



The Scottish Parliament  
Pàrlamaid na h-Alba

## Official Report

# EDUCATION AND CULTURE COMMITTEE

Tuesday 10 September 2013

Session 4

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**Tuesday 10 September 2013**

**CONTENTS**

	<b>Col.</b>
<b>INTERESTS</b> .....	2711
<b>DECISION ON TAKING BUSINESS IN PRIVATE</b> .....	2712
<b>DEPUTY CONVENER</b> .....	2713
<b>CHILDREN AND YOUNG PEOPLE (SCOTLAND) BILL: STAGE 1</b> .....	2714

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**EDUCATION AND CULTURE COMMITTEE**

**22<sup>nd</sup> Meeting 2013, Session 4**

**CONVENER**

\*Stewart Maxwell (West Scotland) (SNP)

**DEPUTY CONVENER**

\*Neil Bibby (West Scotland) (Lab)

**COMMITTEE MEMBERS**

\*George Adam (Paisley) (SNP)

\*Clare Adamson (Central Scotland) (SNP)

\*Jayne Baxter (Mid Scotland and Fife) (Lab)

\*Colin Beattie (Midlothian North and Musselburgh) (SNP)

\*Joan McAlpine (South Scotland) (SNP)

\*Liam McArthur (Orkney Islands) (LD)

\*Liz Smith (Mid Scotland and Fife) (Con)

\*attended

**THE FOLLOWING ALSO PARTICIPATED**

Jackie Brock (Children in Scotland)

Alex Cole-Hamilton (Aberlour Child Care Trust)

Duncan Dunlop (Who Cares? Scotland)

Clare Simpson (Parenting across Scotland)

Lori Summers

Claire Telfer (Save the Children)

Caroline Wilson

**CLERK TO THE COMMITTEE**

Terry Shevlin

**LOCATION**

Committee Room 1



**Scottish Parliament**  
**Education and Culture**  
**Committee**

*Tuesday 10 September 2013*

[The Convener *opened the meeting at 10:00*]

**Interests**

**The Convener (Stewart Maxwell):** Good morning, everybody. I welcome you all to the 22nd meeting of the Education and Culture Committee in 2013. I remind all present that all electronic devices, particularly mobile phones, should be switched off at all times, because they interfere with the sound system.

We have made a slight change to the running order today, in that we will start by inviting Jayne Baxter to declare any relevant interests. Jayne, have you any relevant registrable interests to declare?

**Jayne Baxter (Mid Scotland and Fife) (Lab):** I am an elected member of Fife Council and a member of Unite the Union.

**The Convener:** Thank you very much for that, and welcome from all the committee. I am glad that you have joined us at this very important stage in the examination of this particularly important bill and the latter stage of our inquiry on taking children into care. A welcome from the whole committee, Jayne; I am sure that you will enjoy your time here.

**Decision on Taking Business in**  
**Private**

10:01

**The Convener:** Our second agenda item today is to decide whether to take items 6 and 7 in private. Are members agreed?

**Members** *indicated agreement.*

## Deputy Convener

10:01

**The Convener:** Under our third agenda item, as Neil Findlay has left the committee, we need to choose a new deputy convener. The Parliament has agreed that members of the Scottish Labour Party are eligible to be chosen as deputy convener of the Education and Culture Committee. That being the case, I invite nominations for the position of deputy convener.

**Jayne Baxter:** I nominate Neil Bibby, convener.

**The Convener:** I ask the committee to agree that Neil Bibby is chosen as deputy convener.

*Neil Bibby was chosen as deputy convener.*

**The Convener:** Our congratulations go to Neil on his new role. I do not need to welcome you to the committee, because you have been here for some time, Neil, but I am sure that it will be a pleasure to work with you as deputy convener.

## Children and Young People (Scotland) Bill: Stage 1

10:02

**The Convener:** Under our next agenda item we will hear evidence on the Children and Young People (Scotland) Bill. We have two panels of witnesses today, the first of which includes organisations representing the perspectives of children.

I welcome to the committee Jackie Brock from Children in Scotland, Alex Cole-Hamilton from Aberlour Child Care Trust, and Duncan Dunlop from Who Cares? Scotland. I thank the witnesses for their written submissions, which will inform our lines of questioning. Clearly, we have quite a lot of areas to cover this morning, so I want to get straight to the questions.

I remind members that quick, precise questions would be helpful and those answering the questions that precise answers would be equally helpful. Also, if somebody else has covered a question, you do not need to answer twice. If we could all do that, it would be very helpful. I ask Liam McArthur to start us off.

**Liam McArthur (Orkney Islands) (LD):** I will start with the general issue of rights. We have already heard about issues about whether or not a children's rights impact assessment should be carried out in relation to the bill, and we have had a response from the Scottish Government on that. It would be helpful to get your views on what has not been carried out, and what the deficiency is in that respect.

The other issue that we covered last week was in relation to the incorporation of the United Nations Convention on the Rights of the Child. We heard in particular from Professor Norrie about what he saw as the complications of incorporating it wholesale into Scots law. I know that this has been one of the priorities for a number of groups operating in this field, and it would be helpful to know the basis on which you believe full incorporation to be the best route and to hear about examples that we can learn from of where it has been done in other countries that would give us confidence that it could be done in this country without too many problems.

**The Convener:** I know that the panel was not specifically asked here today to answer questions on this area, but it would be helpful to get your responses.

**Alex Cole-Hamilton (Aberlour Child Care Trust):** I will take the first question about the children's rights impact assessment. When the legislative programme was originally mooted, this

bill was meant to come after the passage of the rights of children and young people bill, and it was our hope that that bill would create a rights-based framework within which all future policy and legislation would be passed.

As that was then conflated with this bill and the provisions therein changed rather significantly from the original, we hoped that, at the very least, a children's rights impact assessment, conducted according to those provisions, would ensure that this bill would be entirely in the spirit of upholding and observing children's rights. There are aspects of the bill that we believe would not stand up to scrutiny, specifically around the voice of the child in section 33, on the child's plan.

I will talk very briefly about incorporation and why we support it. Let us talk about what we want. What we want is what you want, which is to create a Scotland that is the best place in the world to grow up in. The international standard for what that means is the creation of a rights-based framework and approach to legislation that means that all decisions by ministers or by public bodies in the delivery of a service are taken in a transparent and accountable way that has the best interests of the child at heart, listens to the voice of the child and takes account of the impact that any particular policy might have. That would give the power of access to justice to children and a right to redress, through either judicial or non-judicial means. It would also create a framework within which we could monitor and evaluate the observance of those rights in conducting our public policy.

For us, the most elegant roadmap to that, and the most elegant solution against the international standard, is to incorporate the United Nations Convention on the Rights of the Child into Scots law. Until we do something like that, or we build the provisions into the way in which we make policy, we will forever be behind those countries that have already incorporated the UNCRC—countries to which we look, such as Norway and Belgium, where the UNCRC has been incorporated for several years now, and whose judicial systems still function absolutely normally, but with children's rights at their very core. Without that, we will not have achieved the ambition to be the best place in the world to grow up in.

**Liam McArthur:** That is helpful. I think that the specific concern that Professor Norrie articulated last week was that, whereas the UNCRC sets out a series of aspirations that, obviously, we can all sign up to, by incorporating it wholesale into Scots law, which itself is more literal and more precise, we would run the risk of handing responsibility for the interpretation of those aspirations, and whether they have been fully reflected, to judges

as opposed to legislators. You do not believe that that is a risk.

**Alex Cole-Hamilton:** That has certainly not been the case in the countries that have incorporated it. I named two, but there are many others. There are countries throughout Europe that automatically incorporate UN treaties, as that is just the way their legislative process works. This is about—

**The Convener:** Sorry—can I interrupt you? Just to be clear about this, Liam is quite right that Professor Norrie raised this issue last week. The reason why it is—I do not want to use the word “easy”—easier for some other countries to do so is that their style of law is very different from the style of law that we have. Our law is very specific and very detailed, and interpretation is done by legislators, whereas other countries have much more general ambitions in their law, and incorporation is therefore relatively straightforward. It fits with their law, whereas it does not really fit with our law. We can achieve the same ends, therefore, not by incorporation but by making changes in legislation. There is a clear difference in the style of the law that we have compared with that in other countries.

**Alex Cole-Hamilton:** We have a legal opinion on this point, which was commissioned by UNICEF and which we can make available to the committee. It is from Aidan O'Neill, who said that incorporating the UNCRC into Scots law is entirely compatible with Scots law both in its everyday practice and the common-law aspects that you described.

**The Convener:** Does anybody else want to make a very brief comment on that, or are you content with that answer?

**Jackie Brock (Children in Scotland):** I would very briefly point out that the vast majority of Children in Scotland's members—400 plus—favoured incorporation and, equally, a children's rights impact assessment. They are, quite frankly, baffled as to why the vast majority of responses, which said that they favour incorporation, have not been responded to adequately. We do not know why there is not a children's rights impact assessment. There does not seem to be a good reason for it. In many ways, that really could have helped with a lot of the, frankly, guddle that has come through, for example the misunderstanding about information sharing and confidentiality. If we had had an impact assessment at the outset, it might well have given us a clear line of sight through some of the issues that have subsequently become quite controversial.

**The Convener:** Okay; thank you. I am going to move on and ask Jayne Baxter to contribute.

**Jayne Baxter:** Good morning. If we are going to give priority to the voices of children in this legislation, do you think that the level of engagement with children and young people that the Scottish Government has had, and continues to have, in relation to the bill has been adequate?

**The Convener:** Can we start with Duncan Dunlop? He has not spoken yet.

**Duncan Dunlop (Who Cares? Scotland):** Naturally, I have an interest in the process, and you have a vested interest in why we want to give evidence today, and that is because Who Cares? Scotland represents the voice of looked-after children and young people and those who have been in care.

Real credit needs to be given to this entire committee for the way in which it has sought to engage proactively not just the voices of looked-after children and young people on this bill but in how the Government heard what young people were saying their needs were. In the past two years, the committee has had a specific inquiry into why their outcomes have been so poor and I give real credit for that, in that we believe that their voice is truly being heard. We saw that in the way in which the committee questioned the Minister for Children and Young People at the end of the last term. We could see from the questioning that the issue is about relationships, their need for love and how we can maintain for them the needs that all other children—or the majority of other children—have within their birth family.

I truly believe that through the process of listening to children and young people, and through the process of this bill, in the conversations that there have been and in the evidence that has been gathered, we are at a point of understanding the issue and knowing what the solution is. So, for us, to a degree, the Government has listened very well, and it is now about how we work with this committee to enact the solutions that we know will make the difference that we all aspire to achieve, because this was certainly not looked at as a party-political issue across Scotland and in the Government.

From what the young people told us, the main issue for them is relationships and their need to continue to be cared for by those people with whom they have had a link from their early teens, so that relationships do not end relatively abruptly when they get to the age of 16, or when the supervision order is lifted, and they can continue to get support from those people. Yes, that might mean staying with them for another year or two more, but it was about their being allowed to maintain that relationship and be supported in that, as many of your children and our children have been and will be—when returning for their holidays, between jobs, coming for Christmas

dinner, or looking for that emotional support that is a really key ingredient in what is happening.

Our real proposal to the committee is this: can we please work with you and look at how we can make this bill slightly more progressive to ensure that it can fulfil its ambition of making this the best place to grow up in for those looked-after young people? For us, that is about continuing to care for them and giving them a right to that, on their terms, to the age of 26.

