



**OFFICIAL REPORT**  
AITHISG OIFIGEIL

# Public Audit and Post-legislative Scrutiny Committee

**Thursday 18 June 2020**

**Session 5**



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Pàrlamaid na h-Alba

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**PUBLIC AUDIT AND POST-LEGISLATIVE SCRUTINY COMMITTEE**

**12<sup>th</sup> Meeting 2020, Session 5**

**CONVENER**

Jenny Marra (North East Scotland) (Lab)

\*Anas Sarwar (Glasgow) (Lab) (Acting Convener)

**DEPUTY CONVENER**

\*Liam Kerr (North East Scotland) (Con)

**COMMITTEE MEMBERS**

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

\*Neil Bibby (West Scotland) (Lab)

\*Bill Bowman (North East Scotland) (Con)

\*Willie Coffey (Kilmarnock and Irvine Valley) (SNP)

\*Alex Neil (Airdrie and Shotts) (SNP)

\*attended

**THE FOLLOWING ALSO PARTICIPATED:**

Caroline Gardner (Auditor General for Scotland)

Tricia Meldrum (Audit Scotland )

Rebecca Smallwood (Audit Scotland)

**CLERK TO THE COMMITTEE**

Lucy Scharbert

**LOCATION**

Virtual Meeting



## Scottish Parliament

### Public Audit and Post-legislative Scrutiny Committee

Thursday 18 June 2020

*[The Acting Convener opened the meeting in private at 10:02]*

11:00

*Meeting continued in public.*

### Decision on Taking Business in Private

**The Acting Convener (Anas Sarwar):** Good morning and welcome to the public part of the 12th meeting in 2020 of the Public Audit and Post-legislative Scrutiny Committee.

Agenda item 2 is a decision on talking business in private. Unless a member indicates otherwise, I will assume that everyone agrees to take item 5 in private. As no member has raised their hand to object, members have agreed to take item 5 in private.

## Section 23 Report

### “Early learning and childcare: Follow-up”

11:01

**The Acting Convener:** Agenda item 3 is consideration of the section 23 report, “Early learning and childcare: Follow-up”. I welcome our witnesses from Audit Scotland: Caroline Gardner, Auditor General for Scotland; Tricia Meldrum, senior manager; and Rebecca Smallwood, audit manager for performance audit and best value.

I invite the Auditor General to make an opening statement.

**Caroline Gardner (Auditor General for Scotland):** Thank you, convener. Today’s report is the second in our planned series on the expansion of funded early learning and childcare. It provides an update on the risks and recommendations in “Early learning and childcare”, which was our initial report in February 2018.

Since “Early learning and childcare: Follow-up” was published on 3 March, plans for the expansion have changed in response to the impact of Covid-19. On 30 March, ministers laid an order in the Parliament to revoke the deadline for the expansion, so that there is no longer an obligation on councils to deliver 1,140 hours of funded childcare by August. The Scottish Government has said that it remains committed to the expansion and that it will set a revised deadline.

The report highlights steady progress in preparing for the expansion up until that point, which was broadly in line, at a national level, with plans to deliver the increase in hours by August 2020. However, the plans required a lot to be achieved over the summer months, which created a number of significant risks in getting enough people and buildings in place to deliver the expansion. We reported that some aspects of the policy, such as delivering flexibility and choice, would not be fully implemented by August. The report recognises the scale of planning activity that is under way. Stakeholders were working well at a national level, and there was effective national oversight of the expansion.

However, even before the impact of Covid-19, important challenges remained. As at September last year, councils still needed to recruit about half the additional staff that they needed for the expansion. Private and third sector providers of early learning and childcare, including childminders, continue to report significant workforce challenges that threaten their sustainability. There were also big risks relating to developing the necessary infrastructure, with

about half the places being developed due to be completed over the summer.

The Scottish Government had made a lot of progress on evaluation since our 2018 report, but it still needed to finalise some important measures, including the longer-term economic benefits. Gaps in baseline equalities data mean that it will be hard to fully assess the impact on some groups of children and families. We set out recommendations for the Scottish Government and councils as they continue to expand early learning and childcare, and I hope that those will be useful when planning resumes.

As always, we are happy to answer the committee's questions.

**The Acting Convener:** Thank you, Auditor General.

**Liam Kerr (North East Scotland) (Con):** I am interested in the funding to councils. The funding model that was chosen to distribute the funds in 2020-21 has resulted in some councils receiving less funding than they would have received under a formula-based distribution model. Which local authorities are most likely to be disadvantaged by that approach? Do you anticipate the funding model being revised in the future?

**Caroline Gardner:** The distribution from the Scottish Government to the 32 councils across Scotland was the subject of a lot of discussion and negotiation between the Scottish Government and the Convention of Scottish Local Authorities, including discussion about whether the model should be formula based or based on the plans that individual local authorities had drawn up and their costs.

Rebecca Smallwood will be able to talk Mr Kerr through the issue in a bit more detail.

**Rebecca Smallwood (Audit Scotland):** Good morning. As we state in the report, the funding distribution model was based on the templates that councils submitted to the Scottish Government, rather than there being a formula-based approach. As a result, our modelling found that, on average, rural councils were more likely to receive less under the financial template approach than they would have received under a formula-based approach.

We know that, pre-Covid, the Scottish Government and partners were looking at the approach to funding distribution for when the multiyear settlement ends. The financial working group that was set up was discussing the various ways in which distribution for a new deal in 2022-23 could be taken forward. That has to be agreed by the settlement and distribution group, and political leaders have the final say on distribution.

