



## **LGBTI equality and the Independence referendum:**

**Response to the Equality Network's questions from Patrick Harvie MSP,  
Co-Convenor of the Scottish Green Party**

### **Equality Law**

- 1. If there is a vote for independence, will your party support protecting equality in the written constitution of Scotland, including on grounds of sexual orientation, gender identity and intersex status?**

Yes. One of the big opportunities of independence is the creation of a modern, codified written constitution which would give explicit support to the human rights and equality of all Scotland's citizens and which would allow government to be held accountable on issues of LGBTI equality.

- 2. If there is a vote to remain in the UK, will your party support further devolution of equal opportunities powers, as is already the case in Northern Ireland, so that Scotland can protect the progress that has been made in recent years and deal with the deficiencies of current equality law, including:**

- That discrimination on grounds of gender identity and intersex status are not fully covered**
- That unlike sex, gender reassignment, race and disability, there is no protection from harassment in the provision of goods, facilities and services for the sexual orientation protected characteristic**
- That same-sex couples are not currently entitled to equal pension provisions under private sector pension schemes**

**Would you support complete or partial devolution of equal opportunities powers?**

We would support the complete devolution of these matters. However it seems unlikely that, within the context of the UK, Scotland would be given responsibilities for equalities issues which touch upon immigration and asylum, employment law, or other functions which remain reserved. It seems more likely that a UK Government elected in 2015 would quickly move on to other matters such as the question of EU membership or the repeal of human rights legislation, and that the issue of further Scottish powers would slip down the political agenda.

Indeed the various UK parties' proposals for further devolution have not, in our view, been designed to transfer meaningful political or economic powers. Rather they have been designed to transfer to Scotland the responsibility to manage the consequences of UK-imposed austerity and the public service cuts which follow. In that context, we would be deeply concerned that a future for Scotland inside the UK would be a deeply challenging one for those who are committed to progressive and pro-equality values which depend on quality public services.

**3. In your view, would a vote for independence or a vote to remain in the UK be better for the future of equality law in Scotland, and why?**

Both supporters and opponents of independence should be able to agree that the whole political spectrum has been gradually moving the right direction on LGBTI equality issues. However one thing can be said of Holyrood which is not true of MPs at Westminster: MSPs have never once in the history of Scotland's Parliament voted against our communities' equality.

We believe that there are real opportunities to gain from independence, such as the constitutional guarantees mentioned above which would allow citizens to hold any future government to account on equality issues. But even the opponents of independence should be able to acknowledge that, at the very least, LGBTI people have nothing to fear from an independent Scotland.

**Leadership and Resources**

**4. If there is a vote for independence, in what ways will your party ensure that Scotland commits adequate leadership and resources on efforts to secure LGBTI equality and human rights through public services (e.g. promoting equality in schools, tackling hate crime)?**

In addition to the constitutional guarantees mentioned above, we are proud of our track record in giving leadership on these issues, even as a small political party. Our manifestos have consistently given clear commitments on legal equality, protection of public services, and the cultural value of diversity in modern Scotland. We have led debate in the Scottish Parliament on issues from civil partnership to hate crime. There will of course continue to be a need for pressure on all parties to make similar commitments and on successive governments to deliver on them, but we would ask you to judge all parties by their track record, not just their stated commitments.

**5. If there is a vote to remain in the UK, in what ways will your party ensure that Scotland commits adequate leadership and resources on efforts to secure LGBTI equality and human rights through public services?**

Our political commitment to LGBTI equality and human rights will remain resolute. Our concern would be that all public services, including those which enable LGBTI people to access their rights and live with equal dignity, would come under continual pressure in the context of UK austerity economics. There have also been setbacks at a policy level in the UK, for example the stripping of funding and powers from the UK Equality and Human Rights Commission.

**6. In your view, would a vote for independence or a vote to remain in the UK be better for the future of efforts to secure LGBTI equality and human rights through public services, and why?**

We believe that Scotland's public services would be better protected in an independent Scotland with the ability to end the ideological austerity agenda which is being imposed by the current UK Government, and which the main opposition party at Westminster appears to subscribe to. Investment in our public services is vital for

all people in Scotland, but is particularly necessary to ensure that progress on LGBTI equality and human rights continues. The UK Government's threat to repeal human rights legislation is also a real danger.

## **Foreign Affairs and International Development**

### **7. If there is a vote for independence, how will your party ensure that Scotland has a strong influence promoting LGBTI equality and human rights around the world, for instance through diplomatic efforts and the provision of aid?**

While Scotland would clearly have a smaller development and aid budget than the UK as a whole, the combined budget and influence of the two independent countries would be every bit as significant on issues where we agree. There would no doubt be opportunities to work together. Indeed the influence of European countries is often at its strongest when we co-operate across the whole EU. However where Scotland's priorities diverge from those of the UK, it is important that our voice is heard in its own right.

