

# **FINANCE COMMITTEE**

Tuesday 9 May 2006

Session 2

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## FINANCE COMMITTEE

### 13<sup>th</sup> Meeting 2006, Session 2

#### CONVENER

\*Des McNulty (Clydebank and Milngavie) (Lab)

#### DEPUTY CONVENER

Mr John Swinney (North Tayside) (SNP)

#### COMMITTEE MEMBERS

Ms Wendy Alexander (Paisley North) (Lab)

\*Mr Andrew Arbuckle (Mid Scotland and Fife) (LD)

\*Mark Ballard (Lothians) (Green)

\*Derek Brownlee (South of Scotland) (Con)

Jim Mather (Highlands and Islands) (SNP)

\*Mr Frank McAveety (Glasgow Shettleston) (Lab)

\*Dr Elaine Murray (Dumfries) (Lab)

#### COMMITTEE SUBSTITUTES

Robin Harper (Lothians) (Green)

Janis Hughes (Glasgow Rutherglen) (Lab)

Alex Neil (Central Scotland) (SNP)

John Scott (Ayr) (Con)

Iain Smith (North East Fife) (LD)

\*attended

#### THE FOLLOWING GAVE EVIDENCE:

Rachel Edgar (Scottish Executive Education Department)

Peter Willman (Scottish Executive Education Department)

#### CLERK TO THE COMMITTEE

Susan Duffy

#### SENIOR ASSISTANT CLERK

Rosalind Wheeler

#### ASSISTANT CLERK

Kristin Mitchell

#### LOCATION

Committee Room 6



## Scottish Parliament

### Finance Committee

*Tuesday 9 May 2006*

[THE CONVENER *opened the meeting at 10:02*]

### Items in Private

**The Convener (Des McNulty):** I welcome people to the 13<sup>th</sup> meeting in 2006 of the Finance Committee. I ask for all pagers and mobile phones to be switched off. We have received apologies from Wendy Alexander and Jim Mather. John Swinney has indicated that he may join us later, although it is possible that he will not be able to attend.

The first item on our agenda is consideration of whether to take items in private. First, we must decide whether to take item 5, which is consideration of a draft report, in private. Is that agreed?

**Members indicated agreement.**

**The Convener:** I also propose that we consider our draft report on the financial memorandum to the Legal Profession and Legal Aid (Scotland) Bill in private at next week's meeting. Is that agreed?

**Members indicated agreement.**

## Adoption and Children (Scotland) Bill: Financial Memorandum

10:03

**The Convener:** Item 2 is consideration of the financial memorandum to the Adoption and Children (Scotland) Bill. As members will recall, we decided to adopt level 2 scrutiny for the bill, which involves taking written evidence from bodies on which costs fall and oral evidence from Scottish Executive officials. I welcome to the committee Rachel Edgar, the head of the young people and looked-after children division of the Scottish Executive Education Department, and Peter Willman, head of branch 2 of the young people and looked-after children division. Our normal convention is to invite Executive witnesses to make a short opening statement and then to proceed to questions. I ask Rachel Edgar to make her opening statement.

**Rachel Edgar (Scottish Executive Education Department):** I will keep my statement brief, because I do not want to repeat material that the committee already has. It is not easy to calculate the precise costs of a bill such as this. The financial memorandum contains our best estimates and is an evolving document. We will get more up-to-date statistics and better information as part of our on-going consultation processes. Some submissions to the committee so far have flagged up issues that do not relate directly to the bill but relate to underlying trends such as the increased number of looked-after children. Here our focus is on the financial impact of the bill.

**The Convener:** It is particularly disappointing that we have not received written evidence from the Convention of Scottish Local Authorities, because costs will fall most directly on local authorities. Normally, COSLA is quick to say that additional burdens are being placed on local authorities. Written evidence from COSLA would have been useful, as it would have provided a basis for testing some of the Executive's assumptions. I hope that we will receive information from COSLA later, but it would have been useful to have that now.

Mark Ballard will lead our questioning on the bill.