That was all progressing pre-Covid. I do not have an update on what the impact of Covid might be on timescales going forward.

**Liam Kerr:** You mentioned the impact going forward, but can you give us an idea of what the practical impact of the funding settlement on councils that received less has been?

**Rebecca Smallwood:** We know that some councils have adjusted their plans in response to the funding that was available to them. They might have changed the models of early learning and childcare that were on offer to allow them to deliver within the funding that they had available.

**Liam Kerr:** Right. I think that my friend Colin Beattie might want to press you on a particular matter at this point. With the acting convener's permission, I will briefly hand over to him.

**The Acting Convener:** Yes, please.

**Colin Beattie (Midlothian North and Musselburgh) (SNP):** Thank you. I am particularly interested in that issue. According to the report, Midlothian Council, the bulk of whose geography sits in my constituency, is the worst affected, getting

"24 per cent less revenue funding than it estimated was necessary".

That is one heck of a gap.

When the formula for the payment of that money was put forward, was it signed off and agreed by the different councils?

**Caroline Gardner:** Again, I will start, and Rebecca Smallwood may want to add to what I say.

You are right that we say in paragraph 23 of the report that Midlothian Council received

"about 24 per cent less revenue funding than it estimated was necessary".

That issue is slightly different from the issue of whether the funding was distributed via a formula or according to the financial templates that councils had completed.

Once the decision to use financial templates rather than a distribution formula was taken, in an agreement between the Government and COSLA, the Government took the templates that each council had submitted, adjusted for inflation, and adjusted the population bases back to the 2014 figures, which were the most recent available at that point in time. The impact of that was that councils with rapidly growing populations, such as Midlothian Council, had the population base in their template reduced back down again, which caused a reduction in the amount of funding that they received. Obviously, other councils received more funding than they had estimated was

required. That was caused by a rebalancing for inflation and for the population bases.

My understanding—I will ask Rebecca Smallwood to give members to give a bit more information about this—is that the agreement was made between the Scottish Government and COSLA nationally. Obviously, there will have been different views from individual councils. Would Rebecca Smallwood like to add anything to that?

**Rebecca Smallwood:** I can provide a bit more information.

Obviously, we would expect that the inflation adjustment would increase the numbers that were put in the councils' financial templates. The population adjustment—taking all councils, to use a consistent measure of population across councils—had the impact of reducing the figures for some councils. In some cases, such as Midlothian, the population adjustment more than offset the inflationary adjustment, so that, by 2021-22, Midlothian will receive 24 per cent less revenue than it had estimated was necessary in its financial template.

**Liam Kerr:** Auditor General, I will change topic slightly. A key issue that you raised in the first “Early learning and child care” report, which you referenced in your opening statement, related to the lack of data and plans for how to evaluate the impact of the expansion on outcomes. The follow-up report indicates that

“The absence of some baseline data will make it difficult to fully assess the impact of the expansion for some groups of children and families”.

Can you give the committee more information on those points? In the absence of that data, how accurately can the impact of the expansion be measured to ensure that it has worked?

**Caroline Gardner:** We think that, since our initial report in 2018, the Government has made good progress on its evaluation strategy; the strategy is much more advanced and much of the baseline data is either in place or is being collected. However, you are right that there are still important gaps. Rebecca Smallwood will talk you through which gaps are most important and what is happening about them.

**Rebecca Smallwood:** The issue that Liam Kerr mentioned around the baseline data on the equalities characteristics of children and families is to do with the fact that the information that we have at the moment is aggregated data that is based on the census, which means that there is no information on individual children. The Scottish Government has acknowledged that and has plans in place to capture data at the level of the individual child, but that will not be in place in time for it have the baseline information on the equality characteristics of children accessing the 600 hours

service before the expansion. Therefore, it will be hard to see whether there is a difference in relation to the equalities characteristics profile of children who access funded ELC for 1,140 hours compared with those who access 600 hours. We highlighted that gap in baseline information in the report and we recommended that the Scottish Government look at alternative ways to capture that information, as the census does not allow it to do that.

**Liam Kerr:** You have highlighted that gap to the Scottish Government and I hear that progress is being made and plans are in place. However, the first expansion was in 2014, and your first report was several years ago. Why has the Scottish Government not sorted that yet?

**Rebecca Smallwood:** The Scottish Government is looking at the issue and has put plans in place for an information technology system that will capture data on individual children at a national level. Although the system will not be in place in time to get the baseline data, it will be in place in time for the expansion.

**The Acting Convener:** Auditor General, I will move on to look at the reality today with regard to Covid-19. The follow-up report was done before the pandemic. Do you have any reflections on what the pandemic might mean with regard to the roll-out and delivery of the expansion in childcare?

**Caroline Gardner:** Yes. As I said in my opening statement, early on in the pandemic, on 30 March, the Scottish Government laid an order in Parliament that revoked the legal requirement for councils to put in place 1,140 hours of funded early learning and childcare for all three and four-year-olds and eligible two-year-olds. The Government has said that it remains committed to the roll-out but, given the uncertainties around Covid-19, it is not yet in a position to set a date.

We have not gone back and done the audit work to look at what is happening at a local level, but there might be two impacts.

First, the progress in completing the infrastructure is likely to have been delayed. A lot of the infrastructure was due to be completed in the summer, but we note that construction has effectively been on hold since the end of March, so it will have been delayed. Beyond that, there could well be an increase in the number of eligible two-year-olds. One of the things that governs the eligibility of two-year-olds for funded childcare is whether their parents are in receipt of qualifying benefits. The devastating economic impact of Covid-19 might mean that there are more families in that position. We cannot put a figure on that, but it seems a possible potential impact.

