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Education, Children and Young People Committee

Wednesday 25 October 2023

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EDUCATION, CHILDREN AND YOUNG PEOPLE COMMITTEE
26th Meeting 2023, Session 6

CONVENER

*Sue Webber (Lothian) (Con)

DEPUTY CONVENER

*Ruth Maguire (Cunninghame South) (SNP)

COMMITTEE MEMBERS

*Stephanie Callaghan (Uddingston and Bellshill) (SNP)
*Pam Duncan-Glancy (Glasgow) (Lab)
Ross Greer (West Scotland) (Green)
*Liam Kerr (North East Scotland) (Con)
*Bill Kidd (Glasgow Anniesland) (SNP)
*Ben Macpherson (Edinburgh Northern and Leith) (SNP)
*Willie Rennie (North East Fife) (LD)
*Michelle Thomson (Falkirk East) (SNP)

*attended

THE FOLLOWING ALSO PARTICIPATED:

Joanna Anderson (Convention of Scottish Local Authorities)
Stephen Bermingham (Children's Hearings Scotland)
Ben Farrugia (Social Work Scotland)
Jillian Gibson (Convention of Scottish Local Authorities)
Alistair Hogg (Scottish Children's Reporter Administration)
Fiona McMullen (Advocacy Support Safety Information Services Together)
Dr Marsha Scott (Scottish Women's Aid)
Kate Wallace (Victim Support Scotland)

CLERK TO THE COMMITTEE

Pauline McIntyre

LOCATION

The Robert Burns Room (CR1)

Scottish Parliament

Education, Children and Young People Committee

Wednesday 25 October 2023

[The Convener opened the meeting at 09:00]

Decision on Taking Business in Private

The Convener (Sue Webber): Good morning, and welcome to the 26th meeting in 2023 of the Education, Children and Young People Committee. We have received apologies from Ross Greer MSP.

The first item on our agenda is a decision on whether to take item 3 in private. Are we all agreed to do so?

Members *indicated agreement.*

Children (Care and Justice) (Scotland) Bill: Stage 2

The Convener: Our next item of business is evidence from two witness panels on the Children (Care and Justice) (Scotland) Bill at stage 2. The first panel will cover victims' rights and supports, and the second will look at resourcing and capacity issues in relation to the bill.

For our first session, on victims' rights, I welcome Fiona McMullen, who is the operations manager at Advocacy Support Safety Information Services Together—ASSIST; Dr Marsha Scott, chief executive officer at Scottish Women's Aid; and Kate Wallace, chief executive officer at Victim Support Scotland. Good morning, and thank you for joining us today. We will move straight to members' questions.

Ruth Maguire (Cunninghame South) (SNP): Good morning, panel, and thank you for being with us. The committee wants to turn more attention to the impact on victims. We highlighted that in our stage 1 report, and the Scottish Government's response stated that it was working with partners to explore what more could be done. Hopefully we will hear a bit about that.

First, I have some questions for Kate Wallace from Victim Support Scotland about reporting restrictions. On 5 September, you wrote to the committee on behalf of the mother of a victim of a very serious crime, asking that, as MSPs, we exercise caution when referring to the case and not use the child's name. For the record, can you tell the committee what the impact is when a victim is mentioned in the press and coverage of the case is repeated? Once we have heard about that, perhaps we can discuss what we can do about it.

Kate Wallace (Victim Support Scotland): There are a few things to say in relation to that. One of them is that, at the moment, you lose your anonymity when you die. In this particular situation, five years have passed since the crime and there is constant news coverage. There is also a significant amount of social media coverage, as well as self-published stuff about the case on YouTube and, in particular, TikTok. There is a lot of notoriety around the perpetrator. When he is mentioned, it automatically results in press coverage about the victim, without any regard for the family. That is having a massive retraumatising impact on the entire family, including other children in the family. Because the family is not expecting the coverage, it is really difficult for them to control the coverage or prepare for it. I think that it is fair to say that we have written to everybody in this case, acknowledging that the coverage is with the best of intentions. However, every time the case is mentioned it conjures up a huge amount of

press coverage, which is retraumatising and distressing for everybody involved.

On the wider point about what to do, we have been having conversations with the Scottish Government and the office of the Children and Young People's Commissioner Scotland, looking at what the CCJ bill could do in relation to anonymity. I cannot say that we are making a huge amount of headway with that, unfortunately. The children's commissioner's office had come up with a solution, but it is fair to say that the issue is perceived as being pretty complex. From our perspective, that is pretty disappointing, because we would hope that the bill could do something to prevent what has happened to that particular family from happening to anybody else. It does not seem right that the anonymity of certain people who have caused harm can be protected yet there is not the same protection for their victims. When someone is killed as a result of a criminal act, there is no protection at all.

Ruth Maguire: The bill that we are looking at is about children's rights and, when we talk about victims' families, those families include children.

Kate Wallace: Exactly.

Ruth Maguire: Does Victim Support Scotland have any suggestions for amendments that could be lodged?

Kate Wallace: We have been having conversations about what we would prefer, which I know is tricky. There are some international examples that could give us really good guidance, because things that are well intentioned sometimes do not work out.

It is our view that there should be automatic anonymity in any reporting but that families should be able to decide whether they want to waive their right to anonymity. We understand that there have been concerns in other countries when some family members have decided to go public about the names of family members. That is their right, but there could be some sort of process to seek a waiver from anonymity. The challenge with that idea is that it would probably involve going to court and asking for a court order, and we know that courts are traumatising environments. There would also have to be a process to make decisions about the person who has applied for the order, whether that is something that they can ask for and how the order should be granted. We get a sense from the families that we have spoken to that having that option available would be better than the situation that we have at the moment, whereby there is no choice.

Families also feel that doing it the other way round, meaning that they would have to apply at the start to have an order for anonymity granted, is not something that they would be in a fit state to do in that situation. Families are too traumatised, so it is really important to have something in place right at the beginning. Once anonymity is lost and a name is out there in the public domain, it is too late to get it back. That is why we want to go the other way round. I have asked Government colleagues and others whether there is an alternative and easier way of ensuring access to justice without the court process, but I have not heard any other suggestions.

We live in a society with complex families, and the good thing about that process is that, if someone had two parents who were not together and one parent decided that they wanted to waive the right to anonymity, there would be a process to go through instead of having someone who might not be the primary carer of the child making a decision for everyone. That should be considered, too.

At the moment, my take on it is that those issues are not being progressed well, and I am concerned that we might end up in a situation that is no improvement on the current one, which would be a real pity.

Ruth Maguire: I realise that we are tight for time. Would you be able to send those international examples to the committee in writing?

Kate Wallace: Yes.

Ruth Maguire: That would be helpful.

Do any other witnesses have a view on the part of the bill that deals with restrictions on reporting? Should that align with the Victims, Witnesses, and Justice Reform (Scotland) Bill?

Fiona McMullen (Advocacy Support Safety Information Services Together): We are very close to the front line and see all the time the issues that reporting causes for the victims we support, including victims aged under 21, who are classed as young victims, given the complexities, challenges and barriers that they face.

Safety planning is important, as press reporting gives information that allows people to know who the victim is without making much effort. Recently, a victim with whom we worked had things reported about her that her family did not know. Indeed, nobody knew them—even her friends did not know—but the report went into all the detail. The issue is not only how the person deals with the impact of that, but how she then safety plans. Will what has happened lead to risk resurfacing for her, whether from the person who caused the harm or from others?

Ruth Maguire: Thank you. That was helpful. Dr Scott, do you want to say anything?

Dr Marsha Scott (Scottish Women's Aid): I do not have anything to add.

The Convener: I thank the panel for those comments and suggestions.

On that theme, the committee heard concerns at stage 1 that, in situations where a child on a compulsory supervision order containing a prohibition order might be at risk of harm, the proposed changes that we are looking at would put the onus on the child to avoid people and locations that might be harmful to them. However, the Scottish Government response that we received did not address those concerns. How might the proposals be amended to better ensure that the onus to avoid certain people and locations is not put on the child who is at risk of harm? Can you go first, Fiona?

Fiona McMullen: That puts me in mind of the non-harassment orders that are available just now in the criminal court to young victims if the perpetrator—the person causing harm—is 16 or older. Those orders are fairly robust and come with consequences if they are breached. We need something that replicates that while also taking the onus off the victim. For example, we struggle with schools saying that it is the victim who should limit their movements, who should change school or classes or who should come in and leave at a different time. It does not feel right for the onus to be on the victim to manage their own risk and their own safety. We therefore need something that replicates what we already have—and, indeed, the presumption that we have—in the criminal court. It feels as though we are taking protective measures away from victims at the moment, whether they be special bail conditions or non-harassment orders, without replacing them with anything robust.

The Convener: Thank you. Dr Scott, do you want to comment?

Dr Scott: Certainly. I would just say, "What she said," but I think that this also gets to the heart of many concerns that we have about the invisibility of young victims, particularly young female victims, in the hearings system. That has been a problem for a long time, and it has been exacerbated by the move, which we support, to change the age of referral.

First of all, if there had not been a gender-blind approach to all of this, this would not have been a problem right from the very beginning, when the children's hearings system was created. The fact is that, as victims and offenders get older, the likelihood of harm to young women and girls goes up, too, because of the trajectory of offending. At the moment, if our young women went through the criminal court, they would have much more protection.

We therefore think that this really needs a system-wide response. In other words, how do we move away from the zero-sum thinking that, by protecting victims of young offenders, we are somehow taking rights away from the offenders? Of course, that is not anybody's intention—whether they be offenders or victims, we want young people to be protected—but the reality at the moment is that it is riskier for young females to go through the children's hearings system. As we move towards more and more serious domestic abuse and sexual assault cases coming through, the problem is that there is a chilling of the potential for young women to feel that they can report and give evidence and a feeling that they are being protected by a system that will actually not do that.

I think that Fiona McMullen has a really good case study in that respect.

