

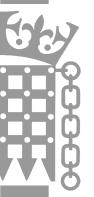


European Union Committee

24th Report of Session 2005-06

Proposed European Institute for Gender Equality

Report with Evidence



HOUSE OF LORDS

European Union Committee

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Proposed European Institute for Gender Equality

Report with Evidence

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⁽Q) refers to a question in the oral evidence (p) refers to a page of written evidence

ABSTRACT

The European Commission want to set up a European Institute for Gender Equality to collect and analyse data, carry out research and promote exchanges of information and good practice about gender issues in the EU. We are not satisfied that a separate body is needed for this. More consideration should be given to the case for incorporating gender equality work in the proposed European Fundamental Rights Agency.

But if a separate Institute is to be set up, the proposed management structure does not look right and adequate funding will be needed. The Government should take a clear and consistent line on the correct legal base for this and similar proposals.

Proposed European Institute for Gender Equality

CHAPTER 1: INTRODUCTION

1. This Report is based on a short Inquiry carried out by Sub-Committee G of the European Union Select Committee, which deals with Social Policy and Consumer Affairs, into a Proposal by the European Commission to establish a European Institute for Gender Equality.

Why are we carrying out this Inquiry?

- 2. We decided to hold this Inquiry because:
 - (a) numerous European institutes have been set up in recent years at different centres across the EU. The performance of these institutes is variable and we wanted to be sure that any Proposal to set up yet another one was soundly-based; and,
 - (b) we wanted to know what, in practical terms, the proposed Institute was supposed to do and whether it was necessary to set up a separate EU-funded Institute to do it.
- 3. We also wanted to draw wider Parliamentary and public attention to the Proposal.

Background

- 4. On 8 March 2005 the European Commission published a Proposal for a Regulation to establish a European Institute for Gender Equality². This was sifted to Sub-Committee G for scrutiny on 5 April 2005 but could not be considered until Parliamentary business resumed after the General Election.
- 5. We gave our initial reactions to the Department of Trade and Industry on 14 June 2005³. After considering letters from the Minister⁴, we decided to invite her to give oral evidence to improve our understanding of the Government's position on the Proposal. We wrote accordingly to the Minister⁵. We also decided to invite the Equal Opportunities Commission to give views on the merits of the Proposal⁶.
- 6. After the Summer Recess, we considered the views of the Equal Opportunities Commission (EOC)⁷ and a further letter from the Minister⁸, to which we duly replied⁹.

¹ Members of the Sub-Committee and their Declared Interests are shown at Appendix 1

² Commission document 7244/05 COM (2005) 81 final

³ pp 24–25

⁴ pp 25-27

⁵ pp 27–29

⁶ pp 33-34

⁷ pp 1–4

⁸ pp 29-30

- 7. We took oral evidence from the EOC on 17 November 2005¹⁰ and from the Government on 24 November 2005¹¹.
- 8. We also took account of further correspondence with the Minister¹² and supplementary written evidence from the EOC dated 1 December 2005¹³. ¹⁴
- 9. Having reviewed the evidence, we decided that the Proposal was very closely related to a parallel proposal by the Commission to set up a European Fundamental Rights Agency, on which Sub-Committee E (Law and Institutions) has decided to carry out an Inquiry. We therefore decided to close our Inquiry and to produce this Report and await the result of that Inquiry.
- 10. We make this Report for the information of the House.

⁹ p 30

¹⁰ pp 4–10

¹¹ pp 16–24

¹² p 31, pp 32–33

¹³ pp 10–12

¹⁴ pp 34–37

CHAPTER 2: THE NEED FOR THE INSTITUTE

- 11. According to the Commission, Community legislation and policies on equal treatment between men and women will increase the demands at Community and Member State level for the collection and analysis of comparable and reliable data, and the development of appropriate methodological tools. Community institutions will need this data and those tools to ensure progress and effective implementation of Community policy¹⁵.
- 12. The Commission also saw the need for more awareness-raising activities and dissemination of information amongst European citizens, not only about achievements in gender equality but also on the obstacles and the challenges ahead.
- 13. In the Commission's view this justified the setting up of the Agency as "a centre of excellence at European level, independent in the performance of its functions and disposing of the necessary expertise to carry out these tasks and serve as a technical support to the Community institutions and the Member States".
- 14. The Commission added that it was a "corollary of the genuine European dimension of these tasks that the objectives of the Institute cannot be achieved by the Member States". Among other reasons, this was because it would have to establish and apply a uniform system for collecting and analysing information to ensure compatibility and comparability of data and a "methodologically-sound comparative scrutiny of the situation in Europe". It argued that this could not be done successfully by individual Member States.
- 15. It also pointed out that, although human rights are dealt with in the United Nations by the Commission for Human Rights, gender equality was dealt with separately by the UN Commission on the Status of Women. Extending the functions of an existing agency, such as the European Foundation for the Improvement of Living and Working Conditions, would require substantial additional expertise and financial resources to prevent gender equality from remaining "a peripheral matter" which would not receive the necessary attention priority.
- 16. For these reasons, the Commission also argued that any financial savings which might result from including gender equality within the scope of the future Fundamental Rights Agency or an existing agency would be outweighed by the disadvantages.
- 17. We asked the Minister¹⁶ whether it was really necessary to set up the Institute or whether the work it was supposed to do could not be done more efficiently and economically by some existing agency. We also asked whether the Department had consulted any British public bodies and NGOs working in the relevant field to see whether they saw the need for the Institute or whether they might be able to carry out the proposed activities as efficiently themselves, if necessary with some additional Commission funding, in collaboration with counterparts in other Member States.

¹⁵ pp 12–15

¹⁶ pp 24-25

- 18. In reply the Minister¹⁷, stressed the importance of gender equality as a key objective of the EU and pointed out that the Institute had been highlighted in the Commission's Social Policy Agenda "as a key tool for assisting the Commission and Member States in implementing the next phase of the Community's objectives for promoting equality between men and women and ensuring that they are incorporated into Community policies".
- 19. The Minister took the view that, through data collection, research and sharing of good practice, the Institute would be able to provide policy makers in the European Commission, the European Parliament and Member States with key information on how best to achieve the Community's objectives and help them to devise policies and take action to meet the targets of the Lisbon Agenda on removing barriers to labour mobility by promoting equal opportunities.
- 20. She added that the Institute was intended to carry out tasks which were not being done by existing institutions such as "questions of coordination; centralisation and dissemination; the raising of gender visibility; and the provision of tools for gender mainstreaming".
- 21. The Minister agreed with us that the Institute should not duplicate work done elsewhere but add value to other activities. She said this had been a key element of the UK negotiating position which was "well-reflected in the general approach reached by Council". She drew attention to references in the text of the draft Regulation requiring the Institute to ensure appropriate coordination with relevant agencies to avoid duplication and guarantee the best possible use of resources. Merging the activities of the Institute with other bodies or agencies would, in the Government's view, run the risk that gender equality would be sidelined. This would be inconsistent with the priority which the Commission and the Treaty currently gave to gender equality.
- 22. The Minister added that the Department had taken informal soundings from other Government Departments and the EOC which led them to conclude that the Institute's activities would add value to the work of other British public bodies and NGOs. It would also compare data with Member States at a European level, which was not necessarily being done at national or even international level.
- 23. Nor did the Minister see a risk of duplication of work done by international bodies such as the UN. She pointed out that the UN's International Research and Training Institute for the Advancement of Women (INSTRAW) did not provide comparative relevant information and had a more international focus, particularly on developing countries. It did not look at how EU Member States were achieving the targets set out in the Lisbon Strategy.
- 24. In response, we¹⁸ accepted that gender equality was a key objective for the EU and a fundamental Treaty principle. We assured the Minister that we shared the Government's commitment to the principles of equal opportunity. We said we would support any sound, practical and cost-effective proposal that would add significant value to the work already being done by the Commission and Member States to improve gender equality and combat

¹⁷ pp 26–27

¹⁸ pp 27-29

- discrimination. But that did not mean that we were prepared, simply because the cause of gender was invoked, to go along with proposals which seemed to be of dubious merit.
- 25. We added that we were still not clear precisely what purposes the data collection, research and sharing good practice, as described in the Minister's letter, was supposed to serve. Nor did we understand why it should be necessary to have a separate Institute to provide European policy makers with information which they could presumably already obtain from existing sources. We described the proposed tasks of the Institute as aspirational but vague, and in some cases positively obscure, and said that we remained unconvinced that the proposed Institute was really necessary.
- 26. The Minister replied¹⁹ that at present no single EU body collected and disseminated for information on gender equality that was easily accessible and drew on good practice in Member States. The statistical data provided by Eurostat was limited, but the Council Working Group considering the Institute Proposal had agreed that the Institute should take account of existing information and not duplicate research done elsewhere, particularly by Eurostat.
- 27. She added that a national body would find it difficult to justify, as well as to undertake, the production of comparable EU-level data, drawing on good practice in all 25 Member States.

The EOC's View

- 28. The EOC told us²⁰ that the Institute could "make a real difference to the lives of women across Europe, breaking through the resistance to and slow pace of change and supporting the work of the European Commission in ensuring proper and adequate implementation of Directives". It could add significant value to gender equality activities in the EU because of the continuing need to take specific actions to tackle discrimination on the basis of sex and to promote gender mainstreaming. A separate Gender Institute would also ensure that gender equality would remain high on the European political agenda and that the relevant up-to-date information was available.
- 29. On the other hand, the EOC saw advantages in integrated holistic approaches to tackling discrimination. Although there were important differences between equality issues, it would be a mistake to underestimate the similarities in ways in which equality and discrimination could be tackled. The EOC therefore supported the concept of one integrated European body covering all equality strands.
- 30. The EOC had welcomed the transformation of the existing European Monitoring Centre on Racism and Xenophobia into a new Fundamental Rights Agency but was concerned that this coincided with parallel plans to set up the Gender Institute. In the EOC's experience, it was vital to disassociate gender from the rest of the equality strands. The EOC would prefer one integrated European body covering all equality strands, including gender, to two separate bodies, one covering gender and one covering all other aspects of equality. It suggested that the Council might not have given

¹⁹ pp 29–30

²⁰ pp 1-4

- sufficient thought to the consequences of setting up two similar European bodies at the same time.
- 31. As an alternative, European institutions such as Eurostat and the European Foundation for the Improvement of Living and Working Conditions could enhance the research and collection of comparable data on gender equality and sex discrimination if provided with extra funding.
- 32. We asked the EOC to expand on the virtues of bringing all equality and discrimination issues together, rather than having a separate gender institute. We were told that, although the EOC would prefer an integrated body, "the political situation at the moment" was such that it did not look as though it would be possible to have one integrated body. The European Parliament and the Council had developed separate proposals for the Fundamental Rights Agency and the Gender Institute. If that was unavoidable, the two institutes should work closely together avoiding duplication and developing common positions (Q 6).
- 33. Asked about views of sister bodies in Europe, the EOC was not sure but thought that those bodies which were already working in an integrated way saw the benefits of working together. On the other hand, some perhaps felt that gender might be losing out. That was why the European Women's Lobby, for example, advocated a clear, visible gender-specific approach. The EOC advocated gender-specific actions where necessary but also a more integrated approach. Without an integrated approach some groups, such as black and ethnic minority women or disabled women, could lose out. Support for a twin-track approach, combining gender-specific actions with a more integrated, more mainstream approach, was gaining ground at a European level (QQ 11–12).
- 34. The EOC subsequently reported that so far 11 EU Member States ²¹(and Northern Ireland) had already either integrated equality bodies or very strong coordination²². The UK and four other Member States²³ were considering having integrated bodies. The remaining Member States had "single ground" (separate) bodies.
- On the tasks that needed to be done, the EOC told us that the priority should be to collect, analyse and disseminate comparable data while ensuring more coordination and cooperation on the different fields of discrimination in Europe (Q 1). At the moment, it was difficult to find comparable European data and exchange good practice. Information was scattered across Europe and it was very difficult for national Governments, the European Commission or organisations like the EOC to collect up-to-date data, learn from other experiences and see trends across Europe (QQ 2-3).
- 36. Although the EOC thought that the data produced by Eurostat was very valuable, it was sometimes out-of-date and it was not always easy for researchers to access the different gender elements in the relevant data. Eurostat did not always analyse the data it collected, or give it critical thinking, from a gender perspective (QQ 4–5).

Austria, Cyprus, Estonia, France, Hungary, Ireland, Lithuania, the Netherlands, Poland, Slovakia, Czech Republic, plus Northern Ireland

²² pp 10-12

²³ Sweden, Slovenia, Luxembourg and Malta

- 37. As the EOC saw it, the Institute would also organise conferences and set up networks of experts. It could help to bring together all the equality bodies across Europe once or twice a year to exchange information about important issues such as work/life balance, pensions or demographic change. Ideally, one centre of expertise should bring together all the relevant information and expertise that was scattered across Europe and provide systematic information and guidelines to equality bodies, governments and the European Commission (Q 7).
- 38. We asked why other European institutions could not carry out these tasks, perhaps with additional resources and some changes in focus. The EOC felt that the main reason for deciding to set up a separate gender institute was probably visibility. There was a feeling that gender had slipped from the agenda and that more emphasis should be given to gender equality in other policy discussions being carried out in Europe. Although the work could probably be done by other organisations, visibility was one of the reasons why they should not do so (Q 18).

Government Reactions

- 39. We asked the Government to comment on the EOC's views. The Minister told us that she had a great deal of sympathy with the suggestion that the Gender Institute Proposal should be put on hold until more progress was made in considering the European Fundamental Rights Agency Proposal. She had been very keen to look at the Fundamental Rights Agency option at the beginning. But EU competence was not the same across all the strands of equality issues. Having a focus on gender equality would help Member States to develop greater equality across the EU (Q 33).
- 40. The Minister admitted that it was Government policy to develop a single Commission in the UK for all equality and human rights issues. Legislation to that effect was being considered by Parliament. But having a separate Institute did not mean it could not work with other areas and look at the interplay between issues of discrimination that might, for example, affect both women and perhaps a particular ethnic minority (Q 33).
- 41. She added that she was insisting that the Institute should be mandated to work very closely with other relevant agencies. That was already reflected in the Commission's draft Proposal, which made clear that the Institute should ensure appropriate coordination with all relevant agencies in order to avoid any duplication and guarantee the best possible use of resources. A member of the Fundamental Rights Agency should be invited to the Management Board meetings of the Institute when both bodies were set up. The Government would want to ensure two-way cooperation between the two bodies (Q 33).
- 42. In moving to a Commission of Equality in Human Rights in this country, the Minister said she was having to ensure that focus on the separate activities of the Equal Opportunities Commission, the Commission for Racial Equality and Disability Rights Commission was not lost. She saw parallels with the Gender Institute Proposal. Having a separate Gender Institute would ensure that focus on gender equality issues would not be lost in the work of the Fundamental Rights Agency. The Institute would give real focus to gender equality and raise its profile, giving a very important signal that gender should be "mainstreamed" into all EU policies (Q 34).

- 43. The Minister reassured us that the Institute was not intended to be a policy-making body: it would bring together information about different approaches to gender issues which could very usefully be shared across Europe. This was particularly important in dealing with the consequences of EU enlargement. Sharing good practice and looking at the way in which different societies approached gender issues could be very important. Although the Institute would not make policy, it would enable those who did to have greater access to how work had been done and funds deployed in trying to achieve gender equality (QQ 35–36).
- 44. On balance, we accept that there may be a need to collate and interpret existing data, commission new studies and promote exchanges of information and good practice about gender issues in the EU. We accept that such activity may sometimes require a specifically European focus which UN and other international bodies could not be expected to give. But we are still not convinced that it is necessary to set up a separate European Institute to do such work or that the Commission could not be expected to find other, and possibly more cost-effective, ways of carrying out that work.
- 45. On the other hand, we do see potential advantage in incorporating the work which the Institute is supposed to do in the proposed European Fundamental Rights Agency. As we see it, this would be consistent with policy being adopted by the Government to consolidate the work of the EOC with that of the Commission for Racial Equality and the Disability Rights Commission in a new single Commission of Equality and Human Rights. In principle, we believe that this would give greater coherence and balance in dealing with these issues and we would like more consideration to be given to the advantages and disadvantages of such an approach before final decisions are taken on the Gender Institute Proposal.
- 46. We conclude that the case for a separate European Institute for Gender Equality has not been demonstrated and we recommend that further consideration should be given to the alternative of incorporating the gender equality work envisaged for the Institute in the activities of the proposed European Fundamental Rights Agency on which a Report will shortly be made.

CHAPTER 3: ADMINISTRATIVE QUESTIONS

Governance

- 47. The Commission's original Proposal²⁴ was to have a 15-member Management Board. This would comprise six representatives appointed by the Council, six by the Commission and three others, also appointed by the Commission. The latter would represent respectively appropriate NGOs, employers' organisations and workers organisations at Community level. But they would not have the right to vote.
- 48. Curiously, the Commission also proposed that this 15-member Board should have "an equal representation between men and women".
- 49. The Board members should be "appointed in such a way as to secure the highest standards of competence and a broad range of relevant expertise in the area of gender equality". They would have a five year term of office, which could be renewed once. The Board would elect its Chairperson and Vice-Chairperson to serve for a renewable period of one year.
- 50. The Commission proposed that the Board would take the necessary decisions for the operation of the Institute. This would include approving and reviewing work programmes, in consultation with the Commission, as well as adopting the annual report and budgetary proposals and overseeing disciplinary authority and internal rules. It would submit an annual report to the Council, the Commission and the European Parliament, as well as to the Court of Auditors.
- 51. The Board would also appoint the Director who would be responsible to the Board for running the Institute and accountable to the Board for the Institute's activities. It would meet at least twice a year.
- 52. The Commission also proposed that an Advisory Forum should be set up comprising members from competent bodies specialising in gender equality matters, on the basis of one representative designated by each Member State as well as three members without the right to vote nominated by the Commission and representing interested parties at European level such as relevant NGOs or representatives of employers and workers organisations.
- 53. The Advisory Forum should meet at least twice a year, chaired by the Director of the Institute. It would advise and support the Director and promote the exchange of information and pooling of knowledge on gender equality issues and ensure close cooperation between the Institute and relevant bodies in Member States.
- 54. Initially the Commission Proposal envisaged²⁵ that the Institute would have a staff of 15 people rising to a total of 30 by the sixth year of operation.
- 55. The Minister subsequently told us²⁶ that the proposed composition of the Management Board had been changed. After much discussion during negotiations, Member States had adopted a Presidency Proposal that the Management Board should comprise one representative for each Member

²⁴ pp 12–15

²⁵ Commission Staff Working Document 7244/05 SEC (2005) 328 dated 11 March 2005

²⁶ pp 25-26

- State "alongside a smaller bureau to take day-to-day decisions". But the Commission had issued a Minute Statement registering its preference for the original Proposal for a smaller Management Board.
- 56. We replied²⁷ regretting that the Government had apparently gone along with the Proposal to increase the membership of the Management Board from 15, as proposed by the Commission, to 25. We said this seemed to be potentially unwieldy, as well as needlessly costly. We also asked how the Board could have "an equal representation between men and women" as proposed by the Commission.
- 57. The Minister replied²⁸ that the Government supported having a Management Board of 25 in order to ensure that Member States had influence over the priorities of the Institute's work programme. Member States had been reluctant to move away from the precedent set by other agency structures and felt that the sharing of good practice would be more effective if all Member States were represented on the Board. But the Proposal for equal representation between men and women had been dropped in favour of "balanced representation".
- 58. She added that, because of the increase in the number of members of the Board and the Proposal to set up a smaller Executive Bureau, the Proposal for a separate Advisory Forum had been dropped. The Government believed that this would reduce overall bureaucracy.
- 59. We asked the EOC whether the larger Board would provide good governance and how the EOC would work with it. The EOC told us (Q 22) that it would not be wise to extend the size of the Board. A feasibility study had clearly recommended a smaller Board. To have 15–30 people working for the Institute overseen by a Management Body of 25 was not workable.
- 60. The EOC suggested that the views of stakeholders should be included through annual meetings or advisory boards. Following EU enlargement, it was no longer practicable to have every Member State represented on every single Board of every single EU body. The EOC supported the plan to set up an Advisory Forum, in which equal opportunities bodies, including the EOC could play a part (QQ 22–23).
- 61. The Minister told us (Q 52) that the actual details of how the Board would work had not yet been finalised. All Member States wanted to be involved in the management of the Institute. Because Member States had made different progress in the field of equality and had different perspectives to share, it was felt important to allow everyone to be present at Board level. This followed the precedent set for other EU agencies.
- 62. But we were told that the decision to increase the size of the Board had been a compromise as a result of negotiations rather than consultation. It was now proposed that the Board should take a strategic approach, while the Executive Bureau would have more regular contact with the Director and monitor the budget more closely (QQ 53–54). The Director would be "hands on day-to-day", with the Executive Bureau "meeting quarterly or something like that". The Management Board would set the overall direction whilst "micro-adjustments" would have to be carried out by the Director in consultation with the Executive Bureau which would have "some