11:15

Secondly, there might be an impact on providers of early learning and childcare, particularly private and third sector providers. Most childcare settings closed at the end of March, apart from those providing essential childcare to key workers and vulnerable children. A range of support was provided by the United Kingdom and Scottish Governments to businesses that are in that position, but it is possible that some providers in the private and third sectors will find that their financial sustainability is at risk until all childcare is up and running again; it may also be at risk as a result of the uncertainty about when the expansion will happen and funding for early learning and childcare will be available.

There is a group of issues that might have an impact. We cannot quantify them, but we are monitoring them carefully.

**The Acting Convener:** You have quite clearly laid out the challenges around the capacity of childcare, but there is also a risk around demand for childcare—for example, as a result of what the blended model of schooling might mean for the balance between people working from home and the economy opening up again, with people going back into workplaces. Capacity is one part of it, but have you had any communications from the Government about whether it is considering how demand might increase and whether Scotland will be ready to meet that demand?

**Caroline Gardner:** You rightly say that there is a huge amount of uncertainty around all of this, and at this point in the pandemic, none of us knows what the impact will be. We know that the education recovery group, which the Deputy First Minister chairs, is focusing on trying to get schools up and running as quickly and fully as possible. We have all seen the debate about that during the past few days.

The education recovery group has a subgroup that is focusing on early learning and childcare, but we understand that, at this stage, the Government's priority is to get schools up and running. We do not yet have any more information about the interaction between the two or what is likely to happen to demand, either because more two-year-olds will be eligible or because more parents might not be in employment temporarily and therefore might not be looking to place their children in early learning and childcare, which they might otherwise have done.

Tricia Meldrum can tell you more about reopening guidance, if that would be helpful.

**The Acting Convener:** If Tricia would like to come in, that would be useful.

**Tricia Meldrum (Audit Scotland):** Good morning. Can you hear me okay?

**The Acting Convener:** We can hear you great, thanks.

**Tricia Meldrum:** Earlier this week, the Scottish Government published some guidance on early learning and childcare centres reopening. The guidance makes it quite clear that there will be implications for the capacity of providers. For example, it refers to children being looked after in small cohorts of eight, which is the maximum recommended.

We understand that the education recovery group subgroup is working through the financial implications of providers' capacity issues, what they might mean for their financial sustainability and how to address those issues. Some work is in progress there.

**The Acting Convener:** Is that group also considering the disproportionate impact that the situation could have in particular on women who are entering the labour market or who have their own struggles with the labour market, given the pandemic and its impact on the economy and schools? Do you know whether that subgroup is considering the impact on women, given the need to continue to strive towards having equality in our labour market?

**Tricia Meldrum:** I am sorry, but I do not have that level of detail.

**The Acting Convener:** No problem. Do you have any reflections on the particular impact on women, Auditor General?

**Caroline Gardner:** I am personally grateful to you for asking the question. We know that the lockdown seems to have had a disproportionate impact on women in terms of the insecurity of their employment, the additional burden of childcare and home schooling while children are at home, and the greater domestic workload of everyone being at home all the time.

I would expect the Government to be thinking seriously about the equalities impact of its plans for reopening early learning and childcare and picking up the expansion of ELC provision. Gender is a big part of that, but it is not the only part. We know that there are other significant inequalities in the labour market, but good, universally funded ELC should be able to make an impact. However, as Tricia Meldrum said, the first set of guidance on reopening has only just come out, and I do not think that the Government has published anything yet that would let us see how it is taking account of the equalities impact.

**The Acting Convener:** Will you talk us through some of the workforce challenges? I ask you about workforce issues almost every time that you



are in front of us, but there are particular workforce challenges to do with childcare capacity. For example, I know that councils still need to fill half their places, and the private and third sectors continue to raise problems with finding adequate numbers of staff. Is that a problem with the numbers of people available? Is it a skills issue, with a lack of adequately trained people to bring in? Is it a combination of the two? Is it the attractiveness of the roles? What are the key issues? What matters should we be considering in relation to the building up of the workforce?

**Caroline Gardner:** That is a big and complex question, and it is one of the two significant risks that we highlight on completing the expansion of the provision of ELC when it is picked up again.

As at last September, councils had recruited approximately half the extra staff that they estimated that they needed, which is slightly below where they expected to be at that point. However, they still needed to recruit an additional 4,500 or so staff in order to have all the places available to provide the commitment to early learning and childcare.

The available information on progress is at a national level; it does not identify what the shortfalls might be by grade or type of staff, or where they might be across Scotland.

We consider it possible that the withdrawal of the UK from the European Union will make the situation worse. I know that Mr Neil may disagree with that, and I am happy to have that conversation. However, approximately 7 per cent of the day care of children workforce comes from non-UK EU backgrounds, and it might be harder to keep or replace those people.

A national recruitment campaign to raise awareness is in place, and it will possibly recruit new people. As you can see from exhibit 4 in our report, a lot of training took place in 2017-18 compared with 2014-15 through foundation apprenticeships, modern apprenticeships, college enrolments and some university enrolments.

Equally, there are real challenges, and I will highlight two to start with. First, we know that private and third sector providers are concerned that some of their staff are being recruited to work in councils on the basis of better terms and conditions, and better training opportunities. Secondly, childminders are concerned that some of the workforce pressures are making their work practices unsustainable. A lot of work is going on, but there are real questions.