Fiona McMullen: I would be happy to share that. It would take a few minutes.

The Convener: Yes, please do.

09:15

Fiona McMullen: We work with young victims up to the age of 21, given the complexities, challenges and barriers that exist. Chloe was referred to us as a 14-year-old. The perpetrator was 16, which meant that the case met the conditions for the criminal court. He was charged with assault and a section 38 offence of causing fear or alarm. He was given special bail conditions not to approach or contact Chloe, including through social media.

She had split up from him. Like many adult victims whom we work with, she had tried to do that several times before and had been pulled back in. He had said that he was going to change, but latterly she was pulled back in because of the threats that he was making. When we first met her, she was at school and sharing classes with him. She was being threatened by his friends and ridiculed by her peers.

She got an advocacy worker from us and we got those special bail conditions, but that was the first time that she had had a trusted professional—one point of contact—with whom she could fully discuss the abuse that she had experienced, which was not represented in the charges. The totality of the risk was not present in those charges. She had experienced strangulation, physical abuse and constant emotional abuse. He had threatened to kill himself. He had even sent photos and videos of himself self-harming. He had threatened to share intimate images of her, which was something that she had not reported to the police. That was the first time that she was able to disclose that. She had good support from her family, but she did not want her mum to be upset by what she would hear. She had good support from her school, but she felt that they blamed her

for returning to the relationship. Therefore, it was the first time that she had an adult whom she could fully explore that with.

That is what she was experiencing as a 15-year-old—not a 25-year-old, not a 45-year-old, but a 15-year-old. She felt that the abuse was very much minimised—that people thought things such as "It's a young relationship," "This is what it's like," and, "They'll split up and everything will be okay." However, as we know, the abuse continues post-separation for young victims as well as for older, adult victims.

We were able to offer her a continual review of her risk and safety and put robust safety plans in place. She does not meet the threshold for children and families social work—it does not engage with her—so we referred her to the multi-agency risk assessment conference that is in every local authority in Scotland. It allows core agencies to look at the risk and come up with actions to mitigate that risk and to keep the person who is causing harm visible in that process.

We also did extensive safety planning around social media and her routines. A lot of advocacy was done with the school, which wanted to minimise her movement in the school—as I described earlier—rather than put the onus on the person causing the harm. The special bail conditions allowed us to do that.

We continue to work with Chloe. The court case is not concluded, but, outside the incident that is being discussed at court, there is a whole additional picture of risk that we are safety planning against, and we are able to share information with procurators fiscal around that. We are able to understand the court outcomes, review the safety plan and understand whether the risk is going to escalate.

We are managing the persistence of her ex-partner and his friends, and we are encouraging her to regain support from her family, friends and so on. She has been isolated and degraded all the way through this experience.

By contrast, we are supporting a 14-year-old while the person who is causing the harm is going through the Scottish Children's Reporter Administration. We have no protective measures in place and we receive no information about what is going to happen next or what is being addressed with the person who is causing harm. We are struggling to provide information to that system and process, and the victim is struggling to engage with us. She feels that the abuse has been minimised and has not been taken seriously. The messaging that we are giving to young victims is really significant. She is involved in risk-taking behaviour and she has stopped attending school. She is struggling to engage with us and we do not know how much longer she will engage for.

I hope that that amplifies the difference made by the support that someone receives in a criminal justice process and what we have to consider replicating in any new processes that we introduce.

The Convener: Thank you for sharing that.

Dr Scott: We are keen to get the system to move to create responses that provide safety, carry out risk assessment and provide the victim and the people who are advocating for her with appropriate information. However, we must also be really clear about what is going to happen in the event of non-compliance. What are the robust responses in the case of non-compliance with any similar non-harassment or protective orders that might be put in place? We are really familiar with a system that does not take those very seriously until somebody is seriously harmed.

The Convener: Kate Wallace, do you want to come in on that, or are you okay?

Kate Wallace: I am fine, but that example demonstrates exactly what we have been saying.

The Convener: Yes, it does. That is very clear.

Ruth Maguire, do you want to pick up the next theme?

Ruth Maguire: Sure. I am sorry—that was such a stark example that I am a bit speechless.

Let us turn to movement restriction conditions, perhaps carrying on the theme that we have been discussing. I acknowledge your organisations' responses to our report about the process perhaps not being trauma informed, which looked at physical and psychological harm and our concerns around that. With that in mind, could you talk about what further clarity is required around the test for MRCs?

Dr Scott: As Fiona McMullen said when she was talking about the arrangements that are in place for adult victims of domestic abuse, for us the reality is that we need a system-wide, multi-agency view of MRCs. Our biggest concern at the moment is the lack of information.

Coming back to your point about the system being trauma informed, it also needs to be competent as regards coercive control and the dynamics of such crimes, so that a risk assessment is properly crafted to indicate all the factors that Fiona McMullen referenced that go on outside the hearing room or the courtroom. We were pretty horrified to see that there is just no evidence of that so far. We need to involve young people in the crafting of the system.

Kate Wallace: As you will know from our submission, our issue with MRCs is that, at the moment, there is not really any detail at all about how they will be monitored or governed. As Marsha Scott said, there is very little information about how non-compliance with an MRC will be dealt with. At the moment, no information at all about an MRC will be shared with victims, so they will not even know that a person who has harmed them is subject to such a condition. We know from the adult system that it is really difficult for victims if there is no information. Technically, there is no such thing as a breach of the MRC process, which is also a concern. There was mention of intensive packages of support being put in place around an MRC but also of that being done on a case-by-case basis, so what that would look like is vague.

We do not believe that MRCs would be an effective tool for safeguarding women and girls against harm without clear guidance and without a means of their being enforceable. There are lots of concerns around MRCs, particularly in this context.

Fiona McMullen: Could I perhaps add to that?

Ruth Maguire: Yes. I was just going to say, first, that I know that my colleagues will want to talk specifically about information sharing. Your answers have covered how conditions might be implemented and monitored effectively. Fiona, please do come in on that.

Fiona McMullen: I just want to add that our young victims are no different. They say repeatedly that they are looking not for punishment but for protection. They have tried to manage abuse by themselves, often for a long time, and, when they have become exhausted with that, they have reported it. They tell us that they have increased their risk by reporting and they are not always being protected.

Ruth Maguire: Thank you. That is helpful.

The Convener: Have you any idea of what amendments to help with the concerns that you have raised might look like? If you do not have suggestions or thoughts on that right now, you can always feed those back to the committee.

Kate Wallace: The issue is complex. At heart, part of the issue is about the hearings taking into account only the needs of the child who has been referred. Those of the child or the person who has been harmed are not taken into account, and that plays out exactly in the MRC issue, where we see it in microcosm.

The Convener: Thank you. We now come to questions from Liam Kerr.

Liam Kerr (North East Scotland) (Con): Good morning, panel. My initial question is for Kate Wallace and follows on from that last question. I want to know about the provision of information to people who are affected by the child's behaviour. The submissions from Victim Support Scotland and Scottish Women's Aid say that the proposals in the bill regarding information sharing do not strike the right balance between the rights of victims and witnesses and the rights of the child who has caused the harm. What amendments would you like to be made to the bill to satisfy that?

Kate Wallace: Our interpretation of the bill is that the right to privacy of the child who has harmed is seen as an absolute right, but that is not the case. It is a relative right and there should be a balance between the rights of the child or person who has been harmed and the rights of the child who caused the harm.

We are proposing a risk-based approach that would involve information being shared proportionately, based on risk. We are proposing a three-tier model. At the moment, according to the victims code for Scotland, victims are entitled to information about their particular case, but that does not translate into the hearings system, where victims do not usually get any information about their case. If they ask for it, they get generic information about the hearings system, but they do not get any information about what has happened to the person who has harmed them.

As Fiona McMullen and Marsha Scott suggested earlier, that causes real problems. This is not about sharing information for information's sake; it is about safety planning. How can you properly safety plan for yourself if you do not know what has happened? It makes a huge difference to know whether someone is, or is not, in your immediate vicinity. That will have a massive impact on how you safety plan.

That is why we are proposing a three-tier model. At the basic level, someone would be given information about the outcome of the case. The amount of information that they get would increase, depending on the level of risk. The top tier might include information such as whether a child had ended up in secure accommodation. We have had examples of serious sexual assault when the child has ended up in secure accommodation. In the adult system, there is a victim notification scheme so that, if someone ends up in custody, the victim is told when the offender is released, which avoids victims walking slap bang into the person who may have raped them. We feel that there should be an equivalent measure in the children's system. That would be the top tier of information.

I appreciate that that is really challenging for some people. Some people think that the right to privacy for those who have harmed is an absolute right, but it is not. We are looking for a balancing

of rights, and we think that that proportionate response is the right one.

Fiona McMullen: There is also the question of who is looking at the risk and assessing it, because that must be domestic abuse-competent. We must understand the complexities of coercive control in young people's relationships. If we are not doing that and are looking only at the incident being dealt with by the hearing, we are missing the totality of the risk. That must be in place to make everything else meaningful.

Liam Kerr: That is extremely helpful.

Dr Scott, you might want to add to that. I will ask you a question and you can deal with both issues, if you do not mind. The submission from Scottish Women's Aid says that the bill does not currently demonstrate how it aligns with wider work to tackle gender-based violence. This question is similar to my previous one: how can the committee amend the bill to deal with that?

Dr Scott: Give us the red pen. That would be one way to do it.

We are struggling to give you specific sticking plasters because there is a critical building-block or foundational problem, which is that the hearings system was set up without a view being taken on the impact that its establishment would have on child victims. First, we need to go through the entire bill with that lens and ask what the system would look like if we rebuilt it. We can all help with that.

09:30

Some of the nuts-and-bolts things would include the amending of existing guidance or the creation of new guidance on, for instance, how people should risk assess and make every step of decision making around compulsory supervision orders and movement restriction conditions offence specific. If you do not understand coercive control—we run into this throughout the system—you increase the harm to the victim but you also increase the possibility that there will be a murder.