**Mark Ballard (Lothians) (Green):** Thank you for supplying additional information on residential care costs. I confess that I was confused when I read the financial memorandum, because it did not give a basis for the savings of between £600,000 and £6 million. The clarification is helpful. However, I remain confused about how the new details on the number of children and the savings per annum relate to the range from £600,000 to £6

million in the table in paragraph 399 of the financial memorandum. Am I correct to say that the figures in the table are roughly for moving between eight and 80 children? How does the new information connect with paragraph 399? What are the assumptions behind the range?

**Rachel Edgar:** I apologise, as the information was perhaps unnecessarily confusing. One difference is that we are now operating on later figures. In the table in paragraph 399, the figure of £580,000 was based on the assumption that 10 children would be moved from residential homes to foster care. The figure that is below that in the table, which was based on 100 children moving, was designed to demonstrate a range.

The more up-to-date figures that the committee received yesterday are based on 2004-05 statistics, which are now available. It is interesting that they appear to show a larger saving per child. The comparable figures in the new information are those from the £801,000 saving from moving 10 children to the saving of approximately £8 million from moving 100 children.

**Mark Ballard:** What was the thinking behind providing figures for moving 10 and 100 children? At present, 1,500 children are in non-secure residential accommodation.

**Rachel Edgar:** We do not have a mechanism for finding out exactly how many children will move. We have anecdotal evidence of people telling us that children have been placed in residential care because they could not find foster placements or that children are waiting to leave residential care and go into foster placements. We decided to go for the relatively modest bottom line of 10 and give figures for savings from moving up to 100 children. To be honest, we do not know what the number will be, but we hope that it will be higher. However, the difficulty is in knowing precisely how many of those who are in residential care would be better placed in foster care.

**Mark Ballard:** To what do the words "lowest rate" and "highest rate" in the table in paragraph 399 refer?

**Rachel Edgar:** They refer to different numbers of children.

**Mark Ballard:** The phrases "lowest rate" and "highest rate" also relate to fostering allowances.

**Rachel Edgar:** In that context, they mean different allowance rates.

**Mark Ballard:** That was confusing.

**Rachel Edgar:** I am sorry; that could have been clearer.

**The Convener:** Are you looking to change any other figures in the financial memorandum?

**Peter Willman (Scottish Executive Education Department):** Some of the figures on the fostering allowances that local authorities pay derive from a survey that the Fostering Network undertook. When we obtained the figures, the network had surveyed 10 local authorities, but it has now surveyed all 32, so we can now give slightly more authoritative figures. However, the difference in the figures is not great.

**The Convener:** The difference is not that great; it is just that more evidence is available to back up the figures.

**Peter Willman:** Exactly.

**Mark Ballard:** Before I move on to paragraph 4 of the additional information, I want to finish dealing with paragraph 2. You say that an average fostering allowance of £106 per week will result in a saving of £80,000 being made on the total cost of residential care, although you acknowledge that

"this will understate the total cost of fostering after fees and support costs are taken into account".

Where does the potential increase in fees and support costs that will arise as a result of between 10 and 100 children moving from non-secure care into foster care appear in the financial memorandum? Surely that will be an increased cost.

**Rachel Edgar:** We are doing our best to quantify that cost. We have not been able to do so until now. We asked our statisticians to examine the figures for expenditure on foster care that local authorities reported to us. They have done a rough calculation by dividing the total amount that local authorities reported was spent on foster care by the number of children who were in foster care at the end of the year, which gives a figure of £249 per week, including allowances. That is what we now assume the approximate cost of foster care to be. The figure includes the cost of support arrangements.

**Mark Ballard:** That is consistent with the figure that is given in the Fostering Network's submission, which states:

"The Social Services Performance Assessment Framework Indicators Report 2004 gives a weekly unit cost for foster care in England of £234 for local authorities own foster care service and a figure of £765 for foster care services purchased from independent providers."

Why did you use the figure of £106 per week rather than the unit cost for foster care in England of £234?

**Rachel Edgar:** In Scotland, less use is made of independent and private providers than is the case south of the border. In addition, we had difficulties with the way in which we and the local authorities gather the statistics, which meant that we were not sure that we had a robust figure. We are not

entirely confident that £249 is a robust figure because its calculation involves certain assumptions being made about the same children remaining in foster care over the year. However, it is the most robust figure that we can produce at the moment.

