobic behaviour.”⁹³



PHACE West Group

Gay Men's Project

This is a controversial health promotion group funded by Greater Glasgow Health Board (GGHB) to the tune of £130,000 a year with another £50,000 from Glasgow City Council.⁹⁴

PHACE West's *Gay Men's Project* originally started to distribute condoms in gay venues and gay events such as Pride Scotland. In 1996-97 over 123,000 condoms were distributed free to homosexual men.⁹⁵

Now the policy is to distribute condoms to homosexual men in public parks ("cruising grounds") where homosexual activity is actually carried out. The SNP recently condemned PHACE West's scheme operating in Strathclyde Park owned by North Lanarkshire Council. The party's local group leader, Richard Lyle, said "This council should be doing everything to stamp out homosexual activity in the park, not encourage it."⁹⁶

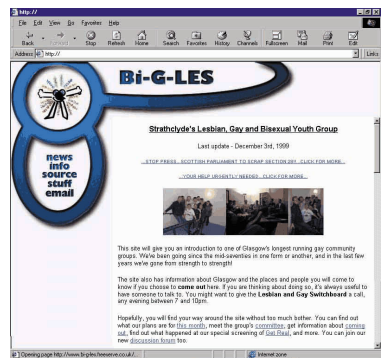
Youth work

Its condom distribution programme is certainly controversial, but the work of PHACE West with young people as young as 12 is even more so.

PHACE West runs a "young gay men's group in Ayrshire & Arran".⁹⁷ Since December 1997, the project has also employed a Glasgow youth worker who runs a youth group called "Bi-G-LES" for a mixed age group ranging from 12 to 25 years old.⁹⁸

The youth worker seeks to "get a safer sex message across". The group also runs a "Befriending" scheme - "a chance for new members or people who are curious about the group to meet up with someone in a place that isn't a gay venue... it is the first point of contact for most of our new members".⁹⁹

The youth worker uses the group's web-site to encourage people to lobby MSPs in favour of repealing Section 28. Although the youth worker post is run by PHACE West, it is funded by "Healthy Gay Scotland" because the GGHB refused to fund it directly.¹⁰⁰ The Scottish Council for Voluntary Organisations received £127,375 from the Scottish Office as a specific grant for Healthy Gay Scotland in 1999, £101,441 in the previous year. The grants in both years covered 100% of the Healthy Gay Scotland Project costs.¹⁰¹



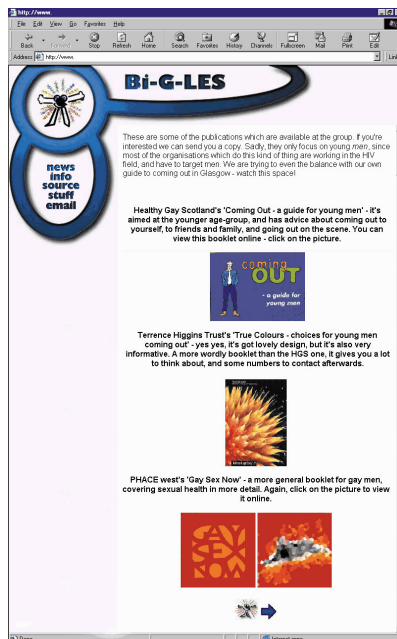
Homosexual Pornography

PHACE West runs the “Bi-G-Les” internet site which describes the activities of the youth group. The website address, together with that of Healthy Gay Scotland, has been omitted from the footnotes in this publication because of the pornographic images that can be accessed through them.

The PHACE West youth worker claims to have developed the website. Under the “useful reading” section, three publications are recommended. All are available at the youth group. They can also be sent out by post on request.

The “Bi-G-Les” website gives direct access to “on-line” versions of the three publications. The first is Healthy Gay Scotland’s “Coming Out” guide, the second a publication by the Terrence Higgins Trust and the third PHACE West’s “Gay Sex Now”.

Viewers of the Bi-G-Les youth group website are encouraged to click a picture of two naked men engaged in a homosexual activity to view the “Gay Sex Now” guide on-line.

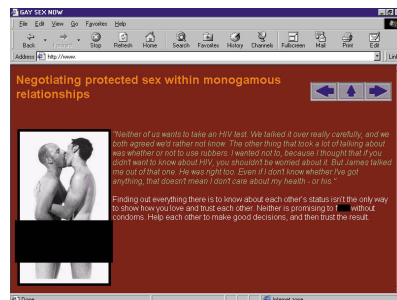


When the “Gay Sex Now” button is selected a menu of homosexual activities are brought up. When various items on the menu are selected pornographic images of two (usually naked) men are brought up. The men are engaged in a range of homosexual activities from anal intercourse to oral sex. Aroused genitalia are clearly visible. “Sexual” activities involving urination and defecation are described in detail.