**The Acting Convener:** Are we on track to meet the workforce challenges?

**Caroline Gardner:** We say in the report that there were good reasons for some of the

recruitment to be back-end loaded. Clearly, organisations do not want to recruit staff before they are clear where they would be working and whether there is the demand for them to do that work.

Rebecca Smallwood can give you much more detail about what we know on the issue.

**Rebecca Smallwood:** As the Auditor General has mentioned, the most recent information that we have on workforce progress is the information that is in our report, which was based on September 2019 data. At that point, bodies were broadly on track with their plans, although a large number of staff were still to be recruited into council settings.

We have not received any updated information on the progress made since then. Councils were anticipating that they would recruit about another 1,000 whole-time equivalents by April 2020, but we have not received any information on whether they have succeeded in recruiting the numbers that they were hoping to. That volume of people involves a large risk of not getting those people into post in time.

All the numbers for staff needed that we have included in the report refer to numbers of staff who are needed in council settings. In turn, that creates a risk of displacement of the workforce moving from private or third sector providers into council settings. Data on that is not readily available at the national level.

In the report, we have recommended that councils and the Scottish Government should consider whether something can be done with the locally available information. We know that councils sometimes have information in their human resource systems on where the new staff whom they have recruited have come from, and we suggest that the Scottish Government could consider collating that information nationally to get a better picture of the displacement between the sectors, so as to understand the extent of the problem.

**The Acting Convener:** Thank you.

**Colin Beattie:** Auditor General, your report flags the fact that a significant number of infrastructure projects were planned to be completed very close to the August 2020 deadline. It also states that many local authorities did not have contingency plans in place, should those projects be delayed. One might anticipate that many of them will have been delayed. What reasons have been given for not having contingency plans, and what is the likely impact of the delays?

**Caroline Gardner:** I will talk you through the numbers first.

As at October 2019—the most recent data that the Government had, at the point at which we published—303 projects were due to complete in summer 2020. Of those, 250 were critical to meeting the demand for funded early learning and childcare by the August deadline. Councils were confident of completing 83 of those; 128 had contingency plans in place and 39 did not.

Again, we recognise that—[*Inaudible.*]*—*there are good reasons for doing some of the—[*Inaudible.*]*—*not just to phase the work that is required, but partly because, where new childcare is being provided on a school site, for example, it would make sense to do that work when children would not normally be at school.

We do not have reasons for the absence of contingency plans for those 39 developments, although, clearly, they are where the risk is greatest for councils in not being able to provide what is required, and for parents in not being able to access the early learning and childcare that they are expecting, with all the knock-on effects that that would have on their family lives and employment, in normal circumstances.

**Colin Beattie:** Is the lack of that contingency planning likely to have an impact on bringing those delayed infrastructure projects back on track?

**Caroline Gardner:** A lot of it has been affected by the Covid-19 pandemic, and the suspension over the past three months of most construction work.

As the Government agrees a new deadline for its target of 1,140 funded hours, some reprioritising will be needed for projects that are under way and still not completed. However, for now, I think that the Government's priority is getting schools up and running, and then making sure that the existing 600 hours entitlement to early learning and childcare can reopen safely, in line with the guidance that Tricia Meldrum talked about.

**Colin Beattie:** Will councils that have actually gone to the trouble of putting in place proper contingency planning not find it easier to pick up and restart the projects that have been stopped as a result of Covid-19?

**Caroline Gardner:** They may do, but the contingency plans were generally more about having alternative places available for childcare, rather than about getting the construction work completed on time. For example, some were looking at using outdoor settings or other community facilities for early learning and childcare, rather than at progressing the infrastructure development that was behind schedule.

**Colin Beattie:** So contingency planning would not have helped in terms of the actual physical build. Simplistically put, it was about finding alternative accommodation if a new building or facility was not completed.

**Caroline Gardner:** That is exactly right.

**Colin Beattie:** So, in fact, whether a council had a contingency plan in place would not have made a difference to where they are now.

11:30

**Caroline Gardner:** In the current circumstances, no. The contingency plans were about ensuring that parents would have access to some early learning and childcare in August to fulfil their entitlement if the planned developments were not going to be completed in time.

**Colin Beattie:** We do not know when the Scottish Government is going to put in place a new deadline, or when the building projects will be brought back on stream; there is a lot of uncertainty about that. Nonetheless, would those councils that have contingency plans in place be able to make use of them to bridge any gap? Given the current uncertainty around the building projects, would those plans still be valid?

**Caroline Gardner:** I will ask Tricia Meldrum to come in at this point, as she knows much more than I do about the contingency plans that are in place.

**Tricia Meldrum:** One point to add to the mix is that councils have been advised to look at the contingency plans that they had in place for early learning and childcare to see whether some of those temporary facilities could be used to help with the reopening of school education. A blended education model has been discussed, and there is a need for alternative facilities to support more face-to-face contact between pupils and teachers. If councils go back and look at their contingency plans with a view to using them for a purpose other than the one that was originally planned, that could have an impact.

Rebecca Smallwood can update the committee on where councils had got to in their contingency planning just before lockdown came in, if that would be helpful.

**Colin Beattie:** It would.

**Rebecca Smallwood:** Since we prepared our audit report, we have received updated information from the Scottish Futures Trust on progress with contingency planning. As at January 2020, the information that the SFT had collected from councils showed that they had contingency plans in place for all the practical projects that had been identified.