**Mark Ballard:** The proposed saving would be substantially lower if a fostering allowance figure of £250 was used rather than one of £106.

**Rachel Edgar:** That is right.

**Mark Ballard:** Will you be able to prepare a table that will give an accurate representation of the impact of the new figures that you have for the cost of non-secure residential care and those that properly reflect the unit cost of fostering?

**Rachel Edgar:** Yes. Would it be useful for us to produce a revised version of the financial memorandum that contains the new figures or would it be better for us just to provide supplementary information?

**The Convener:** It would be better for you to provide a letter containing supplementary information that clarifies the position, unless we lever out more fundamental issues as we proceed.

**Mark Ballard:** In paragraph 4 of the supplementary information, you state:

"The number of children in residential care ... has been relatively consistent for the past 10 years."

According to the Fostering Network, there has been an increase in the number of such children of 3 per cent per annum. Can you explain that discrepancy?

**Rachel Edgar:** I am just trying to find the right part of the submission.

10:15

**The Convener:** It is in paragraph 367 or 368.

**Rachel Edgar:** Does the 3 per cent figure in the Fostering Network's submission not relate to foster care rather than residential care?

**Mark Ballard:** Yes. My apologies.

**Rachel Edgar:** We are happy to give the statistics that we used as the basis for the numbers in residential care. If that is helpful, we could do that as part of the additional information that we are supplying.

**Mark Ballard:** That would be useful.

The fostering allowances are the other substantial variable in the table, with increases of between £1.7 million and £8.1 million. You will have seen what the Fostering Network and the British Association for Adoption and Fostering said about the allowances in their submissions. Do you have any comment on that evidence?

**Rachel Edgar:** Specifically on the amount of the allowance?

**Mark Ballard:** Those submissions indicate that a number of local authorities are not offering the rates that the Executive used but are shifting to the Fostering Network rates.

**Rachel Edgar:** That is true, but it is another example of the underlying factors that are not directly related to the bill. If authorities increase their rates as the result of other market pressures, the effect will be to reduce the costs of the bill.

**Mark Ballard:** The Fostering Network says that unless the Executive sets allowances at the Fostering Network rate, local authorities will be forced into

"paying carers at or above the Fostering Network rate in an attempt to compete with the independent and voluntary sector."

You said that that sector is not as large in Scotland as it is in England and Wales. However, the Fostering Network argument is that, unless rates are set at the network's recommended rate, the use of independent fostering may increase to the level that is found in England and Wales. What is your comment on the evidence?

**Rachel Edgar:** I am not sure whether the Fostering Network thinks that that will increase our usage of independent providers. I think that some local authorities raised their rates because of concerns about losing foster carers to independent providers. The other factor in this respect is that ministers have committed an extra £12 million over two years to fostering and some local authorities are using that money to increase their allowances. If allowances are going up anyway, the cost of the bill will be less than we originally projected.

**Mark Ballard:** But it is difficult for us to clarify the total cost of the bill when you give us so many variables.

**Rachel Edgar:** Yes. I am not sure what else I can say on the subject, except to say that it is causing us great difficulty. Some of the variables relate to things that have happened since we started planning for the bill. That is why I suggested at the outset that we should consider the financial memorandum as an evolving document. All that we can do is to keep as up to date as possible with all the new information and incorporate it into the financial memorandum.

**The Convener:** That presents the committee with a bit of a problem. Our job is to quantify the costs of introducing a bill. We encounter difficulty in doing that if a bill is being used as an instrument to drive forward policy in ways other than the purely legislative.

There is a parallel in the cost of residential care home provision. A number of years ago, there were substantial discrepancies in the rates paid by different local authorities and voluntary sector organisations. Clearly, since that time, considerable pressure has been put on the Executive, local authorities and others to come up with a recognised rate. The Executive has been involved in discussions on the subject, largely because of the financial implications but also because of service quality issues. Surely that issue also applies in the context of fostering, where remarkable differences in the rates that people are paid to undertake fostering are also to be found. If quality of service and consistency across Scotland are also an issue, could the Executive not set a rate that is somewhere within the limits of the current range and that represents a realistic assessment of the costs involved in fostering? If foster carers receive £100 a week in one part of Scotland but significantly higher amounts elsewhere with no evident reason for those differences, the discrepancy is hard to justify.