**Jackie Brock:** I would echo a lot of that. As Jayne Baxter will be aware, the Government commissioned specific child and young people consultation and engagement, and it has certainly listened to many of the views from Children in Scotland, from others and from all our partners. As Duncan has said, the key thing is therefore whether the Government actually listens and feeds that in effectively by acting on what those children and young people have told us.

**Alex Cole-Hamilton:** I believe that the Government has consulted 2,500 children in the course of preparing for the bill, and consultation is still on-going. Aberlour Child Care Trust has a service user forum called youth voice, which is web-based and through which young people and services right across our country meet via webcam on a regular basis to discuss issues of importance to them. The Government has asked us to conduct a questionnaire on a privacy assessment that the Government wants to perform on the information-sharing provisions in the bill in particular. That consultation is on-going.

**Jayne Baxter:** Duncan Dunlop has outlined what the young people whom he represents have articulated. Do any of the other witnesses want to say what the concerns of children and young people are in relation to the bill?

**Jackie Brock:** I will just add a couple of things and build on some of Duncan's points on the wellbeing of children and young people, particularly on the inclusion of disabled children and those with additional support needs, as that is crucial. Those children want to be like other children, but they need additional support in some areas, and funding is a key area where disadvantage is being reinforced at the moment. So, it is about how we look at those provisions in the bill, but also, crucially, about the guidance on implementation.

That relates to another area. A lot of children and young people will not get exercised about many of these provisions; they will want to see action. For example, with the child's plan, you may quibble over some of the wording, but the commitment there is to have a plan to act and to intervene, and to ensure that it is effective and is what children need. Those who have additional



needs, whatever those might be, want to see action taken so that they can resume their lives or ensure that disadvantages are removed.

Those are the two key things that have come through from our work with children and young people.

10:15

**Alex Cole-Hamilton:** If you ask children what they think, one of the most important things for them is to have their views heard and acted upon. As I mentioned in my opening remarks around the child's plan in section 33, we believe that that section would not have stood up to scrutiny had there been a children's rights impact assessment. In effect, it gives local authorities the option to disregard a child's views based on age and immaturity, whereas we believe that, actually, any child that is capable of making a view known should have that view listened to, where possible.

**Neil Bibby (West Scotland) (Lab):** Just following on from the questions about consultation and listening to children's and young people's concerns about the bill, how does what is in the bill compare with your original expectations?

**Alex Cole-Hamilton:** We are pleasantly surprised. The Government has moved some distance on this. This is a much better bill than was originally consulted on in the summer of last year. We are very supportive, particularly of the provisions around aftercare for children leaving care. I hope that we will come on to that in more depth. We are satisfied that the bill, if passed in its current form, will help to move us on that journey towards making this country the best place in the world to grow up in.

**Jackie Brock:** We would build on it—for example, in early learning and childcare. There are excellent statements of intent, and particularly on flexibility in childcare. However, we would like to see those strengthened and a marker being laid down for exactly where children and their families can get the support that they need in those early years. Equally, we hugely welcome the endorsement and the putting into statute of the principles of early intervention, and the expectations that we have of universal services through the getting it right for every child principles, and the child's plans. I absolutely echo Alex's and Duncan's points on aftercare and rights. Those have come through strongly for us.

**Duncan Dunlop:** The only thing that I would add is that it is great to see a term like "corporate parenting" actually put on the legislative agenda. There could be a little bit more work on refining what that actually looks like, and we are suggesting what could be done and what those continuing care services ought to look like, but

what has been great is the way in which the conversation has evolved and that we are getting a piece of legislation that should be fit for purpose for the young people whom we are concerned with. I have confidence that it will happen.

**The Convener:** I want to move on now, and I will bring in Liz Smith.

**Liz Smith (Mid Scotland and Fife) (Con):** Good morning. I want to direct attention to the named person issue, which has, as you know, elicited a wide range of views, from those who are immensely supportive to those who are very much against it because, in their view, it is undermining the role of the parent. Ms Brock, you said in your evidence that, actually, it was just a formalisation of the existing practice. What is it in the bill that you expect to improve things if we are largely doing these things already?

**Jackie Brock:** I am delighted that we are looking at a bill that is going to endorse the excellent practice that is going on. I can give you countless examples across our universal services, such as schools and health visitors, where there is clarity for the first time for parents and children about the responsibilities that services have to ensure their child's wellbeing. However, the implementation of that is simply not moving quickly or consistently enough.

You asked in your inquiry on looked-after children at home—and no doubt you have asked after frequent child protection reviews looking at the need for additional support—why professionals are not listening and talking to each other, why they are not listening to children and young people, and why they are not taking action. Having the duties in statute will ensure that it is the responsibility of universal services to respond and take action where necessary, where it is in the child's best interest that they do so.

Undoubtedly, the duties as currently presented require further clarification, but this will be a hugely significant step forward in what children can expect. You should remember the consensus that you have around the GIRFEC principles across teachers, nurses, social workers, the police force and the third sector. We are at an exciting point, but we have to look at what we need in statute to get rid of some of the inconsistent practice and inconsistent funding decisions that are being made by authorities, so that services can respond effectively to prevent the situations that you talked about—such as looked-after children at home and neglect further down the line if we do not intervene earlier.

**Liz Smith:** Could I just develop that? Obviously, a large number of submissions that have been largely supportive of the principle of the named person have raised serious concerns about the

practicalities and especially about the cost. At last week's meeting, we were told that, by definition, it would involve an awful lot more children being in the system than there are currently. Do you have any concerns about the cost?

**Jackie Brock:** We have to respect the evidence that you heard last week and the views on capacity and resources, but the named person service is already happening. It is saving resources in many parts of the country, and I am sure that you have seen the evidence on that. Where it is working well, there are more streamlined systems and processes and it is reducing the bureaucracy and weeding out children and young people who should not be in the system—or should not be in the system for as long—because of the greater clarity around joint working and sharing.

Do I have concerns about costs? I absolutely do, in terms of the financial pressures that our universal services are under. Do I think that GIRFEC is going to sink the system? No, I do not, because where it is working well—where there is a commitment to proper training and implementation and there is a proper child-centred approach—we are seeing efficiencies in the system that will address some of those concerns. However, with some of the action that we are looking to take, there will be costs and we need to be realistic about that.

**Liz Smith:** Do you have sympathy with the view of groups such as the Educational Institute of Scotland and Unison, which feel there are substantial costs involved in additional training?

**Jackie Brock:** Those are our members, and I always express sympathy for the huge range of pressures that they are under, but this is part of their job. A teacher's job is to look at the wide needs of a child's wellbeing. We do need to ensure that training takes place, as it has been over the last seven years, and of course we need further investment, but those concerns have not been fully realised because we have been able to absorb a lot of the training as part of what teachers do and as part of their professional development. There are similar issues in relation to health.

**Liz Smith:** There are some who believe that the child should have an input into who the named person is, and others who say that that is not the right thing to do. What are your views on that process? If the answer to that is that the child should be involved, what are the implications? If the answer is no, what are the implications of that decision?

**Alex Cole-Hamilton:** First, I echo Jackie Brock's remarks in support of the named person service, in that the bill codifies what should be

happening anyway. An anxiety has developed because of confusion between the roles of the lead professional, who is traditionally a social worker, and the named person. That has led to some of the anxiety that the committee has heard about.

With regard to flexibility around who the named person is, we have had some detailed discussions with the Government about exactly that point. Particularly in rural schools, for example, where the senior teacher might be related to one of the children in their care in the school, it would be inappropriate for that teacher to be the named person for that child. Similarly, if there is a fractious relationship between a specific child and the senior teacher to whom they are assigned as the named person, there needs to be a flexibility in the system so that that can be changed.

I believe that the Government is alive to that issue. It has informed us that flexibility will underpin the guidance, and that it will be part of the system. Obviously, in any school and particularly in secondary schools, there can be a large senior teaching staff. They have maybe three or four deputy heads, and not necessarily one named person for the entire cohort of children in their care.

**Liz Smith:** In principle, would it be a better system if the child had greater input as to who the named person was, or should that be controlled more by services?

**Alex Cole-Hamilton:** The voice of the child always needs to be heard. In the vast majority of cases, there will be very little interface between the child and the named person, or between the family and the named person. There is a single point of contact through which families can access wider support should they need it, but we believe—as happens now, where this best practice is working—that there will be very little interface between a child or a family and their named person.

The child and family will obviously be informed as to who their named person is, and if there is some massive, strenuous objection on the part of the child to that named person being assigned, I believe that we need to listen to that and find a way of using some flexibility in the teaching staff or other universal services over who can perform the named person role for that particular child.

**Duncan Dunlop:** For the looked-after population, the issue is more about the lead professional. It is where that link will be and how long that lead professional—who is mainly the social worker, as Alex Cole-Hamilton rightly says—will maintain a link with that person. Is the case closed when the supervision order is lifted, or are they able to reconnect with that person

because they have had that relationship for a number of years?

Too often, young people have too many different social workers and too many different relationships. We need to truly hear what they want, because they are the experts on their life. We might want to put them in a box, but they do not want to be in that box, and they are not necessarily going to conform to wishes unless they trust the relationship with the person who is advising them and supporting them through the process.

The young person's voice needs to be heard in relation to the crucial decision makers who will help them work out their way forward in life and the services they get; otherwise they just will not participate. They might be present physically, but they will not necessarily connect. They need to have some say.

**Liz Smith:** I will finish my questioning on the role of the parent. Should the parent be instrumental in having input as to who the named person should be?

**Jackie Brock:** The purpose of the named person is to support the parent as well, so there is a named contact to check in with the school or the health service if they are a bit worried about their child. How many of us have had experiences when we thought, "Things are a bit tricky at home; I am just going to check in and ask the school to keep an eye on my child"?

If, for any reason, a parent makes that contact and feels betrayed or let down because of action then taken, there will need to be some action taken, and the parent should have a role in who the named person should be. However, we need to be sensible, pragmatic and understanding of what this role is. Why make more complex the interactions between parents and those professionals working with their children? This is about ensuring that, where a parent or a child has a concern, or where a professional has a concern, they can work to take action to make sure that those problems do not get any worse.

**Liz Smith:** Do you dismiss the very strong complaints that have been made by some parents groups that this whole process undermines their responsibilities and that of the family?

**Jackie Brock:** I am not saying that the system cannot be strengthened, and I would like to work with the Government and with you on this, but these provisions—the plan, the work of the named person and so on—are all about working in partnership with due regard to children and parents.

A lot of the concerns that have been raised have possibly been brought about by bad practice or

difficult relationships between parents and teachers, but I do not think that that bad practice should dictate the law on how the named person is going to work. It is about supporting family life and supporting parents to ensure that their children are nourished. We need absolutely to make sure that there is no threat in that, but I think that it is about how we can communicate better. How can schools, health services and others make sure that parents see them as the ones to help them in their central, pre-eminent role of parenting and looking after their children?

10:30

**Alex Cole-Hamilton:** The spirit of the named person is that it will be somebody who is known to that family, and they will be the first or single point of contact so that, if there is ever a need in the family to access support or be signposted to some intervention or assistance, it is somebody they know. The discussions that we have had with the Government have given us confidence that, should the identity of that named person be revealed to the family and the family has a visceral reaction to that and says, "We have never got on with that person," there will be flexibility built into the system to have that altered.