The section on cruising is mostly taken up with a quotation positively extolling homosexual activity in public: **“Cruising’s a brilliant feeling. It’s the best buzz there is! I start getting butterflies before I even get to the park.”**¹⁰²

The quotation goes on to explain in crude language the different types of homosexual activity that can be performed.

The Accounts for PHACE West Ltd for the year ended 31 March 1997 show a total income of £367,260. Local Authority funding accounts for 14% of this. Health Authority funding accounts for 74% of the total income. In all, at least 88% of PHACE West’s funding comes from the public purse.



For reasons of decency, website pictures and addresses have been obscured

Lothian Health: Gay is “healthy” coming out guide

Lothian Health’s eleven priority health promotion initiatives, part of their HIV/AIDS prevention strategy, include:¹⁰³

- Gay Men’s Task Group Initiative
- Stonewall Youth Project [a Scottish group, not Stonewall based in London]
- Gay Switchboard
- ROAM (“HIV prevention and support for young men who sell sex”)
- Condoms [for distribution, for example, as part of its “Outreach in Public Sex Environments” work.¹⁰⁴]
- West Lothian Gay Men’s Support Worker



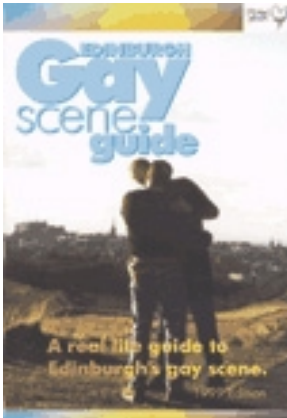
New developments during 1998-99 include “extending the Stonewall Youth Project agenda” and initiatives with a group called “Gay Men’s Health”.¹⁰⁵

In the previous year, Lothian Health made a priority of assisting Stonewall Youth Project in securing additional funding¹⁰⁶ in addition to the £20,000 which they gave.¹⁰⁷

Stonewall Youth Project and Gay Men’s Health were jointly involved in the production of “Coming Out - a guide for young men”. This booklet is illustrated with cartoon drawings and appears to be written for a teenage audience. It begins “Coming out is the term used for the act of telling another person that you are gay or bisexual. Coming out to yourself - accepting that you are gay or bisexual - is all part of this process... Advice from people who have gone through similar experiences can make the whole process of coming out *much easier* for you.”¹⁰⁸ [Emphasis added]

After stating that many people have feelings for someone of the same sex, it advises the reader: “You may have been told that it is unnatural to be gay... It is important that you try to accept that there is *nothing wrong* with you. Your sexuality is a healthy part of you as a whole person. Accepting that you are gay or bisexual can be a positive experience... Being gay or bisexual is nothing to be ashamed of. It is something which you can *feel proud* about and so it’s natural that you will want to share that with others.”¹⁰⁹

The guide also gives advice about sex, including the following: “Some men meet and have sex with other men in public places, such as parks. This is known as cruising. *Be careful* because this isn’t legal and you may risk assault.”¹¹⁰



Gay Men's Health Scene Guide

Statutory accounts for Gay Men's Health Ltd show that, of its £171,330 income for the year ended 31 March 1999, £101,250 of this came from Lothian Health - 59% of the total.

The group spent part of its income producing a booklet called "*Edinburgh Gay Scene Guide*". The publication is a review of bars, pubs, clubs and cafes frequented by homosexuals. For each venue there are marks out of five for the "Totty factor", and comment on the quality of the toilets. The booklet is also published on the internet.

The booklet describes two sex shops in the city. According to the guide, Out of the Blue is a sex shop on Barony Street "cunningly hidden" underneath the Blue Moon restaurant. The store "sells those nifty leather body harness things, butt plugs and c*** rings and...they also have a decent sized stash of porn".¹¹¹

In a section titled "let's go outside", the guide reviews illegal public sex environments which it calls "well known cruising areas". The review says it is "a difficult section to include in a guide, I mean let's face it picking up other men outdoors or indeed having sexual contact with them outdoors can lead to problems, not least of which is possible attention from the police". However, later it says: "The good news is that the police in Edinburgh are very enlightened".¹¹²

