



Dear Tom

Thank you for your letter and questions on LGBTI Equality and the Scottish Referendum.

The Labour Party has a proud and substantive record of promoting equalities legislation at both Holyrood and Westminster. In Scotland, it was the Labour-led government of 1999-2003 that repealed Section 28, in the face of a massive campaign of opposition. It was a Labour-led government which worked closely with the Equality Network to deliver the first legal recognition of cohabiting same sex couples, and which delivered Civil Partnerships in Scotland. And Scottish Labour strongly supported the Marriage and Civil Partnership (Scotland) Bill which legalised same-sex marriage in Scotland.

At a UK level, the last UK Labour Government (1997-2010) arguably did more for the advancement of LGBTI equalities than any government in British history. This included achieving an equal age of consent; removing the ban on LGBT individuals and couples adopting children; creating civil partnerships; including homophobia in the definition of hate crimes; increasing sentencing for homophobic hate crimes; and repealing out-dated offences such as gross indecency.

The extent and scope of these achievements, the timescale in which they were achieved, and the depth and duration of the historical prejudice, discrimination and inequality they served to extinguish, stand testament to the extent to which devolution has proved an effective instrument for protecting and promoting the rights of the LGBTI community in Scotland and throughout the UK.

However, despite these considerable achievements, we recognise that discrimination, prejudice and inequality persist. That is why, whatever the result of the referendum, the Scottish Labour Party is determined to build upon the progress that has been made and to work towards a society where members of the LGBTI community enjoy absolute equality of rights, entitlements and opportunities.

Please find attached our response to each of your questions. Thank you again for contacting us on this vitally important issue.

Yours sincerely

Johann Lamont

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LGBTI equality and the Independence referendum:

**Response to the Equality Network's questions from Johann Lamont MSP,
Leader of the Scottish Labour Party**

Equality Law

- 1. 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?

At present, the Scotland Act states that equal opportunities are a matter reserved to the UK, which means that only the UK Parliament can prevent, eliminate or regulate discrimination between persons on grounds of sex or marital status, on racial grounds, or on grounds of disability, age, sexual orientation, language or social origin, or other personal attributes.

The Scottish Parliament can exercise powers to encourage the adoption of, and compliance with, equality legislation, except by means of prohibition or regulation. This power extends to the imposition of legally binding duties on public bodies to give due regard to the importance of complying with equality law.

As stated in the final report of our Devolution Commission, we believe the Scottish Parliament's powers in this area should be extended to make the enforcement of equality law a devolved matter. This will be included in a new Scotland Bill that will be introduced to the UK Parliament if Labour wins the general election in May 2015.

This will afford the Scottish Parliament enhanced powers to further the cause of equal opportunities in Scotland. If Scottish Labour wins the Scottish parliament elections in May 2016, our record shows that we would put these powers to good use.

2. 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?

We believe that a No vote delivers the critical combination of powers necessary to support and extend the protection of equality in Scotland, affording us equality powers in the Scottish parliament – powers which are bound by the European Convention on Human Rights (ECHR) – within a United Kingdom with the strength and influence to continue to promote LGBT equality across the world.

Scottish Labour would participate constructively in constitutional discussions in the event of a vote for independence, and a commitment to equality would remain at the heart of our values. The process for creating a constitution is, like many things in the Yes campaign's plans, unclear. One thing that is clear is that the Scottish Parliament's current requirement to be bound by the ECHR would certainly be lost, putting equality rights at risk. The best way to ensure equality is built into the foundations of the Scottish Parliament is to vote No.

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

As noted above, the Scottish Parliament is bound by the European Convention on Human Rights. This means that any attempt to pass legislation that contravenes those rights immediately falls. This is a significant protection against the danger of a future government which is not committed to equality in Scotland, however remote that idea may seem. A vote to leave the UK would remove this critical protection. The devolved parliament is unquestionably better for the future of equality law in Scotland.

There are important additional steps which need to be taken in equality law in Scotland, especially around gender identity. Under devolution, Scotland has a nimble, consultative and equality-bound parliament ready and well placed to undertake this work. Far better it does that than get mired in decades of legislation to reinvent the myriad administrative functions required if there is a Yes vote. Equality will not be top of the agenda for many years if we vote for independence.

Leadership and Resources

4. 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?

You are right to suggest that the focus for equality campaigns, now that the majority of legislative change has been achieved, must be political leadership. Scottish Labour has always led, and will continue to lead, on issues of equality, from women's rights, to disability rights to LGBTI rights.

The delivery of public services drives equality, and the commitment of resources is dependent on a stable economy. Fundamental to any commitment to equality is economic justice. According to the Institute for Fiscal Studies a Yes vote risks

massive cuts of around £6 billion to the budgets on which delivering equality depends.

Scottish Labour is committed to properly funding the local councils through which so much equality work is delivered. In order to do that, we need to retain the economic stability of the United Kingdom.

5. 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)?