**Rachel Edgar:** I think that ministers were minded to take powers to set allowances because they could see no reason for such a wide range of rates. As it happens, other pressures have resulted in a narrowing of the current range. Every week, we hear of a local authority that is planning to increase its level of allowances. For reasons that are perhaps unrelated to the bill, I think that the range is starting to narrow.

**The Convener:** Does the Executive have a sense of where the rate should be? Could the Department for Education and Skills rate be used as a benchmark for where the rate in Scotland should be or has insufficient attention been given to that issue at this point in time?

**Rachel Edgar:** Ministers have yet to decide what rate would properly reflect the costs that foster carers incur as a result of fostering, but the intention is that it should reflect those costs as accurately as possible. The national care standards in Scotland already state that foster carers should be entitled to recompense for their out-of-pocket expenses as a result of fostering. I think that ministers took the power to try to give teeth to that undertaking because individual foster carers had raised concerns that they were not being adequately compensated.

The DFES figures are enclosed in table 2 of the financial memorandum. We are working closely with colleagues down south who are involved in implementing the new legislation there. We hope to be able to gather more robust data as we go along on what different rates would cost and on what the true cost of fostering a child might be.

**The Convener:** In previous financial memorandums, we have been able to see the

consequence of a process of negotiation, whereby local authorities and voluntary sector providers have been party to a process in which they have reached broad agreement. In those cases, the figures with which we have been presented have been relatively concrete and have been based on discussions. However, given that the rates of some local authorities and those of the Fostering Network are so far apart, we perhaps need to bridge that gap first. Rachel Edgar suggested that ministers need to come to a decision, but it seems to me that the people involved, who are not ministers, need to come together a bit more than is evidently the case at present. Is that a fair point? Should the Fostering Network and the local authorities be engaged in a more structured discussion about what they believe to be the required amount?

**Rachel Edgar:** That might be helpful, although I think that discussions on those issues are already taking place between the Fostering Network and some local authorities. We might be able to take a role in trying to facilitate those. However, I think that the rates will get closer as we update the information because several local authorities have jumped over the COSLA rate and moved towards the Fostering Network rate.

**The Convener:** That might be the case, but I am anxious that we have a more systematic process. At the moment, there seems to be no systematic process in place, given that some local authorities currently pay very low rates and others pay much higher rates that are closer to those of the Fostering Network. The DFES rate seems to be double that of the low local authority rate but perhaps a quarter less than that of the Fostering Network. That seems very hard to understand or justify.

**Rachel Edgar:** Yes, and it is an evolving terrain. In the bill, ministers seek to take the power to set allowances by regulation. In the run-up to the implementation of regulations on allowances, we would want to consult more extensively and consider the rates that were being paid at that point. On the basis of the trend over the past few months, the position would be likely to be quite different from where we are now.

**Mark Ballard:** If you are arguing that the intention is to move the allowance much closer to the true cost of fostering to the foster family, surely it is likely that it will be nearer to the Fostering Network rate. Can you give us any indication whether it is likely to be nearer to that rate? If that is likely, we can consider that when we work out the financial implications.

**Peter Willman:** As has been discussed, there is variation in rates. However, the average local authority rate, the COSLA rate and the DFES indicative rate, on which the DFES is consulting,



are in a narrower range of between £100 and £110. The Fostering Network's proposed rate is £148, on average. The DFES rate is based on a calculation of the additional cost of having a child over a year and reflects detailed calculations of the cost that is incurred.

**Mark Ballard:** We are trying to pick apart the financial implications of policy decisions. Are you saying that the policy logic is that the rate will be closer to the DFES figure, which is much higher for young children but lower for older children than what is currently paid in Scotland? Alternatively, is the rate likely to be nearer to the Fostering Network and COSLA rates, which are skewed towards older children? We are trying to understand the financial implications of the policy decisions. Can you explain the policy logic and how that will translate into financial considerations?