Once again, I understand where some of the anxiety on the part of parents groups comes from. It is fuelled by some unhelpful tabloid headlines about there being a social worker for every child. That is not what we are talking about here. We are talking about what should be happening among the senior teaching staff of every school as it is happening right now: keeping an eye on all the children for any signs that things might not be going as well as they could be, or being there should parents ask for advice or support in relation to any aspect of state provision.

**The Convener:** Before we move on, I would like to address this issue head on.

Alex, you have raised the matter of the "unhelpful", as you put it, tabloid headlines. I will play devil's advocate for a minute. I am a parent, I am married, we have a child at school, there are no alcohol or drugs problems, there are no family problems and I have never had any contact with the social work department—I am a Joe Average parent. Why does the state have a right to intervene in and snoop around my family? I am paraphrasing the unhelpful headlines that you referred to, but that is the fear that is created by those headlines. What do you say to those who have that fear?

**Jackie Brock:** What right to intervene or snoop is being allowed for in this bill? There is absolutely no such right. If that is what those headlines referred to, I can say that there is no right to

intervene in your life. Where your child has not told you about their unhappiness in your family life, their drug habit, or their problems with alcohol but they choose to reveal that to a professional, then the professional, acting in the best interests of the child, needs to decide what action will be taken. However, right now, there is nothing in the bill that suggests any unwarranted interference in any aspect of family life.

**The Convener:** Why does my family need a named person, then?

**Alex Cole-Hamilton:** Technically, you already have one; it is just that there is better practice in some areas than in others.

There is always somebody looking out for your child, and you would hope that, when your child goes to school, if they appear at school with a black eye, somebody is asking questions about that. If your wife went to that person at the school gate and said, "Look, I need some help to find financial advice or access another aspect of state provision—who should I turn to?" that teacher would have the answers for them. This bill codifies what should be best practice in every school in the country right now.

**Joan McAlpine (South Scotland) (SNP):** I want to raise a very specific but important issue that is raised in the written evidence by LGBT Youth Scotland. It is concerned about the information-sharing aspect, in relation to both the named person and the child's plan. It states that, while working with services, particularly education services, it has encountered widespread misunderstanding regarding the rights to privacy of lesbian, gay, bisexual and transgender young people. A specific example was given in which a young person was being bullied at school because of their sexual orientation and, in the spirit of being helpful, that information was shared with the parents, who had not known. There are apparently many instances of that. Do you think that the legislation needs to be tinkered with in any way to provide a safeguard for those particular young people?

**Alex Cole-Hamilton:** I was part of the cohort of people in the voluntary sector who helped to bring down part 3 of the Protection of Vulnerable Groups (Scotland) Bill because it had a section on information sharing that was disproportionate and really did impact on privacy and the right to confidentiality. In our opinion, this section of this bill is far more measured.

As I mentioned earlier, we are engaging with the Government on a privacy assessment. The right to privacy and confidentiality is absolutely at the heart of what we believe in and will strive to achieve. We are satisfied that the provisions in this bill will help to focus the information that is shared.

In some cases, it will reduce the amount of information that is shared, because people will be clearer about the thresholds at which they should share, what they should be sharing, and who they should be sharing it with—namely, the named person. Therefore, we have struck a fine balance here. We remain vigilant about the way in which that will be implemented and we will be working very closely with the Government on the guidance.

You asked about tinkering; if we had any mild anxiety about anything, it is the extension of risk to wellbeing and the point at which risk to wellbeing is triggered and information is shared. That is not an insurmountable problem; it is about looking at the safe, healthy, active, nurtured, achieving, respected, responsible and included wellbeing indicators and asking at which point, if a child presents and their indicators in the SHANARRI triangle are not being met, we need to act. That is where the balance needs to be struck. However, we are content that what is in the bill will lead to more focused and proportionate sharing of information.

**Jackie Brock:** We need to be very mindful of the examples that LGBT Youth Scotland and others have given regarding inappropriate information sharing, but I would worry if we were then to conclude that we should write off, in the example that you gave, Ms McAlpine, the entire secondary schools workforce.

What we have to aspire to, surely, is a confident, competent children's services workforce that is given the right tools. At the moment, it is being fatally undermined by the complexity and the overlaying and conflicting duties on information sharing that exist within the professional protocols of, for example, some of the royal colleges, the teaching profession and others. It is a mess.

Equally importantly if you are supportive of wellbeing, those protocols do not reflect the duties relating to wellbeing. The current legislation is focused on child protection, which is good, but if we were not to introduce this duty, we would need to look at the legislation to ensure that we are sure that it is robust. However, we would not be able to achieve some of our aspirations for early intervention if these provisions were not introduced.

We have to look at the way in which this bill and the guidance will address some of the poor practice issues. However, in your example, the teacher genuinely thought that they were helping the child. They ought to have been helping, so how do we harness that in line with the age and stage of a child? Teenagers have very different needs and requirements from children under five, for example. We need a better understanding of how we work with teenagers. That is true across the children's services workforce. However, let us

not get rid of a vital tool of information sharing that is needed to do the job better for the sake of worrying about some bad examples that absolutely have to be eradicated. The implementation of this approach is the way forward.

**Neil Bibby:** I would like to go back to discuss the practical effects of the named person provision. Obviously, you are all signed up to the principle of the named person, but we have heard practical concerns about how it will be implemented and also requests for more detail. Would you sum up the key changes that you would suggest to the legislation and specifically say what resources and information you think are needed to make the named person effective?

**Alex Cole-Hamilton:** There is very little that we would change in the bill with regard to the named person section. The only thing that I would reiterate is our caution about extending the risk to wellbeing. We support that, but we think that that needs to be underpinned by robust training and definitions as to the thresholds in the SHANARRI indicators at which a child who is expressing distress under any of those indicators triggers the sharing of information or the work of the named person.

**Jackie Brock:** We need to look at information sharing and think about the valid concerns that have been expressed by many. For example, we need to ensure that it is in the best interests of the child and we need to think about how the accompanying guidance can support that. There has already been a huge amount of information and communication training.

I would hope that the Government—and we also need to take responsibility across the children's sector workforce—will be thoughtful about the lessons that can be learned from some of the recent stuff in the media over the summer and the way in which some of those myths managed to get some traction. We need to do a better job, collectively, of communicating the excitement and potential of having a named person and getting it right for every child.

The final matter for us relates to the point that I made earlier about the approach that we need to take in order to move from this rather more ad hoc, inconsistent approach to roll-out and implementation of GIRFEC. We need the statutory duties to ensure that this rather more laissez-faire approach is ended and that we have commitment across the country among the children's services workforce for robust, professional training about implementation. I hope that that will be spurred on by enacting these provisions.

**Liam McArthur:** I would like to pick up on some of the things that Liz Smith was touching on earlier

in relation to resources. Clearly, we want to improve the bill where we can, but we need to be realistic about any piece of legislation effectively being a silver bullet; putting an end to inconsistencies may be something that simply remains an aspiration.

The point in relation to resources—Alex Cole-Hamilton touched on some of the points about extending the risk to wellbeing—is whether there is a risk that the available resources will be spread more thinly and therefore that the areas of most serious risk, which are more to do with welfare than with wellbeing, do not necessarily get the attention that they should in those areas where there remains inconsistent application. Is that concern justified? Is there anything we can do to ensure that that does not happen?

**Jackie Brock:** I appreciate that it is important that you want us to be pragmatic, and I would want to do everything from Children in Scotland's perspective to ensure that we are but, when we talk about inconsistencies, I am talking not just about provision being ad hoc but about neighbouring authorities and community planning partnerships having a very different approach. That has to end. I recognise that every child getting an equal service across Scotland is a good aspiration—and let us be ambitious—but we should also be realistic.

**Alex Cole-Hamilton:** In the application of any legislation, there are hurdles to be overcome and a lot of the detail in the guidance attached to this section will be incredibly important. Once again, I reiterate my earlier point that this codifies what should be happening anyway. The extension of risk to wellbeing is an important one, but it is also something that we need to do in a very measured way. We cannot just have a situation where somebody with a body mass index of over 30 walks into the classroom of a guidance teacher and the guidance teacher says, "Well, their needs are not being met by universal services, so I need to instigate a child's plan or share information across the piece." We need to take a rational approach but to understand that the SHANARRI wellbeing indicators are an important tool for identifying children who are at risk.

**Liam McArthur:** In any change process, there is always a risk that the nature of the change and the thing that you are trying to do differently becomes more of a focus. Therefore, is there a risk that those who, until now, have been the subject of greater focus in terms of having a named person and being subject to the interventions that we are talking about have a little less resource applied to them than they do currently? In trying to make things better, will we increase the level of risk for some of those who

probably need that intervention more than anybody else?

**Jackie Brock:** That is a legitimate concern. Scotland has taken a leap of faith in relation to early years, so there is a very welcome, significant investment going into early years in the hope that, over time, some of the huge costs—financial costs and costs to people—later on will be mitigated. We are asking for an extension of that to all children in the early years and calling for action to be taken. It might not be a service; it might just be a matter of having an additional person looking out for them. We do not see it as being necessarily hugely significant.

We recognise the priorities and we hope that you will be supportive of the leaving care provisions. We face a challenge in what we are doing, but there is ample evidence to suggest that early intervention will be an approach that will save Scotland resources in the long run. However, we recognise absolutely the tensions, which you have described very well.

10:45

**The Convener:** Thank you. I should have asked this earlier, when we discussed what a parent could do if they were not happy with the named person and whether there could perhaps be some flexibility and so on. Do parents have a right to access the information that is provided to the named person by another professional?

**Alex Cole-Hamilton:** Information about the child?

**The Convener:** Yes.

**Alex Cole-Hamilton:** I do not have an absolute answer on that. I imagine that that would fall within the bounds of freedom of information—or rather, data protection. Sorry.

**The Convener:** Would it? I would be slightly surprised if it did.

**Alex Cole-Hamilton:** I do not have an answer to that, I am afraid.

**The Convener:** Does anybody have the answer to that question?

**Jackie Brock:** It depends on the age and stage of the child and on what information has been given. At the moment, a parent has a right to access information within health and within education; they have a right to see school records. You have, however, illustrated the problem and, frankly, we do not know for sure. I suspect that you would get the same answer from the vast majority of the children's sector workforce. It is ridiculous; parents and children need clarity, as do professionals.

**The Convener:** Liam, did you have a question?

**Liam McArthur:** It was on that, but I think Clare Adamson will ask about information sharing.

**The Convener:** I will move on to information sharing in a moment. I am sure that we will pursue that matter as we go through the evidence.

I want to take you back to the evidence that we received last week on section 26(2)(a) and (b), and particularly Professor Norrie's evidence, which pointed to the issue of the phrases "it must provide", "might be relevant" and "ought to be provided". In other words, with regard to the language and terminology that is used in the bill, I wonder whether or not you either share his views on that particular section—section 27, which he said was the "worst section in the bill"—or whether you think that marginal amendments are required. What are your views on the detail in the bill about how information sharing should be carried out?

**Alex Cole-Hamilton:** I would not presume to tell the committee that I am a legal draftsman, nor that I have anything like the experience of Professor Norrie. If he believes that this is in any way unsound, then I defer to that. We support the spirit of the section and you will obviously have an opportunity to amend it. However, if it is not amended, then I hope that terms like "ought" and the thresholds at which information is shared will have greater definition and be more clearly spelled out, as I suggested earlier.