²⁷ pp 27-29

²⁸ pp 29-30

- responsibility for the success or failure of the organisation". The Director would "feel accountable for the delivery of the agreed results within the agreed resource envelope" (Q 55).
- 63. The Minister said it would be up to Member States to appoint appropriate persons to the Management Board and decide whether that nominee should be a representative of Government or an equality body. The Government had not yet decided which would be more appropriate. Nevertheless, it should be possible for organisations like the EOC to be invited to attend adhoc meeting of experts which the Institute "might have" to support research work and encourage the exchange of information. The aim was to have a process which enabled countries to feel that they were fully represented and that a proper management structure was in place to make sure that the Institute did what it was supposed to do and accounted properly for its funds. But at the same time all relevant bodies should be kept involved and feel that they had a contribution to make (Q 62).
- 64. We are not satisfied that the management structure proposed is right. We think it is potentially unwieldy and inefficient to have a 25-member Management Board overseeing the work of the Institute which would have initially only 15 staff, rising to a maximum of 30. We regret that the Government apparently felt obliged to go along with this arrangement on grounds of precedent.
- 65. Nor are we satisfied with the plan to interpose a smaller Executive Bureau, whose membership, responsibilities and modus operandi seem yet to be properly defined. We see a risk that, by tasking the Bureau to take what are described as "day-to-day decisions", the authority of the Director of the Institute would be undermined and initiatives suppressed.
- 66. We also regret that the proposal to have an Advisory Forum, through which national equality organisations and NGOs could contribute in a regular structured way to the planning of the work of the Institute, has apparently been dropped. This decision seems to have been taken as a result of a Council compromise, without adequately consulting the organisations concerned. Those organisations now appear to run the risk of being sidelined and the Institute deprived of their advice.
- 67. If the Gender Institute is to be set up, we recommend that the proposed management structure should be given further consideration. We believe it is essential to develop an efficient, cost-effective structure that is proportionate to the size of the Institute. We also recommend that the Government should question the practice of automatically awarding seats on the Boards of such institutions to every Member State.
- 68. We recommend that these arrangements should ensure that the Director of the Institute has adequate authority, within the limits of proper accountability, and that proper structured arrangements should be made to ensure that the advice of appropriate equality organisations and NGOs within Member States will contribute to the planning and activities of the Institute.

Budget

- 69. The Commission Proposal²⁹ indicated a total budget for the Institute of €52.5 million for the period 2007–2013. This would take account of "budgetary and human resources of existing agencies which perform the similar tasks, in particular the European Monitoring Centre on Racism and Xenophobia".
- 70. The Government told us³⁰ that the budget was compatible with the Commission's proposals for the new Financial Perspective, as outlined in the PROGRESS programme³¹ which was under review. But they pointed out that this would be subject to the UK's overall position that all EU activities should be funded by an overall budget stabilised at 1% of EU Gross National Income. The level of funding available for the Institute would need to be consistent with this. The Government subsequently reiterated that the budget would not be discussed until the EU Financial Perspective 2007–2013 had been agreed³².
- 71. We noted that the Department's Explanatory Memorandum³³ pointed out that the UK supported the view of the June 2004 Employment, Social Policy, Health and Consumer Affairs Council that the Institute should be "budget neutral". We observed that the Commission had not shown thus far what savings it proposed to make to compensate for the additional costs of setting up and running the agency³⁴. We were told that the cost estimates could not be discussed by the Council Working Group until the Financial Perspective of the overall EU budget had been agreed³⁵.
- 72. The EOC regretted the proposal that the Institute should be "budget neutral" and expressed concern that the PROGRESS programme would not be sufficiently funded to allow an adequate allocation for the Institute³⁶.
- 73. While the EOC was not in a position to say what a reasonable budget should be, we were told that an adequate investment in gender equality was essential. Simply taking the funds out of overall PROGRESS programme was "just creative financial manoeuvring". The Council ought to say "we are going to invest in gender equality, so we will need to pay a bit more" (Q 19).
- 74. The Minister told us (Q 42) that the term "budget neutral" meant that the money for the Institute had to come from some other source. No additional funds would be available. Some of the money which would otherwise be going into programmes would be used "to gain the learning from the actual Proposal". This did not mean that existing projects would be cut in order to fund the Institute. But choices would have to be made within the overall budget between funds available for the Institute and other future projects, which would have to be agreed by the Council of Europe and Parliament on an annual basis (QQ 43–47). She accepted that this meant that Institute's budget would be an opportunity cost on other activities within the overall

²⁹ 7244/05 COM (2005) 81 final and SEC (2005) 328

³⁰ pp 12–15

^{31 12143/05} COM (2005) 399 final

³² pp 25-26

³³ pp 12–15

³⁴ pp 24–25

³⁵ pp 26–27

³⁶ pp 1–4

- programme (Q 48). But the whole question of the budget would have to be discussed in more detail under the Austrian Presidency (QQ 64–69).
- 75. The Minister subsequently provided a breakdown of the proposed costs showing that the annual budget for 2007 was envisaged to be about €4.5 million rising to €8.5 million by 2013 once the Institute had reached its full complement of 30 staff. But these figures could change "according to the final shape and function of the Institute and the Financial Perspective as concluded"³⁷.
- 76. We cannot comment on the adequacy of the budget proposed by the Commission for the Institute. Nor do we know what effect a budget of that size might have as an opportunity cost on other activities within the overall PROGRESS programme. We would want any allocation to be scrutinised rigorously and welcome the Government's repeated assurances³⁸ that they would insist that the Institute gave good value for money and that its activities would be effectively monitored.
- 77. Nevertheless, we do see a risk that if the Institute is to be set up and not adequately funded it would be unable to carry out its tasks properly and that it would be unable to exert sufficient authority and influence. Any reduction in the overall PROGRESS programme budget would increase that risk.
- 78. We recommend that, if the Institute is to be set up, it should have an adequate budget to carry out its tasks properly.

³⁷ pp 32–33

³⁸ QQ 58-61, pp 12-15, pp 26-27 and pp 29-30

CHAPTER 4: THE LEGAL BASE

- 79. The legal base proposed for the Institute is Articles 13(2) and 141(3) of the EC Treaty. Article 13(1) allows the Council of Ministers to take appropriate action to combat, among other things, sex discrimination. For measures adopted under Article 13(1), unanimity is required. However, Article 13(2) provides a derogation from the requirement for unanimity: where the Council adopts "incentive measures" to support action by Member States which contributes to the objectives referred to in Article 13(1), qualified majority voting applies. Article 141(3) provides that the Council shall adopt measures to ensure the application of the principle of equal opportunities and equal treatment of men and women in employment matters. These measures shall be adopted by qualified majority voting.
- 80. The Government's position is that the legal base proposed by the Commission is inappropriate. They consider that Article 13(1) is to be preferred to the combination of Article 13(2) and 141(3). However, they acknowledge that a "substantial pay element" in the proposal brought Article 141(3) into play. Because Article 13(1) requires unanimity voting and Article 141(3) requires qualified majority voting, these two articles cannot together form a legal base for the proposal. This is because the legal bases are considered to be "incompatible", (i.e.: each requires a different voting procedure).
- In case C-178/03 Commission v Parliament and Council, 40 the European Court of Justice confirmed that the choice of legal base must be based on objective factors which are amenable to judicial review, including in particular the aim and content of the measures. Where the measure pursues a twofold purpose and one of those is identifiable as the predominant purpose whereas the other is merely incidental, the act must be based on a single legal basis, namely that required by the predominant purpose. However, where the proposal pursues a number of objectives that are indissociably linked, it should be founded on both legal bases. In Case C-178/03, the Court held that there was no incompatibility of legal bases because both prescribed qualified majority voting. Although there were different procedural requirements under each article, Parliament's rights were not undermined because the proposal would be adopted under the co-decision procedure as provided for by one of the two legal bases. The Court gave no guidance as to how Member States should proceed where the proposal has dual purpose, neither of which is incidental, but the legal bases prescribed different voting procedures.
- 82. Given that under Article 13(2), qualified majority voting is required, this article may be combined with Article 141(3) without giving rise to the difficulties created by the use of Article 13(1). For Article 13(2) to be appropriate, the creation of the Institute would have to be "an incentive measure" to support action by the Member States to combat sex discrimination. What is meant by "incentive measure" is unclear. The Government, however, took the view that in the present case Article 13(2), rather than Article 13(1), is an acceptable legal base for the Institute.⁴¹ They

³⁹ p 31

⁴⁰ Judgment of 10 January 2006 (See Case no C-178/03 Commission v Parliament and Council)

⁴¹ pp 29-30

- intended to lodge a Minute Statement setting out their position on the legal base.
- 83. The proposed legal base raises a number of concerns. The first, mentioned above, is whether or not the creation of an Institute of this nature can constitute an "incentive measure", as understood by Article 13(2) of the EC Treaty. The second is whether it is technically correct to refer to Article 13(2) without reference also to Article 13(1). A third question relates to the approach of the Member States to the question of legal base and the need for consistency. These concerns are dealt with more fully in the following paragraphs.
- 84. In seeking an explanation of how the Proposal could be seen as an "incentive measure", we asked whether any other agency had been created on the basis of Community powers to adopt "incentive measures". In this respect, we referred to the position taken by the Government on the proposal for the creation of a European Monitoring Centre for Drugs and Drug Addiction. In that case, the Government stated that "the establishment of a body does not constitute an incentive measure".
- 85. The Government explained that a number of Member States took the view that the role of the Institute would be to support action taken by the Member States in order to contribute to the aim of combating discrimination. The Institute's tasks would include collecting, analysing and disseminating information, developing methods for improving the comparability of data and organising conferences and meetings with stakeholders to exchange information and good practice. These could constitute measures designed to encourage and facilitate and (in a broad sense) provide incentives for Member State action in the field of gender equality.
- 86. The Government referred to a previous matter in which an "incentive measure" legal base (in this case, Article 152(4) on public health) was used to adopt Regulation 851/2004 establishing the European Centre for Disease Prevention and Control. In that case, the Government objected to the legal base and produced a joint Minute Statement with Germany⁴³.
- 87. In our view, doubts remain whether the creation of an Institute can properly be based on an article permitting the adoption of "incentive measures" to support action taken by Member States to combat discrimination. However, in the absence of any guidance in the Treaty or from the Court as to how the term ought to be construed, it is difficult to reach any conclusive opinion on this matter.
- 88. We recommend that the Government, together with the Member States and the Commission, should develop an understanding of what "incentive measures" means and what kind of proposals should be adopted on the basis of an "incentive measures" legal base. Given the current divide in opinion within the Council, is seems likely that this will not be an easy task.
- 89. As explained above, Article 13(1) allows for measures to be adopted to combat sex discrimination. Article 13(2) is phrased as follows: "By way of

⁴² See Department of Health EM 12143/05 COM (2005) 399 final and letter dated 4 November 2005 from Lord Grenfell to Minister of State, Department of Health (See Correspondence with Ministers, March– December 2005 due to be published April 2006)

⁴³ HL Paper 140, 25th Report, Session 2003–04, pp 150–152

- derogation from paragraph 1, when the Council adopts Community incentive measures ... to support action taken by the Member States in order to contribute to the achievement of the objectives referred to in [Article 13(1)], it shall act in accordance with the procedure referred to in Article 251." The procedure in Article 251 is the co-decision procedure requiring qualified majority voting.
- 90. On examining Article 13, we were concerned that the reference to Article 13(2), without including reference also to Article 13(1), might be technically incorrect. We suggested to the Government that Article 13(1) was the enabling provision allowing appropriate action to combat sex discrimination. Article 13(2) merely provided that where this appropriate action took the form of incentive measures, the voting should be by qualified majority instead of unanimity.
- 91. The Government did not agree with this reading of Article 13. Although they agreed that Article 13(2) was "in some respects parasitic" on Article 13(1), they concluded that there was a clear intention in the EC Treaty that Article 13(2) should be available as a separate and stand-alone legal base. This, they argued, was evidenced by the fact that it was subject to a different decision-making and voting procedure. The Government also referred to Articles 94 and 95(1) where, they claimed, a similar relationship exists. Article 95 was used widely, without reference to Article 94(1), as the legal base for internal market proposals.
- 92. Interpretation of the EC Treaty is not straightforward and is ultimately a matter for the European Court of Justice. Although we accept that the Government's position is not without foundation, we remain concerned that it is technically incorrect to rely on Article 13(2) as a legal base without referring to Article 13(1).
- 93. This view is supported by the fact that Article 13(2) in its terms is a derogation only from the voting requirements in Article 13(1); in the absence of Article 13(2), incentive measures would have to be adopted by unanimity voting. The Government drew a comparison with Articles 94 and 95(1). However the drafting of Article 95(1), though expressed to be a derogation to Article 94, creates a separate power, as we believe the legislative history (the Single European Act) will confirm. It provides that "The Council shall ... adopt measures for the approximation of the provisions laid down by law ... in Member States ...". There is no similar provision in Article 13(2).
- 94. It remains unclear why Member States would not support a legal base of Articles 13 and 141(3) for this proposal. In substance, this legal base is no different from a legal base of Article 13(2) and Article 141(3). The same procedure and voting rule would be prescribed. On a technical level, however, it gets round our concerns as to whether there is any power in Article 13(2) to adopt measures. Although we put this question to the Minister during correspondence,⁴⁴ she did not explain why the Member States have chosen not to take this route. In our opinion, this would create a technically sound legal base for the proposal while retaining qualified majority voting in the Council and avoiding the problem of incompatible legal bases.

- 95. In recent months, we have scrutinised several proposals which seek to create agencies or bodies at a European level. The proposed legal base is often controversial, and in some cases the approach taken by the Government appears to be inconsistent. One example is the case of the European Monitoring Centre for Drugs and Drug Addiction discussed above. In response to our question on this apparent divergence of views, the Minister replied that she did not consider that there was "any significant difference between the two Departments in the legal approach to identifying the most appropriate legal base". It appears that the Government, while objecting outright to the use of a particular legal base, will nonetheless support the proposal on its merits and deal with its objections by the lodging of an appropriate Minute Statement.
- 96. As we have previously noted,⁴⁵ it is regrettable that proposals are being adopted on legal bases which seem to the Government to be inappropriate. While we consider that the Government's willingness to compromise is laudable where it considers that there is a compelling need for the proposal to be adopted, we see a danger that this approach may undermine the limits of the Community's competence as set out the EC Treaty.
- 97. We also note the pending judgment in Case C-217/04 *United Kingdom v Parliament and Council* regarding the establishment of the European Network and Information Security Agency. We hope that this judgment will add clarity to the criteria governing the selection of a legal base for the creation of an agency.
- 98. The issue of legal base is central to the division of competence between the Community and Member States and we will therefore continue to pay close attention to the appropriateness of the legal base proposed in the course of our scrutiny of draft EU legislation.
- 99. We recommend that the Government should, in principle, adopt a consistent line in dealing with legal bases. We welcome the Government's clarification of how they intend to approach legal bases for proposals which create agencies and urge them to ensure that all Departments are aware of the agreed approach.

⁴⁵ See Chapter 8 of the Committee's Report on Paediatric Medicines (20th Report of Session 2005–2006, HL Paper 101)

CHAPTER 5: CONCLUSIONS AND RECOMMENDATIONS

Chapter 2—The Need for the Institute

100. We conclude that the case for a separate European Institute for Gender Equality has not been demonstrated and we recommend that further consideration should be given to the alternative of incorporating the gender equality work proposed in the activities of the proposed European Fundamental Rights Agency on which a Report will shortly be made.

Chapter 3—Administrative Questions

- 101. If the Gender Institute is to be set up, we recommend that the proposed management structure should be given further consideration. We believe it is essential to develop an efficient, cost-effective structure that is proportionate to the size of the Institute. We also recommend that the Government should question the practice of automatically awarding seats on the Boards of such institutions to every Member State.
- 102. We recommend that these arrangements should ensure that the Director of the Institute has adequate authority, within the limits of proper accountability, and that proper structured arrangements should be made to ensure that the advice of appropriate equality organisations and NGOs within Member States will contribute to the planning and activities of the Institute.
- 103. We recommend that, if the Institute is to be set up, it should have an adequate budget to carry out its tasks properly.

Chapter 4—The Legal Base

- 104. We recommend that the Government, together with the Member States and the Commission, should develop an understanding of what "incentive measures" means and what kind of proposals should be adopted on the basis of an "incentive measures" legal base. Given the current divide in opinion within the Council, is seems likely that this will not be an easy task.
- 105. We recommend that the Government should, in principle, adopt a consistent line in dealing with legal bases. We welcome the Government's clarification of how they intend to approach legal bases for proposals which create agencies and urge them to ensure that all Departments are aware of the agreed approach.

APPENDIX 1: SUB-COMMITTEE G (SOCIAL AND CONSUMER AFFAIRS)

The Members of the Sub-Committee which conducted this Inquiry were:

Lord Colwyn

Earl of Dundee

Baroness Gale

Baroness Greengross

Lord Harrison

Baroness Howarth of Breckland

Baroness Massey of Darwen

Lord Moser

Baroness Neuberger

Baroness Thomas of Walliswood (Chairman)

Lord Trefgarne

Declarations of Interest

Lord Colwyn

Practising Dental Surgeon

President, All Party Group, Complementary and Integrated Healthcare

Chair, Campbell Montague International Ltd

Earl of Dundee

No relevant interests

Baroness Gale

Commissioner for Wales, Women's National Commission

Baroness Greengross

Vice Chair, Britain in Europe

President, Pensions Policy Institute

Chief Executive, International Longevity Centre United Kingdom

Chair, Experience Corps

Board Member, HelpAge International

Lord Harrison

No relevant interests

Baroness Howarth of Breckland

Board Member, Food Standards Agency

Deputy Chair, Meat Hygiene Service

Board Member, CAFCASS (Children and Families Court Advisory and

Support Service)

President and Trustee, John Grooms (disability charity)

Secretary, All Parliamentary Group for Children

Patron and Trustee, Little Hearts Matter (health/care charity)

Baroness Massey of Darwen

Chair of the National Treatment Agency for Substance Misuse Co. Chair of APPG for Children School Governor

Lord Moser

Board of Governors, LSE Board of Governors, Open Universities of Israel Board Member of National Research and Development Centre for Adult Literacy and Numeracy

Baroness Neuberger

Member/Trustee of the British Council Non-Executive Director, VHI (Irish health insurer) Trustee, Imperial War Museum Former Chancellor of Ulster University (1994–2000) Advisor, Sainsbury Centre for Mental Health Advisor, Jewish Community Centre for London

Baroness Thomas of Walliswood

No relevant interests

Lord Trefgarne

Chairman, SEMTA President, IIE President, METCOM

APPENDIX 2: LIST OF WITNESSES

Those marked with * also gave oral evidence

Department of Trade and Industry *

Equal Opportunities Commission (EOC) *

APPENDIX 3: RECENT REPORTS

Recent Reports from the Select Committee

Session 2005-06

Scrutiny of Subsidiarity: Follow up Report (15th Report, Session 2005–06, HL Paper 66)

Evidence by Commissioner Franco Frattini, Commissioner for Justice, Freedom and Security on Justice and Home Affairs Matters (1st Report, Session 2005–06, HL Paper 5)

Ensuring Effective Regulation in the EU (9th Report, Session 2005–06, HL Paper 33)

Evidence from the Minister for Europe – the European Council and the UK Presidency (10th Report, Session 2005–06, HL Paper 34)

Reports prepared by Sub-Committee G (Social Policy and Consumer Affairs)

Session 2003-2004

The Working Time Directive: A Response to the European Commission's Review (9th Report, Session 2003–04, HL Paper 67)

Sexual Equality in Access to Goods and Services (27th Report, Session 2003–04, HL Paper 165)

Session 2004-2005

Proposed European Union Integrated Action Programme for Life-long Learning (17th Report, Session 2004–05, HL Paper 104)

Session 2005-2006

Proposed EU Consumer-Credit Harmonisation Directive: Interim Report (13th Report, Session 2005–06, HL Paper 37)

Minutes of Evidence

TAKEN BEFORE THE SELECT COMMITTEE ON THE EUROPEAN UNION (SUB-COMMITTEE G)

THURSDAY 17 NOVEMBER 2005

Present Colwyn, L Howarth of Breckland, B

Dundee, E Moser, L

Gale, B Thomas of Walliswood, B

Greengross, B (Chairman) Harrison, L Trefgarne, L

Memorandum by Equal Opportunities Commission (EOC)

1. Introduction

The Equal Opportunities Commission (EOC) welcomes the opportunity to respond to the request of the EU Sub-Committee G to give our views on the merits of the proposal by the European Commission to establish a European Institute for Gender Equality.