From our perspective, the whole system needs to be rejigged. That would start with looking at the bill, going through every mechanism and asking, "If we were looking at an adult victim from an equally safe perspective, what protections would we expect to have in place for them, and how can we ensure that those protections are available to young victims?"

Liam Kerr: I understand. May I ask one more question?

The Convener: Yes, but Michelle Thomson has a supplementary question. I do not know whether it is on the same topic.

Michelle Thomson (Falkirk East) (SNP): It is.

The Convener: Okay. Michelle can ask her question first, then you can come back in, Liam.

Michelle Thomson: Dr Scott, you were obviously joking when you said that you would take a red pen to the bill, but what I hear from what you have described—I do not want to put words in your mouth—is that you are perhaps concerned that, in talking about what amendments are possible, there is a risk that they might be too superficial.

I am new to the committee, but, given what I have heard, it is almost as though consideration of the rights of victims has been completely removed from the process. Does the bill need to be completely turned on its head so that it has a rapier-like focus on victims throughout? That would be a much more substantive change than some potentially gentle amendments at stage 2. I would like you to flesh out your statement about a red pen a bit more.

Dr Scott: Well, it is probably not binary—it is not a case of whether the bill can or cannot be fixed; it is about how we fix it.

Given the pace—the Government's new favourite word—of legislation and system change, I would be horrified by the idea that we abandon an opportunity to improve the situation. I think that you all know that we will probably not think that whatever you do is adequate, but we will be very happy to help. We will fail from the beginning if we do not understand how flawed the existing creation is.

I have ducked the question a little, but I did not mean to. This is an opportunity to help the women and children whom we serve to be safer.

I keep hearing us all talk about assessing and minimising risk, because of the nature of the work that we do, but adult and child victims of coercive control and domestic abuse tell us that they work so hard to create islands of safety in their lives, and when we talk about not telling them about movement restriction conditions, we take away all possibility of their being able to create some oases of safety and still have access to something like a normal life.

Maybe we need to think not only about proper domestic abuse-competent risk assessment and sexual assault-competent risk assessment, but about how we can have a positive impact, help victims with their recovery and create spaces of safety while protecting the way in which the system was designed to operate with young offenders.

Kate Wallace: I take a slightly stronger position; I think that we need to go right back to the

beginning, and I hinted at that when I gave evidence at the first stage.

The bill has been conceived from a good place of thinking that you help to prevent children who have harmed from becoming adults who harm by putting the right support mechanisms in place for them. I agree with that, but the issue is that we have done that in complete isolation, without thinking about the impact on the provision of support and information to victims or the impact on their rights. Somewhere along the line, those two things have become completely separated in Scotland, and I am not quite sure how that has happened. I think that that is why we have ended up with what we have got.

There are other countries that have the same ethos but that do it in a completely different way: they understand that giving victims information and support and empowering them helps us to move away from such polarisation and helps victims to recover. Knowing what the impact is on the victims and having them as part and parcel of the process helps those who have harmed to understand the impact of their harm on other people, to take responsibility and to engage with support and all the rest of it.

As I have said before, the timescales need to be looked at, and people are aware of that. There are some fundamental conversations to be had and some issues that need to be gone through properly. We need to think about how we retain the ethos of the hearings system without victims losing their rights. In a way, we are dismissing the harm that has been caused to them through the approach that is being taken, which I think will store up other problems.

This is so important, and the impact could be huge if we get it right, but we need to take the time to get it right. Behind the scenes, we have proposed a number of amendments, but my feeling is that they are not gaining much traction. There needs to be a radical rethink around all of that, otherwise we will end up with another piece of legislation that will do more harm than good. That is my big concern, as I said at the beginning.

Fiona McMullen: Can I add to that briefly?

The Convener: Yes.

Fiona McMullen: We are supporting three victims of one perpetrator, who is 17. We should remember that domestic abuse is a distinct and unique crime with a repeating nature. We are struggling to manage that perpetrator's persistence within the criminal justice process, where we have NHOs, bail conditions, breaches of bail and so on. What is proposed in the bill will not impact on his behaviour and will not increase the safety of those three victims.

The Convener: We go back to Liam Kerr.

Liam Kerr: I will stick with you on that, Fiona, if I may. The Scottish Government is considering a recent independent review of the victim notification scheme. Given what you have just said, what would you like to come out of the Government's consideration of the victim notification scheme?

Fiona McMullen: We have spoken quite a bit to that review. Victim notification happens when someone gets a custodial sentence, which is fairly rare and could be even rarer when we are talking about young people who cause harm. That scheme needs to be much more than administrative. It needs to be a way of linking with the victim and providing them with the risk and safety management of a release.

The Convener: The clerks have made me aware of some evidence that came in to the committee from the Children and Young People's Commissioner Scotland after the briefing. It talks about confidentiality and sharing information with victims confidentially. Will one of you respond quickly on whether that might be helpful?

Kate Wallace: There are international examples of that. I think that it is Croatia where information is shared with victims of young offenders, but they are told explicitly that that information is secret—that is how it is termed. There are examples of such ways of working around the world. You know that my view is that information sharing is absolutely essential for safety planning.

The Convener: Pam Duncan-Glancy has a wee supplementary question, then we will move to Willie Rennie.

Pam Duncan-Glancy (Glasgow) (Lab): I appreciate that, convener, and I thank the witnesses for the evidence that they have given us so far.

The Government proposed that, alongside the bill, a victim contact team could be part of the solution to various issues. Could that be part of the answer, or would that be inadequate?

Kate Wallace: A single point of contact would be helpful. The conversation about how to share proportionate information and how to make that assessment needs to be done on a case-by-case basis. A team that would do that would need to be more than just a contact team; a lot of support would be required. We have been involved in discussions with Government on proposals on a single point of contact. We are supportive of that, and I believe that others are, too.

Fiona McMullen: Victims repeatedly tell us that having a trusted professional who can help them to navigate the system and understand the dynamics of coercive control in young relationships has worked for them. That came out

of the domestic abuse court experience project research. That needs to be in there. It is not about providing information; it is about what you do with that information and how it impacts on risk, safety planning and belief and validation for the victim.

Dr Scott: It would be deeply helpful if the elements of the Children (Scotland) Act 1995 that include children's advocacy were implemented so that children had advocacy services. That would help to provide the trusted professional who would, I hope, be domestic abuse competent and able to engage with the system on the child's behalf or facilitate the child's engagement with it.

Making contact easier, less complicated and more responsive will absolutely help, but it will not change the basic flaws in the system.

Willie Rennie (North East Fife) (LD): I will follow up on what Kate Wallace said. You found that your arguments with the Government did not gain much traction. Can you give us an indication of what the arguments are and why they are not gaining traction?

Kate Wallace: We proposed a three-tier model of information sharing and a proportionate and risk-based approach to that. We understand that the third tier, which is secure accommodation, caused some anxiety, particularly with regard to children. They will all have had other things going on; they will not have ended up in secure accommodation just because of the harm that they experienced. There is a concern that those things need to be separated out. That is how it was put to me, but I am not sure that I agree with that.

Information should be shared with victims, because they are still victims. We discussed anonymity, and, as I said, the Children and Young People's Commissioner Scotland proposed amendments. I understand that that is causing some concern. I appreciate that the issue is very complex, but we could do better in Scotland. Those are the two main issues.

We were asked to put together proposals for a single point of contact. There was a lot of activity around the stage 1 process and the stage 1 report, but it has quietened down on that front. Given the deadline that Parliament has set for the bill, I am not confident about where we are on the discussion of amendments.

Willie Rennie: I want to ask about secure accommodation and the arrangements for those who are there on welfare grounds and those who are there on offence grounds. What needs to be done to bring confidence that those arrangements are safe and secure, particularly for those who are in secure accommodation on welfare grounds?

09:45

Kate Wallace: As you probably know, a number of children who are in secure accommodation on welfare grounds have expressed real concern about the proposed change for 16 and 17-year-olds to go into secure accommodation as opposed to a young offenders institution. Their concerns are absolutely about their own safety, and we share those concerns.

As I said at stage 1, the issues around young offenders institutions were not just about buildings. If we move children who have committed more serious offences into secure accommodation, that mix of children and young people will, in a way, replicate some of the problems that we have had in young offenders institutions if the situation is not managed well.

You took evidence from secure accommodation providers, and follow-up work was done with them about what they would have to do to make sure that those arrangements were safe and secure. We remain concerned about that, and we are concerned that, in a few years' time, we will realise that we have just replicated the YOI model but on a smaller scale, in secure facilities.

Willie Rennie: Are your concerns so significant that you would not be in favour of that transfer? Do you think that separate provision needs to be made, or do you think that it can be managed?

Kate Wallace: We want to see more detail on how that would be managed and have a discussion with the children who are in secure accommodation on welfare grounds about their perspective. They know best about what is going on for them. We remain to be convinced.

Willie Rennie: Marsha Scott, do you want to come in? I noticed that you were nodding.

Dr Scott: Yes. That comes back to my point about our horror at the lack of any participation with children and young people across the piece on the development of some of the less child-friendly—and certainly less girl-friendly—elements of secure accommodation.

We need to speak to young women, especially those in secure accommodation. When I worked in a local authority, my experiences, which are getting older now, were that young women were more likely to be in secure care for welfare reasons, which were highly gendered and often about controlling their sexual behaviour rather than actually protecting them from harm. As Kate says, it is a pretty complex question about what you do when you add in and involve another set of risks. We need to ask young women and involve them in finding potential solutions.

As Fiona McMullen says, the young women who we work with are not interested in punishment

particularly. They are interested mostly in being believed and being helped to be safe and then in seeing justice.

The Convener: I thank the witnesses for their time this morning. It was a very useful evidence session.

We will have a brief suspension to allow for a change of witnesses.

09:48

Meeting suspended.