**Rachel Edgar:** The policy logic is that people should be compensated for their out-of-pocket expenses. The DFES is currently consulting on the issue down south and is considering issues such as whether there should be a rurality element to the payment. That would probably have more implications up here than down south. We will keep an eye on that consultation to see whether age is the most significant factor or whether other factors such as rurality—which might involve additional transport costs, and so on—should be considered.

**Mark Ballard:** Will the bill allow different rates to be set to compensate for rurality and similar factors?

**Rachel Edgar:** Yes, because it will allow ministers to state the factors that should be taken into account. They will be able to set a minimum rate or a specific rate, within either of which there could be an additional element for rurality, for example, if that was felt to be a relevant factor.

**Mark Ballard:** At any stage of the bill process, will there be a modelling of the financial implications of some of those decisions, to enable us to see how they will change the total cost of the bill?

**Rachel Edgar:** As we gather more information, we will undertake such modelling.

**The Convener:** You make an issue of the potential savings to be made by improving the system of adoption. However, ministers yesterday announced a new policy approach to the children of drug-using families. If that approach is taken, new children will be brought into residential accommodation and there will be no saving. There might be a saving if the system is viewed as a zero-sum system, but if there is a policy shift towards new children being brought into residential accommodation to meet a different

policy objective, there will be no cut in the number of children in residential accommodation—in fact, there may be an increase.

10:30

**Rachel Edgar:** Yes. That is why it is important to separate out the factors relating to the bill from those that relate to other policy developments and underlying trends. We accept that there is an underlying trend that an increasing number of children are going into foster care because an increasing number of children come from families where alcohol and drugs are misused. Those numbers are likely to increase. One of the attractions of the permanence order would be to allow earlier decisions to be made in such cases.

It is not the bill that is causing the increase in the number of children coming into foster or residential care; that is a separate trend and ministers will want to consider that in the context of the spending review, but it has not been the focus of our work on the financial memorandum.

**The Convener:** I understand that, and you are identifying savings that are theoretically accurate. If children are moved from residential care into foster homes, that represents a saving in relation to those children and their treatment. However, residential accommodation will fill up again because of existing pressures or perhaps because additional children will be brought into the system. No cash saving will be associated with the way in which the whole system operates.

**Rachel Edgar:** The Association of Directors of Social Work and others have made that point. It might be true overall, but it involves issues other than the bill, and our focus is on the bill.

**The Convener:** Yes, but our focus has to be on the bill in its proper context and we have to consider its impact on the budget; that is our responsibility. It is not accurate to say that there will be budget savings because there will not be; there will be a different cash allocation for some children who are in the system.

**Mr Frank McAveety (Glasgow Shettleston (Lab):** Do you think that, in the spending round, ministers will need to consider the implications of the policies that you address in the financial memorandum—as well as the implications of the issue that the First Minister identified yesterday?

**Rachel Edgar:** I imagine that ministers will consider that in the context of the spending review. Obviously I cannot speak for the ministers but we are trying to gather as much information about the issue as possible so that ministers are well informed when they go into the spending review.

**The Convener:** I suppose that we are arguing that, in the context of cash for residential

accommodation and fostering, you are looking for an increase in the amount of money available for fostering. However, a net reduction in the requirement for residential accommodation is unlikely. That is not because of the children who are already in the system, but because there is a policy that makes it unlikely that the requirement for cash to support residential accommodation will be reduced.

**Rachel Edgar:** That might be true for local authority budgets, but I think that the bill will mean a net reduction in demand for residential accommodation.

**Mark Ballard:** Following the section on fostering allowances is a section on adoption allowances. The ADSW evidence argues that

“the children who are set to benefit from this Bill—children who would not otherwise be adopted—are exactly the children who do have ‘special circumstances’ and therefore are increasingly likely to require the payment of adoption allowances.”

Do you have any comment on that argument? Will there be any implications for adoption allowances that should have been considered in terms of the potential additional costs of the bill?