**Colin Beattie:** Thank you—that is excellent.

**Bill Bowman (North East Scotland) (Con):** Good morning. I will move on to the subject of governance and governance arrangements. At paragraph 12 of your report, you state:

“Effective governance arrangements are in place to oversee national progress with the expansion”.

Can you talk us through the governance arrangements that are in place to oversee national progress in rolling out the early learning and childcare provisions? What has been working well? Are there any areas that you would mark for improvement?

**Caroline Gardner:** Exhibit 2, which follows on from the paragraph to which you refer, aims to summarise the governance structure. Unsurprisingly for such a complex programme, the governance arrangements are also quite complex. Tricia Meldrum can talk you through how we see that working, and where the hotspots are.

**Tricia Meldrum:** We say in the report that the joint working arrangements between the Scottish Government, councils, partner providers and other stakeholders are a particular strength of the planning for expansion. A lot of bodies are represented on the joint delivery board, which oversees the work. The board is chaired jointly by the Minister for Children and Young People and the Convention of Scottish Local Authorities children and young people spokesperson. It meets regularly and gets updates on all the key projects, all the key risks, risk mitigation and so on, and it is able to respond quite quickly. It includes representatives from all the bodies that can take any actions that are required to continue to mitigate those risks and drive things forward. We felt that there were good examples of joint working there.

Since the last time we reported, one big change has been the creation of the partnership forum, which involves the partner providers much more closely in discussions with the Scottish Government, councils and other partners. The forum includes the representative bodies of the partner providers and childminders, and individual providers are also able to take part in the meetings and discussions. The forum has been going around the country and has visited six of the different regional improvement collaborative areas, so there has been an opportunity for a variety of partner providers to feed in their views in that way.

We feel that, overall, there has been good joint working, which has been strengthened by the partnership forum and the closer involvement of partner providers.

**Bill Bowman:** I was going to come to the structure in exhibit 2. It shows the joint delivery

board at the top, with two solid lines and a dotted line going into it. What does that mean? Does it represent people who are on the board, or is it a line of reporting or authority? How does the structure—if you would call it that—actually work?

**Tricia Meldrum:** It is a line of reporting. We have tried to highlight that the joint delivery board is the overarching group that sits on top of all the other structures. Various different forums feed in at different layers, before we get to the joint delivery board at the top. With regard to the dotted line, we have shown the local authority delivery programmes for completeness; information will go between local government and the joint delivery board, but the programmes do not report to the board; they are part of a different structure under each council's own arrangements.

As I said, there are good linkages. In particular, the delivery support group, which is a national group that supports the joint delivery board, is in regular contact with each individual council to understand what is happening, what the specific risks and pressures are, how councils are responding to those risks and whether they need any additional support from the joint delivery structures and the delivery support group that is in place.

**Bill Bowman:** I am a great believer in audit committees and internal audit. Is the joint delivery board meant to be an audit committee, or has it set up its own audit committee? Does it have its own internal audit process that looks down at all the other organisations to verify what it is being told and to check that risks are being identified?

**Tricia Meldrum:** I do not think that the board has its own internal audit committee. There is overarching accountability to the joint delivery board itself.

**Caroline Gardner:** I can answer that briefly. The overarching assurance arrangements would come in at the director general level of the Scottish Government. Each of the DGs has a DG assurance group that has its own programme of assurance work, which involves internal audit and other forms of assurance.

We would therefore not necessarily expect to see such an arrangement at the joint delivery board level, although, as you can see on the third line down in exhibit 2, there is the delivery assurance working group, which focuses on the delivery of the programmes. However, its function is not quite the same as providing an internal audit challenge and assurance on the programme as a whole. That will happen at the director general and accountable officer level within Government.

**Bill Bowman:** I never like to disagree with the Auditor General; it could be a career-limiting stance. However, from looking at exhibit 2, I would

have thought that there might have been something else. You are talking about an effective governance structure. I would have thought that there should have been some form of audit or risk structure built into the arrangement, through some form of internal audit. Perhaps you are saying that it is there but it is not pictured in exhibit 2, or is it not there at all?

**Caroline Gardner:** The programme has its own risk register, as do all the big programmes. That risk register is being monitored through external challenge at the DG assurance meeting. Each of the various bits of work pictured in exhibit 2 will feed into that assurance, but the independent challenge—I think that that is what you are asking about—happens at the DG assurance level, where all the various programmes come together. That is where non-executive directors ask exactly the sort of challenge questions that you allude to and take a wider perspective, and they are separate from those who are involved in trying to deliver the work.

**Bill Bowman:** If you are saying that there is an effective governance structure, I would have liked to have seen reference to an audit committee, or to internal audit included in the report somehow.

Paragraph 15 states:

“The Scottish Government also established a delivery support team, led by a Head of Delivery Assurance, to create better links between national and local planning”.

Can you tell me a little bit more about what that means?

**Caroline Gardner:** Tricia Meldrum can pick that up.

**Tricia Meldrum:** That new team was established to ensure that there were better links between local and central Government and to consider where councils were with their planning, their risks and what they needed to be working on.

Some members of the delivery support team link up and liaise regularly with individual councils. They look at and discuss their plans, talk about their challenges, risks and hotspots, and provide central support to help to address the issues. They can work with the Scottish Futures Trust and the Improvement Service, which can provide more tailored support at national level and to individuals, if that is required.

The purpose of the team is to strengthen the support that is being provided to individual councils, and to ensure that much better intelligence flows between local and central Government.

**Bill Bowman:** Does that refer to the work under the column on “ELC Delivery Assurance”, which is at the bottom right of exhibit 2?