The EOC supports the aim of the proposal to set up a new Institute to support the EU institutions and the Member States in promoting equality between women and men and combating sex discrimination. It is important to notice that both the European Parliament and the European Council requested the creation of an institute for gender equality in 2004.

The EU is currently looking into new approaches and initiatives to combat persistent inequalities in the 21st Century. The establishment of the Gender Institute can provide confidence that the visibility and focus on gender equality remains on the political agenda.

The Institute should be designed to lead the integrated and inclusive approach, whilst at the same time ensure specific gender focus. The success of the Institute will depend on close co-operation with other institutes and strong leadership and management. An agreed evaluation of the success of the approach the new Institute will be adopting could be set out at the beginning.

After studying the proposals of the European Commission the EOC has identified the following issues:

- Collecting and disseminating up-to-date comparable data should be a priority for the Institute;
- More coordination and cooperation of actions to fight discrimination on different grounds at a European level is necessary;
- The EOC would prefer one integrated European body covering all equality strands including gender to the current proposal for two separate bodies, one covering gender and one covering all other aspects of equality;
- The EOC strongly opposes lifting the budget of the new Gender Institute out of the gender equality pillar of the PROGRESS program and agrees with the European Parliament that the budget dedicated to gender under the new PROGRESS program should be increased from 8 per cent to at least 12 per cent.

2. Questions and Answers

1. Are the purpose and proposed tasks of the Institute clear, relevant and well thought-out?

The tasks of the Institute are clearly set out in the Commission document (Article 3). The overall aim is to assist the Community institutions and the authorities in the Member States in the fight against discrimination based on sex, the promotion of gender equality and to raise the profile of such issues among EU citizens.

The role of the Institute, as set out in the Commission proposal, is an assisting role. By collecting and analysing relevant reliable and comparable data the Institute can fulfil its role in assisting the Community institutions and the authorities in the Member States in the fight against discrimination based on sex. Up-to-date and

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relevant European and national information can improve the quality of programmes and proposals introduced by both EU institutions and national authorities.

The EOC supports the idea of a European campaign to promote gender equality, but would like to know how campaigns (Article 3.1.g) organised by the Institute would fit into the broader work of the Commission. The EOC would not support a development that the European Commission transfers its own responsibilities in this field to the Institute. Another important question is how campaigns organised by the Institute will be linked to other EU non-discrimination programmes. The Commission for example recently launched a European wide campaign "For Diversity Against Discrimination" (http://www.stop-discrimination.info/), but unfortunately this campaign covers all strands of discrimination except discrimination on the basis of sex. In Europe sex discrimination is still mainly separated from the other strands. The EOC, especially with the creation of the Commission for Equality and Human Rights in mind, has been arguing for more coordination and cooperation at a European level regarding promoting equality and fighting discrimination.

In this context the EOC last year welcomed the transformation of the existing European Monitoring Centre on Racism and Xenophobia (EUMC) into a new Fundamental Rights Agency, but also expressed our concerns that these plans coincide with parallel plans to set up the Gender Institute. Our experience as an equal opportunities body working on equality between women and men is that it is vital not to disassociate gender from the rest of the equality strands. We would prefer one integrated European body covering all equality strands including gender to the current proposal for two separate bodies, one covering gender and one covering all other aspects of equality. It is possible that there was no sufficient thought given by the Council to the fact that two similar European bodies will have to be set up at the same time.

Under the current, separate proposals, it will be essential that each body's remit requires it to co-operate with the other. This could be strengthened in the Commissions proposal (Articles 4.3 and 10.11).

2. Would the Institute be likely to add significant value to gender equality activities in the EU, and, if so, which ones?

The establishment of the Institute can provide a new momentum in shaping the gender equality and gender mainstreaming agenda for the 21st Century. The Institute can make a real difference to the lives of women across Europe, breaking through the resistance to and slow pace of change and supporting the work of the European Commission in ensuring proper and adequate implementation of Directives. The EOC is of the opinion that the Institute could add significant value to gender equality activities in the EU, because there is a continuing need to take specific actions to tackle discrimination on the basis of sex and to promote gender mainstreaming. A separate Gender Institute could ensure that gender equality remains high on the European political agenda and that relevant up-to-date information is available.

However, there are also advantages of integrated actions and strategies. Integrated approaches can be holistic and thus may be a stronger basis for tackling multiple discrimination. All discriminatory practices tend to affect women and men differently and gender does add to the burden of discrimination already experienced by a person of a racial or ethnic minority, a disabled person etc. And, although there are important differences between equality issues, it would be a mistake to underestimate the similarities in the ways in which inequality and discrimination can be tackled. The EOC therefore supports the idea of one integrated European body covering all equality strands.

At the moment it is very difficult for authorities in the Member States and equality organisations such as the EOC to find reliable and comparable European data. Especially up-to-date European wide information and statistics are hard to find. This makes European comparison and exchange of information and good practice very complex.

The Institute can be relevant for the work of equality bodies in the different Member States through bringing together, recording, analysing and disseminating relevant comparable data. This can be complemented by European wide surveys, conferences and meetings of experts to supplement the work and expertise within the Member States.

It is also important that the Agency's data collection role should not be seen as freeing Eurostat or other European institutions and bodies from its responsibility to collect statistics that are disaggregated by sex, race, disability and so on, or launch new initiatives and research on gender equality and gender mainstream their projects.

It is crucial that duplication is avoided. Strong cooperation with other Community programmes and bodies, in particular the European Foundation for the Improvement of Living and Working Conditions, The European Agency for Health and Safety at Work, the Centre for the Development of Vocational Training and the future

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Fundamental Rights Agency is essential. (This is recognised by the Commission in Recitals 11 and 12 and Article 4.3).

The Institute should focus on projects that can offer an added value by adopting an integrated approach and pan-European approach. This means addressing cross-over issues arising in the different areas of discrimination and, as mentioned above, a very close cooperation with the Fundamental Rights Agency to tackle multiple discrimination. The Institute could for example, in cooperation with the Agency, carry out EU-wide research on the specific barriers faced by women with disabilities or the position of BME women on the labour market and suggest possible solutions or provide examples of best practices.

3. Alternatively, could the work which it is proposed to do be done equally well by existing national or international bodies?

The work of the Gender Institute and the new Fundamental Rights Agency could be integrated. The Council, however, asked the Commission to set up two separate organisations. The establishment of two separate Institutes can be justified when joint planning and close cooperation are ensured.

Although it will be very difficult to change this position, there might be some scope given the fact that the European Parliament's opinion regarding the Gender Institute is at the moment not expected before March 2006.

The European Parliament furthermore said in its own initiative report of Gál Kinga MEP that the Gender Institute should be part of the Agency on Fundamental Rights Agency, that should be seen as a "network of networks", and should work under its own name and could be situated in the same location, in order to follow a rational, cost-effective and consistent approach when creating new bodies to deal with fundamental rights.

The Fundamental Rights Agency is currently located in Vienna. The new Gender Institute should ideally be located near to this location to promote close cooperation if the Council chooses the creation of two separate organisations.

Alternatively, European Institutions such as Eurostat and the European Foundation for the Improvement of Living and Working Conditions could enhance their research and collection of comparable data on gender equality and sex discrimination if provided with extra funding.

4. Does the Equal Opportunities Commission have any views on the proposed structure, administrative and financial arrangements for the Institute?

The Articles of the proposal should include a requirement for both the Gender Institute and the Fundamental Rights Agency to work in close cooperation with other European institutions; agencies and national equality bodies could be enhanced.

The EOC supports the opinion from the European Advisory Committee on Equality between Women and Men that it a the twin-track strategy of combining specific measures of gender positive action and of mainstreaming gender into all areas of EU activity and funding is essential.

The Advisory Committee also stated rightfully that some recent developments, such as the end to the tradition of separate gender equality action programmes, are of concern: "It remains to be seen how the gender equality strand in PROGRESS and possibly gender mainstreaming of the other streams succeeds in carrying further the principle of the twin tracks. Suggestions to raise the gender budget within PROGRESS should be seriously considered. The gender focus within European funding programmes such as the new Structural Funds 2007–13, the European Social Fund and the new FP7 research and innovation programme should be safeguarded."

The EOC also strongly regrets the demand by the Council that the establishment of the Institute should be budget neutral. The Member States seem only to pay lip service in strengthening European coordination and action to tackle sex discrimination and promote gender equality but do not support this by financial means. The Commission has suggested lifting the budget, 52.5 million EUR for the period 2007 to 2013, out of the gender pillar of the new PROGRESS program. The EOC strongly rejects this and agrees with the European Parliament that the budget dedicated to gender under the new PROGRESS program should be increased from 8 per cent to at least 12 per cent.

Political agreement in the Council on the common position regarding PROGRESS is currently planned for December. It would be interesting to see what the position of the UK Presidency regarding this matter would be.

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5. Was your organisation consulted about the proposal by the European Commission?

The EOC was not directly consulted by the British Government or by the European Commission, but we were indirectly involved through the European Advisory Committee on equality for women and men. EOC staffs also participated in a series of interviews preparing the feasibility study ordered by the European Commission.

The EOC would welcome the opportunity to further contribute to the preparation, the establishment of the Institute and the preparation on the business plan and research plan when appropriate.

6 October 2005

Examination of Witness

Witness: Mr Tijs Broeke, European and Public Affairs Manager, Equal Opportunities Commission, examined.

Q1 Chairman: Welcome, Mr Broeke. It is very good of you to come. I am sorry that your colleague has not been able to accompany you, but I am sure, since you wrote the paper, that you will be more than able to answer all our questions. I would like to thank you for your written evidence. I have some things to say about this meeting, just so that you know where you are, as it were. The session is open to the public and it will be recorded for possible broadcasting or webcasting. A verbatim transcript will be taken of this session and that can be published on the Parliamentary website and will certainly be published in the annex to the report which we will draft. We will send you a copy of that evidence early next week, so could you check it for accuracy and if you wish to make any corrections, please ensure you do so as quickly as possible. You should have had a note of the Members' interests-I think there may be a copy of that on the table. If you have not been able to say the things you want to say, do please submit supplementary evidence to us after this session is over. We are always very willing to take written evidence if you think there are points that have not been properly argued during the course of today. If you wish to make a short opening statement, we would like to hear that, otherwise we will go straight into the questions. Before we start, could you please introduce yourself. Mr Broeke: My name is Tijs Broeke. I work for the Equal Opportunities Commission as the European Public Affairs Manager. With your permission, I would like to make a very short statement because most of it has been written down in our statement. I would like to stress that the EOC supports the aims of setting up the Gender Institute. As stated in our written statement, we have some points I would like to stress. I will mention four at this time and then answer your further questions. We think that the priority of the institute should be to collect, analyse and disseminate up-to-date comparable data. We believe that there should be more coordination and cooperation on the different fields of discrimination on the European level. Although we would have preferred an integrated European

body, we believe at this stage, when we have two separate bodies set up, the Fundamental Rights Agency and the Gender Institute, that they should work as closely together as possible. We also regret that the budget of the Gender Institute is taken out of the PROGRESS program and we agree with the European Parliament that this PROGRESS Program gender payment should be raised from eight per cent to 12 per cent. Thank you.

Q2 Chairman: Thank you for that, Mr Broeke. Your submission to us says that the new Institute could "... make a real difference to the lives of women across Europe, breaking through the resistance to and slow pace of change and supporting the work of the European Commission" in the area of gender equality. How much difference could a European Union body with a relatively small staff make in this very large field? If it only achieves rather modest results, would that not rather be a disbenefit to the world of promoting the equality of women rather than a benefit?

Mr Broeke: We believe that it can make a difference and it can add value. It is important that the institute is not going to carry out work which has been done by other institutes or other bodies, both on the European level and on the national level. But we believe that the institute can collect information and research, analyse it, and disseminate it across Europe. At the moment it is difficult to find comparable European data, to exchange good practices. I think this can help policy makers both at the European level and the national level to clarify their proposals and to have an independent institute that can provide critical thinking.

Q3 Chairman: Most of the data that you are likely to want to collect will be available—if it is available at all without research programmes—through national data collection services: all the various employment data and all that kind of thing. Is there a sufficient base of such data which does the right things from the point of view of distinguishing between employment prospects for women and men,

or salaries of women and men? Does every country in the European Union collect such data? If it does not, the Institute will not be able to collect it independently, will it?

Mr Broeke: You are right, my Lord Chairman, the information is out there, although the problem is that it is scattered across Europe. Although we have some European data, it is really difficult and hard for national governments, or, indeed, for the European Commission or Equal Opportunities Commission, like ourselves, to collect the up-to-date data. It is actually quite difficult to learn from other experiences and to see trends across Europe. Although it might be a difficult task for the Institute to collect relevant data, I do believe that it is out there

Q4 *Lord Moser:* I used to be linked with Eurostat because I was in charge of British statistics. It was absolutely routine, even in those days, some years ago, for all data on all subjects to be gender separated. I do not understand why this is not just done by Eurostat.

Mr Broeke: Yes, indeed, Eurostat is collecting data. The problem is that they are collecting data on many issues and gender is just one part of it. The data which is produced by Eurostat, although very valuable, is sometimes a little bit out of date and not always is it easy for researchers to access the different gender elements of the relevant data. I do think the Institute should not do the same work as Eurostat is doing, but it can provide analysis of the data that Eurostat, for example, amongst others, can provide.

Q5 Baroness Greengross: Would it not be more cost effective to get Eurostat's data up-to-date than setting up something else which is really collecting data that Eurostat could collect? In other words, why set up a separate thing; why not boost Eurostat to do exactly what you are suggesting should be done?

Mr Broeke: I think it is important to realise that Eurostat is collecting data but it is not always analysing all the data they have; it is not always giving this critical thinking; it is not always giving some advice; it is not providing exchange of good practice. Although Eurostat is providing its own data and research, the added value of the Institute can be that they can focus on collecting all these data—and not only from Eurostat, because other organisations are doing the same. Again, Eurostat is not collecting that data and providing practical recommendations, but I think of more importance is the independent visibility of the Gender Institute. For example, the Institute can share this information and look at what other organisations have been collecting as well, but also can be critical and perhaps sometimes say that evidence suggests that other measures are necessary—which is not really the task of Eurostat.

Q6 Baroness Greengross: You are talking about the added value to what Eurostat does in collecting stuff, but you also say that this would be an integrated approach. If this is a gender institute, how is it going to take on all the other sorts of discrimination? Because we are in this country, for example, talking about bringing all the equality of human rights discrimination issues together. Again, I am sorry to sound so sceptical, but would it not be better to have, as it were, an inclusion institute, which brought everything together, rather than to have just gender?

Mr Broeke: As I stated at the beginning, which was also clearly mentioned in our written statement, we do prefer an integrated body. But the political situation at the moment is such that I, to be honest, do not think we will be able to get an integrated body. These proposals were requested by the European Parliament and the Council, and the Commission developed their homework and are preparing to set up the Fundamental Rights Agency and the Gender Institute. I think it is more important to focus our energy on trying to make sure that those two institutes work closely together and that they are not going to be caught in their own little strands; that they are working together, for example, on black and ethnic minority women, and see their position in society and on the labour market.

Q7 Baroness Howarth of Breckland: Clearly gathering data has to have a purpose. You are saying the purposes are that it can be analysed. From that, I assume you will define good practice. Looking for outcomes to this Institute's added value, how do you see that good practice then being disseminated throughout the European Union, and all the laudable things you say in your evidence about changing the lives of women therefore happening?

Mr Broeke: If you read the proposals of the Commission they also see a task for the Institute to organise, for example, conferences, or to set up networks of experts. It would, for example, be very good to bring together all the equality bodies across Europe once or twice a year to exchange information about certain important issues like work/life balance or pensions or demographic change, for example. As an institute, one centre of expertise to bring together all the information and expertise that is scattered across Europe, it can provide for equality bodies, governments or, indeed, the European Commission, to give them some guidance. This experience can be brought together,

so that we can learn from other European countries. At the moment it depends on if you have personal contacts with someone working, for example, in the Equal Opportunities Commission in Slovenia or Portugal. If you have these contacts, they work really well, but it should be done more systematically.

Q8 *Chairman:* Could I ask you for a bit of clarification. I am not certain how many bodies similar to the Equal Opportunities Commission exist in other Member States. Are there similar bodies in most Member States?

Mr Broeke: Yes. The European legislation at the moment, as it stands, requires all Member States to set up a gender equality institute. Of course it varies in Member States how large these institutes are, what their budget is and so on. We do see trends in Europe that they are combining institutes, like the plans here in Great Britain to set up a Commission for Equality in Human Rights. At the moment I would think there are still more separate gender equality bodies, but it is changing. I could check that and come back to that.

Chairman: Thank you.

Q9 Lord Moser: I want to go back to two subjects we have already touched on. First of all, the data collection. As I mentioned before, because I was in charge of the UK statistics for some years I know Eurostat very well. Eurostat is probably the best of the international statistical agencies: they meet two or three times a year internationally and the countries, like this country, have to do what Eurostat asks of them. The statistics are not always up-to-date but they are pretty up-to-date, and, with respect, nobody else is going to get them quicker than Eurostat. I simply do not understand—and perhaps we could get this one out of the way—why this potential Institute might even think that it could get better statistics than Eurostat.

Mr Broeke: I think perhaps there is a confusion over what I mean with collecting data. I do not think the institutes try to do the same work that Eurostat is doing. You are right, Eurostat is doing a great job and is collecting all sorts of relevant data for all sorts of policy areas. I think the task of the institute is to bring together the data which is out there, not only Eurostat but others like the Dublin Foundation European Foundation on Working and Living Conditions. They can then bring these different pictures together to try to analyse what is happening. Eurostat is providing the basic grounds, the solid evidence of this analysis. Indeed, they should avoid repeating what Eurostat is doing and they can add value by enhancing this information and combining it with other information which is out there, I think.

Q10 Lord Moser: I hear what you say. The other thing is to go back to this question of linking this potential Institute with other aspects of inequalities. We get lots of papers here on different issues and a lot of them on employment or whatever deal with inequalities of one kind. I think the idea of a Commission on Fundamental Rights is exactly right, and gender rights or differentials fit into that. Did I understand you to say you really agree with that but there are political obstacles in the way that still would lead you to go for a separate institute, although the integration would be more sensible? Is that what you were saying?