**The Convener:** It is interesting that you defer to Professor Norrie on this, but not on the incorporation.

**Alex Cole-Hamilton:** I have another lawyer to defer to on that. [*Laughter.*]

**Jackie Brock:** I noted in Professor Norrie's evidence that he accepts that the law needs to be changed in relation to information sharing around wellbeing and that he values the attempt by Government to make those changes and to enshrine them in legislation. That is great. He values having the principles of early intervention supported through this duty. I think that is great. We have a huge range of experts—Professor Norrie and others—in the children's sector within Government who can help us to get this right and I cannot see that the issue is insurmountable. If your committee endorses the principle, we on this side of the table would certainly want to do everything that we can to work with Government to get this right.

**The Convener:** Thank you. Liam, you had a question on information sharing.

**Liam McArthur:** I do not know whether Clare Adamson will come in on this subject, but one of the most strenuous points that Professor Norrie made was in relation to section 27, which appears

to override data protection and any other legal requirements. That does, on the face of it, seem to be a rather bold move and one that should cause us all to have pause for thought. Would you offer any reflections in response to what he was saying?

**Jackie Brock:** We know from working with Government on various advisory groups that it has worked incredibly hard with the information commissioner to provide clarity to the professionals and get advice around data protection. If section 27 is not quite right, then, with all due respect to Professor Norrie, it can be sorted out. I do not know the detail of why he does not think it is quite right, but, given the close working, officials could be instructed to go away and sort it out.

**Liam McArthur:** The point is that which Joan McAlpine made earlier about LGBT. That is the sort of thing where you could understand why concerns would arise very quickly about the extent of the powers in the bill as compared with some of the protections that people might reasonably expect under other provisions.

**Duncan Dunlop:** All this comes down to the fact that we will never get a failsafe system. We are dealing with professionals who have to work on the basis of trust. They have to earn their trustworthiness and we have to believe in them and that they can do the best for our children and young people. There will be mistakes along the way. What Joan McAlpine described was clearly an example of completely inappropriate practice: why did they not ask the child or young person whether their parents knew that they were gay or lesbian? That was a crass mistake at that level. One piece of poor practice does not mean that the entire principle behind what will be achieved here should be scrapped.

We must look at whether we have quality professionals out in the field and whether they have the right to be trusted with the wellbeing of our children. If so, we need to give them the space and autonomy to get on with the job and they need to do it appropriately. Where they do not do it appropriately, we need to address that. However, you must look at the voice of the child or young person in the process.

**Alex Cole-Hamilton:** The only reflection that I would add is about the situation that we have now. We have anecdotal evidence from various actors within the state whom this would cover, who are either expressing concern that colleagues are sharing too much information, because they are not clear on what should be shared and with whom, or they are sharing too little at the expense of the welfare of the child because of anxieties about the Data Protection Act 1998. The bill will cut through that and deliver a line of sight for all

professionals who are working with children so that they understand what it is to share information, when it is right to do so, and how proportionately they should do it.

**Duncan Dunlop:** The system cannot inhibit the intuition of a professional who has learned and understands what is necessary for that child or young person at that time. They need to make sure that they are making appropriate decisions in the way they are supervised and managed, or to look at the way in which they are doing that.

**The Convener:** That is very helpful. I will make one final point on this; I think Professor Norrie's concern around section 27 is particularly at section 27(1), which I will read for clarity. It says:

"The provision of information under this Part is not to be taken to breach any prohibition or restriction on the disclosure of information."

In other words, it is not to be taken to breach any prohibition or restriction on the disclosure of information. His concern and why he would be concerned about that is quite clear, given that it seems to be an absolutist position. Even if you cannot answer today, perhaps you should reflect on it, and if you think that you have something to add, you could write to us afterwards, if that is helpful. Okay?

**Jackie Brock:** Yes.

**Alex Cole-Hamilton:** Yes.

**The Convener:** Thank you very much; we will move on now to Colin Beattie.

**Colin Beattie (Midlothian North and Musselburgh) (SNP):** Thank you, convener. Part 5 of the bill allows for a child's plan to be developed in circumstances in which the child has a "wellbeing need" that requires intervention. However, there seem to be many statutory and non-statutory plans in place already—that perhaps reflects, to some extent, the sheer number of bodies and organisations that are involved with each child—which is an argument for trimming them back. The bill does not seem to bring all that together. Where do you see that provision working and where do you see a complication in it?

**Jackie Brock:** There is a significant complication in relation to the way in which this bill will work hand in hand with the Education (Additional Support for Learning) (Scotland) Act 2009, which requires a co-ordinated support plan for children. There is lots of talk about how guidance will show how you can lock those plans together, but it will undoubtedly add further complexity. In terms of looking at the needs of children in the round, it is a really unfortunate division. It would have been good to look at how we could bring together both pieces of legislation.

I hope that our submission made it clear that we are very concerned about the increasing layers of bureaucracy being placed on the children's services workforce, both within local authorities and at CPP level around the number of plans that there are for children, and also at a local level in terms of how you are planning the resources and services more effectively. Certainly, a really good scrub out of some of the stuff in this bill and elsewhere, to create a more co-ordinated approach, would be helpful and more efficient in terms of resources.

**Colin Beattie:** Would it be correct to say, from what you are stating, that there is scope to reduce the number of plans that already exist from all the different bodies? Is there that capability? Are they all essential?

**Jackie Brock:** I think that they all grew up out of individual essential purposes, but we are now moving in Scotland to a far more co-ordinated, integrated approach that is signalled by getting it right for every child, and also the early years framework, and potentially around throughcare and aftercare. The initial purpose for these things was right, and they were essential, but now we have a more sophisticated understanding of how plans need to be more effective in relation to the child and also at a CPP level. I think that the time has come to modernise and update our thinking around that.

**Duncan Dunlop:** A care leaver should get a pathway plan, but about 20 to 30 per cent of them will not get that plan. It is meant to guide what happens to them as they leave care and enter their adult life. In terms of having it on the statute book, or in guidance or policy, the plan would be in place if they were helped by a proper relationship that they trusted, respected and heard when they were filling it in, so that they actually owned it. That ownership will come only via the relationship, so the piece of paper that may show that the worker has done their job is not necessarily fulfilling a need for the young person, who needs what is on that piece of paper to make a life-changing difference for them.

**Alex Cole-Hamilton:** Our chief concern is about part 5, and particularly sections 31 and 33, with regard to hearing the voice of the child, and indeed the voice of the family. In fact, this spills into our views about the corporate parenting section as well. There is a lot in the bill about the actors that should be brought together to plan in a connected way, but very little is said about other key stakeholders, particularly in the journey of a looked-after child. In the bill, when a child's plan is looking at provisions for a child who has become looked after, there is little reference to the role of the birth parent or to the people who put that child to bed at night—the actual care provider.

First, in terms of the voice of the child, there are sections in part 5 that would afford the authority the opportunity to disregard the views of the child, as I mentioned earlier, in the formation of the child's plan. The authority is also to try to elicit the views, "so far as reasonably practicable", of the family concerned. However, that is a very subjective term, so we have concerns about that.

With regard to the actors who sit around the table, there is a very long list in Schedule 2 of those who form the corporate parent, and that includes all registered public bodies, quangos and the rest of it. However, it makes no reference to the care provider. It may not be appropriate to have somebody who has a contractual relationship with a local authority included in that list.

However, there are problems with the process of the child's plan that this bill could ameliorate. For example, in the foster care world we have many examples of families who are affected by drift and delay because they need the social worker to liaise with the birth family to see whether the child can have his or her hair cut, can go on holiday, or can appeal their school placement decision. This leads to placement breakdown and it reduces the number of foster carers that we have in the cohort because people find that a very frustrating situation. We believe that the bill, particularly in the child's plan section, could afford, at the very start, a greater role for those care providers, in terms of identifying the level at which they should have autonomy and decision-making, and also should perhaps afford them the right to call for a review of the child's plan at some point if they feel that the situation is breaking down.

11:00

**Colin Beattie:** Based on what you are all saying, is the child's plan practicable, with all these other plans roundabout? How are they brought together? Are you confident that they can be brought together? We are already hearing about disconnects and so on throughout the system. How will this work?

**Jackie Brock:** You cannot have the named person provision without the child's plan. The point of the plan is that the child has a need and you need something to be done; you need action.

To answer your question, yes, the child's plan is needed and necessary, but what would be very helpful for this committee to signal, either in guidance or in further discussion as part of the bill or in due course, is what the whole planning landscape is, both in relation to an individual child and across children's services, and how it can be streamlined and made more effective. At the moment, there is undoubtedly concern and



additional layers of bureaucracy being placed in the way of meeting a child's full wellbeing needs.

**Colin Beattie:** Do you think that, given the introduction of the child's plan, there might be disputes from time to time? Should there be some sort of dispute resolution process in there?

**Alex Cole-Hamilton:** We have suggested that there needs to be clarity about what happens when elements within the corporate parent and those actors around the table who formulated the child's plan disagree. So, yes, we would support that.

**Clare Adamson (Central Scotland) (SNP):** In terms of the child's plan and information sharing, delivery will happen at a local level, but we know from our engagement with children who have been taken into care that they are quite often moved between local authorities, so how do you ensure that the practice is accepted throughout Scotland and that the terminology and the practices used in this area are universal?

**Duncan Dunlop:** That is part of the issue. The plan, in those terms, needs to have the primary carer involved. Alex mentioned that if a child is in foster care, for instance, the foster carer needs to be one of the key people helping to create and develop a plan with the young person, because if it is an effective placement the foster carer is the person with whom the young person will have the best relationship. That is the person who the young person or child will best buy into and who will enable them to understand what is in that plan and ensure that it will have a beneficial impact on them. The foster carer, as far as possible, needs to link in with the social worker, the named person, or the lead professional at that juncture to ensure that the plan is implemented in that way.

When young people or children are moved from pillar to post, it is a different issue. That is where we come back to the value of the relationship rather than the plan, or the bureaucracy or piece of documentation. If the bill focuses more on relationships and ensures that a key principle in it is that our aspiration for children and young people throughout Scotland, and what will best benefit their wellbeing, is for them to be in a loving, caring, stable family or carer relationship. That ought to be given primacy in any decision making about that young person if we are sure that it is a healthy place to be. If that was the overarching principle of this bill, all this would be a bit more straightforward. Rather than putting it on different professionals, we would be looking to the carer in the first instance to hold a lot of these relationships, we would not have placements break down as regularly and children and young people would not be moved around different local authorities as often.

**Jackie Brock:** You have highlighted the crux of why some of this needs to be in statute. Of course, we cannot guarantee any child or family that if they move from one area to another they will get exactly the same service, but at least what we will get from this bill is a core set of expectations and responsibilities, and expectations of the universal services to which parents and children will have a right wherever in Scotland they live. There might be some different approaches and priorities in practice, but at the very core of it we have principles that apply throughout Scotland. Of course, there are resource issues, but there must also be a requirement for some of the professional associations, for example, to share good practice across the Association of Directors of Social Work, the Association of Directors of Education in Scotland and the health colleges and so on, to ensure that we are minimising, wherever possible, the core service—the relationships and so on—that children get across Scotland.

**Alex Cole-Hamilton:** I understand your question and your concern, but I suggest that the bill is part of the solution and that the problems exist already across local authorities. Local authorities have different thresholds and different practices when certain things will be triggered. Codifying best practice and drawing a clear line of sight as to what is appropriate sharing of information, the triggers for a child's plan and what an extension of risk to wellbeing means in terms of a child who presents to you on a Friday night are the things that are currently problematic and that it is hoped the bill will ameliorate.