**Tricia Meldrum:** Yes. The team feeds into a number of different groups. It also reports into the ELC programme joint delivery board. For example, it gives updates at every meeting on the work that it has been doing and on the issues that have been coming through from councils.

**Bill Bowman:** However, I am relying on your statement in the report that

“Effective governance arrangements are in place”.

I did not pick that up from exhibit 2, which left me with a few questions, which I have now asked. Thank you for answering them.

**Neil Bibby (West Scotland) (Lab):** I declare an interest: I have two children of nursery age, and I am happy with the quality of care and education that they are receiving. That said, I want to raise the issue of quality, which is mentioned in the report.

The report indicates that

“ten per cent of current providers of funded ELC need to improve quality to meet the requirements”

of the national standard. The report describes a range of actions that the Scottish Government and the Care Inspectorate are taking to improve quality. Is enough being done? Why are providers that do not meet the national standard of quality being funded?

**Caroline Gardner:** We are seeing the impact of the national standard as it comes into play. In order to be eligible for funding under the policy of funded early learning and childcare, all settings need to have Care Inspectorate gradings of good or better across a number of key areas, including the quality of staffing, management and leadership, which affect the quality of the care that is provided.

As we show in exhibit 5, according to the latest data that were available when we produced the report, as at March 2019, most providers—94 per cent of council providers, 88 per cent of third sector providers and 83 per cent of private providers—met the standard. All providers need to reach the good or better standard in 100 per cent of the key areas by August to be eligible to be partner providers under the programme. We understand that work is going on to get them to that point, but, as we discussed earlier, how the challenges of recruiting and retaining staff are dealt with will be key to their ability to do that.

Rebecca Smallwood is our expert on the quality of the childcare that is being provided, and she may want to add a bit of detail on that.

**Rebecca Smallwood:** The national standard was due to come into force from August 2020. The figures in the report are the position as it stood at March 2019. A lot of work has been going on to

ensure that the providers reach the national standard, and the Care Inspectorate and the Scottish Government have provided specific support for the providers that are at risk of not reaching the national standard.

The most recent information that we have is that providers of settings in 16 different council areas were invited to take part in the Care Inspectorate's ELC improvement programme and that those engagement sessions had been scheduled. I do not have a further update on what has happened with that or whether that work is continuing, given the Covid situation. Plans had been made and action had started to be taken to improve the quality of those settings that were at risk of not meeting the national standard from August.

11:45

**Neil Bibby:** Thank you for that answer. I am sure that we all want children to be placed in quality facilities, not facilities that do not meet the national standard.

What are the implications if services fail to meet the required quality standard? Where would the children go in such circumstances? Is there enough capacity to deal with a service that does not meet the quality standard?

**Rebecca Smallwood:** In the first instance, if a provider that has been contracted with fails, on being inspected by the Care Inspectorate, to meet the national standard, it must enter a period of service improvement with the council. Typically, that is a 12-month period in which the provider has the opportunity to be supported and to take action to improve its score for the future.

It is acknowledged that some of the existing partner providers that are contracted with at the moment might not be quite at the level of the national standard, because the Scottish Government had agreed with COSLA and the Care Inspectorate that councils could contract with existing providers whose Care Inspectorate scores were such that they did not meet the quality standard as long as those providers met all other aspects of the national standard. The national standard does not apply only to the quality scores that providers are given by the Care Inspectorate; there are many other criteria, such as business sustainability. If a provider met all the other aspects of the national standard and the council thought that there was ample opportunity for the provider to come up to the required standard within the 12-month service improvement period, the council could still contract with the provider. Councils will provide a lot of support to providers that are not quite at the level of the quality standard in an effort to bring them up to the necessary standard.

**Neil Bibby:** I turn to the living wage. The report says:

"it is unclear whether the living wage commitment will be fully implemented",

and it indicates that that is the case on affordability and enforceability grounds. It refers to the living wage implementation group that was set up by the Scottish Government, which was due to have its first meeting in early 2020. Has the group met? Who is represented on the group, and what progress has been made in that area?

**Caroline Gardner:** I ask Tricia to talk you through that.

**Tricia Meldrum:** The group was just about to start its work as we were reporting. We do not know whether that group has met yet. We have made recommendations about some of the difficult issues that the group has to work through, and we recommend that that happens. There are legal issues around procurement rules and how those apply to councils entering into contracts with their partner providers. Clarity is required on whether, under procurement rules, partner providers can be required to pay the living wage. There are legal issues to work through there, and there are issues on the affordability and sustainability side of things.

We understand that the national standard incorporates criteria on fair work practices—that is where the requirement to pay the living wage is set out. There are many other elements to the fair work practices, which should encourage providers to pay the living wage, but there is a question mark over whether that is enforceable in law.

Those are the kinds of issue that we recommend the working group progresses. However, we do not have any update on whether the group has been meeting or has paused, or on whether its work has been impacted by Covid.

**Willie Coffey (Kilmarnock and Irvine Valley) (SNP):** Good morning, everyone. I have a couple of questions: one is about take-up, and one is about data collection and evaluation, which Liam Kerr introduced earlier.

How do we know that families that should be taking this up are taking it up? I am a wee bit concerned that, at this early stage, we are already talking about data collection and software to help us to manage that process. Are we reaching out to the poorer and more vulnerable children to make sure that they are taking the service up?

What is the explanation for the delay with the software contract? It does not appear to be related to the Covid crisis, so when can we expect the software to be up and running?