Mr Broeke: Yes. With our future arrangements in Great Britain, with the single equality body that is currently being discussed in Parliament, I think it is important for us but also for other Member States that there be a more integrated approach on these matters on the European level. As I said, we would have preferred one integrated body, but I do not think that is feasible at the moment. That is my judgment. I think perhaps it is more important that we make sure that policy in these fields at the European level is more integrated, that within the European Commission, for example, gender and the other strands are not working separately but together. For example, positive developments are that they have recently announced the European Year of Equal Opportunities for All in 2007 and they announced two major research projects, one in multiple discrimination and another one on socially disadvantaged ethnic minorities, both taking the gender elements into account. Whilst I agree that the set up of the institute is important and, as I say, it is practical to focus now on making those two institutes work together, I think it is probably even more important that the policy recommendations at the European level are integrated.

Q11 Baroness Gale: You say the Equal Opportunities Commission would prefer the integrated approach. I wonder if you knew the views of your sister bodies in Europe. Do they feel the same? It seems to me that everything you have said is that the general feeling is to have the integrated approach, and yet this proposal of a new institution would go against that trend. If everybody is feeling that way, what is your view on setting up a separate body, when the thrust now is to have an integrated approach bringing all equality strands into one

Mr Broeke: I am not sure what the position of other bodies in other Member States is. I would think that those bodies where they are already working in an integrated way see the benefits of working together. But also perhaps some people are afraid that gender will lose out. Gender equality has been established

since the Treaty of Rome (equal pay, for example). I know that the European Women's Lobby, for example, feels very strongly about this and they advocate a clear, visible gender-specific approach. At the moment, I feel we are winning ground on a European level by saying—and I mentioned this in our written statement as well—the so-called twintrack approach, combining gender specific actions with a more integrated, more mainstream approach. It is evident that on a European level, within the European Commission, there is support for an integrated approach. Although they see it is important that they should work more together, there is, I think, a fear that gender equality will lose out.

Q12 Chairman: It sounds to me as though you are suggesting that in some other Member States the discussion is still where it was in this country about 18 months ago or something like that. I can remember being involved in it a year or two ago quite a lot. Then there was a lot of feeling that the women wanted to keep their own flag flying and, gradually, over the months in which we discussed it, opinion changed. Is that what you think is happening in other places?

Mr Broeke: Yes, that might be the case. I think, for example, especially in new Member States or Member States where there was not yet a gender institute and they have to set up a gender institute, that they think it is more practical if they do it now than do the integrated approach. I know, for example, that the government minister was at the Luxembourg presidency conference last year and she also in her speech mentioned the benefit of this integrated approach. We are trying to get the message out there, I think. For example, there are other countries, like Ireland, where they already have an integrated approach—all my colleagues at the Northern Ireland equality body within the Advisory Committee on Gender Equality advising the European Commission. We strongly advocate the need for both gender-specific actions where necessary—we should not lose out in that sensebut also a more integrated approach, especially because some groups, like black and ethnic minority women or disabled women, can lose out if you do not do it that way.

Q13 Lord Trefgarne: I am bound to say that I have a conceptual problem in all of this. Of course I am in favour of gender equality and all the things that flow from that. Broadly speaking, I am in favour of the EOC—not 100 per cent, but more than zero per cent, anyway. Where I stop short is in seeking to put in place arrangements which impose the views that we have in this country upon all the Members of the EU. Of course you will say that the views are

coming from the Commission, they are not coming from us, but the Commission seem to be reflecting our views—what nowadays are described as "politically correct" views. It seems to me that the newly acceding nations, in particular at the far eastern edge of what is now the Union, will have wholly different social and ethnic backgrounds, wholly different views about these matters, and we are now imposing what could be described as "white Christian" views on people who are, frankly, neither white nor Christian, most of them, or many of them, and I think that is a problem. I think we should stop short of doing that. I fear greatly that is exactly what this institute of gender equality is going to do, and I do not agree with that.

Mr Broeke: I understand your fears and your position. I do think, however, that the Gender Equality Institute will be able to look beyond the borders of gender equality, taking into account, for example, cultural elements or race. There can be a much more different view of trying to achieve gender equality. You are mentioning new Member States and candidate countries, and I know, for example, that the European Parliament issued a report, an opinion, on the position of women in Turkey. One Dutch MP, Emine Bozkurt, who is half-Turkish, Half-Dutch, was leading this delegation to Turkey and they found that discussing the European acquis, discussing the wishes of Turkey to join the European Union, was positive for the position of women in, for example, Turkey. The same thing, for example, with gay and lesbian rights in Turkey: they had to change the law because of it. You can say that is imposing our views: I say it is making sure that human rights across Europe are followed and honoured. I think the Institute should focus on dialogue and look beyond the borders of gender equality (which is a very narrow view) but then it can bring together the common values of the European Union which I believe are founded in our treaties and echoed in several Directives which every Member State needs to apply.

Q14 Lord Trefgarne: You have caused more worries in my mind than there were originally. Now you say that this Institute for Gender Equality is going to extend more widely than gender issues. Oh, Lord!

Mr Broeke: No, it is not going to extend more widely, because, simply, they will not have the remit. You will have the Fundamental Rights Agency and the Gender Institute: they should work together on these issues and they should not be blind to the different issues. I would like to stress also that the institute is not a political institute. It is not going to tell us what to do; it is simply going to provide evidence-based reports and thinking, exchanging good practice, and giving us some examples of what

is happening elsewhere in Europe. I think it is important for every Member State to learn what is happening in the European Union because that is why we work together.

Chairman: There is a lot of interest, I can confirm, amongst what you might call the political classes in Turkey to an approach to women's rights which the European Union, as it were, embodies. I went to a conference there and it is quite clear that they are trying to prepare to join the Union. One of the things they are trying to do is to increase women's rights and women's participation in the political process and a whole lot of other things. That has been stimulated very much by the fact that they have the potential to get into the Community.

Lord Trefgarne: My Lord Chairman, Turkey will go to any lengths to join the EU and this is one of them.

Chairman: This is being largely led, I have to say, by young women. Women are changing their role right across the world. It is partly that and it is also partly the expectation.

Lord Trefgarne: They will be huge net recipients when they join.

Chairman: I cannot help that. I am not talking about the principle of Turkey joining; I am simply saying that the fact that there is that option available or that possibility available has stimulated a lot of interest and given greater strength to local people who are trying to improve the lot of women in their country—which is, in much of Turkey, pretty primitive.

Lord Trefgarne: I agree.

Chairman: But there is a movement there, an indigenous movement, as it were, led, as I say, in many cases by women.

Q15 Baroness Howarth of Breckland: Going back to the questions I asked you about what you are going to do, you really gave me three answers: networking, conferences, exchanges. Once you have the data and you have identified areas of issue—and you mentioned things like pensions, child care and all of these things—I assume that it is those things that people will take back to their own countries and I hope change things by people learning from each other. Is that the way you perceive the institute working?—which, if you like, goes into this question of not trying to impose but to influence.

Mr Broeke: Yes, indeed, that is what I think. It is up to bodies such as the EOC or the CEHR after. It is up to, for example, government and departments, or, for instance, the Equality Unit here in the UK, to take back the information they have got and see where it can help them in their work here in Great Britain. I do not think there is any need for Europe to tell us exactly on all those matters that we are doing it right or wrong, but

simply to provide the information, and, where there is European legislation in place, to make sure it is correctly implemented. The Equal Opportunities Commission has a role in that respect as well.

Q16 Lord Harrison: Good morning, Mr Broeke. Could you give us two examples of what Lady Howarth has just asked whether you can do, of where the absence now of a Gender Institute means that best practice was not spread across the countries of the European Union, with the result that there was a failure to acknowledge these very important gender issues? Two ready examples would help the Committee, I believe, to understand what the institute proposes to do in future.

Mr Broeke: Yes. At the moment, parliament is discussing the Work and Families Bill that the government is going to introduce and their responses to the consultation. One issue there is the discussion about maternity leave and paternity leave. The EOC is arguing for fathers to be able to take some of the leave and the government is proposing now some sort of transferable scheme. For example, when we were looking into what we would like to see, what would be practical, what would be useful to get this agenda moving forward, it was almost impossible to see what is happening elsewhere in Europe. I attended the UK Presidency conference last week in Birmingham. That is, for example, really good: we were sitting together at the table with different government representatives, equal opportunities representatives, the Women's Lobby, and we were discussing those issues and then we found out that in some Member States they already have this transferable maternity leave but the problem is that if the mother does not have the rights to maternity leave there is nothing to transfer, so that is something to take into account. Another issue, for example, was that in Slovenia they said, "For us it is more important to get a positive message for fathers that it is okay to stay at home and take care of the kids," so the government is setting up a national campaign to promote fatherhood. I think all those issues are very interesting.

Q17 Lord Trefgarne: Is apple pie included?

Mr Broeke: No. I think it is focusing on taking care of the kids and not so much apple pie. For example, if I were to make apple pie and I had kids, I do not think they would want to eat it! But that is one important issue: we did not know what the position on maternity leave is in other European countries—although there is a parental leave Directive at the European level—so it would help us enormously if that is available, easily accessible. Another example, in a way, is the discussion at the moment on demographic challenge and pensions. It is a huge

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discussion in the UK as well and I feel that the European debate—they are exchanging information and so on—does not take into account the specific challenges women face. The only thing they mention is that women should get more babies. I think that is quite a limited approach to the discussion. There, again, if we know what is happening in other Member States, for example, on the pension entitlement and how to close the gap, so to say, that women are facing when retiring—that they have less pension. This is a discussion which is not only taking place in the UK, it is taking place in the Netherlands, which has similar set up, so why not see what they are doing there and take it into account?

Q18 Lord Harrison: They were helpful replies. Could I still go back to that fundamental question. You mentioned the Dublin Foundation. Why should that not be the centre of all that this European Gender Institute proposes to do? Why should we not put the resources that we intend to put there into beefing up the Dublin Foundation, and perhaps changing the focus slightly so that it embraces what it currently does and other issues that the institute does? Because that surely would avoid any possible duplication. I think it is very important for you to answer why that is not an avenue that we could go down.

Mr Broeke: The decision was made to set up a gender institute. I do not know—and perhaps you should ask the Commission or the European Council or the European Parliament—what the exact reason was for setting this up but I think it is because they want to have a clearly visible gender input. There is a feeling that gender has slipped from the agenda and that it is important to stress that gender equality is a part of all sorts of discussions we are currently having on the European level and in the Member States. So it is this visibility which is important, and also this one centre of expertise, so that you know you can go to one centre, a gender institute, to get your information and they will help you if they do not have it. You could argue that this could be part of the Dublin Foundation or Eurostat. I think this visibility of the importance of gender is one of the reasons why it should not be the Dublin Foundation. It should continue the enormously important work they are doing also in this field. I think that the Institute can add value there.

Q19 *Earl of Dundee:* We learn that the EOC regrets the Council's demand that the institute should be "budget neutral". You have touched on this already in your opening remarks. What do you believe to be a reasonable budget for the institute?

Mr Broeke: We are not in a position—I am certainly not, but the EOC is not—to say what should be a reasonable budget. I think that is up to the financial

experts to decide. Although I think the Council's demand that the institute should be budget neutral does not say anything about the level of the budget the institute should receive, simply they say, "We want to set up an institute but we don't want to pay for it," I think if you seriously want to promote gender equality you should be willing to invest. Simply taking it out of the PROGRESS Program—which is what the Commission is doing—is just creative financial manoeuvring. Although I can see why the Commission made the decision—because they have a clear steer from the Council that it should be budget neutral, so they have to get it somewhere else-we regret that decision. It would be good if the Council would say, "We are going to invest in gender equality, so we really need to pay a bit more."

Q20 Earl of Dundee: Might not the final outcome of the financial perspective negotiations be to leave the institute under-funded? If that were to be the case, would there be any point in the institute carrying out any function at all?

Mr Broeke: I think it is very difficult to look into the future and see what is coming out of the financial perspective negotiations. Again I would say that we are not the experts to make a judgment there. I do think that the money allocated to the institute will be safeguarded. It is already part of the package which is currently being discussed. But, again, this is a decision which needs to be made by the Council. If they are willing to have the few million more to be able to spend, they can do it.

Q21 *Earl of Dundee:* You say that there is already an allocation of funds?

Mr Broeke: In the plans of the Commission they said, "We are going to take out what is currently planned to be spent on the PROGRESS Program, bring together different research programmes, and we take a little bit out of the gender pillar of that program and we give it to the Gender Institute." So it is currently in the plans. Of course, if the outcome of the negotiations is that there is much less money to spend, the Commission has to rethink their entire plans. But I cannot really make any judgment on where that should be coming from or if this will affect the institute because it is far more complicated than that.

Earl of Dundee: Thank you.

Q22 Baroness Howarth of Breckland: You have talked about the things you were wanting to achieve through the institute. I wanted to move on to questions of the management structure. Do you have any views on the proposed structure and whether having a rather large body, it seems to me, will give good governance, particularly having an executive which will be taking day-to-day decisions? How the EOC will work with that body?

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Mr Broeke: Indeed, there are some rumours or some parties who would like to see the management board extended—and I think you mentioned 25 in your questions. I think that is not wise to do. The feasibility study clearly recommended a small board. I think if you have 15 to 30 people working for the institute and a management body of 25 it is not workable. We would prefer not to enlarge the management board, because, although the governing of the Institute should be a representation from all the stakeholders, it should also ensure that he Institute is able to operate efficiently. Through annual meetings or advisory boards and so on, you can make sure that all stakeholders are included. With the enlarged Union every Member State wants to have someone represented on every single board of every single body in the European Union. I am afraid that is probably not possible any more.

Q23 Baroness Howarth of Breckland: You are defining the difference between representation and governance.

Mr Broeke: Yes, exactly. There is a plan to set up an advisory board in which the equal opportunities bodies could play a part. Although I cannot of course commit anything for the future, in principle the EOC would be more than happy to work together with the institute.

Baroness Howarth of Breckland: Thank you.

Q24 Lord Harrison: Mr Broeke, we were surprised to learn that the EOC may not have been consulted on this proposal, either by the British Government or indeed by the European Commission. Could you confirm that fact, that the EOC and the British Government have not had discussions? Could you say whether from your perch—and you are in touch with your colleagues elsewhere in the European Union—you believe that the Commission has consulted properly and more widely or are we the only ones left off?

Mr Broeke: First of all, I would like to stress that the responsibility for drafting the proposal lies with the European Commission and the request was made by the European Parliament and Council. So the responsibility to draft the proposals does not lie with the British Government, and we would not, therefore,

have expected the Government to consult us at this point. However, we were indirectly involved through the Advisory Committee. I have already mentioned the European Advisory Committee of the European Commission and they produced an opinion on the Gender Institute and we took part in this discussion. Also, in January 2002 there was an independent feasibility study presented to the Commission and some members of our staff participated in interviews in this. So we were indirectly and more directly involved, through the discussions at an early stage in 2002 when the Commission requested the feasibility study, but not directly in drafting the proposalsalthough responsibility there lies with the Commission and not with the British Government. I am not sure how many of my other colleagues across Europe have been involved, but I know some of them were involved in the interviews in the process of drafting this feasibility study I already mentioned, so this is a good source of information.

Q25 Lord Harrison: I am still surprised. Have you had no informal exchange with the British Government on this? I would have thought it would be a natural thing for you to have discussed as an agenda item.

Mr Broeke: As I say, we were involved in the scoping: Should we have an Institute? What should an institute do? and so on, so we feel we have been sufficiently consulted there. It is really up to the Government to decide at what point in the discussion at the European level they would like to get our information or our position.

Q26 Chairman: Does anybody have any further questions? Mr Broeke, do you have anything you want to tell us or is there anything we have not asked about?

Mr Broeke: No.

Chairman: You have been very generous in your replies and very accurate in your responses. Thank you very much indeed for coming. As I have said before, if you feel there is something you want to add to your evidence when it gets to you and you look back on it, please do not hesitate to do that. We are always very happy to get any contact with the EOC, where I, in particular, have had some very good times in the past. Thank you very much for coming.

Supplementary memorandum by the Equal Opportunities Commission

INTEGRATED EQUALITY BODIES IN THE EU

At its hearing on 17 November the EU Sub-Committee G requested additional information on the number of EU countries that have integrated equality bodies covering different non-discrimination and equality strands.

In July 2004 the migration policy group and experts of different European equality bodies published a 7th expert meeting report *Establishing Single Equality Bodies and Integrated Equality Legislation*.

The experts observed that:

"(. . .) there are more instances of specialised bodies covering several grounds of discrimination than bodies which deal only with race or gender (ie go beyond what EC law requires)" 1

And that there is an "(. . .) identified trend among countries with a longer standing single ground specialised bodies (are) establishing a new single equality body."²

If you look at the information available in the experts report you can identify the following situation across the European Union.

Integrated/strong coordination	Looking into integration	Single ground/separate	
Ireland	Sweden	Belgium	
UK (Northern-Ireland)	UK (England, Scotland, Wales)	Denmark	
Austria	Slovenia	Finland	
Cyprus	Luxembourg	Italy	
Estonia	Malta	Portugal	
France		Spain	
Hungary		Germany	
Lithuania		Greece	
The Netherlands		Latvia (?)	
Poland			
Slovakia			
Chez Republic			

It is important to note that the above table is based on the experts report published in 2004. The actual situation can differ from this table. It is, however, very difficult to find up to date information on an overview of equality bodies across the European Union.

The European Commission's Non-discrimination Unit does publish an overview of national equality bodies responsible for the promotion of equal treatment regarding race.

Finally, it is also important to realise that the size, budget, independence and remit of national equality bodies can vary greatly.

Funding the Gender Institute through the Progress Program

The European Commission has indicated that in order to fund the European Gender Institute on a "budget neutral' basis it plans to take this out of the PROGRESS budget. This is reflected in the proposed allocation of funding to the different PROGRESS pillars, where the gender equality section is significantly lower than the antidiscrimination and diversity, social protection and inclusion and employment sections.

European Commission's PROGRESS proposal, paragraph 3 of the explanatory memorandum reads:

"Finally, reflecting the equality goals of the Lisbon agenda, and on the basis of political agreement which has been reached within the Council, the European Council expressed its support for the establishment of a European Gender Institute and invited the Commission to bring forward a specific proposal. The Commission plans to adopt the corresponding Proposal before the end of the year and intends to allocate 52.7 million Euros to it over the 2007-2013 period. The setting up of the institute will be budgetary neutral as this amount has been deducted from the programme PROGRESS (...).":3

¹ Establishing Single Equality Bodies and Integrated Equality Legislation (July 2004), page 21.

² Establishing Single Equality Bodies and Integrated Equality Legislation (July 2004), page 29.

³ Proposal for a decision of the European Parliament and of the Council Establishing a Community Programme for Employment and Social Solidarity—PROGRESS, 14.7.2004 COM(2004) 488 final, 2004/0158 (COD), SEC(2004) 936.

European Parliament's position regarding PROGRESS aims to repair the cut in the gender pillar:⁴

Original text:	Proposed changes:		
2. The financial breakdown between the different sections shall respect the following lower limits:	2. The financial breakdown between the different sections shall respect the following lower limits:		
Section 1 Employment 21%	Section 1 Employment 21%		
Section 2 Social protection and inclusion 28%	Section 2 Social protection and inclusion 30%		
Section 3 Working conditions 8%	Section 3 Working conditions 8%		
Section 4 Antidiscrimination and diversity 23%	Section 4 Antidiscrimination and diversity 23%		
Section 5 Gender equality 8%	Section 5 Gender equality 12%.		
This proposal has not been included by the European	Commission in its amended proposal. ⁵		

1 December 2005

Memorandum by the Department of Trade and Industry

Proposal for a regulation of the European Parliament and of the Council establishing a European Institute for Gender Equality and Commission Staff working document

SUBJECT MATTER

- 1. This Explanatory Memorandum (EM) covers the Proposal for a regulation of the European Parliament and of the Council establishing a European Institute for Gender Equality and Commission Staff working document.
- 2. The overall objective of the Institute is to assist in the fight against discrimination based on sex and the promotion of gender equality and to raise the profile of such issues among EU citizens.
- 3. The proposal has set out the following tasks to meet this objective:
 - collect, record, analyse and disseminate information including results from research produced by Member States, Community institutions, research centres, national equality bodies, NGOs, relevant third countries and international organisations;
 - improve the comparability, objectivity and reliability of data;
 - develop tools which can support better monitoring of the implementation in practice of the integration of gender equality in all Community policies;
 - carry out surveys of the situation in Europe on gender equality;
 - publish an annual report on the Institutes own activities;
 - organise meetings of experts to support research work;
 - organise conferences, campaigns, seminars etc at European level of relevant stakeholders; and
 - Set up documentation resources accessible to public.
- 4. The areas of activity and working methods include:
 - Carry out tasks within the competencies of the Community and in the light of objectives adopted and priority areas identified in its annual programme and with regard to budgetary resources.
 - The work programme will be in line with the Community priorities and the work programme of the Commission.