**George Adam (Paisley) (SNP):** Good morning. I will ask Duncan two questions about care leavers. Who Cares? Scotland proposes amendments to

“create a right to return to care up to the age of 26”

and

“remove the assessment by the local authority.”

In your submission, you say:

“We envisage that these amendments would take 5 years to implement in practice from the enactment of the Bill”.

Looking at the other bits and pieces, I see that there is some really good stuff. Obviously, you have done a lot of work with the committee on previous inquiries. Coming from a local government background and with my constituency work, I am aware of the situations that we have to deal with regarding young people when they hit the age of 16, what happens after that stage and the issue of support. I agree with and quite like some of the stuff that you have in your submission. Young people who leave care, mostly at 16 years of age, are expected to take care of themselves. Yes, there are organisations and

professionals from whom they can get help and support; yes, there is welfare support that they can access; yes, they can access education and employment opportunities; yes, they can access housing, and yes, they can dream for the future like anyone else, but you go on to say that they need someone to guide them through that whole process.

Correct me if I am wrong, but are you saying that social work departments in local authorities can no longer give that kind of support from age 16 onwards? Have we given up on the social work departments of local authorities? Given that you also said that it would take five years to implement, have you spoken to local authorities about the resource implications?

**Duncan Dunlop:** There are several points. We are very excited about this and, as I said in starting off the evidence today, this is a culmination of a lot of conversations, thoughts and processes distilled down. We take a lot of the conversations back to young people and care leavers; some of them who gave us evidence are here today. The point is that they told their stories because they believed that they would be listened to—they took a punt on that and want their views to be acted on.

What has come out of this is that we have talked to a lot of other providers around Scotland—leading children's charities, Scotland's Commissioner for Children and Young People and even ADSW—who now recognise the principle that we need to be able to continue to care for these children and young people up to the age of 26. That means continuing the care relationship; it is not necessarily about continuing care in a very high cost residential bed until the age of 26. We are looking at the principle of this. Everyone we have talked to who has understood it has agreed on the principle of this, as have a lot of care leavers who reflected that it would have made a difference to them.

We talk about a five-year period because we have realised that there will be a supply and demand issue. For instance, you are a foster carer and you need to maintain a relationship with a young person, and within certain local authorities there is pressure on foster carers for that young person to leave at 16—or 18 at the most—because that bed is needed for a three-year-old or another young person coming into the system. But that 16 or 18-year-old is not ready to go out on their own. We are suggesting that we need to alter the supply and demand of care in Scotland.

These great, informative discussions have happened in a cocoon. I do not know how informed each of you is about the situation for young people in care, but most of Scotland does not know about it. If we took this issue outwith the

Parliament and those involved in the sector—there is probably a maximum of 5 to 10 per cent of Scots who understand these young people's needs and issues—we truly believe that Scotland would engage and back the issue. We would have a far more supportive infrastructure, communities and society; the ultimate corporate parent is the electorate who votes our councillors, members of the Scottish Parliament and so on into office and they in turn hold a legislative mandate. We must get Scotland engaged with this issue.

The five-year period is something that we think should happen potentially over three sessions of Parliament. We understand that we need to get to the age of 26; we cannot click our fingers and have it done tomorrow, but we know that we need to get there. What that would mean is that in this session of Parliament we go to the age of 18, in the next session we get to the age of 21 and in the following session we potentially get to the age of 26. We know that this is agreed with.

What this approach does is simplify things: we have throughcare teams, third-sector provision here for employability, this for housing there, this for child and adolescent mental health services and on and off support for that, this for teenage pregnancy and this for homelessness. All those emergency services are coming in because a young person is leaving care, and, as we heard, a trap door shuts behind them. It is very difficult when they go out there bold as brass, at age 16, which is when the majority leave care, and say, "I can take on the big wide world". As we all know from our own experiences, or our children's experiences, it is pretty tough out there.

The relationships that supported them up to that age are no longer there for them. They might well be there, informally, and there is real credit deserved out there for some care providers and individuals who do maintain those links. We have seen the significant benefit that that has for the young person, when they can go back and say, "Hang on a minute, I cannot cope". We have also seen, and know that young people who have been off a supervision order have come back and said, "Please can I go back into care," and one month later they were dead, because they were not able to do that.

We are asking whether we could please look at a system that elongates their ability to maintain—and says it is right to maintain—that relationship with their core care provider. As parents, we look after a child from when they are in nappies, through primary school, high school, college and maybe into further education, and they leave home as a process, not at a point in time. We are suggesting that we should be able to afford that to our care leavers.

The Association of Directors of Social Work supported this in principle. The point is that we know that this will come with upfront potential cost, but the savings would be immense. We have done some provisional research on this—it is very difficult because the statistics that we track for young care leavers are inadequate—and this is a very conservative estimate, but we are looking at a cost benefit ratio of at least 1:6. For every £1 we spend on this, we will save at least £6. The cost of making somebody homeless is £20,000 plus. Barnado's Scotland opened a project three years ago in Polmont Young Offenders Institution—where 1.48 per cent of our care population is—and found that 88 per cent of them had been in care. They have been in our care, and we have spent a fortune on them, and they end up in poor places that cost us more money.

The sense is that if we enable the young person to maintain the core relationship and let them know that they can maintain it and that the relationship will be there as long as it takes for them, they will not end the relationship; or when they think that they can go out there and survive and thrive in the world, then realise that they need support, they can come back and get it. This is as close as we will get to a silver bullet to reforming the care system at a relatively low cost. We have estimated it at something like £2 million per cohort per annum, on average, for the eight years if you extend it up to the age of 26. That is not a big outlay. There are huge savings in terms of health, housing and justice that this country will get from it and it would place Scotland as the global leader in terms of care provision across the world.

We looked at the main leaders in this in Scandinavia, to which Scotland often aspires in some of our social justice work, where they do it up to the age of 22 or 23. Looking at one or two other pilot studies, we see only about 23 per cent of young people actually taking up the provision for a year or two more and staying in that care placement. It is about going home for your tea and going home for your Sunday dinner and it is about having somewhere to go for Christmas. It is about someone calling you to ask how you are doing and saying, "That is great; you are getting up for college". It is all of that support that they want from the same person; not a different professional.

**George Adam:** I still have to do that with my daughter to try to get her to college in the morning. [*Laughter.*]

I still cannot see how your amendments will make the connection for all the organisations and everything else. Maybe it is me; perhaps I am not picking it up, but I cannot see how the amendments will make the difference. Nine times out of 10, the local authority has been the continual involvement throughout the looked-after

person's childhood, so would it not be the natural progression for it to be the anchor and the one that takes them to the next level?

**Duncan Dunlop:** The person who the child or young person in care sees as being the active corporate parent, or carer, is the foster carer, or the residential worker. It is the person who they have lived with and whose house they have slept in and who they have eaten their breakfast, lunch and dinner with. It is the person who helps them get off to school. That is the person. The local authority might well be paying or giving the resources to sustain that placement, but that placement ends and that relationship ends. The young person does not have a relationship with the local authority directly in terms of the way that they see it. They have a relationship with the carer; an individual; a person. That is who they want to maintain the link with and the carer wants that too. We are still coming across it. I know one or two great residential houses, where they foster and encourage young people to come back and stay in touch. I know others where, when a young person rings them after they have left care, the response is "No," and they hang up the telephone.

**George Adam:** I want to ask about foster parents. I do not think that there is any statutory reason why they cannot keep a relationship with the young person when they become 16, is there?

11:15

**Duncan Dunlop:** There is no statutory obligation, but the child or young person and the foster carer may not think that it is right for them to leave at 16. It is the system that determines that they no longer need to be under a supervision order, that they no longer need formal support and that it is okay for them to return to their family home. It may be that no work has been done to improve the circumstance in the family home, that the great work that was done in the foster family or residential house is rapidly undone and that the young person cannot return to the foster family straightforwardly.

Our suggestion is that we should have a bit more flex in the system and the resource for the foster carer—that is the example that we are using—to maintain the relationship with the young person. It might be that they stay in the house for another year or 18 months, but at least the foster carer will not have to deal with 60, 70 or 80 relationships with different young people. They will have a more manageable case load of foster children.

That brings me back to the question of the time period. We think that we should do this over, potentially, three sessions of Parliament, because we have to do a far better job in engaging

Scotland with this conversation. The Scottish Government, to its credit, gave Who Cares? Scotland £30,000 this year to go out there and talk about our anti-stigma campaign and to listen, and a lot of organisations have signed up to it, which is great. There is a £4.5 million tender out for the Scottish Government and the national health service in relation to the see me mental health campaign. That is engaging Scots, who are talking about it. We have to seriously consider how we can get Scotland engaged with the conversation.

When I talk to people about this and they hear the story, many of them say, "I didn't know that", as I am sure some of you did when you read the evidence that you have received. All that we have to do is to inform Scots, and I am sure that we can get the 1 per cent of Scottish households that we need to get involved in terms of fostering alone for us to have nearly an excess of supply and demand. Having "Foster me" on taxis in Edinburgh does not connect people to the issue; it does not connect them to the story of how the young person lost their identity and struggled in childhood, yet we still blame them for some of their behaviours. We need Scotland to own these children and young people, and then we will have a greater supply of Scots who care about them. We can then extend placements to include those people and we will not have this excruciating pressure on our supply and demand situation.

That is why we are saying, "Put it in the bill." Let us maintain those relationships and give local authorities, along with the sector, the space and scope to work out what this will actually look like. It is a credit to people from the directors of social work to different charities that they have signed up to the proposal. They do not know what it will look like yet, but they know that it means change and that it is the right thing to do. We must use this period to do it.

**Alex Cole-Hamilton:** I support what Duncan says. If the committee takes something from this evidence about how to proceed with the bill, regardless of what the amendments look like, it should be the principle. In an earlier iteration of the consultation, we talked about wanting to treat looked-after children in the same way that a birth family would treat them, regardless of the baggage attached to that term.

In law, a young person can leave their family home at 16, but their family still has an obligation to care for them up to the age of 18, which means that they can come back and the family will still look after them. Similarly, the age of leaving the parental home in Scotland is 24, yet the age of leaving care, as we all well know, is 16. We are depriving these children of a third of their childhood, or their adolescence, if you will. We need to move forward with the principle in mind.

Right now, we may be creating the best place in the world to grow up, but not for care leavers.

I would like to make a specific point on eligibility criteria, but maybe we will come to that in a minute.

**The Convener:** We are already over time. Two people still want to come in on this issue, so I will take them first. I ask for brief questions and, particularly, brief answers, if you do not mind.

**Duncan Dunlop:** Sorry. [*Laughter.*]

**Clare Adamson:** Duncan, you used the term "corporate parent". Do we have a legal definition of that term and is it understood?

**Duncan Dunlop:** When we look at corporate parents—I will be brief on this—I think that it is a great idea that we are naming so many of these public services. It is like saying, "Come on, Scotland—we actually employ you, therefore you can have a responsibility as a corporate parent." We might need to work out who is the corporate parent, who is the great-aunt and who is the second cousin, because there is a differentiation in the responsibilities for those people, but we need to get all Scots to know that they are responsible for this. That will come in the guidance, but it is important that we go in the right direction.

**Liam McArthur:** Duncan Dunlop has made a compelling argument for principles that I would certainly sign up to, and I think that the committee would sign up to them as well. Specifically in relation to removing the local authority assessment of need, you talked about a wide range of possible contact from coming round for Christmas dinner to possibly going back into a residential care facility. Does that not, to some extent, pre-suppose some sort of assessment at some stage, particularly at the upper end of what that intervention might mean in due course?