A vote for independence means that the opportunity to devote leadership and resources to the equality agenda will be lost. We will be focused for years, perhaps decades, on simply rebuilding the basic functions of government. If there is a Yes vote, Scottish Labour is committed to working with others to try to ensure that issues of equality are addressed, but we believe it is far better to retain devolution and continue to devote resources to equality as they have been thus far.

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

As noted above, a vote for independence means that the opportunity to devote leadership and resources to the equality agenda will be lost. We will be focused for years, perhaps decades, on simply rebuilding the basic functions of government. The commitment of resources to deliver equality relies on economic stability, and this will be put at risk by independence. These facts, coupled with the loss of the Scottish Parliament's requirement to comply with the ECHR, makes a vote to remain in the UK with a strong Scottish Parliament by far the better option to secure LGBTI equality and human rights through public services.

Foreign Affairs and International Development

7. 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?

As a member of the UK, Scotland is a senior member of the EU and the UN, and as such has a strong and influential voice in the international community. The last Labour Government took a number of steps to promote the rights, and ensure the protection, of members of the LGBTI community resident in other countries. We signed the Treaty of Amsterdam, which gave the EU powers to end discrimination on the grounds of sexual orientation, and launched a campaign in the UN for the decriminalisation of homosexuality, focusing on the nine countries where it is still punishable by death.

In the event of a No vote, Scotland will continue to contribute to the UK's efforts to promote democracy, equality and civil rights and freedoms across the globe. We believe that members of the LGTBI community, in common with other minority

groups, should be able to live free from the fear of persecution and violence, and enjoy the same rights and entitlements as other citizens. The UK has and will continue to provide asylum to refugees of all types wherever it is deemed to be justified.

8. 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?

Independence can only mean a reduction in Scotland's ability to influence LGBTI equality around the world. The UK has an unparalleled network of diplomatic, cultural, economic and political ties across the global community which have been built up over centuries. It has the economic strength and stability to play a major part in aid provision. A vote for independence is a vote to step away from all of this. It also sends a message of isolation rather than co-operation. If Scotland does vote for independence, our opportunities to influence LGBTI equality will be significantly reduced. Nonetheless, if there is a Yes vote, Scottish Labour will use whatever limited leverage we have to continue to have a positive influence on LGBTI rights across the world.

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

As noted above, independence can only mean a reduction in Scotland's ability to influence LGBTI equality around the world. The UK has an unparalleled network of diplomatic, cultural, economic and political ties across the global community which have been built up over centuries. It has the economic strength and stability to play a major part in aid provision. A vote for independence is a vote to step away from all of this. It also sends a message of isolation rather than co-operation. If Scotland does vote for independence, our opportunities to influence LGBTI equality will be significantly reduced.

For those reasons, it is our unequivocal view that a vote to remain in the UK better enables Scotland to promote LGBTI equality and human rights around the world.

Asylum

10. 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?

The Labour Party has a proud history of improvement of asylum processes to ensure that LGBTI people facing persecution can and do receive asylum in the UK. It is widely acknowledged that much of the asylum system needs improvement, and that too many decisions are overturned on appeal. Scottish Labour strongly supports

further improvements to ensure that the right decision is made in the first instance, as this will prevent unnecessary delay, cost and anxiety.

11. 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?

Scottish Labour would continue to support asylum for LGBTI people with a well-founded fear of persecution whether or not there is a vote for independence. But we strongly believe that a single, fair asylum system for the whole of the UK is preferable to two separate systems. We do not want to see border posts erected between England and Scotland. Separate asylum and immigration policies between an independent Scotland and the rest of the UK run the risk of making such border posts necessary. We should ensure asylum is fair across the UK, not create needless divisions across the UK.

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

For the reasons noted above, we believe a single system of asylum across the UK, in which the right decisions are taken first time more of the time, would do far more to improve the safety and security of asylum seekers than a divided UK.

Summary

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

Since the advent of devolution in 1999, huge strides have been made in ending prejudice and discrimination and advancing the rights of LGBTI people and other minority groups in Scotland and across the UK. The society we live in today is more tolerant, more accepting and more compassionate. That is something we all should be proud of.

We stand by the record of the Labour Party and devolution and, whilst we are in no way complacent, we do not believe that anything further could or would be achieved under a different constitutional settlement. But the record of devolution in Scotland, and the Labour Party as the architect of devolution, speaks volumes for what we can achieve in the future.

This is not solely evident in the arena of equality and equal opportunities, but in the other achievements of the last fifteen years – the smoking ban, the end of feudal tenure, free childcare and free care for the elderly. These achievements prove that devolution works. They are also achievements that we can enjoy alongside the wider benefits of being part of the UK, such as the pooling and redistribution of resources which allows Scotland to receive £1,200 more per head in public spending than other areas of the UK, and an extra £500 million in pensions and benefits.

We are confident that on 18 September, the members of the LGBTBI community, in common with other voters across the country, will do what is best for Scotland, and vote No to ensure that we remain within the UK.