Legislative resolution on the proposal for a decision of the European Parliament and of the Council on a Community programme for employment and social solidarity—PROGRESS (COM(2004)0488—C6-0092/2004—2004/0158(COD)) Amendment 67 on Article 17, paragraph 2.

⁵ Amended proposal, COM (2005) 536 final, 21.10.2005.

- Avoid duplication and guarantee the best possible use of resources by taking account of existing information that has already been collected by other institutions, bodies and national and international organisations and work closely with the competent Commission services. Ensure appropriate co-ordination with all relevant Community Agencies, Union Bodies.
- Information disseminated should be comprehensible to the final users.
- The Institute may enter into contractual relations, in particular subcontracting arrangements, with other organisations.
- 5. The Institute will comprise a Management Board, a Director and staff and an Advisory Forum.
- 6. The 15 person Management Board, will be made up of six representatives appointed by the Council and nine appointed by the Commission, three of whom will be non voting members from a community level NGO, employer organisation and worker organisation. Decisions will be taken by majority vote, with each member having one vote, the Chairperson will have the casting vote. The term of office is five years for each member, the chair will serve for one year.
- 7. The Commission will nominate candidates for the post of Director, who will then be chosen and appointed by the Management Board. They will serve in office for a period of five years, with one opportunity for extension for a further maximum of five years.
- 8. The Advisory Forum will be a mechanism of exchanging information in relation to gender equality issues and the pooling of knowledge. It will be composed of members from competent bodies specialised in gender equality issues designated by each Member State, as well as three non-voting members nominated by the Commission.
- 9. By the end of the third year the Institute will commission an independent external evaluation of its achievements on the basis of terms of reference issued by the Management Board. The Management Board, in agreement with the Commission will decide the timing of future evaluations. The Management Board will examine the conclusions of the evaluation and issue recommendations regarding necessary changes to the Institute, its working practice and scope.

SCRUTINY HISTORY

10. None, as this is the first time the proposal for the EU Gender Institute has been submitted for scrutiny.

MINISTERIAL RESPONSIBILITY

11. The Minister of State for Industry and the Regions, Deputy Minister for Women and Equality has the main responsibility for policy questions arising from this document together with the Secretary of State Trade and Industry, Minister for Women and Equality. The Secretary of State for Education and Skills, the Home Secretary, Minister for the Cabinet Office and Secretary of State for Foreign and Commonwealth Affairs also have an interest as do Scottish Executive Ministers and Secretaries of the National Assembly for Wales, although equal opportunities is a reserved matter. The First Minister and Deputy First Minister for Northern Ireland also have an interest, as equal opportunities is a transferred matter in Northern Ireland. The Chancellor of the Exchequer has responsibility for the EC budget.

LEGAL AND PROCEDURAL ISSUES

Legal Base

- 12. The chosen legal base in the proposal is a combination of Article 13(2) and Article 141(3) of the EC Treaty. Article 13(2) provides for Community incentive measures to support action taken by Member States in order to contribute to the achievement of the objective of combating discrimination on the grounds of sex. Article 141(3) provides for measures to ensure the application of the principle of equal opportunities and equal treatment of men and women in matters of employment and occupation.
- 13. Further time is needed to consider whether the scope of these two Articles is appropriate and sufficient to cover the proposed objectives of the Institute. In the first Council Working Group meeting on 15 March, the UK placed a scrutiny reserve on the legal base to enable further investigations to be undertaken.

Legislative Procedure

14. Both articles above fall under the co-decision procedure.

Voting Procedure

15. This proposal is under the Qualified Majority Vote procedure.

Impact on UK Law

16. There is no anticipated impact under UK law

EUROPEAN ECONOMIC AREA AND GIBRALTAR

17. The report covers the EU and applicant countries.

Subsidiarity

18. The report is published in accordance with the principle of subsidiarity.

POLICY IMPLICATIONS

- 19. As the proposal stands, there should be no major policy implications for Member States on the Gender Institute. The UK supports the principle of setting up an EGI, as it would raise the profile of gender equality across Europe and provide a more coherent approach to gathering research and information at EU level.
- 20. At the Employment Social Policy, Health and Consumer Affairs Council of Ministers on 1–2 June 2004 Ministers were supportive of the creation of such a body, but stressed the importance of a structure, which would bring added-value and would not duplicate existing activities, as well as it being budget neutral. The UK supports this view.
- 21. In order for the Institute to avoid duplicating the data collection of other agencies it will be necessary that there is close coordination between such organisations (eg the Fundamental Human Rights Agency, once it has been set up).
- 22. The UK are keen to minimise any additional burdens the Institute may impose on Member States' administrations and equality bodies, especially financial burdens.
- 23. In relation to the structure of the Management Board, the UK has some concerns about the relative proportion of members nominated by the Commission and Council.
- 24. The UK will seek to ensure that appropriate SMART objectives are developed for these proposals to ensure that spending is targeted on delivering measurable outcomes and to facilitate better allocation of resources in the future.

Consultation

25. Member States were not consulted in the drafting of this text.

FINANCIAL IMPLICATIONS

- 26. The annual budget envisaged for 2007 is €6.5 million rising to €8.5 million by 2013 once the Institute has reached its full complement of 30 staff. The budget is compatible with the Commission's proposals for the new Financial Perspective outlined in the draft PROGRESS spending review (EM 11949/04 & 11949/04 ADD1 submitted by DWP in October 2004).
- 27. Discussions concerning the budget should primarily take place in negotiations of the spending programme PROGRESS.
- 28. The UK, along with some other Member States, believes that the European Union's priorities can be funded by a budget stabilised at 1 per cent of EU GNI. The level of funding available for the Institute for

Gender Equality would, therefore, need to be consistent with this. The total level of funding agreed may impact on both the nature of targets and potentially the balance of priorities of the PROGRESS programme.

REGULATORY IMPACT ASSESSMENT

29. As the proposal is currently drafted, a Regulatory Impact Assessment is not required as the Institute will not lead to legislation and will therefore not result in cost burdens on businesses.

TIMETABLE

30. The Luxembourg Presidency held the first Social Questions Working Group on 15 March 2005. Further Working Groups are scheduled for 5, 13 and 26 April. They are keen to progress this proposal by the end of their Presidency in June 2005. As the proposal is subject to co-decision however, negotiations will continue into the UK Presidency.

March 2005

THURSDAY 24 NOVEMBER 2005

Present Colwyn, L Harrison, L

Dundee, E Howarth of Breckland, B

Gale, B Thomas of Walliswood, B (Chairman)

Greengross, B Trefgarne, L

Examination of Witnesses

Witnesses: MEG MUNN, a Member of the House of Commons, Deputy Minister for Women and Equality, DTI and Ms Liz Chennells, Director of Gender Equality and Social Justice, DTI, examined.

Q27 Chairman: Good morning. We are very grateful to you for sparing the time to come and see us. We are also grateful for your letters and correspondence. You will know that we had evidence from the EOC last week and we will probably be referring to that during our questions. Lord Grenfell pointed out in his letter of 21 July: "We share the Government's commitment to the principles of equal opportunity and we would support any sound, practical and cost effective proposal that would add significant value to the work already being done by the Commission and Member States". I think that pretty well sums up where we are now, but we have been concerned at the value added of some European institutions and we do not want to endorse proposals that are not going to bring this added value with them. We still have some serious doubts about the merits of the proposal which is why we asked you to come to talk to us. We are studying your letter about the legal base and we will get in touch with you about that later on. As for this session, it is open to the public and it will be recorded for possible broadcasting or web casting. As well, a verbal transcript will be taken of your evidence which will be published on the Parliamentary website and as an annexe to the report on the inquiry which we will write. A few days after this session you will be sent a copy of that and if you wish to amend it in any way please do so as quickly as possible; we have to move fairly swiftly on this. If you feel that some issue has not been dealt with sufficiently or has not been dealt with clearly enough during the course of this session of course you may submit supplementary evidence; in fact we would be delighted to hear from you. You should have a copy of members' interests on the table. The last comment I make is about acoustics. The acoustics in this room are poor so if you could speak up that would be excellent and make life easier for everybody. If you wish to make a short opening statement, could you precede that by giving us your name and official title for the record and introducing Ms Chennells who is alongside you.

Meg Mumn: Thank you. Good morning and thank you, my Lord Chairman, and members of the Committee for inviting me today. I will make a short statement. My name is Meg Munn. I am the Deputy Minister for Women and Equality. I am delighted to

be here today to give evidence and to continue a discussion which has been very useful so far in developing our thinking on the European Gender Institute. As we have said before in correspondence with the Committee, the UK Government welcomes the Commission's proposal for a European Institute for Gender Equality and we support the principle of setting up this Institute. I believe it will raise the profile of gender equality across Europe and provide a more coherent approach to gathering research and information at European Union level. By providing the relevant institutions and authorities of the communities within the Member States with easily accessible objective, reliable and comparative information on gender equality it will give greater visibility to this issue and be an important addition to the existing institutional framework. Most of all, I think the Institute will be beneficial to Europe in helping Member States share good practice. Commission colleagues would like to see the Institute established by 2007 and in our Presidency role we have been working to help them achieve this. Negotiations are continuing at the moment and we are working with the Austrians in the European Parliament to progress the dossier. I am accompanied today by Liz Chennells.

Ms Chennells: I am Director of Gender Equality and Social Justice and I am an official from Women and Equality at the Department of Trade and Industry.

Q28 Chairman: You have stated your support for this proposal. I wonder if you can go into a little more detail about the practical results which you are expecting or hoping the Institute to achieve and which are not being done already. I must say, it came as a bit of a surprise to me when we had a representative from the EOC here last week how little apparent collaboration there is between the existing national bodies dealing with this subject. That may be part of the problem and this may be part of a solution. Perhaps you could give us your thoughts on that.

Meg Mumn: Certainly. The Institute will be able to provide that important evidence to policy makers in the European Commission and, more importantly, I think, the Member States on how best to achieve

what is the Community objective of equality between men and women. It will act as that information hub, a centre for pulling together work that is going on on gender equality—independently currently—in Member States. As you have just rightly said, that is not currently being done. It is proposed that the Institute will carry out data collection from both Member States' governments and also their social partners on topics that are being considered under the programme of indicators which were agreed as part of the Beijing platform for action. You may be aware that as part of our Presidency we have been very keen to continue to progress that rather than to have any new proposals or indicators. It will do that analysis across the European Union looking in a much more organised and professional way at the statistics that are available. I certainly believe that the Institute will enable proper discussion between Member States as a result of that much better dissemination of information on outcomes which different policies are achieving, perhaps tackling similar problems but maybe in different ways. For example, we have information about women in political power but it is currently quite ad hoc and fairly haphazard.

Q29 *Chairman:* Ms Chennells, you were involved in formulating UK policy on the Gender Access to Goods and Services Directive.

Ms Chennells: Yes.

Q30 *Chairman:* You gave evidence to our inquiry last year. Had the Gender Institute been in existence at that time would it have made a contribution to the work that you were doing, do you think?

Ms Chennells: I think it would have provided cross-European evidence. I do not think it is envisaged that the Institute, as conceived currently, will be a policy making instrument of its own. It is still anticipated that policy will be proposed by the Commission in discussion with the Council and then agreed with the Council and with Parliament. Yes, it would have helped in evidence base but, no, it would not have determined the policy.

Q31 *Chairman:* That is not its role. *Ms Chennells:* No.

Q32 Baroness Greengross: I am an enthusiast for equality but I am going to do the sceptical bit now. Is it necessary to have a separate institute to do this rather than, for example, EUROSTAT taking on this role (if it does not fully do it now) or one of the other very many institutes which are Europe-wide? They could have more gender specialists in the relevant Commission Directorate or contract research from Member States' institutions, something like the Dublin Centre. Why is it necessary to have another

one, given that there are national EOC type bodies in most countries?

Meg Munn: The problem which is identified is that at present there is no single European Union body that collects and disseminates information on gender equality that is easily accessible or that draws specifically on good practice from Member States. There are other issues as well about raising the visibility of issues on gender equality as well as developing good practice examples of how, within Member States, gender equality can mainstreamed, which is the aim that I would want to see for all policies on gender equality. If you mainstream it then it is not something that you do as an afterthought. I am very clear that the work of the Institute should not duplicate the work that is done by EUROSTAT and there will need to be a link between the Institute and EUROSTAT because EUROSTAT will provide a good source of data for some of the work of the Institute. EUROSTAT's remit is much broader than gender equality and it focuses more on the whole range of topics and putting hierarchies together, collecting tables for various themes and trying to ensure that there is a harmonisation of statistics across the European Union so that information across a whole range of topics is being considered in the same way. Obviously different Member States collect information on different issues in different ways and they need to make sure that they are comparing like with like and looking over things at a period of time. The Commission currently sponsors a number of projects which are comparative studies seeking to show good practice and promote gender equality. The Institute would provide a central place for this information to be coordinated and made easily accessible to Member State governments as well as to equality bodies, universities, academic institutions et cetera. My concern is that there is a lot of work going on in Member States, sometimes funded by European money, where outcomes are being analysed but that is not then being shared. We now have 25 Member States who could all be trying to achieve similar things—or even a number of them trying to achieve similar things—but they are not learning from the experience of other countries and what they have done, and not getting the value from the European money that has already been spent.

Q33 Earl of Dundee: The EOC tell us that they are in favour of one integrated European body to deal with all equality strands and they suggest that the European Fundamental Rights Agency ought to be the right body for this. Is that idea surely not more consistent with UK Government policy which favours an integrated approach towards equality issues? Should not, therefore, the Gender Institute

proposal be put on hold until the European Fundamental Rights Agency is further progressed? Meg Munn: Certainly that is an approach with which I have a great deal of sympathy and it is something I was certainly keen to look at as an option at the beginning. One of the problems we have in relation to the European Union is that the European Union's competence is not the same across all the strands of equality issues. For example, under the Directive implementing the equal treatment between women and men in goods and services the equality in that area does not exist in all Member States so actually having a focus on gender equality will help Member States to develop so that there is greater equality across the European Union. As you rightly say, our policy is that we have a Bill which has just had its second reading on Monday of developing one commission for equality and human rights here and it is important for us to consider those issues. Having a separate institute does not mean that you cannot work with other areas and look at the interplay between issues of discrimination that affect women and also perhaps a particular ethnic minority. It is not something that stands alone, not talking to anybody else about what it is doing. I am insisting that this body is mandated to work very closely with other relevant agencies. The draft proposal from the Commission does reflect that view; it makes it clear that the Institute should ensure appropriate coordination with all those relevant agencies in order to avoid any duplication and guarantee best possible use of resources. A member of the Fundamental Rights Agency will be invited to the management board meetings of the Institute when they are both set up and we want to ensure that there is cooperation both ways.

Q34 Earl of Dundee: So your view is that the Gender Institute could build up good working links which would not be inconsistent with the other bodies to which it related. However, if the proposal for a European Fundamental Rights Agency were to be progressed—which it has not as yet been—to see if it can do these things, then we might all be saved the need of having another body. That, of course, could avoid double-handling. Therefore in the first place should not a chance be given to the European Fundamental Rights Agency to see what it can do? Meg Munn: If you look at the development in this country, we started out with separate institutes. We have the Equal Opportunities Commission, Commission for Racial Equality, Disability Rights Commission and they have developed their work in that area and there are now strong policies, there is a strong focus on that. One of the issues that I am handling in terms of moving to a Commission of Equality in Human Rights is ensuring that there is confidence that the focus on those particular issues

will not be lost in the new Commission. I think there is a parallel here in that by having a separate Gender Institute it does give that focus for 25 states on the issues of gender equality, recognising that the states that are being run on time, do have programmes of work and do things in different areas and we have new ones coming in, it will give that real focus to gender equality and raise its profile and give a very important signal as to how important it is that this should be mainstreamed into all the policies within the European Union because that is one of the fundamental issues that the European Union is trying to get to grips with.

Q35 Earl of Dundee: Do you then consider that if progressed the Gender Institute would cover aspects of gender equality which would otherwise be missed? Meg Munn: Yes, and bring together information on work that is being done across Member States. One of the benefits of having the European Union is that Member States can share good practice and learn from each other and if money—whether national government funding or European funding—has been put into developing projects which are being successful, not to share that information across Member States is a loss.

Q36 Lord Trefgarne: Are you sure that a pan European institute like this is the best way to take this matter forward? Is there not a risk, particularly perhaps among the new nations of the EU, that this will be seen as yet another mechanism for imposing white Christian views on minority groups? For example, in Muslim communities they have a totally different approach to gender equality from the one that we have.

Meg Munn: No, I do not think that. I think it is not a policy making body; it is a body which will bring together information about various different approaches and arguably, as you say, dealing with the issue of Muslim women and how states work in terms of gender equality is something which could very, very usefully be shared across Europe. As we become countries where we have a whole range of nationalities coming from both within and outside the European Union I think sharing that good practice and looking at the way that different societies have approached issues of gender equality could be very important. As I say, I think the fundamental issue is that this is not a policy making body, this is an Institute which will enable people who make policy—whether that is decided at European level or at Member State level—to have greater access to how work has been done and how funds which have been deployed precisely to try to achieve gender equality have either met or not met their objectives.

Q37 Baroness Gale: You wrote a letter to us on 17 July saying that you had taken informal soundings from other government departments and from the Equal Opportunities Commission. When we met with them last week they told us they had not been directly consulted by the British Government. I wonder if you could explain this apparent discrepancy in the Equal Opportunities Commission believing they had not been consulted and you believing they had been, and could you tell us how much consultation has taken place and with whom and when the consultations took place?

Meg Munn: The Equal Opportunities Commission and government officials both, as you are probably aware, sit on the Equality Advisory Committee so we will have heard their views in that forum as well. My officials actually contacted the Equal Opportunities Commission via e-mail back in April 2004 asking them for their perspective on the European Institute for Gender Equality. From that e-mail they welcomed the proposal and explained that their views had been sought back in 2001 by researchers carrying out the Commission's feasibility study, so it actually goes back over some considerable time. In addition to that, officials and indeed I myself have regular contact with people from the Equal Opportunities Commission in many different contexts and we are confident from that that there is no real difference of approach between us with perhaps exceptions around issues on the budget. In terms of other consultations, we have not specifically Government undertaken consultations; consultations have been carried out by the Commission itself and, as I understand it, they consulted several UK organisations. We accept the assessment that the Commission and the European Parliament have made that this body will be widely welcomed and used by the academic and also the non-governmental organisation sectors. We have consultations with other government departments who have an interest in that, such as the Department for Constitutional Affairs, who obviously have an interest in the Fundamental Rights Agency which we were talking about just a few minutes ago, and also through Cabinet Office cross-departmental meetings.

Q38 Baroness Gale: What surprised us as a Committee was to hear that you had not had direct consultation with the Equal Opportunities Commission. Although you say you had the consultation through e-mails and discussions, you did not have a face-to-face consultation where you both sat down together, bearing in mind the Equal Opportunities Commission is one of our leading bodies on these issues.

Ms Chennells: If the Committee remembers, Tijs Broeke, who came last week, would have been the number two person here because Amanda Ariss who was due to speak was unwell. I think she probably would have recalled this exchange that we had and although "by e-mail" sounds as though it is casual actually an enormous amount of government business is now done by e-mail. Once we got the clear view from them at an early stage that they supported this proposal then you are right, we have not had a formal consultation since then. However, it has come up a number of times in our informal meetings in relation to a number of other areas. We do have good working relationships, as the Minister says, with the Equal Opportunities Commission. I would not like the Committee to feel anxious that we have not discussed this properly with the EOC.