Also, just because Alex Cole-Hamilton teed me up on this, maybe you could give us your views on eligibility as well.

**Duncan Dunlop:** A broad-brush point is that we have a perfect storm of opportunity here. The committee has spent about two years looking at the issue. I do not think that a committee—I am relatively naive on this, so I am not saying that I am totally right—will be as well informed about an issue that comes in front of it, or about a bill. This is the chance to get this right, and it really will not cost a lot. It is a challenge to us as a sector, but the sector has said that it is up for it. Let us do it.

The point about the assessment is that a lot of the young people who use throughcare services do so when they are in crisis. It is when they desperately need a hand-out, such as a bag of shopping because they do not have anything to eat that night, or when they are going to be

homeless and they have to be put into an emergency bed and breakfast. That is not the progressive approach that we would want for our children and young people who are taking the next step forward in their lives.

Local authorities, along with the sector, will have to look at what returning to continuing care provision would mean—for instance, if the person has not been in it for a couple of years. However, things can also change. We had a young lad who went off to Australia travelling at 23. He came back after having a great experience and wanted to go to university, and he realised that he had to go through the homelessness route. Potentially, he would have had to go and stay in a B and B. He did not do that, as he used his informal links and relationships to stay with another foster family that he knew of, but there was no provision for that young man to be supported.

**Liam McArthur:** The point is not that there should necessarily be an assessment before any contact can be had, but that, particularly if the young person is going back into residential care, there should be at least some discussion about whether that is the most sensible route or whether there are others. To me, that seems to suggest that some kind of assessment needs to be undertaken but not that it needs to be done before anything else can happen. That speaks to your point that the principle needs to be about re-engagement, and we can then sort out the detail of that.

**Duncan Dunlop:** Exactly. Our issue is that, although there is a duty for the young person to be assessed under the bill, there is no duty for provision to be made, depending on the assessment, which would probably differ from local authority to local authority, in the way that we currently see care provision delivered across Scotland. Also, a 24-year-old will not necessarily want to go back to a residential house where there is a 12 or 13-year-old. That is not necessarily what they are looking for. We are not looking for just an extension of care as it is. It is not the way that we worked and developed as young adults.

**Jackie Brock:** Can I add something?

**The Convener:** Please be very brief.

**Jackie Brock:** Looking at section 60 and thinking about how the state treats looked-after children, I note that, in a sense, we are sunk by the amount of bureaucracy. For care leavers alone, Duncan has already mentioned throughcare and aftercare regulations, and the additional bit of bureaucracy under section 60 does not get close to what children and young people are saying that they need.

Whatever the amendments contain, if you can, you should stay true to some of the principles that

you have been adhering to in the inquiry into children who are looked after at home around the quality of relationships and forget the list of individual organisations as corporate parents. It is a nonsense to pretend that that was going to put in the action that care leavers need. How can we almost totally rethink the legislative umbrella under which care leavers are supported?

**The Convener:** You have one minute, Alex.

**Alex Cole-Hamilton:** Even if the bill was passed as it is, the provisions on aftercare would be a welcome addition. The problem is the eligibility criteria. Eligibility is defined in terms of school-leaving age, which can fall between 15 years and eight months and 16 years and three months. It is arbitrary and it could fail vulnerable care leavers. We heard on “Good Morning Scotland” this morning of a care leaver who left care three months before his 16th birthday but had not left school, so he would not qualify for aftercare assistance.

Care is not the problem. Being in care on a certain date should not trigger aftercare. There should be a much broader assessment of the trauma that led to the young person going into care in the first place and what happened to them on coming out of it.

Donald Forrester from the University of Cambridge did a literature review that said that public care is largely improving children’s wellbeing and welfare and is not the problem. We would look to have a more sophisticated approach to when aftercare is triggered. It should be not when the young person leaves school, but perhaps their 16th birthday, and there should be another threshold after an agreed period of time in care at some point in the run-up to their 16th birthday as well.

**The Convener:** I thank all the witnesses for their evidence this morning. It has been extremely illuminating and interesting and I am sure that it will help us in our consideration of the bill. I suspend the meeting briefly to allow a changeover of witnesses.

11:25

*Meeting suspended.*

11:29

*On resuming—*

**The Convener:** I welcome to the committee Clare Simpson from parenting across Scotland, Claire Telfer from Save the Children, and Lori Summers and Caroline Wilson. Good morning to you all.

Lori Summers and Caroline Wilson have kindly agreed to attend today and to speak about the implications of the bill for parents. As such, their comments will be focused on part 6 of the bill, which deals with early education and childcare. I also thank the witnesses for their written submissions, which they sent to the committee in advance of their appearance.

We have quite a lot to cover so we will move straight to questions. We begin with Jayne Baxter.

**Jayne Baxter:** Would any of the witnesses like to comment on the level of engagement with parents and groups representing parents that the Scottish Government has had and continues to have in relation to this bill?

**Clare Simpson (Parenting across Scotland):** There has obviously been the formal consultation, which was open to reply, but given that so many bits of the bill already exist—GIRFEC and the named person, for example—there has been continued engagement and consultation with parents locally through that process, which has been fed in through the bill team.

There has been a review of kinship care, which is on-going and which has been fed into the bill. There has also been a substantial engagement with looked-after children, corporate parents and organisations such as Who Cares? Scotland.

Organisations such as ourselves are a partnership. There are nine different organisations within our partnership that deal with children and families. They range from, for example, Children 1st, Aberlour and One Parent Families Scotland, to Relationships Scotland and Scottish Marriage Care. Some of those organisations have helplines and all of them work with parents. They have also fed in to the bill.

I therefore think that there have been a number of opportunities and ways of engagement. There is also a lot of evidence through academic study and so on, which has been made available to the bill team.

**Claire Telfer (Save the Children):** I echo what Clare Simpson said in relation to engagement with families on the bill. In particular, the work that the Government did ahead of the national parenting strategy, in which more than 1,500 parents were consulted about some of the key issues that affect them, provided some really useful insights into the

support that parents are keen on receiving. That lends itself to some of the elements of the bill in which the Government has considered the needs of parents and how they can best be addressed.

I also reiterate the point that, as well as direct consultation on proposals, it is important that as part of the process we think about what evidence already exists. That includes the research that is out there, examples from Highland in relation to GIRFEC, and the evaluations of the pathfinders that have engaged families on the impact of some of the proposals. All of that information on views from parents and the family perspective needs to be brought together to inform the process.

**Colin Beattie:** A couple of groups have been particularly critical of the named person service—the Schoolhouse Home Education Association and the Scottish Parent Teacher Council in particular. They have said that the named person proposal seeks to usurp the role of the parent. What do you feel about that? Do you think that that is accurate?

**Clare Simpson:** I do not feel that that is accurate at all. Parents' rights and responsibilities are firmly enshrined in law.

The GIRFEC guidance says that the named person is the first point of contact. We have regularly carried out MORI polls of parents that are representative of parents in Scotland. I think that it was the 2010 MORI poll that said that 72 per cent of parents did not know where to go for help, and the figure rose to 84 per cent in deprived areas. I therefore think that there is a real need for parents to know where to go for help.

The system is also one that all parties have agreed to and which we have been working to deliver throughout Scotland. As has already been said, there is somewhat patchy and inconsistent practice, which is why the legislation has come forward.

I presume that the committee will be getting evidence from the Highland Council about how the named person approach operates there. When it started to implement GIRFEC, there was no such thing as a named person within the guidance, and it was actually parents themselves who said, "We would like a first point of contact; we want to know where to go for help if we need it". That is where the named person came from: parents themselves.

I see the named person as a first point of contact. When practitioners are working with families, they work in partnership with them, and they would always try to get informed consent when necessary. They would take things forward—information sharing, for example—only when there was a risk of significant harm. If parents are refusing consent but there are issues and concerns, work would be taken forward—but I

think that we would all agree that, in that situation, it would need to be taken forward.

I also point out that parents are not a homogeneous group: there are lots of views. I would imagine that a great number of you are parents, but you probably do not all have similar views on the named-person approach or on the bill.

**Claire Telfer:** Again, I echo what Clare Simpson has said in relation to the named person. Save the Children sees the approach as an extra support for families, both children and parents.

In the consultation on the national parenting strategy, some of the key issues that parents raised were on lack of communication and not knowing who to turn to if they need support. There is a very complex service landscape in terms of children and family support, and support to navigate through it is helpful for parents.

There is evidence, particularly from the Highland model, of the impact of using the named person and how that has benefited children and families. The evaluations show that parents, as well as children, have valued the extra support of a first point of contact, as somebody with whom they can raise issues at an early stage and who can support them to get a clearer idea of what is going on with their child or with any support that they might need. I therefore urge the committee, as Clare has already said, to look at the example from Highland and how the system has worked in practice.

**Colin Beattie:** The bill provides for a child's plan. What happens if parents disagree with the child's plan? How do you see that situation working? Do you have any concerns about how the plan might operate if there is disagreement?

**Clare Simpson:** I go back to something that Alex Cole-Hamilton said: I would really like to see the caveat "so far as reasonably practicable" taken out of the bill.

I think that there should be consultation. Good practice dictates that the plan should be drawn up in partnership with the family. I suggest also that the consultation should be on the design, content and review process, which the bill currently does not allow for. Parents should be involved throughout the process.

As you indicate, there may sometimes be areas of disagreement. When there is disagreement, I think that, rather than another tribunal or adversarial system being set up, there should be some form of alternative dispute resolution that allows parents to have advocacy, particularly if they have communication difficulties or learning disabilities. Parents should be enabled to have a

voice in the process, and when there is disagreement they should be listened to.

**Colin Beattie:** What sort of alternative dispute resolution do you envisage?

**Clare Simpson:** To be honest, I am not sure. I think that that is for the detail of guidance and so on, but it really needs to be looked at. I think that there could be forms of mediation, and advocacy could be looked at for the parents, but it should involve parents having a role in sitting down and talking through the issues on a level playing field with professionals. All families are unique and different, but they are all the experts on their child's upbringing.

**The Convener:** May I interrupt for a second? You said that we should move from the bill using the phrase, "so far as reasonably practicable", to a situation in which the plan must be drawn up in some sort of relationship or co-operation with the parents, but that cannot always happen. There are obviously circumstances in which that cannot happen, so surely it is not practicably possible to have a situation in which the plan must be drawn up with the parents.

**Clare Simpson:** I suppose that, rather than the phrase, "so far as reasonably practicable", which is a real get-out clause, the bill should use something like "unless there are grounds of safety or significant harm" or "unless parents cannot be involved". It is a matter of setting the bar higher. When there are reasons of safety—for example, domestic abuse—or parents cannot be involved, it is obviously not practicable to require it, but I think that at the moment the bar is set too low.

**The Convener:** Thank you.

**Colin Beattie:** I have one other question on the back of that. We have heard in previous evidence sessions that, increasingly, lawyers and so on are becoming involved with children's issues—on behalf of parents in particular. If there is a dispute with the child's plan and lawyers are involved, there will have to be a pretty robust resolution process. How would that work?

**Clare Simpson:** Many alternative dispute resolution forms involve lawyers, so that may be a route. At the moment, the mechanism is judicial review, and I would imagine that that route would still be available; if it was, that is where the involvement of lawyers would be paramount.

**Claire Telfer:** I want to make a broader point about the participation of children and parents and ensuring that their views are heard within the bill as a whole.