Scotland has a particular opportunity to forge links with equality and human rights activists in developing countries, and to communicate something of our own story of progress toward LGBTI equality. Having once been seen (and often seen ourselves) as a more socially conservative part of the UK with damaging political influence exercised by religious hierarchy figures, we have made great progress toward a more equal, secular society. We can help to achieve progress alongside other countries by working in a spirit of empathy and allowing equality and human rights activists in those countries to set the priorities in their own context.

Using aid budgets in a proactive manner to promote human rights and equality will generally be more productive than using the threat of withdrawal as a weapon. However where governments act in blatant violation of their LGBTI citizens' dignity, safety and human rights, there will be occasions when the redirection of development funding, or other direct measures such as sanctions, may be justified.

### **8. If there is a vote to remain in the UK, how will your party ensure that Scotland is able to play its part in promoting LGBTI equality and human rights around the world?**

Many of the cultural goals mentioned above, such as relationship-building with activists overseas, will remain possible within the context of the UK. Indeed the recent Pride House initiative at the Glasgow Commonwealth Games was a good example of this kind of work. However such activity will remain limited if we cannot back it up with diplomatic presence, and the direction of government aid and development policy.

### **9. In your view, would a vote for independence or a vote to remain in the UK better enable Scotland to promote LGBTI equality and human rights around the world, and why?**

Independence would allow Scotland to play a far more proactive role in promoting global human rights and equality. Whether that would have a material impact on progress in other countries, compared with the work the UK Government may choose to undertake, cannot be predicted with 100% certainty. However without independence this agenda would remain under the control of successive UK governments, and their level of interest in the LGBTI aspects of development policy is also uncertain.

## **Asylum**

**10. If there is a vote for independence, will your party ensure that Scotland welcomes LGBTI people seeking asylum from their home country because of a well-founded fear of persecution on grounds of their sexual orientation, gender identity or intersex status?**

Yes. The UK's asylum system has been allowed by successive UK governments to become brutal, humiliating and inhumane. Instead of being designed to ensure that asylum is available to those who need it, the system appears designed to reject as many applications as possible. In that context the UK has moved somewhat away from the practice of routinely telling LGBTI applicants that they should return to their country of origin and "live discreetly" to avoid persecution, however the practice of demanding that applicants provide material "proof" of their innate sexual orientation or gender identity remains prevalent. This is an absurd and offensive requirement, and we have no doubt that people are being unreasonably denied asylum and deported to unsafe places because of this requirement.

**11. If there is a vote to remain in the UK, will your party support the improvement of the UK's asylum processes so that LGBTI people with a well-founded fear of persecution in their home country because of their sexual orientation, gender identity or intersex status, can find asylum in the UK?**

If there is a No vote we will continue to put pressure on the UK Government and the UK Borders Agency to change its policies and practice, and rebuild a humane asylum system. However the UKBA has consistently refused to engage with Members of the Scottish Parliament who are seeking to represent their constituents on these matters, and there seems no prospect of a change of political leadership on this issue from within the UK political landscape.

**12. In your view, would a vote for independence or a vote to remain in the UK be better for the future of asylum provision in Scotland, and why?**

Without doubt an independent Scotland would allow the creation of a system which fully respects LGBTI equality and human rights, and which protects LGBTI asylum applicants who have a fear of persecution. At present such applicants are often treated appallingly by the tribunal system, given poor legal representation and a lack of emotional support, and go without political representation as many MPs simply refuse to advocate for them.

## **Summary**

### **13. In your view, why should LGBTI people in Scotland vote for independence or vote to remain in the UK, both in terms of LGBTI equality and also more generally?**

LGBTI people will not vote in this referendum on the basis of LGBTI issues alone. Many will be as strongly motivated as anyone else by the opportunity to invest in a greener energy system, a sustainable economy, and a fair distribution of the wealth of the country.

However on the specific agenda of LGBTI human rights and equality, independence would pass a range of responsibilities from a Parliament and Government at Westminster to a Parliament and Government at Holyrood. We see no reason to imagine that the positive record of Scotland's political landscape would be any less favourable to LGBTI people's interests, and we see many opportunities to go further and faster on these issues with independence.

Scotland has changed. Once a country which held out for years against decriminalisation of male same-sex relationships, we are now a country which gave equal marriage the third biggest majority of any country in the world. We should be proud of that progress, and unafraid of taking responsibility for all the decisions about our country's future.

Scotland's LGBTI communities have a strong and respected voice within the country, and those who oppose our equality are an ever smaller band who are losing every argument. We have nothing to fear from independence, and much to gain.