**Rachel Edgar:** The ADSW comment that the children that we are considering are more likely to require adoption allowances is probably correct. We have asked the ADSW if it can provide more detailed information about the present costs of adoption support, including adoption allowances, so that we can make a better projection. It is a difficult area because we do not disaggregate the information in that way at the moment, and neither do the local authorities.

**Mark Ballard:** But you felt confident enough to say in the financial memorandum that you thought that the provision for adoption allowances would be cost neutral. Are you saying that you do not think that it will be cost neutral? If not, do you have any evidence to back up the idea that it will be cost neutral?

**Peter Willman:** At the moment, you have a set of children who are fostered and there are costs associated with that. We hope that more of those children will be adopted than are at present. The provision for adoption allowances is cost neutral in the sense that there are already costs associated with fostering. The adoption allowance costs certainly will not be any greater and, in all probability, might be slightly diminished.

**Mark Ballard:** But that is a cost transition. It is quite difficult to piece together how the different elements work. The previous section of the memorandum is on cash in lieu of services, which you argue will be cost neutral. If payment is being made in cash for services that cannot be provided, will you explain why that, too, will be cost neutral?

**Peter Willman:** Local authorities can either provide a service at their own hand, contract it out or make a payment to the individual to purchase that service themselves. The point is that there is a range of ways in which one can provide and pay for a service, but that does not necessarily mean that the cost is any different. That said, it could be argued that where a local authority feels unable to provide a service that it is possible for the individual to purchase elsewhere, a cash payment made for that might result in a modest increase in costs.

**Mark Ballard:** If a service cannot be provided, I presume that that is because of lack of staff, rurality or some other such issue. The bill will set standards for the kinds of services that are to be provided, which will open local authorities up to cash claims from families who seek services that local authorities argue cannot be provided. Local authorities will therefore have to pay cash to those families. Should that not have been included as a potential cost of the bill to local authorities?

**Peter Willman:** Local authorities have existing duties to provide services and already have funding for those services.

**Rachel Edgar:** The other element there is that the provision frees up a local authority not to have to meet an obligation itself, so, for example, rather than having a child on a waiting list for counselling for six months, during which time the local authority is still dealing with the issues that that child has, it is able to get them into counselling right away. There are other potential savings there.

**Mark Ballard:** To come back to what Peter Willman said, paragraph 384 of the financial memorandum says:

“The Bill will widen the range of post-adoption services that a local authority will have a duty to provide.”

That is not the same as services that they already provide. Clearly, the intention of the bill is to widen the range of services. If those are services that a local authority cannot provide and if families can make a cash demand on the local authority for payment, surely that is opening up local authorities to a new set of payments for services that they do not provide at the moment but which the bill says that they must provide. Is there not a financial implication there?

**Rachel Edgar:** That extension of services would be included within the £2.35 million. Whether local authorities provide the services themselves or provide cash in lieu is the element that we are suggesting is cost neutral, but to the extent that those are additional services, we would include that within the £2.35 million.

**Mark Ballard:** I will move on to that sum of £2.35 million—if I can find the relevant reference.

**The Convener:** Elaine Murray can come in while you are looking for it.

**Dr Elaine Murray (Dumfries) (Lab):** I wish to return to adoption allowances. Frank McAveety and I are both on the Education Committee. Last week, we met a group of adoptive parents. It was clear from what they said to us that there are a number of adoptive parents who are not aware of their current entitlement to adoption allowances—even if that is the exception. There could be an unmet entitlement. As their situations change, people will perhaps become more aware of their entitlement.

Another point that was made to us at that meeting was that, when parents adopt, one parent will frequently have to take leave of absence from work. If they have a good employer, they might get adoptive parental leave, but people do not necessarily get that. There are occasions when parents will find themselves out of pocket because one of them will have had to take unpaid leave in order to spend time with their adopted child.

There does not seem to be any assumption of additional expenditure for children with special needs. There are many issues around adoption allowances that do not seem to be getting tackled. How much consideration has been given to that, and how much discussion has been had with adoptive parents about unmet need and the financial stresses on people? We are trying to encourage people to go from being foster carers to being adoptive parents, but it will be less attractive for them to do that if they are going to end up out of pocket.