09:52

On resuming—

The Convener: Welcome back. Our second panel will be looking at how the changes proposed by the bill will be resourced and what that will mean for the key organisations delivering those changes. With that, I welcome Stephen Bermingham, head of practice and policy at Children's Hearings Scotland; Jillian Gibson, policy manager in the children and young people team at the Convention of Scottish Local Authorities; Joanna Anderson, policy manager in the local government finance team at COSLA; Alistair Hogg, head of practice and policy at the Scottish Children's Reporter Administration, or SCRA; and Ben Farrugia, director of Social Work Scotland.

We move straight to questions from members.

Stephanie Callaghan (Uddingston and Bellshill) (SNP): Good morning, panel, and thank you for coming along today. We now have updated financial information on the bill from the Scottish Government. What assessment have you made of the updated information and do you have any areas of concern regarding that information?

Joanna Anderson (Convention of Scottish Local Authorities): The committee will be aware that COSLA's response to the financial memorandum set out some key concerns around the inadequacy of the cost implications that were provided. Scottish Government officials have since followed up with COSLA officers and Social Work Scotland to gather more detailed information and costings, and we welcomed that input.

We do not have a COSLA position per se on the updated financial information—it has not gone through our governance. However, our response to the financial memorandum originally set out the areas that we thought had been underestimated and the areas that were missing. We can compare that against what has been provided in the updated financial information and see what has and has not been included.

There are some positives. Some of the areas that we flagged have been picked up. For example, the updated social work salary costs that we provided—I will perhaps come back to that point—and the estimated additional social work hours required that Social Work Scotland provided have been incorporated.

However, we feel that some areas are still missing. Some of the areas that we flagged for consideration were family support, secure transport costs and the additional administration and managerial time that is required to support the hearings process. Those have not been recognised or reflected in the updated financial information.

Some training and aftercare costs that we flagged as having vital implications for local government that needed to be fully funded have been recognised but they have not been included in the updated costings. They have just been included to note, and we are keen that more work be done to consider those costs.

We are aware that those areas might be difficult to quantify at this point, but a commitment to reviewing and funding them would be welcome. Those are our initial reflections, based on the issues that we raised previously.

Ben Farrugia (Social Work Scotland): Good morning. I echo Joanna Anderson's comments. We are very positive about the work that the Scottish Government has done to update the figures; it is very welcome. We contributed to that, as Joanna said, and we are grateful for the opportunity and the extra time. The last time I was here, we asked for time to fully understand the implications, so I welcome the Scottish Government's effort to give us that.

We are also concerned about what remains unspecified. There are still a few references to costs being absorbed because of small numbers. For instance, the reality is that we could be talking about some significant aftercare costs for a small number of complex cases. We want to provide a great package of support for those cases.

Our key concern at Social Work Scotland is ensuring that we get the right bill for those changes. Money is essential, but money is not sufficient. The question for us is still whether we have the people and capacity to deliver the changes. That question is as much about sequencing and implementation as about anything else, because we can do those things—it is about when we turn those provisions on. Will we be ready? Will we be able to do it?

The Convener: Stephen Bermingham, do you want to come in? You caught my eye there—you had better watch.

Stephen Bermingham (Children's Hearings Scotland): I am happy to come in. The bill team has been very receptive to the changes. In essence, that has extended our previous costings by around 42 per cent, based on the new modelling, which for us is based on a volunteer model. We have additional capacity concerns in relation to the bill, but the financial modelling process and the financial memorandum reflect what we discussed and collaborated on with the bill team.

The Convener: Forty-two per cent is quite a large differential. That has made us sit up and take note. Thanks for making the harsh start.

Stephanie Callaghan: Ben Farrugia talked about whether you have the people and capacity to deliver the changes. Joanna Anderson, do you want to comment on that?

Joanna Anderson: I will hand over to Jillian Gibson, who works on the policy side.

Jillian Gibson (Convention of Scottish Local Authorities): To echo what we put in our original submission, in March, there are a lot of additional pressures and asks of the current social work system. A lot of changes need to be made, but social work teams and supportive teams are under enormous resourcing and capacity pressures at the moment. Ben Farrugia and Social Work Scotland referenced working at 60 or 70 per cent capacity. There is anxiety and challenge about adding hours and pressure to a system that is already under pressure.

Michelle Thomson: I have a quick supplementary question. As a member of the Finance and Public Administration Committee, I am, probably unsurprisingly, incredibly struck by the increase in cost of 42 per cent from the original financial memorandum. That obviously leads me to consider confidence going forward, particularly in relation to the unknown unknowns. I also have questions about confidence in the known things as more detail emerges.

If you had to put a number on it—where zero means you have no confidence and 10 means you have absolute confidence—how confident are you that the remaining process will flush out the unknown unknowns and that the financial provisioning can then be put in place?

My wee worry, based on previous experience, is that the bill will become more embedded—which will happen as it goes through the stages—but by that point we will have run out of money and we will have to squeeze it in to processes in your organisations.

10:00

I am trying to flesh that out a wee bit and hear about your level of confidence, because 42 per cent is a startling increase—it really is unbelievable. I am not necessarily asking you all to comment, but do comment if you have any reflections about confidence. In other words, is enough money going to be available?

Ben Farrugia: I will be brave and try to answer those questions directly. Based on experience, my confidence level is probably 4, if zero means no confidence and 10 means complete confidence.

Based on the current bill team and its effort to ensure that it is done right, the level is possibly a bit higher, but, in my experience it tends not to be done so well. The fact that we are here with a 40-plus per cent increase is evidence of the commitment to do it, but I completely agree with your analysis.

Once the bill moves to stage 2 and there is momentum, I do not think that the conversations will stop, but everybody knows that we will then be on the way to the bill being reality, and money is extremely tight. I am not clear about where the additional money will come from for some of those things, whether from the Government or in local government budgets, at the same time as needing to find money to implement widespread systematic reform of the children's hearings system, for the roll-out of the bairns' hoose and for the reimagining of secure care. There are uncosted elements that will cost tens—possibly hundreds—of millions of pounds.

I sit with concern. I want to see the provisions realised, but I sit with a low level of confidence. The money is less important than whether we have anything to spend it on. Social work posts are vacant, although there is money to pay for them, so the problem is not the absence of the money but the absence of people. Even if the Government could find all the money, we are still asking a system to deliver something that it is probably not capable of delivering.

Michelle Thomson: Jillian Gibson, I see you nodding. Do you want to come in?

Jillian Gibson: Yes. I am nodding in agreement with Ben Farrugia. Joanna Anderson, my finance colleague, is far better placed to answer, but I echo and completely agree with Ben's points about the uncosted elements of areas linked to the bill. The "Hearings for Children" report, which was published in May, and the reimagining secure care project are both uncosted but they are connected and related to the bill and to the sequencing of what happens as we work through it. The success of it is completely linked to those, and they are only two examples of things that are uncosted.

There is deep uncertainty not only about the financial memorandum for the bill but about the other areas where the financial analysis has not yet been done. I am sure that Joanna Anderson can comment on that.

Joanna Anderson: I agree with what colleagues have said. They set out that a lot is going on in this space, and a lot of areas will require funding. We all know the difficult position that the Scottish Government and local government are in. There is a lot of change to fund from a not very big pot of money, so we are concerned about how far that will stretch and what can be done with it.

Obviously, because of tough financial challenges that local government faces, none of the costs can be absorbed, because local government is already stretched to full capacity.

Alistair Hogg (Scottish Children's Reporter Administration): First, I just want to say that there has to be honesty about this, because the policy is very proactive and it is supported by everyone on the panel. It is the right thing to do. However, if it does not have the proper investment and resources it will fail, because the system requires all the resources to be in place.

I am encouraged by the fact that we were invited and encouraged to take a maximalist approach to analysing the data and present the numbers. That analysis is our best estimate of the impact of the bill in relation to referrals, hearings and court. However, there are wider implications of the bill that you have heard about from other colleagues on the panel. That 42 per cent increase is eye opening, but it is because of the different approach that was taken to calculating the numbers.

Committee members will remember that previous numbers were based on a cut-off age of 17 and a half. However, that was not intended to be a cut-off; it was just a realistic assessment that intervention might mean less for some children approaching the age of 18 and a different approach might have to be taken. Stretching the age to 18 will have the biggest impact, and that is what we have ended up with after using different years—not Covid years—to calculate the numbers. I am encouraged by the fact that we were invited to do that work and that the numbers have been accepted.

Furthermore, there is, as you will see, a range of estimates—the number could be this or it could be stretched to that—and we have been encouraged to go to the top of the range. That is the right approach; after all, it could be that that is what you would need to plan for. This all comes with challenges and will require investment, but if there is belief in the policy, there will have to be an honest discussion about that.

The Convener: As my questions relate specifically to social work, I will direct them to Ben Farrugia. Ben, you have already alluded to the fact that, although you have the money for social workers, you do not have the social workers there—if that makes any sense. What resources will be needed to enable social work teams to implement the bill's changes, given the restrictions—or, I should say, challenges—that you have with regard to recruitment? We can then look at some solutions to the recruitment issue, if you do not mind.

Ben Farrugia: At the moment, I try to shift the focus in meetings from recruitment to retention. Our critical challenge is in retaining experienced staff. It is absolutely true that we have a problem with recruitment, but with this particular population of children and young people we want to ensure that we are providing them and those who might have been harmed with skilled, competent and experienced professionals to manage their cases. As my colleagues have mentioned, the workload and the environment of social work delivery are leading to high levels of moral distress and people leaving before their time to move to other professions.

In response to your question, then, the issue for us is retention. Although conversations are under way in earnest on addressing the problem of retention and recruitment in social work, they are still just conversations; there is no systematic plan in place to address what is not necessarily a decline but is a decline in practice. The social work workforce has been stable for more than a decade now, but the number of responsibilities in social work has increased dramatically in that period, and rightly so. They are good duties and things that we want to be doing, but there has been no equivalent increase in the size of the profession. Actually, what we have seen are small dips in our justice and children and families workforces and an increase in the adults workforce, which is obviously linked to investment in that aspect and to pay increases.