There are a number of elements of the bill in which it is really important that we work with families. That is the case with developing the child's plan, with the duty in part 6 of the bill to

consult representatives of parents on how early learning and childcare services are provided, and with the named-person duties. However, it seems to me that the bill, from the way it is currently written, is not standard throughout in how we engage with and work with families on all these different elements, unlike the Children (Scotland) Act 1995, which has a general principle that children's views must be heard and taken into account. I urge the committee to look at whether the engagement could be more consistent throughout the bill.

**Jayne Baxter:** I would briefly like to go back to something that Claire Telfer said. I agree wholeheartedly that families operate in complex environments—it is quite a scary world out there for many families. The named person could have a crucial role to play. Do you think that there is a need for named persons to have additional training or knowledge, given the circumstances in which families operate? I am thinking particularly in terms of financial inclusion, welfare reform or housing; there are issues that impact on families on which they need information. Do you think that there is a resource implication in that?

**Claire Telfer:** Yes. As you heard in the first evidence session this morning, there is agreement on the principle of the named person, but there are some practical concerns—I know that they were raised in last week's evidence session as well. Training is vital in relation to being able to support parents and families effectively, so we need to look at how that can be done, as well as in the broader sense when we are talking about supporting children's wellbeing. There will be resource implications, but we must also remember that the approach is already working in many areas. It is a matter of building on that good practice and ensuring consistency across the country.

**Clare Simpson:** I reiterate what Claire Telfer said. In particular, where the system is working, it is sometimes not about extra layers of knowledge and expertise—we would not expect anyone to be the font of all that—but about there being a first point of contact.

There is some training to be done, and some of that is about the other services that exist. However, the first point of contact may be a health visitor or teacher, and Highland has found that those people have said, "This is the job we are paid to do anyway; we are about guidance and we are about the wellbeing of the child". They welcome the recognition of that role, but the system also allows them to pass on cases to a more appropriate person and, as Claire has said, to help parents navigate what is often a complex system.

**Neil Bibby:** Both Save the Children and parenting across Scotland have welcomed the increase in hours of childcare to 600 for three and four-year-olds. I broadly welcome that as well, as did many of my colleagues in 2007, when it was first promised. Evidence suggests, however, that there is a real lack of focus on childcare for children from zero to the age of three, and there is basically nothing to help with childcare for children who are primary school age. I have a broad question to all witnesses, including the parents: is this bill a missed opportunity?

11:45

**Claire Telfer:** I will kick off on that. We welcome the proposals in the bill to extend early education to 600 hours for all three and four-year-olds and some two-year-olds, and the importance of the flexibility of that provision. The points that you have raised on supporting younger children and out-of-school care are consistently raised with us by parents in relation to their child's care needs and the difficulties, particularly for parents living on lower incomes, of accessing that support for their children from a young age.

There are many issues, and we would like to see the bill go further in looking at the childcare system as a whole. There are very welcome statements from the Scottish Government in the policy memorandum about seeing the bill as a first step and setting the stage for future developments in relation to childcare. Although we welcome that, I think that it is fair to say that we would have liked slightly more progress to be made in this bill.

We are conscious of the work that the Equal Opportunities Committee did on women and work. One of its recommendations was on a right to childcare for families in Scotland, which would approach childcare in a broader sense. Although there are definitely positives from what is already in the bill, and although families will benefit, a lot more needs to be done to ensure that all families can access the childcare they need, in order to support children to grow, learn, develop and have the opportunities that benefit them, to support families to take up work and study, and, ultimately, to support family incomes and tackle poverty and some of the bigger issues that we need to grapple with.

That is one reason why we support the elements of the bill on childcare. We see childcare as a vital service in tackling child poverty in Scotland, which is one of the biggest barriers to Scotland achieving the aim of being the best country in which to grow up.

In summary, the bill is a good step forward but we would like further progress to be made through it and in future sessions of Parliament.



**Caroline Wilson:** As a parent, I welcome the extra hours, as I think that they will be of real benefit. I have children of primary school age, and it would be difficult for me to have a job and be back in time to pick them up from school. If the childcare extended to after-school care, it would benefit more families and help people to get back into work, because it would help with all childcare costs and not just those for pre-school children.

**Lori Summers:** I like the fact that the bill is increasing the hours of childcare—that is good—but it needs to be more flexible so that a place is available not just in the morning or afternoon but, for example, for two full days.

That would help people to work because most jobs are not from 9 to 11 in the morning, five days a week. People are more likely to be able to get a part-time job for two full days a week. If you could get the childcare to support that, it would help financially if your child could be in a free place on the days that you need it. Otherwise, you will have to pay for them and you will be left out of pocket at the end. That would not really be helping.

**Clare Simpson:** We support the extension of childcare. We see it as part of a long-term vision—we believe that it should be the first step. We should work towards making Scotland a leader in childcare, as, we believe, that will improve the outcomes of children. We also believe that it is important for parents to have options and choice.

We would support an extension to two-year-olds. There is so much evidence to show that, by the time children get to the age of three and enter nursery, disadvantaged children from poorer backgrounds are often already far behind their peers.

On the issue of out-of-school care, I should point out that childcare responsibilities do not end when children go to school; parents still need childcare.

On flexibility, there is an obligation to consult bodies that represent parents. We would like to see that strengthened so that the consultation is with parents in different family sizes and shapes and, in particular, includes diversity and, within that, disability. We know that 84 per cent of working parents of disabled children rely on grandparents or other family members because—and I think that 60 per cent of the 84 per cent said this—they are unable to find accessible childcare because of their child's disability.

**Neil Bibby:** I suppose that we can debate how big a step it is as a first step, but I will ask about the provision for two-year-olds. The bill refers to looked-after children, and it has been mentioned that the provision means that 1 or 2 per cent of two-year-olds in Scotland will be entitled to early learning and childcare. In England, we have heard

proposals to go much further than that. You have mentioned that the bill should go further in the provision of childcare for two-year-olds. What would you like to see?

**Claire Telfer:** Save the Children has been calling for an extension to early learning and childcare for all two-year-olds, starting with children living in poverty. There are a number of arguments for that. One is based on the benefits that early education care services can have in relation to improving outcomes for children and tackling inequalities in the early years.

There is a lot of strong and compelling evidence on that issue. Save the Children's "Thrive at Five" research last year showed that children living in poverty are twice as likely as their peers to have development difficulties across a range of areas, whether in communication and cognitive development or physical health. That is backed up by findings in the growing up in Scotland survey, for example. The evidence is really strong on the gap that we can see between children living in poverty and their peers at age five.

What is also strong in the evidence is the difference that early learning and childcare services can make in turning that situation around. If we look at the evidence from the EPPE—effective provision of pre-school education—study, which looked at short and long-term outcomes, we see the impact of even a month of early learning and childcare support from the age of two. The difference that that support can make—in the early years, by the time a child starts school and again when the child leaves school—is really significant. It is for those reasons that we support an extension to two-year-olds living in poverty.

Over the past 18 months, we have been doing a lot of work with parents, speaking to them about their childcare needs, what their experience and views are of using childcare in Scotland, and where they feel improvements need to be made. We did not ask specifically about an extension of childcare to two-year-olds, but a really strong theme that has come out of those conversations is that parents, particularly those living in more deprived areas or on lower incomes, would value the opportunity for their children to be able to use early learning and childcare services from a younger age.

Those comments are on the benefit that early learning and childcare can bring to children, and Lori and Caroline can maybe say a little more about that. A lot of the parents we have spoken to cannot afford to pay for services that currently exist and, therefore, feel that their children are missing out on the opportunities to play and socialise with other young people and on all the benefits that the services can bring.

There is also an economic argument for providing support in terms of the preventative spending agenda. We know that the critical years are from nought to three, and yet the bill in part 6 is very limited in that it provides support only to looked-after children. We very much welcome that support, because we know that those children's outcomes are particularly lower than those of others, but this is an opportunity to extend the support to a group of children who would also really benefit from it. It would save us money in the long term and meet the aims of the bill in supporting children from more disadvantaged backgrounds. We therefore back the idea of looking at the extension of support and, in particular, providing it to the most disadvantaged initially.

**The Convener:** How much would it cost to extend childcare to all two-year-olds?

**Claire Telfer:** That is a very good question, and I do not have an answer. Extending to all two-year-olds would obviously have significant cost implications, as we would want the services to be of high quality and to benefit children and young people.

I would urge the committee to ask the Scottish Government how much it would estimate the extension costing. We have been looking at different models for extending childcare to children from more deprived backgrounds, and the cost would depend on how we define that group of children and young people. For example, it could be based on an area-based approach, looking at the Scottish index of multiple deprivation, or we could go down the route of looking at household income.

I cannot give the committee an exact figure at the moment. It is certainly something that needs to be looked at, but I think that, at this stage of the bill, the important thing is whether we agree with the principle of extending childcare to two-year-olds living in poverty.

**The Convener:** Thank you. I will bring in Joan McAlpine.

**Joan McAlpine:** There is a lot of consensus in the sense that we all want to tackle the issue of child poverty and child development. You will all be aware of the recent report by the National Children's Bureau, which showed that 1.5 million more children are living in poverty across the UK than were in 1973. I think that it is fairly widely recognised that that is due to the UK economic model, which is one that encourages inequality.

Perhaps you would want to reflect on the fact that the economic powers that cause inequality to get worse are exercised at the UK level. Scotland will need those economic powers if we are going to tackle child poverty in the future. I think that

there is a consensus that we all have the same priorities in terms of ending child poverty. If we want to do that, we need to have the economic powers to make Scotland a more equal society, rather than following economic models set in London.

**The Convener:** That was not specifically about the bill, and I think it was more of a statement than a question, so I will move on to Liam McArthur.

**Claire Telfer:** May I make a point in response?

**The Convener:** Yes.

**Claire Telfer:** It is helpful to look at how this bill supports families in Scotland that are experiencing poverty and how it helps us to tackle child poverty within the existing arrangements for Scotland. Childcare is one way of doing that by supporting children and, if the flexibility elements of the bill are delivered, it could also support parents to take up work and employment—I think that Caroline and Lori could say a little more on that.

We also support Barnardo's Scotland, which has talked about the wellbeing provisions in the bill. If wellbeing is being enshrined in how we think about supporting children and young people, the impact of poverty needs to be a crucial factor that is taken into account.

The Government has said that child poverty is covered in the SHANARRI indicators under "included". I hope that the bill can take forward more support for families who are experiencing poverty. I urge the committee to look at how the bill can support delivery of the child poverty strategy that already exists in Scotland and at how, for example, elements of part 3 of the bill, on children's services planning, can link into delivery at a local level.

**Joan McAlpine:** May I come in—

**The Convener:** I will bring you back in after Liam.

**Liam McArthur:** That was very elegantly and diplomatically put, Claire.

I will return to the topic that Neil Bibby introduced. You have made clear your views on extending childcare to a greater number of two-year-olds, and you pointed to a range of evidence, which is also supported by the findings of Professor James Heckman, a Nobel laureate. You have also talked about the way in which it might be phased in over a period, starting with the most disadvantaged, and how, for even a limited number of hours per month, it can deliver a real advantage.

Is there anything specifically that we should be pushing the Government on in terms of the roll-out and time frames? Neil Bibby talked about the 1 or 2 per cent of children who will be covered under

the bill, compared with provision south of the border that phases in coverage of around 40 per cent over a period. Is there a phasing that we should be looking at for this bill, recognising, as the convener said, that blanket coverage of all two-year-olds under the provisions of the bill does not appear to be a realistic proposition?