Grampian Health Board

Grampian Health Board makes considerable use of *Knowing Me Knowing You* and *Taught not Caught* in its guidelines for schools.¹¹³ Grampian fully embraces the view put forward in these publications that homosexual relationships are just another kind of relationship.¹¹⁴

Under the teaching points for Secondary 1 and 2 teachers have to make the point:

“There are many types of sexual relationships, eg cohabiting, marriage, same sex, heterosexual, celibate.”¹¹⁵

In case the point is not taken it is stated again with a slight variation in secondary 3 and 4:

“There are many different kinds of sexual relationships eg celibacy, one night stands, marriage, cohabiting etc”¹¹⁶

Teachers are advised that “background information to help with discussions around sexual health” include the *Coming Out Guide* referred to above. It suggests that “leaflets could be displayed in the school/community centre toilets to provide a degree of anonymity”.¹¹⁷

In a section entitled “Religion and Culture” the world’s religious faiths are parodied as being anti-women, anti-sex and most definitely against the sort of values which sensible teachers in Grampian should espouse.

Religious faiths are more defined by what they are against than what they are positively for. The entire section on Presbyterians states:

“Presbyterians, unlike Catholics do not have laws laid down from a higher level. A proportion of the church holds the following beliefs but the extent to which they are upheld depends on the individuals and the minister of the Church. They encourage marriage and children with a strong focus on family and there is no restriction on the use of contraception. Divorce is frowned on by around half of the congregation. Re-marrying is allowed by a number of ministers.”¹¹⁸

The entire paragraph on the beliefs of Jews is stated as “Jews most commonly choose the pill. Condoms, caps and IUDs are not strictly permitted, but individuals do use them.”¹¹⁹

Teachers are advised that “working class people are more homophobic than middle class people.”¹²⁰ Useful contacts for teachers include “Moray LesbiGay Switchboard” and “Grampian Lesbian, Gay and Bisexual Switchboard”.¹²¹

Grampian Health Board does suggest it is good practice for parents to be consulted about the content of sex education and to view materials but they warn:

“It is not necessary to obtain parental consent for sex education, as it is part of the 5-14 curriculum. Parents should not be given the option to withdraw their child from classes.”¹²²

Teachers are advised that positive images of homosexuals need to be portrayed such as:

“- Gay men/men expressing intimacy/caring/tenderness - relating to each other not purely in a sexual way.

- Lesbians in sexual relationships.”¹²³

Whilst positive homosexual images are to be promoted the same is not true of marriage:

“Resources which advocate monogamy/marriage as a solution to HIV should be avoided at all cost!”¹²⁴ This aptly summarises the sex education philosophy of Grampian Health Board.



Glasgay!

An example of major public funding of a gay festival is that of Glasgow’s *Glasgay!*

Now a regular event in Glasgow, the 1998 *Glasgay!* was described as “a ten-day lesbian and gay arts festival with over 40 events throughout the city.”¹²⁵

The 1998 festival included live performances such as *The Dyke and The Porn Star*, described as a “sexually explicit drama about a young butch dyke’s obsession with a femme top porn star,”¹²⁶ and *Night Sullied Flesh*, described as “sexually explicit, uncompromising - and not for the faint-hearted.”¹²⁷

Gala Ltd, the company that organises and runs *Glasgay!* festivals received a total of £28,220 of public funds towards the costs of the 1998 festival.¹²⁸

Scottish Arts Council	£5,000
Arts and Culture Committee of Glasgow City Council	£11,000
Equalities Committee of Glasgow City Council	£3,340
Glasgow City Council’s Year of Architecture and Design	£4,000
Scottish Arts Council <i>Awards for All</i>	£4,880
Total	£28,220

The above grants represent over 71% of the total income.¹³⁰

In an internal document on the 1998 Festival it is reported that: “All of the public sector grants received were for the amounts requested.”¹³¹ It is difficult to think of a heterosexual organisation that could boast of such a record.

Only £1,687 (4%) of the income came from ticket sales.¹³² It is conceded in the report that this was “substantially lower” than the £5,084 anticipated.¹³³ A further 16% was raised through sponsorship.¹³⁴

With the substantial public funding shown above, a surplus of £7,975 was left at the end of the festival.¹³⁵

Live **Night Sullied Flesh**
Paisley Arts Centre
at The Arches

Sat 7th Nov 8.30pm

David McLellan's poetry and monologues introduce characters that include the AIDS virus as a sexy Southern belle, Death as a beautiful, blue-eyed cottager, a teenage punkette, fish sellers and faeries. One moment too painful to endure, the next just too funny. Directed by Grant Souter with choreography by Alan Greig, Night Sullied Flesh is sexually explicit, uncompromising - and not for the faint hearted.