Q39 Lord Trefgarne: The Commission brought this proposal forward; who else did they consult? Ms Chennells: The Commission did a research project to underpin it and they consulted a number of equality bodies in different Member States and a number of academic institutions in different Members States, a small number of whom—five or six—were UK based, including the Equal Opportunities Commission.

Q40 *Lord Trefgarne:* So EOC were consulted by the Commission as well?

Ms Chennells: Yes.

Lord Trefgarne: That did not appear to be so from the witness we had last week.

Q41 *Chairman:* As you say, he is, as it were, the junior partner on this; he might not be quite so aware of what had been happening at an earlier period. *Ms Chennells:* Amanda Harris, who was due to give evidence, has worked for the Commission since the original research. I do not think Mr Broeke was in the Commission at that stage.

Chairman: That might be just a misunderstanding; we can certainly look at both sets of evidence and see what we feel about it.

Q42 Lord Colwyn: Could we talk a little bit now about budget and costs. In your letter of 12 October you said that the European Parliament has made strong calls to increase the budget of the Institute and enhance its role and scope to make it a more political instrument. Then you say the Council's position on the Institute is modest compared with the approach taken by the European Parliament. I wonder if you could explain what you think "budget neutral" is. Budget neutral to me sounds wonderful, like it does not cost anything at all, but I am sure that cannot be right. Do you have any idea what a reasonable budget might be and tell me what budget neutral

means? I have looked through all the papers and I cannot find an explanation of it.

Meg Munn: If I can deal with the budget neutral bit and then I will find the bit in my papers where there are some proposed costings on it so we can talk about that. In terms of budget neutral, what that means is that the money for the Institute has to come from somewhere else. Nobody is adding any more money into this whole area. It really goes back to what I was talking about before in that the budget is spent on various projects developing issues of gender mainstreaming across the European Union. What I am concerned about is that if we are spending that money then we actually need to be getting the value from it in terms of the learning and being able to disseminate that. In terms of how that would work, it means that some of the money which would otherwise be going into programmes would be used in order to gain the learning from the actual proposal.

Q43 *Lord Colwyn:* Are you saying that this is money that already exists, it is not new money?

Meg Munn: Yes. It is not a zero budget. No impact on the existing budget I think is the best way of describing the term budget neutral.

Q44 Baroness Howarth of Breckland: Does that mean that there will be some local projects that are developing these issues where there will be cuts in their budget in order to fund the Institute? I think we need to understand how that money is going to be allocated.

Meg Munn: It is not existing projects; it is in terms of how money would be spent in the future from the relevant European Union programme. It is going forward into the future and instead of all of it going out to projects it is being used to analyse and collect data in order to share the good practice.

Q45 Lord Harrison: Clearly it is not budget neutral in the sense that you have an entity which generates its own income and that matches its expenditure. In that sense, surely this is misleading because, as we understood it from the EOC, what is happening is that there is a budget line from which is subtracted the amount which will fund the Institute. I am personally in favour of it, but I do think you should say to your colleagues that budget neutral has certainly misled members of this Committee.

Meg Mumn: I understand where the confusion has arisen and I am always asking for greater explanations rather than shorthand on various things because I think it can often be misleading. I suppose it is the shorthand that people used to say that nobody is going to have to put any more money into it but actually there are implications in how existing money is being spent.

Q46 *Lord Harrison:* Money will then be subtracted from the budget line which might have funded other very worthwhile enterprises.

Meg Munn: Certainly, and I think this comes really to the fundamental issue which I have been concerned about and I think is one of the concerns of the Committee, what is the Institute going to do which is going to add value? I think where it adds value is that, yes, there will be less money going to projects but getting more value out of the money that is being spent on projects. Perhaps if we can just talk a bit about the budget because obviously the actual amount in terms of that is one of the things which I am concerned about and I am sure you are. Discussions about the possible budget are ongoing and at the moment, as you will be aware, the overall budgetary matters are part of the negotiations being led by the Treasury. Again, just to clarify the point, our concern has been that this Institute should not lead to any spending increase. The Commission agrees with that, as does the Council, so in terms of the proposed costs the annual budget for 2007 is envisaged to be €6.5 million rising to €8.5 million by 2013 once the Institute has reached its full complement of 30 staff. So it is building up over a period and obviously the budget, as I am sure you will be aware, will be agreed by the Council and the European Parliament on an annual basis.

Q47 *Lord Colwyn:* So there is no danger that it is going to be left under-funded and unable to achieve its design purpose?

Meg Mum: There is always going to be a debate about funding and how much money should go into various institutes. We have had a lively debate on the floor of the House of Commons about a new Commission for Equality and Human Rights, as to whether that was too much or too little. In terms of will this be able to do what it is setting out to do, I think this is sufficient to do that. What we are talking about is gaining the learning and experience from what is happening both in terms of European funded money and also other national projects that are going on on gender equality and it is not meant to be a huge bureaucratic organisation which is not really adding value and putting the information out there. I think that should be sufficient.

Q48 Chairman: Nevertheless, there is what is called an opportunity cost in the sense that if you have a budget which is X out of which Y has to be taken, then all the other things which are not Y are either going to be reduced or diminished in number or whatever it is. That is where the "cost" comes really. **Meg Munn:** Of course, yes.

Q49 Lord Trefgarne: Is it going to have a building to live in?

Meg Munn: I think the people would need to be somewhere, so yes.

Ms Chennells: It will be based somewhere. Probably not a building, a suite of offices somewhere.

Q50 *Lord Colwyn:* That is the set up budget. Is the budget extrapolated further in the next five years or so?

Meg Munn: Yes, we have proposed costs. Would it be easier if we wrote to you with these rather than me sitting here reading out the figures and possibly getting them wrong?

Q51 *Chairman:* I think that would be very useful. *Meg Munn:* We will set out what the proposed costs are split down into proposed staff members, administration and operations.

Q52 Baroness Howarth of Breckland: I am interested in the management structure and the governance of this organisation. You said a little while ago that proper discussion with the various Member States about this issue was one of the values of the Institute. I just wondered if that was why the membership was increased to 25, which makes it feel like representation rather than a management board. Could you describe a bit more how you see this being properly managed? Would that unwieldy body undermine the responsibility of the director?

Meg Munn: Essentially, the composition of management was the point of much discussion in the Council and Member States who were looking thoroughly at all the options and the Council felt that because it was one of the main objectives of the Institute to share good practice it would be more effective if all Member States were able to be present. Given that Member States have made different progress in the field of equality and have different perspectives to share it was felt that allowing everybody to be present at that level was important. It does also follow a precedent for other European Union agencies. The actual details about that have not been finalised. They are talking about the management board meeting at least once a year and then further meetings being convened if necessary, but I think it is the kind of detail they do need to work out. It is one of those situations where I think rightly, and encouragingly, all Member States want to be involved and get that level of information. I think there would have to be a difference between the day to day running and the management of the organisation as opposed to both the oversight which Member States rightly want to have but also the learning and the taking back and the raising of issues which are perhaps particularly pertinent in particular countries. That does need to be discussed.

Q53 *Lord Trefgarne:* Will there be anyone in charge? *Meg Munn:* Yes.

Q54 Baroness Howarth of Breckland: Can I just pursue that? I do chair an international body with exactly these difficulties and I understand what you are trying to achieve. Is the executive board really the group that is managing? I wondered why, therefore, you had not got this wider board as the advisory group which you have abandoned? Was that the right way to go and what kind of consultation went on around that? Certainly we had some discussion about that with the EOC.

Meg Munn: I think, again, the issue is that it is always a compromise between trying to involve everybody and not having too many different meetings which look at similar issues, because obviously those in themselves take up resources and actually consume time. Liz, do you have the details of the consultation process that led to that decision?

Ms Chennells: It was negotiation rather than consultation. It became very clear in the negotiations that the only way the UK was going to explore effectively the issue of whether a management board could not represent all Member States was by kind of taking the first step itself and saying, "We would be happy not to be represented" and "We are not happy not to be represented" which made it very easy to understand other Member States' positions because every Member State does take this issue very seriously and I think that is to be welcomed. I think what it envisages is this management board—again that might be a slight misnomer but that is always a difficulty working in different languages-should take a very strategic approach whereas, you are right, the executive board would have more regular contact with the director and his or her top team in terms of monitoring the budget more closely. The management board would be setting the direction for the work programme for the new body and then hearing about how that work programme has been carried forward on an annual cycle.

Q55 Baroness Howarth of Breckland: Could you just describe the decision making process? You have this Institute set up. You have a strategic plan which presumably has been decided by what you call the management board (which I think is very misleading for people who are going to be on it), but how do the decisions carry through that organisation? Who feels accountable for what?

Ms Chennells: I think the director will feel accountable for the delivery of the agreed results within the agreed resource envelope. That will be a critical appointment. The executive board will also have some responsibility for the success or failure of the organisation as well. The director will be hands on day-to-day; the executive board might meet

quarterly or something like that; the management board will be entitled to expect and will congratulate or reprimand as appropriate but will not be able to make micro adjustments. It will be setting the direction and the micro adjustments will have to be done by the director in consultation with the executive board.

Q56 *Chairman:* Is the executive board the body which, as it were, makes sure that the budget is correctly formed and that the expenditure is being properly carried out with the budget? Or is that the director's job?

Meg Munn: The director will have to report to the executive board.

Q57 *Chairman:* That is exactly what I am getting at. The executive board will be the body that deals with the broad brush, something more like that. *Meg Munn:* Yes.

Q58 Lord Harrison: I am always worried when a group of words are spatchcocked together, as in the case of "Specific, Measurable, Achievable, Relevant and Timed" to form a word such as SMART. I have lived in the world of acronyms in Brussels so I am familiar with it, but if these targets exist how are we going to go about actually understanding and ensuring that they are indeed achieved? I wonder, in reply, whether you might give the Committee some tangible examples. I refer back to Ms Chennells' interest in the Goods and Services Directive which preceded this Institute. How might we have measured the success of any collaboration within the Gender Equality Institute such that we could then be satisfied with what you said, which is that true value was added by having a European dimension to these

Meg Munn: I am not sure who came up with SMART first but I remember I first came across it when I was doing management studies or something, so I do not think it is a European thing; I think it comes from somewhere else. Anyway, I think the clear issue in relation to anything where we are setting targets is that what you achieve are sometimes as good as the targets you set in the sense that you have to be clear about the outcome of the work you are doing and what is it that you are trying to get within the resource and time constraint. I think the most successful projects achieve that when even before they are set up how they are going to be measured and evaluated is part of it and that is something which is now much, much more the case in terms of domestic projects. Through that you would report through the management chain to the executive board and obviously on an annual basis to the management board as we have just been discussing.

Q59 *Lord Harrison:* How might that have been measured? What are the elements that you would have sought to find out to satisfy yourself that this was worthwhile?

Ms Chennells: The Goods and Services Directive?

Q60 Lord Harrison: Yes.

Ms Chennells: I think if we were going to use it, if the body had been in existence, a piece of research that could have been helpful would have been to look at the current legislation domestically that existed in particularly the new Member States—but not just the new Member States, there are one or two older ones who would have difficulty—in terms of Goods and Services and Gender Equality so that we could have understood better what was the gap we were trying to meet. I recall when we met before to discuss the Goods and Services Directive you were very interested in what additional impact it would have in the UK and the conclusion we came to then was very little, in fact, because our legislation for Gender Equality and Goods and Services was pretty robust already. I think we discussed the fact that that was not the same across Europe and how important it was for all men and women across Europe that they had a shared platform of legislation to make sure that they did not experience discrimination in the fields of Goods and Services. A piece of research that actually looked at what the state of domestic legislation was across the Union and, indeed, in countries like Romania and Bulgaria which were then already on the list of countries to join would have been a useful piece of information.

Q61 Lord Harrison: That is very useful. Who, within the Institute, would be charged with that, to take that particular example of undertaking that kind of research, or is it something that you would farm out and, arising from that, there are always worries about increased bureaucracy because you have an Institute, and is the work done there or is it done outside? How would you go about making sure the work is done effectively?

Ms Chennells: Here I am speculating because there is not that level of detail in the proposals from the Commission. With that caveat, I think probably the European Commission itself would commission the work from the Institute. Part of its plan for the year would be to do that piece of work within its existing budget. It is anticipated that the body would have an operating budget which would give it the opportunity either to decide if it had the necessary expertise itself to use its own staff to do the research necessary or to commission the research from perhaps two or three relevant institutions in other parts of the Community. That has to be a speculative answer.

Lord Harrison: I hope the Minister understands that we really think this is very important and the British Government should really insist that this is properly set in place and properly observed.

Q62 Baroness Howarth of Breckland: When you were talking about consultation what became clear was that although your consultation goes back to 2001 there are people clearly in the system who did not feel consulted, never mind whether they were. One of the things you are doing is removing the forum as part of getting this wider representative management group, but where will NGOs and other groups come in and how will they feel involved and consulted? Or will this become government representatives and all the NGOs around Europe doing this work will find themselves left out in the dark?

Meg Munn: The position is that it is up to Member States to appoint the appropriate persons to the management board and to decide whether that is a government member or from an equality body. We have obviously not got to the point of being in that position yet. In addition to that, if we looked at it from our country's perspective it would be possible for the Equal Opportunities Commission, for example, to be invited to attend ad hoc meetings of experts which the Institute might have to support its research work and to encourage that exchange of information. It is not about trying to keep people out; it is trying to have a process which enables countries to feel that they are represented, that there is a proper management structure in place so that the Institute does do what it set out to do, that the money is properly used but at the same time people are kept involved and feel that they have an input into it. It is getting that balance right and that is obviously something we want to keep an eye on once the Institute is up and running.

Q63 Baroness Howarth of Breckland: Presumably the Institute could not meet its objectives in a country like ours—although it is very different in other countries—unless they had that network amongst the NGOs.

Meg Munn: Precisely, and we are very conscious of that. The impression we tried to give earlier was that myself as the Deputy Minister for Women and the Women and Equality Unit officials, yes, we have formal meetings with the Equal Opportunities Commission because we are the relevant department but actually we meet them constantly in all sorts of situations because the issues that we are working on are often the issues that they are concerned about as well, so I think we would see this as being part of the overall work with the Equal Opportunities Commission and the subsequent Commission for

Equality for Human Rights which we would want to keep on various agendas and various discussions. *Ms Chennells:* And, indeed, the Women's National Commission.

O64 *Chairman:* The person who gave evidence to us

last week certainly felt that it would be important for

the new Institute to act as a kind of central meeting

place both for people and ideas and contacts and so on for the rather spread out groups which do not have a very effective network. Can I now ask you about the process, as it were? Your letters refer to differences of view between the Council and the Parliament on the budget, role and scope of the Institute. Have those differences been resolved? What do you think is the likely timetable for decision taking on this matter? Do you think the proposal as we understand it is likely to change much over that period of solving these differences of opinion and moving the thing forward to a Council decision? Meg Munn: The position is that the European Parliament Women's Committee have not yet produced their report on the Council decision and they have indicated that they will not publish that until March 2006. The issue which seems to be of concern is that they want to increase the budget, but it was not specified by how much, and enhance its role and scope to make it more of a political instrument. The Council has not yet been given the opportunity to consider these points and in terms of the timing and the likely negotiations that is likely to fall to the Austrian Presidency to take that forward and to try to find a compromise between the two institutes. In relation to your question, are the proposals around the Institute likely to change, well obviously part of the discussion is around role and scope but in terms of the overall position we have had a lot of discussion about that because this is coming out of a budget line and there needs to be a proper discussion about that, what are precisely the opportunity costs and if the budget for this did increase and its scope. However, as I say, that is going to fall to the Austrian Presidency.

Q65 *Chairman:* Do you think they may respond in March?

Meg Munn: The Women's Committee are producing their report and I understand that is March 2006.

Q66 *Chairman:* Does the Parliament then have to debate that or give it any agreement? *Meg Munn:* Yes.

Q67 *Chairman:* So that would then go to a debate and the Parliament would respond to the Commission. Is that right?

Meg Munn MP and Ms Liz Chennells

Ms Chennells: Yes.

Q68 Chairman: We are not in a great hurry then, are we?

Ms Chennells: The timetable is very difficult given that the original plan was to have the body off the ground in 2007.

Q69 *Chairman:* That is what I am getting at. It looks like mid-summer to me.

Ms Chennells: It really depends on what the gap is between what the European Parliament agrees and where the Council position is. Parliament may not endorse all the recommendations of the Women's Committee.

Chairman: No, I understand that. Obviously that is another separate internal question. I think we have got quite a lot of development process ahead of us. I hope you will both be here to see it through. Sometimes with these things people change and you have to make a new start. Anyway, thank you very much, Minister, for coming to see us today and for being so open and free with your responses. Do look at the transcript when it gets to you and if there is anything you feel you want to add then please do so; we are always happy to hear from you. Thank you very much for all your help during this period of investigation.

Correspondence between the Chairman of the European Union Select Committee and the Department of Trade and Industry

Letter from Lord Grenfell to Ms Meg Munn dated 14 June 2005

7244/05 COM (2005) 81 FINAL AND 7244/05 ADD 1 SEC (2005) 328: PROPOSAL FOR A REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL ESTABLISHING A EUROPEAN INSTITUTE FOR GENDER EQUALITY AND COMMISSION STAFF WORKING DOCUMENT

Your Department's Explanatory Memorandum (EM) dated 31 March was sifted to Sub-Committee G for examination on 5 April, but too late for it to be considered before Parliament was dissolved for the General Election. It was considered by Sub-Committee G on 8 June.

Although we note that the Council has already approved the setting up of the Institute in principle, and that the Department supports that decision, we question whether it is really necessary or whether the work it is supposed to do could not be more efficiently and economically done by some existing agency.

We wonder whether the Department has consulted any of the British public bodies and NGOs working in this field to see whether they see a need for the Institute or whether they might be able to carry out the proposed activities as effectively themselves, if necessary with some additional Commission funding, in collaboration with counterparts in other Member States.

A succession of EU Institutes of this sort have been set up over the years. We have expressed concern in the past about the value of some of their activities and the efficiency and accountability of their administrative structures.

If we can be satisfied about the need for the Institute, we will fully support the Government's wish to ensure that it will bring added value, avoid duplication and be "budget neutral". We see a risk of duplication not only of the work done by Member States institutions but also by international bodies such as UN and World Bank agencies working in this field. The proposed activities also seem to us to be far too vaguely defined to judge their real worth.

The Commission have not shown so far what savings it proposes to make to compensate for the additional costs of setting up and running the agency. The overall costs estimates should also be probed rigorously.

We would be glad if you would explain more fully the Department's reservations about the proposed legal base. We recall difficulties in the past over the appropriateness of the legal base proposed for similar EU institutions.

We would also be grateful if you would explain what is meant by having "some concerns" about the relative proportion of members nominated by the Commission and the Council.

We also wonder how a 15-member Management Board can have "an equal representation between men and women".

Your EM says that appropriate SMART (sic) objectives should be developed for these proposals. We would be grateful if you would remind us what the acronym SMART means and how you expect to see those criteria applied in this particular case. While we agree that the Institute should have clear and sensible objectives and allocate its resources properly, we are anxious to avoid the pitfalls of excessive targeting and measurement.

We also note that Working Group meetings about this proposal were due to take place in April and that the Luxembourg Presidency were keen to make progress by the end of their term of office. We would welcome a report on any significant developments during these discussions since the EM was submitted.

We also see that the agenda for the ESPHCA Council meeting on 2 June showed that the proposal was due to be considered for a "partial general approach". We understand from your officials this means that the Council would be invited to agree in principle to a text that has yet to be considered by the European Parliament and that the text would revert for further Council consideration once the Parliament had given its opinion.

We trust that it was made clear in any discussion at the Council meeting that the UK Scrutiny reserve had to be maintained because the relevant documents had not arrived in time to be considered before Parliament was dissolved. Please let us know what happened at that meeting and how you plan to carry discussions forward during the UK Presidency.

We are retaining the proposal under scrutiny pending your response.