12:00

**Claire Telfer:** Save the Children's position is clear: we support priority being given to children living in poverty. We want to see that taken forward immediately, looking at how and whether that is possible.

For a time frame, we would say "as soon as possible". We urge the committee to look at what might be possible in this session of the Parliament, while looking towards the next session and how we might want to extend coverage to younger children. What is important is that we agree the principle of younger children having access and entitlement to the support. We would be supportive of a staged process if that were deemed the most appropriate way given the current economic context.

12:00

**Liam McArthur:** The convener's point about the resource implications is one that we need always to be seized of. We are focusing on the principles behind the bill, delivery of which is likely to require changes to the budget. Should we, as we look ahead to the budget later this month, be prioritising that, in terms of spend?

**Claire Telfer:** Yes.

**Liam McArthur:** Thank you.

**The Convener:** Joan—I said that I would bring you back in. Please be brief.

**Joan McAlpine:** I would like to return to the point about resources. Once again, we all agree that the bill is a good starting point and that we would all like to go further. Do you acknowledge that the Scottish Government lives off a fixed income and has no economic control? If so, how will we find the resources, given that the UK Government has, under its austerity programme, cut Scotland's money quite considerably? The Scottish Government has had to come in with anti-poverty measures to address that; for example, by increasing the budget for Citizens Advice Scotland and bridging the gap in council tax benefit, which has been cut. We all agree that it is going to be very expensive to further increase early-years care, even though we would like to do that. How can we do that when we live off a fixed income that has been cut by Westminster?

**Clare Simpson:** That is a political debate for the politicians. Obviously we would like more investment in the early years. The situation has depended on the complexion of the UK Government; there have been reductions in child poverty under some Governments, but not others.

The main thing is that we are dealing with poverty, so the bill must link up provision and improve children's lives. The points that Claire Telfer made about vulnerable two-year-olds were well made and I agree with them.

I also reiterate, and perhaps thereby reassure the committee, that there is a section in the bill that talks about the appropriateness of care for two-year-olds. It may not always be appropriate for a two-year-old to be brought in to a nursery setting; that is not what they need if they have added layers of vulnerability. Models such as community child-minding, care in the home and especially work on parenting with vulnerable parents has really helped with vulnerable two-year-olds in moving them up and narrowing the gap in attainment between them and their peers. People may campaign for one or the other, but we are talking about children who are living in poverty, and we have to work with what we have now.

**The Convener:** I call Liz Smith.

**Liz Smith:** I am okay, convener. The two questions that I was going to ask have been covered.

**The Convener:** What difficulties are the two parents here today faced with relative to the current childcare arrangements and their ability to get out to work, even if that work is part time?

**Caroline Wilson:** Work is limited to the two and a half hours for which the child is in nursery, if they are of nursery age, or to school hours, if you have a school-age child. The flexibility to choose your 16 or 15 hours, or whatever, would make it easier to get a job, because people cannot find something that fits into those two and a half hours, which includes time to travel, and so on. It is also quite expensive to pay for that, especially if you are living on the minimum wage; travel can take up quite a lot of that wage. Flexibility is important.

Three and four-year-olds are covered, but a child's place depends on when his or her birthday falls. Perhaps places could be made available when a child turns three rather than at the next intake, otherwise the child might get only a year at nursery and will not have the same start in terms of their development and so on as other children.

Extension of provision to two-year-olds would also help parents to get back to work a bit earlier, because they would know that they had a secure childcare place. It would also provide a better family life, because both parents could work during

the day and have more family time outwith that, rather than working different shifts in order to cover the childcare.

**Lori Summers:** Financially, more free childcare would be good. I also feel that it would be much better if local authority nurseries could provide more spaces for people who are willing to pay for childcare for their children, because local authority childcare provides higher quality care than private nurseries, and is less expensive for parents, who could then get back to work and start earning to provide more for their kids instead of sitting at home on benefits.

**The Convener:** Interestingly, the bill requires local authorities to ascertain the views of people who represent parents when establishing the pattern of early learning and childcare provision. I am not quite sure how they will do that, but the bill requires an attempt to provide that flexibility.

I read the relevant section just before you came in and it does not seem to suggest that the pattern that you described has to be provided—that is, the two and a half hours per day. Rather, there has to be a minimum of two and a half hours, so it looks as though that is a decision for the local authority and is not subject to enforcement through the bill. Can the witnesses say whether the ability to provide that flexibility varies across local authorities, or is there everywhere in Scotland two and a half hours per day?

**Claire Telfer:** I can speak from the Scottish perspective in terms of the engagement with parents that I talked about. One of the striking things to have come out of that is the degree of difference in availability. In some areas, parents described an abundance of local services and stated that they experienced great choice in childcare that they were able to use. That provision, particularly in the early years, was delivered in bundles over one or two days.

In other areas, a completely different picture was painted, of a lack of services and lack of choice and flexibility. It is important that we consider local flexibility in relation to how services are provided.

A key theme that has come through during discussions with parents is that there is similarity in the issues that they raise in relation to childcare—namely affordability, out-of-school care and the services that are available. There are a number of issues that we need to look at at Scotland level as well. It is a matter of how we marry up that local flexibility and in how services are provided with the national issues that need to be addressed right across Scotland.

From Save the Children's point of view, consulting parents locally about their needs and what would support them is a step forward. We

would like to see that being extended beyond the early years to out-of-school care. That would be a positive step towards a better understanding of the services that are available at local level in out-of-school care. It would also facilitate a better understanding of parents' needs and demands at local level, which would help with local planning of services. That is something that parents would also welcome.

**The Convener:** The policy memorandum is quite clear; it talks about

"Improving the flexibility of provision in response to identified local need".

I will not repeat what I said earlier about local authorities having to ascertain the views of parents and so on in relation to flexibility. The explanatory note also states that

"The increasing flexibility will require a re-configuration of services in response to locally identified need and this will be achieved incrementally."

Clearly, the intention in the bill is to move in that direction and to provide that flexibility. However, as we would all agree, it cannot be done overnight or instantly. Is the determination to move in that direction through the bill to be welcomed?

**Clare Simpson:** That is very definitely to be welcomed, but we have heard about needs including the unusual fact that although parents still need childcare once their children are in school, that is not accounted for anywhere. At the moment, the obligation to consult relates to parents of children under five years old. Even if, at the moment, we cannot provide childcare of the required standard or we cannot extend it to as many parents as we would like, if we are to have a long-term vision, we need to know what parents want, what would help them with childcare and what would help them get to work and get out of poverty. That extends beyond five-year-olds right through to, as the Equal Opportunities Committee said, 15-year-olds. We need to know what those needs are, so that even if we cannot meet them now, as you said, we can work incrementally towards meeting those needs.

**Claire Telfer:** Flexibility in how early learning and childcare services are provided is key, and we warmly welcome it. Parents have told us that flexibility is potentially more important than the extra hours, because it could enable them to balance their caring responsibilities with taking up work and employment. We need to be careful not to see it as being either/or in terms of extension of hours and flexibility.

The Scottish Government's initial proposals on flexibility talked about having minimum standards and what could be achieved in relation to that. My understanding is that, at the moment, local authorities and other providers can choose to

deliver early-years services in different ways—it does not have to be two and a half hours over five days. We need to look at what the bill will provide in addition that will drive forward the flexibility that is so desired by parents.

**The Convener:** Liam McArthur has a short question.

**Liam McArthur:** Having listened to witnesses' testimony, it has occurred to me that we might be struggling a bit with the conflation of two bills. In a sense, we have a children and young people's rights bill, and the discussion is about what benefits children and young people. Undoubtedly, being in a home environment where parents have enough income is to their benefit. The benefit of the nursery and childcare to the individual child is ultimately, I presume, what we are driving at in this legislation. Is that fair? The benefit in terms of allowing parents to go out to work is incidental compared with the direct benefit of the child getting the cognitive development, socialising skills and all the rest of it that perhaps come with nursery and childcare provision.

**Claire Telfer:** We should absolutely be focused on the benefit to the child. We also need to see the family in the round and look at how we can provide a service that benefits children, but which also benefits the wider family and deals with some of the issues that we have been grappling with and which have been raised by parents, such as access to work and ways to balance their caring responsibilities. We should not separate them, so to speak; we should look for best way to support families in the round, including the benefits of early learning and childcare as well as out-of-school care.

The outcomes that we want to achieve for families in Scotland can be delivered through the one service, in terms of the benefits that it brings to children's learning development and tackling inequalities, in addition to the benefits that it has in relation to supporting parents, maximising their income and tackling poverty. We need to look at the matter in that much wider sense.

In addition, we should consider what savings could be made in terms of early years provision, through supporting children from a young age and preventing issues from escalating in the longer term.

**Clare Adamson:** I would like to ask about the definitions of the types of parent, specifically corporate parents. That term has come up quite a bit in today's evidence, as it did last time. Schedule 3 to the bill states that corporate parents include all the public bodies that are listed in that schedule. Will the creation of many corporate parents lead to confusion and tensions with the parents of looked-after and vulnerable children?

**Clare Simpson:** Duncan Dunlop has already said that perhaps thought should be given to amendments to the bill's schedules, and we would back that. There are people who are in direct contact with children, who are looking after them on behalf of the state, who have particular duties and responsibilities, and who should, as far as possible, act like good parents; that is, acting as the rest of us—we hope—act in giving children care. There are others who should, within their responsibilities, be taking cognisance of looked-after children and, probably, other children as well.

12:15

There are a number of confusing things. Among looked-after children there are huge variety and complexity in terms of status, from children who are looked after at home, to kinship carers and so on. Within that, some birth parents retain some responsibilities, so it needs to be teased out in guidance and regulation, and in consultation with key groups—in particular groups of parents—where rights remain, what relationships should be, what consents they have and what input they can offer.

Care leavers, who may have been away from home until they are 16, are entitled to go home, quite often to what has previously been a chaotic family life and may still be a chaotic family life. If those birth parents were somehow to be involved, and if that were to include parenting support and parenting education, when that child goes home at 16, his or her parents would at least be better prepared to meet their needs.

**Clare Adamson:** Part 10 of the bill is on kinship care and sets out the framework for local authorities to support kinship carers who have, or who are applying for, section 11 orders. I would like a general opinion on whether the provision for kinship care represents an enhanced level of support for kinship carers.

**Clare Simpson:** On the kinship care order, at the moment, as I am sure the committee knows, there is a huge variability in financial provision and so on throughout Scotland. If people are getting financial provision at all, they can be getting from the local authority anywhere from £50 to £150. We would probably all agree that it is a fairly unacceptable state of affairs that the amount depends on where you live. The kinship care order will allow eligibility for other things, like leisure opportunities and free school meals. The opening up of both doors is very welcome.

There is also an ongoing review of financial arrangements for kinship care; I hope that the two things—the bill and what the Government recommends with regard to financial arrangements—can dovetail. I believe that the

committee will have a meeting on kinship care at which Children 1st will give evidence. I also draw members' attention to the evidence of Citizens Advice Scotland, which has a specialist kinship care service. It is a very complex area, but the bill goes some way towards opening up new rights for kinship carers and allowing them to access the support that they need.

**The Convener:** I thank the witnesses for coming along this morning. Your evidence has been very helpful to our consideration of the bill.

Item 5 was to have been consideration of petition PE1395, but we have agreed to defer that until next week. That concludes the public part of our meeting.

12:19

*Meeting continued in private until 12:50.*

Members who would like a printed copy of the *Official Report* to be forwarded to them should give notice to SPICe.

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