Once we have the people, we need to ensure that they are skilled in the work. Again, the learning and development aspects have not been properly costed. They are difficult but, as I have said, not impossible to cost if we spend some time on really understanding them. For example, I deliver out of our organisation a complex learning and development opportunity for social workers, and I am able to cost it. Unfortunately, it is expensive and it takes time. With time and money, we can get there, but—and this goes back to the previous question—I always get a certain feeling when it comes to legislation. Once we start moving

through it, there is an expectation that commencement will be quick and that the provisions will be in place. I want those things to happen, but I do not want a situation in which the social work profession yet again feels overburdened and overwhelmed and social workers are encouraged to think, "Actually, I'd be better jumping across the ship to this or that profession." If that happens, we will not be able to deliver this at all.

The Convener: Thank you, Ben, for that stark response. You have just said a lot about training and investment in people. Is there anything else that local authority social work teams might require that the bill does not yet address, in addition to the training that would really help with implementation?

Ben Farrugia: As far as our list of things is concerned, the fact is that much of what social work wants sits in other services. Perhaps I can answer your question in the context of provision for young people who end up in secure care—indeed, I think that I mentioned that when I last came before the committee. I am completely sympathetic about why it should be, but the absence of comprehensive, complex and diverse mental health support for children and young people in Scotland is a big driver for our ending up having to take children and young people into secure care and keep them there. We just do not have any alternatives if we send them out into the community. Such a change sits outside social work, although it would be a key partner, but having the breadth and complexity of provision that we need to meet this population's needs would make a huge difference to us. That is just one example. I know that there are plans in place and that money has been committed, all of which is welcome, but our question is whether it is sufficient.

I have, in fact, been primed to answer this question through my exposure to a current case involving a young person in secure care. Because of the complexity of that young person's needs, the secure care provider is no longer able to continue to provide care and we are having to have conversations at a national level about what we are going to do. There is just no mental health provision for him. The situation is stark; after all, we are talking about an individual who will likely spend their young life in secure care and then move to the state hospital when they are 18. I am confident that we can do better than that if we focus on those kinds of examples.

The Convener: Thank you for sharing that. We appreciate the use of that example to flesh things out.

Liam Kerr: Good morning, panel. Stephen Bermingham, you started a campaign in September to recruit between 500 and 800 additional volunteers. How is that going? Will 500 to 800 be enough if there is an increase in case load?

Stephen Bermingham: The recruitment campaign ended two weeks ago, but we did not get the response that we had hoped for. I think that we have ended up with about 650 applications, so it is going to be particularly challenging to recruit 500 to 800. We have capacity issues in that respect. Generally, the transfer from application to appointment is around 50 per cent, so we are expecting around 325 applicants. That is not enough, but we have a strategy for addressing that.

Liam Kerr: I will come back to that in a second, if I may. Joanna Anderson, I note that the hearings system working group has made a proposal to pay the chair a salary and panel members a day rate. Am I right in saying that that has not been picked up in the revised financial memorandum? Given the projected 42 per cent increase in case load, are you concerned about that? Do you have any idea how much paying the panel might cost?

Joanna Anderson: I will respond briefly and then pass the question over to Jillian Gibson. On your question whether the proposal has been picked up, my understanding is that it is not in the financial memorandum.

Jillian Gibson: It has not been picked up yet. COSLA's response to the "Hearings for Children" report will be published today and will be on our website, and I believe that the Scottish Government will respond to the report towards the end of the year. Part of the concern of everyone on the panel is the sequencing of this, with the publication of the report but no costings. The report has 97-plus recommendations—it has taken us a lot of time. Any proposal to pay panel members or the chair will need a lot of further explanation and costing, as well as looking at the reality of whether it is the right thing to do. A lot of work is being done—and will be required to be done—across the system not just to cost these things but to find out whether it is right to do them.

There is concern about work being done in isolation that, although connected with the bill, is not being connected at this point in time. We imagine that that will happen in future, but the proposal has not been costed, because it sits in isolation in a report published by The Promise Scotland.

Liam Kerr: Stephen Bermingham, given your oversight of the area, do you have any idea what the cost might be? I also note Jillian Gibson's very interesting question whether it would be the right thing to do. Some might feel that paying a chair or volunteers would increase the ability to recruit,

while others might feel that it would actually discourage recruitment. What is your take on that?

10:15

Stephen Bermingham: It is a tricky question. This is a recommendation of the "Hearings for Children" report. The Government is currently considering that report and will respond to its recommendations in, I think, the early weeks in December.

My view as Stephen Bermingham—as opposed to my corporate view—is that the remuneration model has some significant advantages, particularly around consistency. One of the report's recommendations relates to continuity of panel members to ensure that children and families are not asked to retell their story every time they turn up at a panel. However, getting that sort of continuity is very tricky with a volunteer model, given that panel members will volunteer an average of one or one and a half mornings or afternoons a month. That is one of the compelling things about the proposal, but the issue itself is complex. It has been discussed at length by the hearings system working group, but the decision on it essentially sits with Scottish ministers. As for what it costs, I understand that it will be expensive.

Liam Kerr: I am very grateful. Thank you.

The Convener: I believe that Pam Duncan-Glancy has a supplementary question on this matter, before she moves to her own line of questioning.

Pam Duncan-Glancy: I will run my questions together, if that is okay, convener.

Thank you very much for the evidence that you gave us in advance and for your answers to our questions so far. First, I want to pick up on the point about it looking as if the target for panel members will not be reached. What is your strategy in that respect? What is the backup plan if that happens?

Stephen Bermingham: Since I gave evidence at stage 1, there have been five material changes that make the outlook with regard to capacity more challenging. If it is okay, I will quickly run through those challenges and then tell you a little bit about our strategy for addressing some of them.

We have already talked about the first challenge, which is recalibration of the figures. A 42 per cent increase in case load is extremely challenging for the whole sector—not just for Children's Hearings Scotland.

Secondly, it is just harder to recruit volunteers. I have mentioned the 650 applicants and the fact that the number is not as many as we had hoped for. I think that that highlights a message that is being reflected, across the voluntary sector in particular, about the ability to recruit volunteers, given the squeeze on living costs and, I suppose, the competing demands on people who are being asked to give up their time.

Thirdly, panel members are volunteering slightly less than they were before the pandemic, when the average across our 2,100-odd volunteers was about 1.25 sessions—a morning or an afternoon—a month. That figure has now dropped down to 1.17 sessions, and that, aggregated across more than 2,000 panel members, is having an impact on our capacity.

Similarly, with regard to retention, length of service has slightly dipped. Now, the average length of service is 5.37 years, compared with 5.61 years in 2020, which—again, aggregated across our members—is putting additional capacity pressure on the system.

Finally, with a newer cohort of volunteers coming on board, we have an issue with the number of chairs. Each panel is made up of two panel members and a chair. Given that it takes 15 to 18 months to train a panel member to become a chair, that, too, is leading to additional pressure.

Those are the issues: recalibration of the figures, recruitment and retention, length of service and the associated impacts on capacity. It is important to outline to the committee those pressures, in response to the question.

As for your other question, we do have a capacity-building strategy. The issue of the commencement date has already been mentioned by someone on the panel, and in discussions with the Scottish Government and the bill team we have asked for at least 12 to 18 months, if the bill gets royal assent, to ensure that there is capacity within Children's Hearings Scotland and across the system—in particular, our social work partners—and to ensure that support packages are in place.

Recruitment is the challenge, as Liam Kerr highlighted earlier. At the moment, we have an annual recruitment campaign. In other words, once a year we run quite a high-profile national campaign to recruit panel members. With regard to our target, we have historically recruited an average of 450 to 500 panel members, but we will need to recruit about 650 between now and the bill's commencement.

Last year, for the first time, we ran two recruitment campaigns, which carried additional cost pressures. We managed to find that money. The response was positive: we got 410 panel members in the first recruitment campaign and 319 in the second—729 in total. To address some of the capacity issues, we will discuss with the Scottish Government the budget for recruitment,

and the potential running of recruitment more than once a year. That decision has not been made.

We have also made significant investment locally—in particular, in wellbeing and in pastoral support for volunteers through paid staff. Historically, we have run the children's hearings system with volunteer panel members and volunteer roles to support those members. To create a better and more robust and consistent system, we are replacing a number of those volunteer management roles with paid staff. When it comes to the wellbeing posts, in particular, we hope that we will be able to provide a higher level of pastoral support, which will help with recruitment and retention.

The scheduling of hearings has been raised by young people and by others across the piece. That relates to volunteering. At the moment, hearings run pretty much from Monday to Friday, 9 to 5—probably 9 to 3 on Fridays. However, children and families have told us that they would like us to think about availability in the evenings and weekends, which would certainly help with volunteer availability. At the moment, the volunteer offer essentially restricts anyone who needs to be in work from Monday to Friday. That work needs to happen across the system, because social work colleagues in SCRA and professionals in education and other fields need to be available during those times.

Another strategy that we are looking at is expediting training. Currently, our pre-service training takes eight to 10 weeks, and we could speed that up. Training our chairs takes 15 to 18 months, but some panel members might come through who have the competencies to be able to chair sooner than that. Potentially, that would speed things up.

Finally, there is thinking being done about financial allowances and provisions. Volunteer expenses are significantly underclaimed. We have provisions for loss of earnings, but there is potential to promote that more, so that people who give up paid work to volunteer with us could be remunerated. We have that provision, but uptake is quite poor. We would also look at other kinds of financial allowances and potential incentives in order to enable and encourage more people to volunteer.

I am sorry. That was quite a long answer, but it is important that the committee understands the capacity constraints and Children's Hearings Scotland's response to those.

Pam Duncan-Glancy: Thank you. It sounds as though quite a bit of work has to be done to get to the capacity that is required.

Stephen Bermingham: Absolutely.