Letter from Ms Meg Munn MP to Lord Grenfell dated 23 June 2005

I am writing to update you on the progress made during the negotiations on this proposal and on the outcome of the Employment, Social Policy, Health and Consumer Affairs (ESPHCA) Council on 2 June 2005.

At the Employment and Social Affairs Council on 2 June the proposal reached General Approach, which the UK Government is happy with and is supportive of the Council's position. However, as the proposal is subject to co-decision, negotiations will continue into the UK Presidency when the European Parliament begins its examination of thetext. The UK was able to maintain its parliamentary reserve on this dossier, but in terms of smooth handling of this dossier during the UK Presidency I hope the information below will enable the Committee to complete its consideration of this proposal at this stage.

Negotiations on the European Institute for Gender Equality were progressed quite quickly by the Luxembourg Presidency, who tabled 6 social questions working groups in two months. As outlined in our original EM, the main issues of concern for the UK were on the legal base, the budget and the composition of the management board. These issues were addressed within the working groups.

LEGAL BASE

In relation to the proposed legal base the Council maintained the Commission's position and supported the use of Article 13(2) and Article 141(3) in this instance. As stated in the Explanatory Memorandum, the UK Government considers the use of Article 13(2) inappropriate, as its view is that the scope of incentive measures does not cover the establishment of an Institute. This is a view the UK has consistently taken in relation to other proposals. However, although the UK view is that on balance the legal base is incorrect, it accepts that there are arguments for taking the opposite view, which is the position taken by other Member States. They are content to focus on the point that the role of the agency would be to support action taken by the Member States in order to contribute to the objective of combating discrimination, and consider that Article 13(2) is an appropriate base for this aim, in combination with Article 141(3). There is precedent for the establishment of agencies using a legal base referring to incentive measures in Regulation 851/2004 of 21 April 2004 establishing a European Centre for disease prevention and control. The UK issued a joint Minute Statement with Germany in that case in relation to the use of Article 152(4).

Consequently, in view of the lack of support from other Member States, together with the sensitivity of the issue and the fact that the legal argument was not entirely clear, the UK took the view that it was an appropriate course of action to issue a Minute Statement at Council on 2 June to record our objections to the legal base.

BUDGET

It was made clear at the outset of negotiations that the budget would not be discussed until the EU Financial Perspective 2007–13 has been agreed. The UK firmly agrees with this approach. For this reason, the UK supported a Minute Statement at Council stating that decisions on financial aspects must not prejudice the Financial Perspective.

Management Board

The composition of the Management Board has been a point of much discussion during negotiations. The Presidency proposed a Management Board comprising one representative per Member State, alongside a smaller Bureau to take day to day decisions. This was unanimously adopted by Member States as the final position at Council. The Commission preferred to retain its original proposal to have a smaller Management Board, and issued a Minute Statement at Council reflecting this.

I hope that this information is helpful to your Committee. I will, of course, update you regarding the outcome of the European Parliaments consideration and any ensuing discussions. If you wish to discuss any of these aspects further please do not hesitate to contact my office.

Letter from Ms Meg Munn MP to Lord Grenfell dated 17 July 2005

Thank you for your letter dated 14 June requesting further information on the proposal for a European Institute for Gender Equality and its progress in Working Groups and at the ESPHCA Council on 2 June.

It would appear that my letter, dated 23 June, which answers some of the points in your 14 June letter, crossed with yours. My letter of 23 June updated you on negotiations in Council Working Groups and the outcome of the ESPHCA Council on 2 June, and also answered the points you raise on the budget, legal base and management board. In particular, the fact that there have not been any discussions on the budget means that the Working Group has not been able to explore the costs estimates. This will be done once the Financial Perspective of the EU budget has been agreed.

You question whether the European Institute is really necessary, whether it would duplicate work already being done by other bodies and whether the proposed activities of the Institute could be done by some existing agency.

Gender equality is a key objective of the EU and is a fundamental principal of the current Treaty and will therefore continue to be a high profile area of EU policy. In the Commission's Communication on the Social Policy Agenda, the European Institute for Gender Equality is highlighted as a key tool for assisting the Commission and the Member States in implementing the next phase of the Community's objectives for promoting equality between men and women and ensuring that they are incorporated into Community policies.

The Institute will therefore be able to, with its data collection, research and sharing of good practice, provide key information to policy makers in the European Commission, the European Parliament and the Member States on how best to achieve the Community's objectives. It will also help them devise policies and take action to meet the targets of the Lisbon agenda on removing the barriers to labour mobility by promoting equal opportunities.

The purpose of the Institute is to carry out some of the tasks which existing institutions are not currently involved in, such as questions of coordination; centralisation and dissemination of information; the raising of gender visibility; and the provision of tools for gender mainstreaming. Indeed, the importance that you attach to the Institute not duplicating work done elsewhere, but adding value to other activity, has been a key element of the UK negotiating position and is well reflected in the general approach reached by Council. The current text negotiated in Council makes clear that the Institute shall "ensure appropriate coordination with all relevant agencies in order to avoid any duplication and to guarantee the best possible use of resources." However, merging the activities of the Institute with other bodies or agencies runs the risk that gender equality could be sidelined, and be inconsistent with the priority which the Commission and the Treaty currently give to gender equality.

We have taken informal sounding from other Government Departments and the Equal Opportunities Commission on this proposal and this leads us to consider that the Institute's activities would add value to the work of other British public bodies and NGOs. In addition, the Institute will compare data from Member States at a European level, which is not necessarily being done at a national or even international level.

It is also for this reason that we do not consider that duplication of work by international bodies such as the UN is a danger. The UN's International Research and Training Institute for the Advancement of Women (INSTRAW) carries out research and training activities on different topics at national, regional and international levels, but to date its functions have not provided comparative relevant information which is one of the key tasks for the Institute. INSTRAW's focus is more international, particularly developing countries, and it does not look specifically at how EU Member States are achieving targets set out in the Lisbon Strategy.

You also asked about SMART targets. These are targets which are Specific, Measurable, Achievable, Relevant and Timed. In a budgetary context having these targets is a way to ensure that there is both accountability for spending and to try and make sure that spending is focussed in the right way. SMART objectives are legally required for all EU spending programmes—specified in Article 27 para 3 of the EU Financial Regulation 1605/2002. In negotiations a number of Member States supported amending the text to ensure the overall objective meets the SMART targets. We are also pleased to see included in the text time-bound evaluation and review clauses.

In terms of the UK Presidency's handling of this dossier, it is our aim to maintain, where possible, the Council's general approach on the text during the European Parliament consideration. I visited the European Parliament on Wednesday 13 July and there is significant interest in the proposal there, not all of which is consistent with the Council and Commission's thinking. The relevant Committee is planning to hold five sessions to discuss the Proposal and has appointed two Rapporteurs. This will make it less rather than more likely that we will be ready to see the Proposal on the ESPHCA Council agenda in December.

You will also see from my letter of 23 June that we were able to retain our parliamentary reserve at the June Council. However, I would like to point out that we submitted the EM on 31 March, which matched the deadline given to us by the Cabinet Office.

I hope these answers satisfy your concerns with which you can see I have a great deal of sympathy. In light of my response I would be grateful if your committee would be willing to lift its reserve, as this would be particularly helpful for the UK President of the EU to help progress on this dossier.

Letter from Lord Grenfell to Ms Meg Munn MP dated 21 July 2005

Thank you for your letters dated 23 June and 17 July about this proposal.

Your letter dated 23 June crossed with, but did not deal with the points raised in, my letter to you dated 14 June. We therefore agreed with your officials that we would withhold a reply to that letter until we had seen and had an opportunity to consider your substantive reply to my letter dated 14 June. Although your letter dated 17 July was only received on the afternoon of 18 July, Sub-Committee G exceptionally agreed to consider both letters at their meeting on 20 July.

We are glad to see that the Government maintained the Parliamentary reserve when this dossier was considered by the Employment, Social Policy, Health and Consumer Affairs Council on 2 June. Nevertheless, we regret that the Government should have felt it necessary to have gone along with even a partial decision in favour of this proposal in principle when neither Parliamentary Scrutiny Committee could have had an opportunity of considering it. We do not understand why the Government are in such a hurry to be seen to be endorsing this proposal which clearly needs thorough examination.

Your letter dated 17 July points out that the Department's Explanatory Memorandum was submitted on 31 March which matched the deadline set by the Cabinet Office for submission. Nevertheless, it was clear to your officials at the time that a document submitted on 31 March could not be considered by the Sifting process until the following week, by which time it was not possible for it to be considered by the relevant Sub-Committee before Parliament was dissolved for the General Election.

We note what you say about the need for the Institute. We accept that gender equality is a key objective for the EU and a fundamental Treaty principle. We share the Government's commitment to the principles of equal opportunity and would support any sound, practical and cost-effective proposal that would add significant value to the work already being done by the Commission and Member States to improve gender equality and combat discrimination. But that does not mean that we are prepared, simply because the cause of gender is invoked, to go along with proposals which seem to us to be of doubtful merit.

As I pointed out in my letter dated 14 June, we have expressed concern in the past about the value of some of the institutions which have been set up the EU over the years. We will continue to look searchingly at any proposals to set up new EU-funded institutions, whatever the cause they are supposed to espouse.

We note that informal soundings from other Government Departments and the Equal Opportunities Commission have led the Government to conclude that the proposed Institute would add value to the work of other British public bodies and NGOs. But in my letter dated 14 June I asked whether the Department had consulted any of the relevant UK public bodies and NGOs to see whether they also saw a need for the Institute or whether they might be able to carry out the proposed activities as effectively themselves.

We are still not clear precisely what purposes the data-collection, research, and sharing of good practice described in your letter dated 17 July are supposed to serve. Nor do we understand why it should be necessary to have a separate institute to provide policy-makers in the Commission, the European Parliament and Member States with information which they could presumably already obtain for themselves from existing sources.

The description in your letter dated 17 July of the proposed tasks of the Institute seems to us to be aspirational but vague, and in some cases positively obscure. We therefore remain unconvinced at this stage that the proposed Institute is really necessary.

Thank you for your explanation of the acronym SMART. If we can be satisfied that the Institute does indeed have a worthwhile purpose, we would undoubtedly expect to see that these objectives could be assured, so long as they did not impose unnecessary bureaucracy in the process.

We fully understand what you say about the effect of the Government's position on the Financial Perspective on budgetary considerations. But, given that the proposal is supposed to be "budget neutral", we still want to know what savings the Commission propose to make to compensate for the additional costs of setting-up and running the Institute. Even if the result is "budget neutral", we would expect the Government to probe the costs estimates rigorously and report their conclusions.

We regret that the Government has apparently gone along with the proposal to increase the membership of the Management Board from 15, as proposed by the Commission, to 25. This seems to us to be potentially unwieldy, as well as needlessly costly. Nor does it explain how the Board can have "an equal representation between men and women" as stated in Article 10.2 of the Commission's proposal, which I mentioned in my letter dated 14 June.

Moreover, you have not explained, as requested in my letter dated 14 June, what is meant in your EM about having "some concerns" about the relative proportion of members nominated by the Commission and the Council.

We are also surprised to see what appears to be a new proposal for a "smaller Bureau" which your letter dated 23 June says is supposed to take "day-to-day decisions". This appears to be separate from, and in addition to, the Advisory Board provided for by Article 12. We wonder how this additional layer of bureaucracy can be justified in an organisation of the size envisaged and would be glad to know how it is supposed to be constituted and work, what legal authority it would have, how it would affect the responsibilities and accountability of the Director and what the extra cost might be.

What you say in your letter dated 23 June about the proposed legal base for the Institute is noted. You should be aware that, in the past, we have consistently recorded our opposition to the adoption of any proposal on an inappropriate legal base, regardless of the merits in other respects. Those reservations were raised very strongly in the case of the proposed European Centre for Disease Prevention and Control (12098/03) mentioned in your letter where the Minister concerned eventually over-rode scrutiny on this very point in order to secure adoption. That hardly seems to us to be an acceptable precedent.

We also regret that the Government does not appear to have managed to persuade other Member States to support their view on the legal base. We wish to give further consideration to this aspect of the proposal.

Although we are also grateful to you for reporting on your visit to the European Parliament on 13 July, we would be glad to know what you mean by saying that the Parliament's interest is not fully consistent with the Council and Commission's thinking on the Institute.

For all these reasons, I regret that we are not prepared to acquiesce in your proposition that we should lift scrutiny at this stage. We cannot understand why you should suggest this when it is clear from your letters that, quite apart from all the work that is still needed to justify and clarify the proposal, the timetable set by the European Parliament for consideration means it is unlikely to be ready for Council decision during the UK Presidency.

The document will be retained under scrutiny. To assist our further examination of this proposal, we would be grateful if you could give oral evidence to the Sub-Committee about it on a mutually convenient date after Parliamentary business is resumed in October. My staff will be in touch with your officials with a view to arranging this. In the meantime, we would be grateful for your considered reply to the above points.

Letter from Ms Meg Munn MP to Lord Grenfell dated 12 October 2005

Thank you for your letter of 21 July on the Proposal for a European Institute for Gender Equality.

I regret the detailed information that I provided you with in my last letter, dated 17 July, did not fully address all your concerns. I am now replying to your further specific questions on the Institute and I trust that this explanation will be helpful.

The Commission brought forward a proposed Inter Institutional Agreement this year, setting out a horizontal framework for Regulatory Agencies. An EM on this was submitted to Parliament in March. Since then the proposal has stalled while further consultation takes place. We will update the scrutiny committees on any further developments. But until such a time, it remains necessary to consider Agency issues on a case-by-case basis.

As I stated in my previous letter the objective of the Institute should be to develop methods that will improve the comparability, objectivity and reliability of gender equality data in the EU. These methods should also help to support the integration of gender equality into all Community policies. However, the UK maintains its position that the creation of such an Institute should add value and not be burdensome for Member State Administrations.

At present there is no single EU body that collects and disseminates information on gender equality that is easily accessible and draws on MS good practice. Eurostat produces some basic statistical data that is used by the Commission, but this is limited. The Council working group has agreed that the Institute should take account of existing information and not duplicate the research done elsewhere, in particular by Eurostat. A national body would find it difficult to justify, as well as actually undertake, the production of comparable, EU level data, drawing on good practice in 25 MS, which is the defined purpose of the EGI.

The discussion in Council working groups of the proposed tasks of the Institute is at this stage a broad exploration of the Institute's role and structure. The detailed work programme will be drawn up by the Director of the Institute and with full agreement of the Commission and the Management Board. One of the reasons the Government supported having a Management Board of 25 is to ensure that Member States have influence over the priorities of the Institute's work programme.

You are right to expect the UK Government to probe the costs of the Institute rigorously and we will do so when the Council is given the opportunity to review the budget and the Commission has presented its figures formally. However, the Commission have explained in working groups for the new EU Programme, PROGRESS, and the Institute, that budget neutrality implies that the combined funding requirements of the Institute and the activities under the Gender Equality strand of the PROGRESS programme should be in line with the funding in the current budget heading for the existing Programme relating to the Community framework strategy on gender equality. The Treasury is content with this in principle but agrees that the Commission should provide further information on how the funds are to be re-distributed in the light of this proposal.

Although, the membership of the Management Board has increased from 15 to 25 and would appear unwieldy, Member States were reluctant to move away from the precedent of other Agencies' structures and felt that if one of the main objectives of the Institute was to share good practice then this would be more effective if all Member States were able to be present. The proportion of Commission to Member State representation has decreased, and equal representation between men and women no longer applies to this proposal (as simpler wording such as "balanced representation" was suggested). The group has also moved away from a separate advisory forum, to take into account the increased number of members on the Board and the smaller executive bureau. This therefore reduces bureaucracy overall.

With regard to your comments regarding the proposed legal base for the Institute, we would repeat the remarks we made in the letter of 23 June. But first I must clear up any misunderstanding that the UK considers the current legal base to be illegal. This is not the case. We do consider that Article 13(2) EC may be viewed as an acceptable legal basis for the Institute. We have however argued that there is a more appropriate legal basis for this proposal. Although we consider, on balance, that Article 13(2) EC is not the most appropriate legal base for the establishment of an Institute, I accept that respectable opposing legal views may be taken, which is the position taken by other Member States.

They take the line that the role of the Agency would be to support action taken by the Member States in order to contribute to the aim of combating discrimination, and that thus Article 13(2) EC together with Article 141(3) EC is appropriate. I did not therefore believe that the difference between the positions of the UK and other Member States merited any recourse stronger than a Minute Statement.

A further reason why we consider a Minute Statement was appropriate in this case is the ongoing case C-217/04 relating to the establishment of the European Network and Information Security Agency (ENISA). This is a challenge brought by the UK on the inappropriate use of Article 95 EC as a legal base for the establishment of an agency. Although it is not directly related to the present issue or Article 13(2) EC, it was expected that it might clarify what legal base will be appropriate for an agency. The Advocate General's Opinion, given on 22 September, supported the UK's challenge on the facts but failed to provide any clear guidance as to the correct legal base to be used for the establishment of an Agency. It remains possible that the judgment of the European Court of Justice will be more helpful.

The European Parliament has made strong calls to increase the budget of the Institute and enhance its role and scope to make it a more political instrument. The Council's position on the Institute is modest compared with the approach taken by the EP. You will no doubt understand that as EU President, the UK's role now is to maintain where possible the Council's position in negotiations with the EP, but if that were to move further away, the UK would endeavour to pursue its objectives of value added, budget neutrality and avoid duplication in other activities in this area. The EP's consideration is likely to continue into 2006.

I am pleased to be given the opportunity of appearing before the Sub-Committee on 24 November to further assist in the Committee's examination of the proposal and to explain more fully the Government's position.

Letter from Lord Grenfell to Ms Meg Munn MP dated 31 October 2005

Thank you for your letter dated 12 October which was considered by Sub-Committee G on 27 October.

We are grateful for your detailed reply to the various points raised in my letter dated 21 July about the Proposal. We are very glad that you have kindly agreed to give oral evidence to the Sub-Committee about the Proposal on 24 November and look forward to further discussion of most of these points then.

So far as the proposed legal base for the Institute is concerned, however, our view is that Article 13(2) and Article 141(3) would not be the correct legal base in this case. As we see it, the key question is whether or not the current proposal is an "appropriate action" within the meaning of Article 13. Article 13(1) is the enabling provision which allows the Council to "take appropriate action to combat discrimination". Article 13(2) does not grant any greater, or different, power. Instead it changes the procedural rules which apply to certain measures adopted in the context of Article 13(1) to allow for qualified majority voting instead of unanimity where the measure is "a Community incentive measure". Thus any reference should be to Article 13 (as in recital 3) or Article 13 (1) and (2), and not to Article 13(2).

The next question is whether it is an "incentive measure" under Article 13(2) (an "incentive measure" being one type of "action" under Article 13(1)).

As views appear to differ on this, it would be helpful to understand in what sense the proposal can be seen as an *incentive* measure. It is not clear from the correspondence why the majority of Member States and the Commission apparently consider that this proposal falls within the scope of Article 13(2). What is their reasoning? We would also be glad to know whether any other agency has been created on the basis of powers granted to adopt "incentive measures". In this context, we note that the Government take the view that the creation of European Monitoring Centre for Drugs and Drug Addiction (reference 12143/05) is not an "incentive measure" as defined in Article 15(2) 4(C). I attach a copy of Lord Warner's recent undated Explanatory Memorandum about that, which you may wish to consider and will send you a copy of my reply to him.

The issue is important since, if the proposal fell outside the scope of Article 13(2) but remained within Article 13, unanimity would be required (the basic rule for measures under that Article). Such a change in the legal base could affect the balance of the negotiations and would also result in incompatible legal bases for the proposal, because Article 13(1) requires unanimity and Article 141(3) prescribes qualified majority voting.

We also note from the correspondence note that the Government do not appear to have defined what legal base they consider to be "appropriate" as an alternative and would be glad to know. Do the Government believe that the Regulation should be made under Article 308?

We look forward to your comments. Scrutiny of this item is retained.

Letter from Ms Meg Munn MP to Lord Grenfell dated 22 November 2005

Thank you for you letter of 31 October about the proposal for a European Institute for Gender Equality, in particular on the legal base.