**Caroline Gardner:** I will start and will then hand over to Tricia Meldrum.

On the point about uptake, most of the effort that we have seen is focused on eligible two-year-olds. As members know, two-year-olds are eligible primarily if their parents are or have been, since the child's second birthday, in receipt of particular social security benefits. When we reported last, there were problems in identifying who those children were because of limitations in data sharing between the Department for Work and Pensions and the Scottish Government. That is still not fully resolved, but work to improve it is under way. Tricia Meldrum can talk the committee through that.

The other challenge is in making sure that we have Scotland-wide information about which children are taking up their entitlement to funded early learning and childcare—not just two-year-olds, but three and four-year-olds—so that councils can do some targeting. I ask Tricia to talk you through where we are with those two aspects of the policy.

**Tricia Meldrum:** As Rebecca Smallwood said, one of the issues with the new electronic system is that, under the current system, councils are not consistently able to record information on individual children who are receiving early learning and childcare. Children could be receiving their childcare in more than one setting, and there could be double counting. The data is based on a census snapshot. The new system should give accurate information at a child level so that we can understand how many children are taking up their funded hours, what age they are and what the demographic and equality characteristics of those individual children are. That is one of the reasons why the new system is going to be very important.

We understood that the new system was due to be rolled out in councils in November, which means that the August start will have been delayed. We know that work is still being done, but we do not know whether Covid will have an impact on that November date for the new system to come in. The Scottish Government is not responsible for delivering the system, although it has an assurance function because it has provided funding for the new system. It is the councils themselves that are effectively overseeing the project, which is being delivered by SEEMiS, and they are acting as sponsors for the project.

We knew that there were some delays before Covid, but we do not know whether Covid will impact on when the new system will come online.

**Willie Coffey:** Can someone assure us that we can start to collect the initial data that we think we need to be collecting for future evaluation until the

new system is up and running? Surely, we do not need to wait until the new system appears before we start collecting important data that we need. I presume that we can collect it now and then feed it into the new system when it arrives and it begins to work for us. Is that the case? Is that your understanding?

**Tricia Meldrum:** Yes, and some of that is happening at the moment. Rebecca Smallwood talked about the census and some of the evaluations that are taking place to capture some of that information, so that we have a bit more of a baseline and are able to track some of that information. However, the data collected will not be as comprehensive or as good quality as it will be when the new system is in place.

**Alex Neil (Airdrie and Shotts) (SNP):** I will ask a few questions about the independent sector. There is a lot of frustration among many participants in the independent sector about how they are treated by some councils. There is a feeling that they are starved of resources so that councils can hold on to and maximise resources for their own pre-five provision. In your review, did you come across such friction? Were you able to form a view on the matter?

**Caroline Gardner:** In general terms, we found that relationships between councils and their private and third sector providers were better this time than when we reported in 2018. As an indication, we show in exhibit 3 that the amount of funded early learning and childcare that councils expect their partner providers to provide has increased slightly from 22 per cent in 2018 to 26 per cent in 2019. That is partly due to a general reshaping of the plans for how the childcare will be delivered, but I think that private partners will be comfortable with the direction of movement. As we said earlier, we know that there are some real pinch points on issues such as payment of the living wage and the extent to which that living wage commitment applies only to funded hours and not to the other hours that are being provided in a private setting.

I wonder whether Tricia would like to pick up on that issue.

**Tricia Meldrum:** As the Auditor General said, we think that the relationship between councils, the Government and partner providers is better overall than it was when we looked at that area previously. The national partnership forum has helped to improve communication, but we are aware that there is a lot of variation across councils. We did not carry out audit work at individual council level to investigate the nature of those relationships.

The national groups and forums that we have talked about, and the fact that the partnership

forum is rotating and going around the country, provide an opportunity to explore and improve the relationships and to unpick some of the tensions. About 200 partner providers attended a large partnership event that was held in September last year. The event was about sharing good practice on the plans as they were developing and showing how partner providers were getting involved in those plans. Some private providers have been able to pay the living wage, and there was information on how they have been able to do that in a sustainable way.

There are definitely still tensions and pinch points, and some partner providers say that the relationship with their council is not good. However, nationally, there have been some moves forward, and there are more forums in which to have discussions, in order to move things forward, than there were previously.

**Alex Neil:** Have you been able to look at comparisons between council provision and independent provision? The three crucial aspects are how much money independent providers get per child from the council, what their costs are in relation to the council's overheads and the comparison between the council-provided nursery outcomes and those in the independent sector. Is it possible to get that information, or will that also have to wait for the new information system?

**Caroline Gardner:** That will have to wait for the new information system, in part, and for our third planned piece of work in our series of audits. Some bits of information are available. We have already referred to the Care Inspectorate's reviews of nursery early learning and childcare settings. That information is available across the board, so some comparisons can be made.

In paragraph 47, we talk about the guidance for councils on calculating sustainable rates for funding the providers. That is intended to ensure that all councils fund places at a rate that is sustainable and that reflects the full cost of meeting the national standard for funded childcare. The other dimension is things such as flexibility and choice. Clearly, meeting those requirements under the standard will have cost implications.

All those bits of information will need to come together. We expect the Government's evaluation to look at some of that, and the information will certainly feed into the next Audit Scotland review, which will be timed to take account of the revised target for meeting the 1,140 hours when that is set by the Government, in due course.

12:00

**Alex Neil:** When is the Government's evaluation due?

**Caroline Gardner:** I suspect that it will have been delayed by the delay to the target for meeting 1,140 hours. Rebecca, do we have more information on that?