Pam Duncan-Glancy: I have one more question on timing, which is for Ben Farrugia, and a question on training.

We have just heard from Stephen Bermingham that, post-commencement, about 12 to 18 months would be required to get the panel members in position. What sort of timescale would be involved for the number of social workers that is required?

Ben Farrugia: I cannot answer directly about the number of social workers. Our estimates have featured in what we think will be demanded by the increase in children's hearings work. I will sidestep the question about numbers and talk about the time that the system will need in order to be prepared.

A lot of what Stephen Bermingham referred to is business as usual. Given the increase in age, we might bring in a slightly different cohort of cases—although not entirely different, as I hope Stephen Bermingham and Alistair Hogg will concur. The nature of the social work task will, therefore, change a little.

Twelve to 18 months does not seem to be an unreasonable timeframe. However, to echo what I said earlier, it is likely that that 12 to 18 months would be sufficient for us to identify the people whom we will probably pull from other things to attend to the matter. That will be the reality. We will not be able to bring in newly minted and cut social workers to do the task. We are talking about existing members of staff having additional cases, or our orientating other staff into the space.

To echo something that I said earlier, I note that we know that, for a number of social workers, their experience in the children's hearings system is one reason why they are deciding to leave. We hear that feedback pretty consistently; I think that I echoed that previously. We offered that information to Sheriff Mackie, who is leading the review of the children's hearings system, and it featured in the final conclusions on why there is a need to change the system. In effect, we are putting in more pressure throughout the entire system with good reason and for a good objective.

We will do that in 12 to 18 months—we always do. The issue is the costs of our doing it, which will impact elsewhere.

The Convener: Does Alistair Hogg want to come in on that timeline thread?

Alistair Hogg: Yes—I am happy to do that.

From an SCRA perspective, I am very confident that we would be prepared, but we are only one part of the hearings system. For us to be ready and prepared, we will increase capacity, have a learning and development plan and have practice direction prepared. We will be ready, and we have lots of experience and the skills and leadership to

do that. However, our being ready and able to provide the best service possible will not be enough if our partners are not ready and the services are not there to provide for the children.

We make the decision about whether the hearings system is engaged. Once that happens, the real work happens when the child is on a compulsory supervision order and the services are wrapped around that child to support them. Those services need to be available.

I have consistently said in many discussions, even prior to the bill's being drafted, that the timing has to be appropriate to when the resources and services are available. Obviously, that largely means statutory services, but it also means third sector services. The third sector plays a crucial role in providing services, particularly for the relevant age group of children.

The timescale has to be flexible in order that things land when the system is ready to absorb the extra expectation on it, and 12 to 18 months sounds reasonable. When Stephen Bermingham said 12 to 18 months, I am not sure whether he meant 12 to 18 months from today—

Stephen Bermingham: No.

Alistair Hogg: —or from commencement.

Stephen Bermingham: That is not what I understood. I meant from royal assent.

Alistair Hogg: That is fine. That clarifies that. A provision on commencement can be built into the act.

The Convener: As Stephen Bermingham's microphone was not on, I put on the record that he said 12 to 18 months after royal assent. I had picked that up. Is that correct?

Stephen Bermingham: Yes, that is correct.

The Convener: If Pam Duncan-Glancy does not mind, Stephanie Callaghan has a small supplementary question on that theme. We can go to her first.

Pam Duncan-Glancy: Of course.

Stephanie Callaghan: I have a short question for Stephen Bermingham. You have spoken about recruiting volunteers once a year and possibly increasing that to twice a year. Why do you not have a rolling on-going recruitment programme? What is the thinking behind that? Many years ago, I considered applying, but, when I looked online, recruitment was closed. Obviously, I am not the only person who will have done that.

Stephen Bermingham: That is a good question, and we have been looking at the matter. When we run a national recruitment campaign, there are costs associated with it—particularly advertising costs. However, we are finding increasingly that the pressures vary from area to area. For example, we know that, historically, we have not struggled to recruit panel members in Edinburgh, but we have in Inverclyde. We will probably have to explore having more localised and targeted campaigns in the future, particularly as we build up staffing capacity in areas to respond to needs.

The volunteer model has an inherent fragility in terms of running a statutory service with the good will of volunteers. We have to ensure that the volunteering experience is really positive and responsive to local needs, and we have to recruit people when they are available. We do not have the lever of salaries that other organisations have, which is a constant challenge for us.

The Convener: I thank Pam Duncan-Glancy for her patience.

Pam Duncan-Glancy: No problem.

I want to continue the conversation about volunteers and to pick up on Ben Farrugia's point about the change in the profile of the people who will be coming through the system.

Police Scotland figures on domestic abuse suggest that there could be an increase in the number of such cases coming through the system—almost three or four times more. What kind of training do panel members currently get on domestic abuse, the trauma-informed approach and coercive control, and what might they need going forward?

10:30

Stephen Bermingham: That is a good question on a theme that we hear more about from a practice and policy perspective.

At the moment, trauma-informed practice is one of the few mandatory courses that all panel members must do. They all complete the stand-alone trauma-informed training module that our learning academy provides. In the pre-service training, all panel members have to learn about trauma-informed practice and domestic violence, coercion control and domestic abuse.

With regard to the training that we offer, there is probably an opportunity to work across the sector, because the importance of the theme is increasing and there is real concern about how we respond—not just as Children's Hearings Scotland, but as a hearings system—to issues such as domestic violence, abuse and control.

Alistair Hogg: Children's reporters all receive mandatory training in relation to domestic abuse. That training is delivered by Scottish Women's Aid and is constantly reviewed and updated because

of potential changes in the dynamic. Children's reporters and people in the children's hearings system are familiar with, and aware of, dealing with issues related to domestic abuse, but that is most commonly through the lens of the children in the household, who might be directly or indirectly exposed to the behaviours that occur.

It is anticipated that that dynamic might change, because if we increase the age of referral and make the system available to all 16 and 17-year-olds, it is likely that a greater number of those people will be in relationships or married, so they might be the perpetrators or victims of abuse and, therefore, be referred to the children's reporter and, potentially, to a children's hearing. We recognise that changing dynamic, and we need to be prepared for it in our learning and development, and in our approach and understanding—as was highlighted in the evidence from the earlier witness panel—of coercive control and all the issues related to that.

However, it is difficult to be clear about what we are likely to see in relation to that change of dynamic and the numbers, because it is very much related to what might come through from the Lord Advocate's consideration of her guidelines. At the moment, the Lord Advocate stipulates that children will not be prosecuted except in certain circumstances. The guidelines stipulate what those circumstances are. Undoubtedly, consideration will be on-going. It is not for me to speak for the Lord Advocate, who is totally independent, so it is her decision, but I imagine that there will be consideration of whether those types of incidents will require to be jointly reported. Therefore, a discussion will need to take place about which is the appropriate system to deal with such circumstances. It is difficult to estimate how many cases will come to the hearings system and how many might be retained within the criminal justice system.

Stephen Bermingham: I will come back to the original question, because I forgot to mention one important thing, which is that we are working with the Children and Young People's Centre for Justice to develop a training resource for panel members. The training, which is about supporting the needs of older children in the hearings system, will become mandatory once the bill passes through its parliamentary process. That will cover domestic abuse, coercion control, trauma-informed practice, homelessness and other issues that panel members have identified as affecting the older cohort of children more than the younger ones.

The Convener: We move to questions from the deputy convener.

Ruth Maguire: I have a question about movement restriction conditions. First, I want to hear your reflections on the updated costings for the intensive support that accompanies MRCs.

Joanna Anderson: It is welcome that those costings have been included in the updated financial information. It is difficult to put a cost estimate on that support, however, because MRCs are so rarely used. I know that Social Work Scotland has provided some estimated costings, which are reflected in that information. That area needs to be kept under review—it is currently a bit of an unknown. We would want a commitment to keep it under review and to ensure that the support is fully funded, considering the costings and the readiness of the sector to enable it to make use of MRCs.

Perhaps Jillian Gibson wants to come in on that.

Jillian Gibson: I agree with Joanna Anderson that it is difficult to put a cost on support packages because they are so individualised. It is difficult to say that the support package around an MRC would cost £X for every single young person, because MRCs will differ depending on circumstances.

The costings that are set out in the revised financial memorandum are one of the known unknowns. MRCs are so rarely used because of the conditions around them. The bill will allow them to be decoupled from secure care, so we would expect the numbers to increase, but it is challenging to quantify what that support would look like.

Ruth Maguire: When we took evidence at stage 1, the Children and Young People's Commissioner Scotland commented on MRCs, as did Who Cares? Scotland. The CYPCS said that

"intensive support has fallen away in many cases",

and Who Cares? Scotland told us that support was "patchy".

Bearing in mind what you have just said about the difficulty in quantifying what is required, will the resources that are allocated in the updated document ensure that that is not the case, and that intensive support will be provided to everyone who has an MRC?

Ben Farrugia: I am happy to take that question. The plain answer is no—there is no costing that will do that. Parts of the country have no provision by third sector providers, which are critical in this space and are able to provide packages of support.

My expectation, based on an understanding of how community justice has worked with regard to adults, is that, over time, panels in hearings will not lean towards setting such conditions as an option, because of lack of confidence that there will be a package of support available. That will be

similar to the current situation, in which that is an explanation for why MRCs are rarely used.

We need systematic investment over time to ensure that every part of Scotland has providers of such support. The costs that we provided relate to the social work element of supervising such orders; the actual package of care will, I suspect, be much more expensive, as is evident now with regard to how we support complex cases in the community.

Ruth Maguire: That is helpful. I will stick with you for a second. At stage 1, Social Work Scotland gave us a lot of rich evidence about the impact on children who are involved in the justice system who are causing harm. We asked Social Work Scotland for its view on safety planning for victims, but at that point you had no information from your membership. Are you able to give us your reflections on that now?

Ben Farrugia: Social Work Scotland, as an organisation, and our members have followed the debates that have taken place in Parliament and elsewhere. Our conversations have a similar resonance to those that we had earlier.