I entirely understand your view that Article 13(2) and Article 141(3) would not be the correct legal base. Perhaps it might be helpful if I set out in some detail our own thinking on this point, and in particular why I am of the view that the opinion of the Commission and my colleagues in Council, that the proposed legal base should be those two Articles, is sufficiently respectable, on balance, as to warrant no further objection than the inclusion of an appropriate Minutes Statement.

You asked what the Government's preferred legal base would be for this proposal. Our view is that Article 13(1) EC is to be preferred to the combination of Articles 13(2) and 141(3) EC as legal base(s) for this proposal. It was acknowledged that a substantial pay element brought Article 141(3) EC into play. However, we recognised that in view of the conflicting procedures of Articles 13(1) and 141(3) EC, to which you referred in your letter, there would have been compatibility issues. On balance we felt that Article 13(1) EC was sufficient legal base as lex specialis for discrimination, and Article 141(3) EC, although substantial, was subsidiary to that.

However, if there had been pressure for a further legal base, we would have considered use of Article 308 EC. This would have been something of a last resort though as use of Article 308 EC where a specific legal base existed in the Treaty, despite the compatibility justification, would have been undesirable. Hence we took the view that Article 13(1) EC alone would be the most appropriate legal base and this was the approach taken at the Working Group.

Our impression of the view taken by the other Member States was that they focused particularly on the wording within Article 13(2) EC concerned with "measures to support action taken by the Member States in order to contribute to the achievement of the objectives [in Article 13(1) EC]". They took the view that it was appropriate to make reference to the objectives in Article 13 EC, which Article 13(2) EC does. They did not support our view that Article 13(1) EC was the more appropriate legal base for this proposal. They also considered that it was desirable to cite Article 141 EC as lex specialis for equality in working conditions and pay. Thus they took the view that Articles 13(2) and 141(3) EC in combination were the most appropriate legal base. Although their view is not one the UK supported, it is recognised that it is not one without foundation. Let me elaborate that point.

The stated aims of the Institute are collecting, analysing and disseminating information, developing methods for improving the comparability of data, developing methodological tools to support the integration of gender equality into Community policies and resulting national policies, carrying out surveys, organising meetings of experts, organising conferences and meetings with stakeholders to exchange information and good practice and setting up documentation resources. It could be argued that some or all of these could constitute measures designed to encourage, facilitate and (in a broad sense) provide incentives for Member State action in the field of gender equality.

Accordingly, I think that a respectable argument can be made that these activities are sufficient to constitute "incentive measures".

The legal base(s) for the Gender Institute Regulation will of course determine the procedure during the legislative process. While we accept that Article 13(2) EC is in some respects parasitic on Article 13(1) EC as a legal base we are not of the view that this necessitates additional reference to the latter as a legal base for this proposal. The clear intention as respects Article 13(2) EC is that it should be available as a separate and standalone legal base, as evidenced by the fact that it is subject to a different procedure. Provided Article 13(2) EC is an appropriate legal base given the content of the measure then we believe that reference to Article 13(1) EC is unnecessary.

There is a precedent for an institution created with an incentive measures legal base. Regulation 851/2004 establishing the European Centre for Disease Prevention and Control (ECDPC) was adopted using Article 152(4) EC—incentive measures designed to protect and improve human health. The UK objected to use of that legal base and produced a joint minute statement with Germany.

Letter from Lord Grenfell to Ms Meg Munn MP dated 1 December 2005

Thank you for your letter dated 22 November about the legal base for this Proposal, which was considered by Sub-Committee G on 1 December.

We note what you say but are disappointed that your reply does not fully answer our concerns on this matter. In my letter dated 31 October I directed your attention to the proposal for the creation of a European Monitoring Centre for Drugs and Drug Addiction (reference 12143/05), currently held under scrutiny by this Committee, and pointed out that, in that instance, the Government said it does not consider the creation of the Centre to be an "incentive measure". In your reply you informed the Committee of another case in which the Government objected to the use of an "incentive measure" legal base for the creation of an agency.

We are troubled by the "a la carte" approach which the Government appears to be taking to the matter of legal bases. This is all the more concerning where two apparently similar proposals held under scrutiny by this Committee at the same time give rise to opposing views on the suitability of the legal base proposed. We would be grateful for a full explanation of the Government's position on when it is appropriate to rely on an "incentive measure" legal base. In particular it would be helpful if you would explain specifically why such a legal base is considered appropriate in the present case when it is not so considered in relation to the Monitoring Centre for Drugs and Drug Addiction, and indicate the differences between the two proposals which, in the Government's view, would justify taking these apparently conflicting approaches.

On a technical point, as I explained in my previous letter, we do not consider it appropriate to refer to Article 13(2) without referring in addition to Article 13(1), which appears to be the enabling provision. While we continue to question whether or not the creation of this Institute can be properly classed an "incentive measure", if 13(2) is the base upon which the proposal relies we do not understand why a legal base of Articles 13(1) and 13(2) and 141(3) has not been considered. This would not result in inconsistency of legal bases as Articles 13(1) and 13(2) together require qualified majority voting, as does Article 141(3). We would be grateful for your specific comments on this point.

Letter from Ms Meg Munn MP to Lord Grenfell dated 3 January 2006

Thank you for your letter of 1 December about the proposal for a European Institute for Gender Equality, in particular on the legal base.

In previous correspondence I have set out in some detail the views of the Government on the legal base for this proposal. While we believe that Article 13(1) EC is the most appropriate legal base for the Gender Institute, we acknowledge that a respectable argument can be made for a combination of Articles 13(2) and 141(3) EC. The question of the appropriate legal base for a Community Agency is presently before the ECJ in Case C-217/04, establishment of the European Network and Information Security Agency (ENISA). The Government brought this challenge not because we were unhappy with the policy behind ENISA but as a result of concerns over the legal base of Article 95 EC used to establish it. We are presently awaiting judgment.

However, given existing case law of the ECJ, the Advocate General's Opinion in the ENISA case, the Opinion of the same AG in Case C-66/04 smoke flavourings (another challenge brought by the government on grounds of legal base) which has certain parallels with ENISA and the subsequent judgment of the ECJ in the smoke flavourings case a pattern is starting to emerge as to how legal base issues are likely to be addressed by the ECJ. When the judgment in ENISA is handed down we hope that the legal position will be clarified further.

The approach being taken by the ECJ indicates that when considering the correct legal base for establishment of a Community Agency they may look at the end result of the activities to be undertaken by the Agency. The correct legal base to establish the Agency would then be found by reference to the EC Treaty and the corresponding Article covering those activities. For example, in the case of the Gender Institute if the end result of the proposed Institute's activities would constitute incentive measures then an incentive measures legal base could be used to set the Institute up. While the Government does not accept either that an incentive measures legal base should be used to establish an agency, or that in this case the proposed activities of the Institute constitute incentive measures, the above points add up to a respectable opposing view on the principle of an incentive measures legal base being used to set up an agency. I set out in previous correspondence the arguments which could be made to categorise the activities of the Gender Institute as incentive measures. The judgment of the ECJ in ENISA will probably bring some measure of clarification.

Therefore, while our view is that Article 13(1) EC is the most appropriate legal base for the Gender Institute, we accept that there is a respectable argument in favour of Articles 13(2) and 141(3) EC instead. The same general arguments can be applied in respect of the European Monitoring Centre for Drugs and Drug Addiction (EMCDDA) and its proposed incentive measures legal base of Article 152.4(c). We understand that

the Department of Health will be responding to you on this issue. We do not believe that there is any significant difference between the two Departments in the legal approach to identifying the most appropriate legal base.

In response to the second point raised in your letter of 1 December, we have considered carefully whether the addition of Article 13(1) EC as a legal base, in addition to Articles 13(2) and 141(3) EC, is appropriate. Our conclusion, having taken advice from Cabinet Office Legal Advisers, is that Article 13(2) EC does not depend upon Article 13(1) EC in order to have effect as a legal base. If a proposal satisfies the requirements of Article 13(2) EC in terms of subject matter then no reference to Article 13(1) EC is required. If the contrary had been intended then it would not have been necessary to include a new paragraph (2) to Article 13 EC with a separate voting rule and legislative procedure and introductory words explaining that the paragraph operated independently of paragraph (1) in the case of proposals which met particular conditions. A similar position can be seen with the relationship between Articles 94 and 95(1) EC.

I would also like to take this opportunity to provide you with the proposed breakdown of costs which you requested at the Committee's meeting on 24 November. The original proposal outlines that the annual budget for 2007 is envisaged to be about 4.5 million euros, rising to 8.5 million euros by 2013 once the institute has reached its full complement of 30 staff.

Below are the proposed costs, broken down into three categories for the next 5 years: staff (salaries, rent. IT etc), administration (Management Board, visits, and other meetings, interpreting and translation plus other admin costs) and operations (research and publications).

Year 1	
Staff (10)	€1.080 million
Admin	€1.23 million
Operations	€2.19 million
Year 2	
Staff (17.5)	€1.925 million
Admin	€1 million
Operations	€3.5 million
Year 3	
Staff (23)	€2.576 million
Admin	€0.999 million
Operations	€3.625 million
Year 4	
Staff (25)	€2.875 million
Admin	€1 million
Operations	€3.625 million
Year 5	
Staff (27)	€3.159 million
Admin	€1 million
Operations	€3.741 million
•	

These figures support the original Commission proposal and will change according to the final shape and function of the Institute, and the Financial Perspective as concluded. The annual amounts are purely indicative.

Letter from Clerk of Sub-Committee G to Equal Opportunities Commission dated 29 July 2005

EUROPEAN COMMISSION PROPOSAL FOR A EUROPEAN INSTITUTE FOR GENDER EQUALITY

My Sub-Committee is currently examining a proposal by the European Commission to set up a European Institute for Gender Equality.

As part of that consideration, my Sub-Committee would welcome any views which the Equal Opportunities Commission may have on the merits of this proposal and especially in response to the following questions:

- are the purpose and proposed tasks of the Institute clear, relevant and well thought-out?
- would the Institute be likely to add significant value to gender equality activities in the EU, and, if so, which ones?

- alternatively, could the work which it is proposed to do be done equally well by existing national or international bodies?
- does the Equal Opportunities Commission have any views on the proposed structure, administrative and financial arrangements for the Institute?

and

— was your organisation consulted about the proposal by the European Commission?

The Sub-Committee may decide to use any reply you may give as written evidence. If so, it would become the property of the Sub-Committee and might be printed, circulated or made available to the public on the Parliamentary website or through the Parliamentary Record Office.

I do hope you would be prepared to assist the Sub-Committee in this way. Parliament is now in Recess but the Sub-Committee will be meeting again shortly after Parliament resumes on Monday 10 October. I would be most grateful if you could let me have your response by then.

Letter from Clerk of Sub-Committee G to Equal Opportunities Commission dated 1 December 2005

PROPOSED EU REGULATION TO ESTABLISH A EUROPEAN INSTITUTE FOR GENDER EQUALITY

We were very grateful for the oral evidence which Tijs Broeke gave in your absence but hope that you might be able to throw some more light on the extent to which the EOC has been consulted by the British Government about the Proposal.

We were surprised to see from your response dated 6 October the statement, in answer to question 5, that the EOC was not directly consulted by the British Government or by the European Commission, but was indirectly involved in consultation with the Commission through the European Advisory Committee on Equality for Women and Men.

During the oral evidence session on 17 November Lord Harrison asked Tijs Broeke about this. You will see from the attached extract from the transcript (QQ 24/25, pages 18/19) that Tijs confirmed that the EOC was "indirectly involved through the Advisory Committee". He added that some members of your staff had participated in interviews with the Commission's feasibility study, which he described as being "involved in the scoping". This left us with the impression that the EOC was consulted indirectly by the Commission, but apparently not consulted by the British Government.

At the oral evidence session on 24 November Baroness Gale asked the Minister about this. I attach an extract from the uncorrected copy of the transcript of the questions (Q 37–40, pages 10–12). You will see we were told that the EOC were consulted by the DTI by email in April 2004 and that the Minister was confident from the "regular contact" which she and her officials had with the EOC that "there is no real difference of approach between us with exceptions around issues on the budget".

Liz Chennells went on to say that you were involved in the exchange of emails with the DTI and suggested that Tijs might not have been working for the Commission at that stage. She also said that, although there had been no formal consultation with the EOC since the exchange of emails about the Gender Institute Proposal, it had "come up a number of times in our informal meetings in relation to a number of other areas".

The Sub-Committee would be most grateful for any comments you might have which might help to clarify this.

Letter from Equal Opportunities Commission to Clerk of Sub-Committee G dated 6 December 2005

PROPOSED EU REGULATION TO ESTABLISH A EUROPEAN INSTITUTE FOR GENDER EQUALITY

I am grateful to the Sub-Committee for allowing me to clarify our written response and the evidence my colleague Tijs Broeke gave at the oral evidence session on 17 November.

As explained by Mr Broeke the EOC has been indirectly involved through the Advisory Committee and some members of our staff have participated in the interviews with the Commission's feasibility study. In addition, as the Minister stated at the oral evidence session on 24 November, the EOC has regular contact with the Minister and her officials in many different contexts and there are in general no real differences of approach regarding the establishment of the European Gender Institute between the Government and us.

I would also like to take away some confusion regarding the email exchange between the EOC and the DTI as mentioned by the Minister and Liz Chennells. We have checked the exchange of emails, of which we were not aware when preparing the session of 17 November, and I can confirm that my colleague Janet Hemsley informed the DTI of our general opinion in response to an enquiry from them back in 2004.

Ms Hemsley has since retired and I would like to apologise for the confusion this omission might have caused.

Finally. please find attached additional information on the number of EU countries that have integrated equality bodies covering different non-discrimination and equality strands and on the funding of the European Gender Institute on a "budget neutral" basis and the plans to take this out of the PROGRESS budget, as requested by the Sub-Committee.

Letter from Equal Opportunities Commission to Legal Assistant dated 21 December 2005

EUROPEAN FUNDAMENTAL RIGHTS AGENCY AND THE GENDER EQUALITY INSTITUTE

I would like to thank you for the opportunity offered by the European Union Committee Sub-Committee E to provide additional evidence regarding the establishment of a European Fundamental Rights Agency in relation to the European Equality Institute.

In relation to the Institute the Sub-Committee has formulated two questions:

— Should the protection of gender rights be separated from other fundamental rights through the creation of two separate agencies? What are the advantages and disadvantages of this approach?

As stated in our submission to the EU Sub-Committee G regarding the European Gender Institute, the EOC would have preferred one integrated European body covering all equality strands including gender. Our experience as an equal opportunities body working on equality between women and men is that it is vital not to disassociate gender from the rest of the equality strands. The EOC therefore, especially with the creation of the Commission for Equality and Human Rights in mind, has been arguing for more coordination and cooperation at a European level regarding promoting equality and fighting discrimination.

The advantages and disadvantages of setting up one integrated body or two separated bodies are discussed in our written evidence to the EU Sub-Committee G, and I do not think that we have any further points to make to that earlier evidence.

— How might the two bodies work together to ensure that overlap is avoided and that cooperation is maximised to improve their effectiveness?

Given that a decision has been made to have two separate bodies it is crucial that duplication is avoided. Both Institutes could for example work together to carry out EU-wide research on the specific barriers faced by women with disabilities or the position of BME women on the labour market and suggest possible solutions or provide examples of best practices. Joint planning and close co-operation have to be ensured. Perhaps the European Commission can incorporate this need for joint planning and close co-operation into the statutes establishing both bodies? The two bodies can also work together on an operational level. Practical solutions could for example be secondments of staff between the bodies, shared training programmes for staff, joint research projects, joint planning, gender mainstreaming the work of the Fundamental Rights Agency and establishing both bodies in the same location. The Fundamental Rights Agency is currently located in Vienna. The new Gender Institute should ideally be located near to this location to promote close cooperation if the European Commission chooses to create of two separate organisations.

Please find attached a copy of our submission (Annex A) of 14 December 2005 to the European Commission's consultation regarding the establishment of a European Fundamental Rights Agency, for ease of reference.

Annex A

Introduction

The Equal Opportunities Commission (EOC) welcomes the opportunity to respond to the consultation on the Fundamental Rights Agency for the European Union. As the statutory body working for sex equality in the UK, the EOC is keen to see a more integrated approach on equality to be developed. Below you find our responses to the Communication. We do not respond to all the questions raised by the consultation but rather focus on the issues linked to our work, experience and expertise (questions 1, 2, 3 and 4).

QUESTIONS AND ANSWERS

1. How can the remit of the Agency be defined in order to ensure both added-value for the EU institutions and Member States and its efficient operation?

The EOC welcomes the proposal to extend the remit of the existing European Monitoring Centre on Racism and Xenophobia (EUMC). The focus in the Communication is, however, extremely wide in relation to the concrete areas it would cover. We would therefore like to suggest that the new Agency's remit is based on Article 21 of the Charter of Fundamental Rights of the Union.⁶ This would provide a clear and coherent framework within which the new Agency could operate.

In addition, we are concerned by the fact that plans to extend the remit of the EUMC coincide with parallel plans to set up a Gender Institute. Our experience as an equal opportunities body working on equality between women and men is that it is vital not to disassociate gender from the rest of the equality strands. We would strongly prefer one integrated European body covering all equality strands including gender to the current proposal for two separate bodies, one covering gender and one covering all other aspects of equality. However, if the current proposals are pursued it will be essential that each body's remit requires it to co-operate with the other.

2. In which areas should the Agency operate? Should these areas be defined in relation to the Charter of Fundamental Rights of the Union and if so how (by article or by chapter?). Should certain priorities be established? If so how? How can we ensure that the current remit of the EUMC (racism and xenophobia) is maintained and built on?

We advise that the areas in which the Agency should operate, should be defined in relation to Article 21 of the Charter of Fundamental Rights of the Union. In this respect changing the name of the Agency into "Equality and Fundamental Rights Agency" would better capture the work of the new Agency.

It is important to set clear priorities without creating a hierarchy of strands. The Communication gives no indication of the likely financial resources of the new Agency. The new Agency should not duplicate work that is already being done on a European level or national level, but it is equally crucial to ensure that adequate resources are provided for the Agency to carry out the ambitious remit that is set out. In this respect we would welcome clarification on how the Agency will be resourced. Using the budget of the new PROGRESS program to fund the extended remit of the EUMC or the new European Gender Institute, for example, would be unacceptable.

The Agency should focus on projects that can offer an added value by adopting an integrated approach and pan-European approach. This means addressing cross-over issues arising in the different areas of discrimination and a very close co-operation with the new Gender Institute to tackle multiple discrimination. The Agency could for example, in co-operation with the new European Gender Institute, carry out EU-wide research on the specific problems facing women with disabilities and suggest possible solutions or provide examples of best practices.

3. How can the geographic coverage of the Agency be best defined, bearing in mind the need to avoid overlap with existing organisations and the need to ensure that the Agency operates in the most efficient manner possible?

The Agency should limit its scope to current and candidate European Union member states.

Article 23 clarifies the equality between men and women further: "Equality between men and women must be ensured in all areas, including employment, work and pay. The principle of equality shall not prevent the maintenance or adoption of measures providing for specific advantages in favour of the under-represented sex."

See: http://www.europarl.eu.int/charter/default en.htm

⁶ Article 21 prohibits any discrimination based on any ground such as sex, race, colour, ethnic or social origin, genetic features, language, religion or belief, political or any other opinion, membership of a national minority, property, birth, disability, age or sexual orientation.

4. Which tasks should the Agency be given? How can the Agency gather objective, reliable and comparable data at European level? How can cooperation with Member States and civil society to obtain this information be best assured? How should the Agency present its conclusions and recommendations? How should the work of the Agency be disseminated?

The Communication mentions two tasks: data collection and the drafting of opinions. We agree that these are important. However, it is important that the Agency's data collection role should not be seen as freeing Eurostat from its responsibility to collect statistics that are disaggregated by sex, race, disability and so on. The Agency's tasks should ensure that the past work of the EUMC on racism is not lost or diluted. The Agency should have the additional tasks of raising awareness on issues of fundamental rights and equality making policy recommendations and presenting possible solutions or good practices.



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