**Rebecca Smallwood:** When we conducted our audit, we saw the draft evaluation strategy, which was due to be completed in the spring. I am not sure what impact Covid has had on the timescales for publishing the finalised evaluation strategy, but, as we highlight in the report, a lot of the work on evaluation has already started. The Government has started to collect baseline information. One of the big sources of information for the evaluation of the expansion will be the Scottish study of early learning and childcare. Baseline data collection for that study was completed in 2019, and it is scheduled to capture more information from children who have gone through the 1,140-hour process in 2022-23.

We do not have an update on whether that timing might be impacted by Covid. I know that the approach was considered carefully to ensure that there was time for the system to have started and for the children to have gone through their full time in funded ELC with the 1,140 hours. I am not sure whether the Government will have to revise the timescales for that study. The Government planned to publish a baseline report on all the evaluation measures by the end of 2020, but, again, I am not sure whether that timescale will be impacted by Covid.

**Alex Neil:** In your review, did you get the impression that councils accept the need to ensure that there is a level playing field in resource allocation? It would be unfair if kids who happened to be in the independent sector had any less, or more, resource allocated to them than those who attend council provision. Is there a general acceptance among councils that there needs to be a level playing field? Councils are in a bit of a contradictory position, because they are both provider and regulator, as it were. For example, many councils heavily subsidise their care homes at the expense of the private sector. We do not want that to become the pattern with pre-five education.

**Caroline Gardner:** I ask Tricia to provide more information on the relationship between councils and their funded partners.

**Tricia Meldrum:** Last year, Scotland Excel published guidance on how councils and partner providers should work together to set sustainable rates. There is quite a lot of guidance on the factors that should be considered, one of which is ensuring that the quality is the same and that there is a high-quality ELC experience regardless of where the ELC is provided to the child. There are also national standards, to ensure that all

providers can meet the criteria on quality of provision.

The guidance says that there should be a sustainable rate that allows providers to meet the quality criteria and to make investment. The guidance recognises that the rate should cover not only the day-to-day costs of providing ELC for children and that it should provide an element to allow providers to invest in the setting and for the future. That allows them to pay the living wage, as well.

All those factors should be taken into account. There is also guidance on models that councils could use, and the guidance talks about the importance of councils and partner providers working closely together; the importance of transparency and being very clear about how the rates are set and what is and is not included; and the importance of ensuring that partner providers are party to those discussions.

That guidance came out a bit later than had been planned in the original timescales, to allow a bit more consultation on it. I think that it came out around September last year.

**Alex Neil:** Finally, what is the take-up rate for eligible two-year-olds enrolling in ELC?

**Caroline Gardner:** I think that that is a question for Tricia as well.

**Tricia Meldrum:** Sorry—I think that it is for Rebecca, actually.

**Caroline Gardner:** Apologies.

**Rebecca Smallwood:** I can give an update on eligible two-year-olds. The figure is slightly below the target. There are different ways of measuring that, because eligible two-year-olds were eligible for 600 hours of childcare but, obviously, the 1,140 hours of entitlement is being phased in for some children in advance of August 2020. The information that we had on how that is being phased in and children getting more than 600 hours, which was from September 2019, was that councils were slightly below the target in phasing in for eligible two-year-olds.

**Alex Neil:** What is the target?

**Rebecca Smallwood:** It is a target that councils set themselves for how they want to phase that in—or do you mean the overall target?

**Alex Neil:** What is the target take-up for two-year-olds, please?

**Rebecca Smallwood:** For any ELC or for access to ELC—

**Alex Neil:** What is the national target for any ELC?

**Rebecca Smallwood:** I believe that it is an uptake of 64 per cent by 2021-22. I think that that is what the minister set.

**Alex Neil:** What is the uptake running at?

**Rebecca Smallwood:** The most recent information that we have is for September 2019, and the figure is around a third. That is hard to measure at the moment because of the data sharing issue. It is hard to identify the exact numbers of children who are eligible.

**Alex Neil:** Are you saying that only half of two-year-olds who are entitled—[Inaudible.]

**Rebecca Smallwood:** Sorry?

**Alex Neil:** If the target is 62 or 63 per cent and only 33 per cent are enrolling, that means that the performance is half of the target.

**Rebecca Smallwood:** The target is for 2021-22, but the most recent information that we have is that uptake is around a third.

**Alex Neil:** Right. So, there is a long way to go.

**Rebecca Smallwood:** Yes. Quite a lot of work has gone on and is going on to improve the uptake.

**The Acting Convener:** We can probably take those issues up with the Scottish Government in a follow-up—[Inaudible.]—of time. Do you have any other questions, Mr Neil?

**Alex Neil:** No. I thank the Auditor General and her team, and the acting convener, very much.

**The Acting Convener:** I, too, thank the Auditor General and her team for the evidence session.



## Section 22 Report

12:09

*Meeting continued in private until 12:14.*

### **“The 2018/19 audit of City of Glasgow College: Report on the investigation of an alleged fraud”**

12:09

**The Acting Convener:** Agenda item 4 is a section 22 report entitled “The 2018/19 audit of City of Glasgow College: Report on the investigation of an alleged fraud”. Given the on-going legal proceedings, the committee is invited simply to note the report at this stage. There will be an opportunity to explore the issues that are raised in the report once the legal proceedings are concluded.

We now move into private session.



This is the final edition of the *Official Report* of this meeting. It is part of the Scottish Parliament *Official Report* archive and has been sent for legal deposit.

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