We are aware of the complexity of balancing rights; the contributions that the committee heard from the previous panel are appropriate in this respect. What has resonated with me, because it corresponds to the conversations that we have had with our membership on the subject, is the supplementary written evidence that the children's commissioner provided to the committee in advance of today's meeting. It expresses the belief that it is possible to find a way through this area, which is—as Kate Wallace said earlier—highly complex.

As, I hope, I have implied in our previous conversations, it is about people. No process is going to get this complex area of practice right—there is no such system that we can set down in law or in a document. Success will depend on having skilled and competent people to manage the complexity of situations. I sit here confident that those people exist; the outstanding question is whether we will have them in place where we need them at all times, in order to ensure that we can deliver on the legislation. It is definitely not a no from me, but the focus of our conversation with Scottish Government colleagues about the bill is on whether we can ensure that everywhere in Scotland has the public and voluntary sector staff to make real the balancing of the rights of children who harm with those of children who have been harmed.

Ruth Maguire: The acknowledgement that there is a balance to be struck is crucial, is it not?

Ben Farrugia: Yes—absolutely. There is a balance to be struck.

Bill Kidd (Glasgow Anniesland) (SNP): I thank the witnesses for their useful information, which will help us going forward. Speaking of going forward, the work that you all do helps in the development of young people so that they can become better and stronger adults.

On the terms of supervision or guidance post-18, the committee heard at stage 1 that there is a need to ensure that young people do not face a "cliff edge" of support at the age of 18. To what extent can the updated costings—to come back to those—enable that issue to be addressed?

Joanna Anderson: That important point was made previously. The aftercare costs are key. We had flagged that those should be included, and they have been noted in the addendum. The challenge with the updated financial information is that it has been set out that the numbers will be so low that local authorities should be able to absorb those costs. We do not agree with that. The numbers may be low, but the needs of the young person will be very specific to that young person and could be significant, and the support required could be significant, which would come at a cost. The assumption that those costs could be absorbed into existing overstretched social work budgets is not acceptable.

Ben Farrugia: I echo what Joanna has said. One aspect of the cliff edge that young people currently experience is not necessarily the absence of local authority support but the cliff edge that is presented by adult and children's services in other areas, whether that is education or health, primarily and obviously. None of the costings in the bill, perhaps understandably, address that, but that is where a lot of the cliff edge is experienced. You go from, in the best cases and scenarios, having a good wraparound package of support from your child and adolescent mental health service to moving into adult services, which is a completely different experience and can feel like a withdrawal of support.

We need to pay as much attention to that as to the local authority social work reality. Although I strongly echo what Joanna Anderson said, there is a sense that local authority social work will have to absorb aftercare costs when we know that those services have been systematically underfunded since the introduction of those provisions for children and young people in Scotland.

Bill Kidd: That is extremely useful. As you know, the updated financial information estimates the cost of providing aftercare support for children over the age of 16 when they leave secure care at around £200,000 a year. It is being suggested, as you have addressed, that that could be absorbed into existing aftercare services. Has how much would be required going forward been thought

about if that money cannot be absorbed into existing budgets? It is a considerable sum of money considering the number of young people we are talking about. Are there on-going talks to address that issue?

Ben Farrugia: My memory goes back to the discussions around the Children and Young People (Scotland) Act 2014, the introduction of continuing care and the extension of aftercare. We found it difficult to cost individual packages of support from one young person's very light-touch package to another's much more complex and, by virtue of that, expensive package. We found it difficult to plumb a line down the middle, so I have full sympathy with Scottish Government officials in trying to find a way to cost that. The numbers that are included here are, in part, from us and are our best estimate at this stage of what the average cost would be.

Our concern is primarily about the idea that, with additional numbers being low, we could just absorb those costs, because there will be situations—again, I stress my earlier point on costs for other public services that are not included in scope here—that cost considerably more than that. Are we sure that those costs can be absorbed into current budgets? If that is the approach, it means that that money will not be used on something else, such as a greater package of support for another young person or local authority overspend. It means savings and cuts being made elsewhere.

10:45

It is not a universal experience across all local authorities, but many children and young people's services experience overspend in their services for looked-after children because they have a statutory duty to provide a package of support and because they want to do their best—and they do. Our local authority colleagues and social work managers then have to find a way to balance the books at some point.

Bill Kidd: On that basis, are the numbers of 16 to 18-year-olds coming through those services increasing, decreasing or standing still? How do you plan for what will be required in the future? Has that been thought about?

Ben Farrugia: That has been thought about. I do not have the numbers in front of me, but that is part of the planning. We do know the numbers, which has been a great improvement. Thanks to policy change driving culture change over the past decade, we have moved to a different position and do not push children out of our system before they are entitled to and eligible for those services. The number of those who are both eligible for and receiving services has grown, which is a really welcome change.

Over the past decade, there has been a focus on trying to bring down the number of young people coming into care, so we may see fewer over time, but we still have a large population of children who are eligible for aftercare and continuing care and support. Our expectation is that numbers will be reasonably high for a period of time and will, at times, grow as we encourage people to take up the support that they are eligible for.

The Convener: Jillian Gibson, you are nodding away and I have been trying to catch your eye. Would you like to come in?

Jillian Gibson: Joanna Anderson has made the point that local authority budgets cannot absorb any more pressure, but that does not mean that we should not and cannot give that additional support.

The bill will make a change by bringing 16 and 17-year-olds who are not currently on compulsory supervision orders into the hearings system and allowing them access to aftercare support that they have not had before. It is difficult to quantify how many young people who have not had support from the hearings system before might then become eligible for aftercare support. We have had conversations about that with Social Work Scotland and with the bill team.

That support might be light touch, but some young people who have never accessed it before might need really intensive support. Ben Farrugia and Joanna Anderson have made the point that that might have to be absorbed by already stretched local authority budgets. Further work must be done to quantify and understand the appropriate aftercare support that will have to be available across the country, from statutory services as well as from the crucial third sector. Those costs will be different in different parts of the country.

Bill Kidd: I can see that Stephen Bermingham wants to come in.

Stephen Bermingham: I have an observation to make. I welcome the provision in the bill that, in essence, gives an automatic entitlement for young people in secure care to aftercare and looked-after status, which gives them an entitlement to pathway support. However, that is a drop in the ocean: it is 30 children. If you look at the number of children in the looked-after system, you will see that the system has been underfunded for years and that young people leaving care do not get the level of support that they should get. The figure of £200,000 is very small when we think about the overall number of children coming through the hearings system.

Bill Kidd: That is very helpful. Thank you.

The Convener: We come to questions from Willie Rennie.

Willie Rennie: You have made it very clear that it will not be easy to absorb this into budgets and that staffing cannot just be magicked up but takes time to develop, which may cause consequences elsewhere—I get that. You have talked about a cost increase of 42 per cent, although I think it may be 50 per cent overall, compared with what was in the original financial memorandum. The total budget is still only £18 million out of a £10 billion budget for local government, so it should not be impossible to absorb that. Also, there should be significant longer-term benefits from spending to save, although we never quite realise those because we never fully disinvest from other areas. I get all of that.

However, I am not clear about what you want to be done. You are in favour of the bill but you are worried that, once we get to stage 2, there will be a momentum and it will just happen. What precisely do you want the Government and the committee to do about that? I am not clear on that. You have put up the warning signs, but, if we are not to end up with a problem later, what precisely do we need to do?

I do not know whether Ben Farrugia or Jillian Gibson wants to start.

Ben Farrugia: That is a really good question. You are right to put that challenge out there. I own that we probably avoid the question in the main because it might be inferred that we do not want those things to happen. That can happen. I and my organisation have been criticised for not being supportive of things when we are just trying to articulate the difficulty of realising them.

That said, what do we really want? We want to realise the provisions, we want to realise the changes to the children's hearings system, and we want to realise the Promise. However, we want those things to be done with an honesty to the discussion about what the costs are, financially, in terms of the people we will need in order to deliver. We sometimes feel that that is absent. There is a sense that we can continue to legislate and guidance our way to achieving such cultural and structural revolutions, but our position is that that is just not possible. We need to have a much more honest conversation with the public and ourselves about saying that 10,000 social workers, of which 6,000 work with children and families, is not sufficient to deliver the aspirations of the bill, let alone the Promise.

What, therefore, is our plan for substantively increasing that? I am not going to put a number on it, but we need to put ourselves in the position of being able to give every child and young person the consistency of relationship that the Care Inspectorate recently observed in its study on secure care and that every report for the past hundreds of years has found to be what people want.

We will get to that place through having the structure for it—forget the specific provisions in the bill or anything else—and it is still absent. I understand that, because it is difficult to grow that workforce. There are rhetorical commitments and so forth, but there is still no plan that we, as an organisation, can put our hands up to and say that we are confident will deliver the enlarged local government and voluntary sector workforce to deliver that whole suite of change. That is the fundamental conversation that we want to get into instead of talking about the detailed changes in practice and systems that we usually find ourselves talking about.

I hope that that answers your question.

Willie Rennie: It does.

Jillian Gibson: I agree with everything that Ben Farrugia has said. In our response to the call for views and the consultation, we said, as Social Work Scotland did, that the need for the sequencing of any implementation must not be underestimated. We are talking about the Children (Care and Justice) (Scotland) Bill at the moment, but I have also referenced the "Hearings for Children" report and "Reimagining Secure Care". That all happens in the context of all the other work that goes on in a children's services social work department and with the third sector, along with all the structural, organisational and operational change to implement all the elements of the Promise. All of that falls on the same people and the same system.

The investment from the whole family wellbeing fund is completely accepted and welcomed; however, it is still the same number of staff working with the same children and families. The brothers and sisters legislation is challenging to implement.