£6 / £3

Divine David
at Love Boutique
The Arches

Sat 7th Nov 11.00pm

A multi media "kultar" first devised and performed by Julie Rose and subsequent revision, the Divine David. This special show for Glasgow will be absurd, apocalyptic and extremely award-gate. Aural sculpture by Father Cloth, Nursing Care by Jay Clark.

"music"
"The Divine David may think of himself as mad, but at times like those he's a little short of genius" - TERRY O'NEILL
plus exclusive shows - Jim Peacock
Women, Or Boy

Gala Day
Bathurst Theatre

Sat 8th Oct 12 - 4 pm

Consistently very interesting gay Gala Day. A unique mixture of an anniversary day of fun and history for all the family, comedy, musicals, film, shows, games, prizes, entertainment, and more to wish you much. It's the opportunity to see it all in one place. Tickets available from 10.00. 0141 206 1000

By 1998 *Glasgay!* had established a mailing list. However the fact that it consisted of only 620 individuals and organisations suggest that the market for this event was relatively small.¹³⁷ The attendance figures for some of the events confirm that this is the case.

Live show *Chloe Poems is Kinky* was described in the guide as “a brand new show from the gingham diva who does for poetry what Madonna did for sex.”¹⁴⁰ It attracted only 13 people.¹⁴¹

The maximum attendance at any event was the 800 that attended the free performance *Divine David at Love Boutique*.¹⁴² An average of 111 people attended each of the live performances, with an average of 41 people attending each of the film’s performances.

In the *Glasgay!* 1999 programme Glasgow City Council are once again thanked for their financial support.¹⁴³

Attractions included *Pucker* which was given the following description: “Jewish lesbian drag-queen and humourist, Helena Goldwater explores oral fixation...From childhood funny faces, endless staring in the mirror... to sensual salivation, oral gratification, and letting the mouth do the heart’s dirty work.”¹⁴⁴

A film, *Get Real*, was also shown. After this there was a “Coming Out” discussion where it was expected that “young people, parents, teachers and policy makers will discuss the issue of coming out, the prospect of the age of consent being reduced, Section 28 being abolished, the Scottish Parliament adopting a new Social Inclusion Strategy and the film’s 18 certificate!”¹⁴⁵

Appendix 1: The European Convention on Human Rights

The European Convention has much greater significance in UK law now that it has been incorporated by the Human Rights Act 1998. This Act comes into force in October 2000. In Scotland, however, the Convention has even greater significance since the Scotland Act of 1998 stipulates that no law passed by the Holyrood Parliament is legitimate unless it is compatible with the European Convention on Human Rights.¹⁴⁶

There are several processes by which the Parliament must affirm this compliance. These include a statement from a member of the Executive, a decision from the Presiding Officer and the possibility of a reference to a Judicial Committee.¹⁴⁷ Even after an Act has been passed, a court may strike it down if it believes the law does not, in fact, fulfil our obligations under the Convention.¹⁴⁸

There will certainly be a challenge to the legitimacy of the Ethical Standards in Public Life etc Act if it removes Section 28 without putting in its place proper legal mechanisms to protect the rights of parents. Article 2 of the First Protocol to the Convention gives a right to education and states: “In the exercise of any functions which it assumes in relation to education and to teaching, the State shall respect the right of parents to ensure such education and teaching in conformity with their own religious and philosophical convictions.”

Parents must be properly notified in advance of any lessons which will promote the ‘normality’ of homosexuality and given opportunity to withdraw their children from those lessons. This does not just include sex education but any other lesson where homosexuality is taught. The great majority of parents believe that homosexuality is morally wrong. They will not be receiving an education for their children which conforms with their convictions if homosexuality is promoted in the classroom.

Appendix 2: The Scottish Executive Consultation Paper (Extract)

Consultation



This paper sets out the Executive's proposals on the introduction of a new framework for ethical standards in public life in Scotland and on the repeal of Section 2A of the Local Government Act 1986, which prohibits local authorities from promoting homosexuality, or promoting the teaching in its schools of the acceptability of homosexuality as a pretended family relationship. The paper has three parts – a description of the new framework; a description of the problems that arise as a consequence of Section 2A and what will be achieved by its repeal; and a draft of a Bill and Explanatory Notes which will be laid before the Scottish Parliament.