**Rachel Edgar:** There were a lot of questions there. I will try to answer them, and you can come back to me if I miss any. On the subject of special needs, additional support needs, physical disabilities, adaptations and so on, the costs of those would have to be met whether the child was in foster care or whether adaptations were being paid for in a home with an adoptive parent. I do not see that there are additional costs of adoption there.

**Dr Murray:** So the local authority would still be paying for the child, effectively.

**Rachel Edgar:** Yes. In a sense, the attraction of adoption is that the cost will be paid only once, rather than each time there is a placement move for the child. Some savings should be made in those circumstances, although we have not expressed that in the financial memorandum because it is so difficult to quantify.

As I understand it, adoption allowances are generally paid precisely to encourage or allow a foster parent or somebody else to adopt in situations where there might otherwise be a financial barrier to doing so—if they are a foster

carer, they will be in receipt of fostering allowances, fees and so on. That is still a continuation of the current situation, in a sense. There will not be a saving in those cases in the first few years, because of the shift from fostering to adoption. That reduces the saving, although I am not sure that it actually leads to an increase in cost in relation to the child.

**Dr Murray:** If you are trying to increase the number of adoptive parents and get more people into the adoption system—both couples and single people—there could be an increased burden as a result, particularly given the suggestion that the payment is required for a couple of years to allow for the period of transition.

**Rachel Edgar:** Our assumption is that, on average, the cost of adoption is lower than the cost of fostering. That does not mean immediately withdrawing all the support that was there when the people were fostering, or that allowances or payments for adaptations are stopped. In some cases, those costs continue to be paid. On average, however, there is a saving when 100 children are moved from fostering to adoption. The difficulty lies in quantifying exactly what that saving is.

**Dr Murray:** I know of one example—although it is just one case, so it might not be typical. A single parent had a child with special needs. She was not aware that she would have been entitled to adoption allowance for a period of some years. Only when she decided that she wanted to send the child to a special school for which fees were required did she discover that she was entitled to an adoption allowance. Nobody had advised her of that before. That is just one anecdotal case, but I wonder how representative it might be of those adoptive parents who might not know what their entitlements are.

10:45

**Mark Ballard:** Following on from Dr Murray's question, the BAAF's submission states:

"The complexity of children to be placed for adoption is such that in order for them to receive 'optimum' parenting, major adjustments will have to be made by families and the availability of an allowance to support these arrangements is critical ... The financial requirements are therefore likely to be the same as those currently paid in respect of fostering allowances".

That seems to run counter to the argument that there is a major cost difference between fostering and adoption.

**Rachel Edgar:** One of the major factors is that, although that allowance should be available, not all adoptive parents will want it. There are still a number of adoptive parents who do not want that allowance initially but who come back for support

later on, and we would want to ensure that that support was available. However, some adoptive parents take the view that the child is theirs now and that they want to get on with it; they do not expect allowances in the way that foster carers do.

**Mark Ballard:** The ADSW argues that adoption

“support services are under-used due to lack of available funded services, rather than any consumer disinterest.”

However, you seem to be arguing that there will be a lack of consumer interest and that the reason why those allowances are not taken up is that people regard the children as theirs. Nevertheless, we have been presented with a counter-picture that suggests there is a lack of awareness of those allowances.

**Rachel Edgar:** There is a lack of awareness and adoptive parents are sometimes reluctant to seek support from the local authority, because they do not want to be seen as bad parents. The new system of adoption support—rather than allowances—is designed to try to destigmatise some of that, so we think that there will be increased take-up of adoption support. There is a tricky balancing act to be performed. Some adoptive parents may, for at least part of that time, not want social workers coming round regularly. They might just want to get on with it. However, if they hit a point where the child is having difficulties or needs extra support, or if they need extra support, there must be a way back into the system for them to seek that support. That would not change our view that there is still a net saving if you shift 100 children from foster care to adoptive care.