It is about the sequencing and not looking at the elements of the bill in complete isolation. The Promise was the challenge to us all to look completely holistically at how we look after our most vulnerable children and families. The bill rightly looks at one part of care, and we all agree with its intention, but we need to take a holistic view of how we look after our children and families. We need to sequence and we need to have that conversation together rather than look at different parts in isolation.

The bill was introduced at the same time as work began on the hearings system working group report, which finished during stage 1. The work on reimagining secure care will not finish until March.

Even if we look just at the connected parts, we have to sequence what happens so that we have well-trained staff, whether those are paid or otherwise, and so that the entire system that supports children and families is ready.

That is not to take anything away from the resourcing and staffing that are needed—what has been said on that is absolutely true. However, taking a holistic view of how we look after those of our children who require the most intensive support—not looking at everything in isolation—is a moral obligation and duty on all of us.

There is a lot of change in the system all at once, and that perhaps does not look up and across but looks very narrowly down at one thing that needs to change.

The Convener: Alistair Hogg wants to comment, too.

Alistair Hogg: I welcome the question and the way in which you have presented it, because it is the correct way of looking at this. This is something that is proper and valid. It is something that we all believe in, and it is a policy that is progressive.

I think, though, that what you are asking about is what is getting in the way. I agree with all that has been said in that respect. Sequencing, as Jillian Gibson so eloquently put it, is absolutely crucial. We have also talked about timing—that is, the timing of commencement to ensure that we are ready and that all the building blocks are in place. For me, those building blocks and the foundation are the crucial issue. A lot of the concerns and challenges that you have heard about arise because the foundation is currently quite wobbly.

As for current resources, I can talk only about where my own organisation is. Unlike those of most public services, our budget operates on a year-to-year basis. Because we do not know what next year's budget will be, we cannot plan ahead.

We also operate with budget deficits from year to year. We get money at the beginning of the year and then we have discussions about in-year funding to support us. Our sponsor team is fantastic at securing the funds to allow the service to continue, but our stated needs have to be met and we need to know that they are going to be met. With a solid foundation, you will be able to put in the extra resources identified in the financial memorandum and build capacity to absorb what is presented in the bill.

Willie Rennie: I would like to follow up with some rather more detailed questions on the minutiae. First, are the costings for solicitors for children who have been arrested and taken into police custody reasonably accurate? Does anybody want to comment on that?

The Convener: Nobody does.

Willie Rennie: Right—that is fine. [*Laughter.*]

Are the costings for the secure accommodation aspect reasonably well worked out? Are there any comments on that?

The Convener: Does anyone want to respond?

Ben Farrugia: Can you give me a little bit more detail? Which aspects of the costings are you looking at?

Willie Rennie: The updated costings in the bill now place the cost of funding secure accommodation places for children on remand on central Government rather than on local authorities. What assessment has been done of that? Are the costings accurate enough?

Ben Farrugia: We supported that particular policy change. We felt that it was the right decision to make, and it was what we had been pushing for. We would have contributed to the costing, given that it concerns the cost of secure care, as I am sure our local Government colleagues have. It is—dare I say it?—a relatively easy cost to extract, because our national framework for secure care contract enables us to understand what most of the placements cost.

Joanna, is that a fair description of the situation with the costing?

Joanna Anderson: Yes, I would agree. I do not have much to add, really.

Willie Rennie: As that second lot of questions was rather less enthusiastically greeted, convener, I will stop there.

The Convener: Going back to the sequencing issue and Jillian Gibson's eloquent explanation of the challenges and the complex things that are going on, I wonder what you are doing right now about all of this. Obviously, these things are in the future, but you must have some idea of what might be coming. Are there any key improvements that you are working on or that could be made in the meantime while we are waiting for all of this to fall into place?

Alistair Hogg: It is, for us, a very vibrant policy world at the moment. I find it really positive and very encouraging, and the SCRA is fully invested in all of what Jillian Gibson has described.

As for what we are doing now, there has been a lot of engagement on the bill and its progress, including the provision of analysis, as has been spoken about quite a lot today. Moreover, there has been a lot of preparation in anticipation of what is coming and to put in place the building blocks so that we are ready.

The other huge policy area involves the recommendations of the "Hearings for Children" report. Although we have to wait until December for the Scottish Government's formal response to those, along with other partners we are fully involved in discussions on them.

11:00

Our improvement work continues, too. We have lots of projects on the go to bring about improvements now, in real time, instead of waiting. We anticipate that some of the recommendations will not be rejected, because they are obviously the right thing to do, so we can continue with that work. We are investing in a structure for the transformational change that we see coming, and we have done that by putting in place the investment that comes from our greatest resource, which is our people.

The Convener: Jillian, do you want to comment on that?

Jillian Gibson: I will highlight a couple of things that we are doing right now. As Alistair Hogg eloquently put it, we all work in such a way that we can get better from now and not wait until something comes in before we make improvements.

The Scottish Government has convened a bill implementation group. It involves a lot of people—but they are the right people—having conversations about how we might implement parts of the bill and what we can and should do right now. That work is in its infancy.

As Alistair alluded, the Scottish Government will not publish its response to the "Hearings for Children" report until the end of the year. However, COSLA and the Scottish Government have agreed to co-chair, at officer level, a governance board on the work covered by the report and its recommendations. That work is all completely interlinked with the bill. The report's 97 recommendations, which I think form about 110 recommendations in reality, include areas where we will need to wait for the bill and others where we need to do something right now and must consider the changes that we can make. We look at that work holistically, alongside the bill and the report. Children's Hearings Scotland, SCRA and Social Work Scotland are all involved in the planning work in response to "Hearings for Children" and the work of the bill implementation group.

We are therefore very much looking at what we can do right now, but that is set against the really complex policy landscape that both Alistair Hogg and I have mentioned.

The Convener: Does Ben Farrugia want to come in on that?

Ben Farrugia: Social Work Scotland is also part of the structures that my colleagues have mentioned. Those are probably the best ways of going about trying to properly sequence and manage what we all acknowledge is a busy policy environment.

I have listened to the committee's previous evidence sessions, read the bill a few times and aimed to understand the changes that are planned for the children's hearings system and the linked changes for social work. I am struck by how the children's hearings system that is envisaged is the one that is seen as being necessary to deliver the legislation so that it addresses many of the concerns that have been profiled by the earlier panel and others. I see the challenge there. Many of the issues that we are discussing would be much lower-order concerns if we had the kind of system that the children's hearings review group suggested, with an enhanced level of training and greater connection through to cases. Your question prompted me to tease that out in my own head. We are asking the current system to do things whereas the system that we have envisaged and will try to build simultaneously might be in a better place to do them, if we perhaps waited. However, I appreciate that we would then be holding back rights for children and young people for a longer time.

The Convener: Stephen, do you want to come in on that?

Stephen Bermingham: Very briefly. Our immediate priority is building capacity through recruitment and retention and through improving how we do things. I agree with other panel members that we need a whole-system approach.

The Convener: Thank you very much for your time this morning. [*Interruption*.] I am told that Pam Duncan-Glancy has a supplementary question that I had not spotted. Could you ask it briefly, please, Pam?

Pam Duncan-Glancy: I am sorry, convener. It is a quick question on the numbers of people who take up the opportunity to get information on victims. Alistair, I note that, in the context of your work, only about 13 to 14 per cent of people do so. Do you know why that is? What have you done to investigate it?

Alistair Hogg: The answer is that we do not know, although we could speculate about a variety of reasons. Exploring that issue is in our research plan, but we cannot work on it instantly. Doing proper research will take a minimum of 12 to 18 months. Coincidentally, and unfortunately—although it has happened for positive reasons—we have lost two thirds of our research team since the

previous occasion on which I gave evidence to the committee. Such a piece of work would greatly inform us about the correct approach to take.

You are right to say that the uptake of that opportunity is currently low. We are about to introduce a further mechanism whereby people can opt in to the service to make it as easy as possible for those who really want the information to get it. At the moment, they can do so in a variety of ways, but we are also opening up the ability to send a text message, to make the process even easier.

All of that research will be done and will be shared, but I imagine that that will not be done in time for the commencement of the bill.

The Convener: Ben Macpherson wants to come in, too.

Ben Macpherson (Edinburgh Northern and Leith) (SNP): I will summarise what our witnesses have relayed to us, all of which has been really helpful.

I reflect on what Mr Hogg said about ensuring that partners across the board are all ready for implementation. Mr Farrugia told us about the challenges in capacity and human resources in the social work sector and the profession here, in Scotland. Ms Anderson and Ms Gibson mentioned the challenges in resources at local government level. Mr Bermingham told us about the need to enhance his organisation's capacity in the hearings system.

Pulling all of that together takes me to Mr Bermingham's point about the timescale between royal assent and implementation of the bill. Is your overarching point, collectively, that there will need to be flexibility and agility following royal assent, when it comes to implementing the bill in a realistic manner, taking account of all the practical considerations that you have just relayed to us? Is it also that, although we share a collective ambition to keep the Promise, we will keep it better if we take adequate time and collaborate to ensure that the bill is implemented as effectively as possible?

The Convener: I saw lots of nodding heads there.

Ben Farrugia: It would not be right for us alone to determine when things are switched on or off. However, I echo what Alistair Hogg said earlier about provisions being switched on, as it were—for them to be commenced or whatever the right phraseology would be in this context—when the system is ready to do them well. That needs to involve a continuous conversation between ourselves, as advocates for the system, and the Scottish Government about when that will be. As I mentioned earlier, my fear is that, once momentum is gained, the message will be, "This is the date when it's going to happen. Be ready." We will be ready, because the statutory duty is coming. However, I would rather that the conversation said, "When you're ready, we'll switch it on." Such a shift in tone and emphasis would be welcome.

The Convener: I see lots of nodding heads. We will finish on that note. Thank you very much, Ben—in fact, both Bens.

Once again, I would like to thank everyone for their time and contributions this morning. Our discussion has been extremely helpful. The public part of our meeting has now concluded and we will consider our final agenda item in private.

11:08

Meeting continued in private until 11:49.

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