Comments on the paper should be sent to:

Stephen Wilson
Local Government Division 2a
The Scottish Executive
Area 3-H
Victoria Quay
EDINBURGH EH6 6QQ

Or by e-mail to ethicsbill@scotland.gov.uk

Ministers may wish to publish responses to this paper. Should you wish your comments to be treated in confidence, you should make this clear in your submission. However, all responses may be included in non-attributable summaries of comments received and views expressed.

Further copies of this paper are available by writing or e-mailing to the above address or by telephoning and leaving a message on 0131 244 1477. Please speak clearly, giving your name, address and postcode, the title of the document and the number of copies required.

Comments should reach us by 14 January 2000.

4. Repeal of Section 2A of the Local Government Act 1986



Background

Since May, the Scottish Executive has reaffirmed its commitment to tackling exclusion in all walks of life across Scotland. The lesbian, gay, bi-sexual and transsexual communities are one such group of people in Scotland who are discriminated against and excluded throughout their lives as a result of their sexual orientation. The Programme for Government stated that the Scottish Executive was committed to ensuring that equal opportunity is at the heart of all policy making.

On 29 October 1999 the Minister for Communities announced that the Scottish Cabinet had decided that Section 2A should be repealed. She said that:

"We believe that legislation is unjust, reactionary and has no place in the Scotland of tomorrow. We will give this first Scottish Parliament the opportunity to endorse our stance. We are committed to ending a climate in which homophobia can thrive. Our wish has been to secure repeal at the earliest opportunity and we now have that opportunity. An appropriate provision will be made within the Ethical Standards in Public Life Bill and we expect this legislation to come before the Parliament early next year."

The effect of Section 2A

Section 2A of the Local Government Act 1986 provides that a local authority shall not:

- (a) intentionally promote homosexuality or publish material with the intention of promoting homosexuality;
- (b) promote the teaching in any maintained school of the acceptability of homosexuality as a pretended family relationship.

Section 2A was inserted into the 1986 Act by Section 28 of the Local Government Act 1988, and is more commonly known as section 28 or clause 28.

The Scottish Executive believes that this piece of legislation was, and remains, ill-conceived. Its existence has:

- served to legitimise intolerance and prejudice and, arguably, to raise the level of homophobia;
- acted as an unhelpful constraint on the ability of local authorities to develop best practice in sex education and bullying; and
- constrained the ability of local authorities to provide grants or funds to gay and lesbian groups in the community.

The Bill will provide for the repeal of Section 2A which will remove the existing prohibition on local authorities.

The impact of repeal

The main arguments for repeal are discussed below:

Education

The present system makes a legal distinction between teaching on homosexuality, and teaching about other sensitive topics such as drugs and abortion. In all other cases, the suitability of what is taught is ensured by local and national advice, support and quality assurance. Repeal of Section 2A will allow schools and teachers to develop (and local authorities to support) programmes that deal with homosexuality using the same principles that apply to these topics.

The Scottish Executive believes that to repeal this section of the legislation would be of assistance to schools and teachers in their endeavour to provide rounded and comprehensive health and sex education. Good sex education addresses the whole person, deals with self respect and respect for others and fosters personal responsibility. Schools are well suited to nurture and promote personal and social development and to influence attitudes among pupils, to engender a sense of responsibility for individual behaviour and its implications for others, and to encourage the development of personal values.

The Executive recognises that the repeal of Section 2A will result in predictable claims that teachers might now be able to wield inappropriate influence over impressionable young children. The Executive believes that child protection systems, and quality assurance of what is taught, can deal with any such risks, in the same way as they have to deal with other risks of inappropriate teacher behaviour or teaching. It does not believe that there is a greater potential danger to children in this area than there is in other areas where children need protection from potentially inappropriate behaviour.

Bullying

The Executive believes that one of the most convincing arguments for repeal is the way it could reduce the incidence of homophobic bullying in Scottish schools. A significant feature of bullying in schools is the issue of sexual orientation. The repeal of Section 2A would assist schools and teachers to develop robust strategies against bullying.

The Executive is committed to tackling all bullying in schools: and acknowledges that bullying based on sexuality is a very real problem. Many teachers are determined to tackle bullying through the Scottish Anti-Bullying Network. But too many professionals currently fear the possible legal consequences of tackling homophobic bullying head on. Repeal of Section 2A will enable teachers to effectively tackle the full range bullying – motivated by racist, sexist or homophobic attitudes – in schools.

Voluntary Groups

Repealing this legislation will also provide important benefits to gay and lesbian groups working in the voluntary sector. While the Scottish Executive supports the national infrastructure for the voluntary sector, it is the relationship with local authorities themselves that is crucial for many voluntary organisations.

Repeal of Section 2A will ensure that voluntary groups serving the gay and lesbian community are no longer excluded from local authority support. This will help them, not only in their work in the gay and lesbian community itself but through that work in making a wider contribution to our community life in general.

Appendix 3: Scottish Office Circular 9/1988 (Extract)



Scottish Development Department

New St Andrew's House
Edinburgh EH1 3SZ

Telephone
Direct Dialling 031-244
Switchboard 031-556 8400
GTN 2688
Telex 727301

Circular No 9/1988

Chief Executive
Regional, Islands and District Councils

Your ref

Our ref

Copy to: Clerk to the Central Scotland
Water Development Board
Secretary to the Scottish
Special Housing Association
Chief Executive, New Town
Development Corporations

Date

20 May 1988

Dear Sir

LOCAL GOVERNMENT ACT 1988

1. I am directed by the Secretary of State for Scotland to refer to the Local Government Act 1988 which received Royal Assent on 24 March 1988. This circular provides general guidance on the Act's provisions.

PART 1

Sections 1-16 and Schedule 1 - Competition

2. Part I came into force on Royal Assent. A detailed circular providing guidance on Part I will be issued shortly. In the meantime authorities may wish to note that a defined authority must comply with Section 4 when entering into work contracts on or after 1 April 1989. Where a defined authority has entered into a work contract before 1 April 1989, and Section 4 would have been infringed had it then applied, the parties to the contract cease to have power to carry it out thereafter. Local authorities and other public bodies were notified of Ministers' final decisions on the timetable for competition for functional work in the Department's letters of 4 May. Regulations to implement these decisions will be laid in due course.

3. Other orders, regulations, and specifications will also be made shortly covering the following:

- (a) Exemptions under Section 2(9) relating to fire service vehicle maintenance, residential workers, MSC schemes and the de minimis threshold.
- (b) Minimum and maximum contract periods.
- (c) Financial objectives.

The latter two issues were the subject of a consultation paper circulated on 9 May, with a closing date for responses of 20 June 1988.

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Section 28 - Prohibition on the promotion of homosexuality by local authorities

26. Section 28 adds a new Section 2A to the Local Government Act 1986 to prohibit local authorities from promoting homosexuality. This section will come into force on 24 May 1988.
27. Section 2A(1)(a) prohibits a local authority from intentionally promoting homosexuality, or from publishing material with the intention of promoting homosexuality. The provision will be relevant in cases where a local authority, in exercising one of its statutory functions, proposes to do something for the deliberate purpose of promoting homosexuality. Local authorities will not be prevented by this section from offering the full range of their services to homosexuals, on the same basis as to all inhabitants of their areas. So long as they are not deliberately setting out to promote homosexuality they may, for example, include in their public libraries books and periodicals about homosexuality or written by homosexuals, and fund theatre and other arts events with homosexual themes.
28. Section 2A(1)(b) highlights one particular aspect of promoting homosexuality that has given rise to concern in certain areas. It specifically prohibits a local authority, in exercising its statutory functions, from promoting the teaching in any "maintained" school of the acceptability of homosexuality as a pretended family relationship ("maintained school" is defined as meaning, in Scotland, a public school, nursery school or special school within the meaning of the Education (Scotland) Act 1980). The effect of this will be that an education authority will be prohibited from promoting homosexuality in the expression of its policy on sex education. Sex education will continue to be an element of social and health education in schools. Section 28 does not affect the activities of teachers. It will not prevent the objective discussion of homosexuality in the classroom or the counselling of pupils concerned about their sexuality.
29. Section 2A(2) makes it clear that nothing in Section 2A(1) is to be taken as prohibiting anything done for the purpose of treating or preventing the spread of disease. Thus, any activities in the counselling, health care and health education fields undertaken for the purpose of treating or preventing the spread of disease, including AIDS, will be unaffected. This includes activities concerned exclusively with the needs of homosexuals.
30. Section 2A(3) states that in any proceedings in connection with the application of this Section a court shall draw such inferences as to the intention of the local authority as may reasonably be drawn from the evidence before it. This is a declaratory statement of the fact that a court considering a case against a local authority on the grounds that it has intentionally promoted homosexuality will be required to have regard to all the relevant circumstances of the case, on the basis of the evidence before it.

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