**Mr McAveety:** The philosophy behind the bill will obviously be addressed by another parliamentary committee—we are considering the financial memorandum. However, one of the bill's underlying principles is to make the system more flexible and responsive, and one of the key dilemmas that has already been thrown up in submissions to the Education Committee, of which Dr Murray and I are members, is the sense of protectiveness that adoptive parents have towards their children. They want independence from the state, but their desire to have children can lead them to underestimate the economic impact and disruption that adoption could cause.

If there are debates about savings, they must be about how to rechannel those savings. The financial memorandum says that local authorities have access to the changing children's services fund, but we already know from our experiences as elected members that there are incredible demands on that fund. Concerns about that have been raised in submissions to the Education Committee. How serious is your claim that that financial pressure can be addressed through the

changing children's services fund? Are we seriously talking about ministers not having to win something in a spending round to address any of the reasonable ambitions of the bill? Could you comment on that?

**Peter Willman:** I am sure that you are right to say that ministers will want to consider the issue in the context of the spending review. As regards the reference to the changing children's services fund in the financial memorandum, all that we were trying to say there is that local authorities are funded through grant-aided expenditure for social work services in general, including adoption services, and that in addition there are various other special grants, such as the changing children's services fund, outside GAE.

**Mr McAveety:** We know that, but let us consider what individual councils and all the major agencies that are involved in adoption and fostering are saying. At the more extreme end, there is the figure in “The cost of foster care: Investing in children's future”, which was published by the BAAF and the Fostering Network, which are obviously interested parties. They say that foster care services in Scotland are underfunded by £65 million. If we want to be reasonable and say that they are underfunded by 20 per cent of that figure, we are still talking about finding £12 million to £15 million. Given our experience of social care budgets at the local authority level, where would £12 million come from, unless there is an additional element in GAE in spending rounds in future years?

**Rachel Edgar:** All that we can say is that we are trying to quantify things as accurately as possible so that ministers can discuss those matters during the spending round.

**Mr McAveety:** Are ministers discussing those matters as we speak?

**Rachel Edgar:** I am afraid that I do not know what ministers are doing at the moment.

**Mr McAveety:** Are civil servants encouraging and facilitating the discussions that ministers may want to have in the future?

**Rachel Edgar:** Yes. We are reflecting to ministers what submissions are saying and what is being said in lobbying to us about the costs of fostering, residential care and adoption in general.

**Mr McAveety:** Have you given any thought to adoption allowances? The financial memorandum does not assume that there would be a national figure for adoption allowances that is similar to the figure for fostering allowances. Is a debate opening up at your end?

**Rachel Edgar:** The ministers have decided not to have a national system. The aim is more to meet the individual needs of the child. There could

be a need to pay school fees or a transitional payment that would allow a foster parent to maintain their level of income for a time. Adoption allowances tend to be more individual to the child than fostering allowances.

**Mr McAveety:** From your experience on the ground, do fostering and adoptive parents, agencies and other specialist social workers recognise that there has to be a debate about adoption allowances?

**Rachel Edgar:** People have made a strong case—as Mr McAveety has—for adoption allowances being needed in particular cases, but we are not clear whether there is an argument for a national system or whether the best way of allocating additional resources is through a national system.

**The Convener:** The financial memorandum states that the Executive will contribute towards the increased costs that local government incurs through either core budgets or specific budgets. Can you add anything to that?

**Rachel Edgar:** We are conscious that debates will take place during the spending review process. Our objective is to quantify the additional costs that will arise as a result of the bill. My team is separately trying to quantify other underlying factors that might make a case for increasing budgets in the area.

**The Convener:** Our difficulty is that the financial memorandum provides a considerable range of potential costs. At one end of the spectrum, a person might argue that the costs will be relatively marginal and that local authorities might be able to deal with the increases by juggling around their budgets; at the other end, the costs are significantly higher and the only way in which the bill's proposals can realistically be met is if significant additional resources, which have been routed to local authorities through the Education Department, go into children's services. I presume that that would need to happen through the spending review.

The financial memorandum seems to point in two directions: to resources within the existing framework of resources at the Executive level, and to a bid for significant additional resources through the spending review. I am a bit confused about those two strands. It would be more honest if it said that we need to move towards something, what that would cost and that ministers would have to submit a significant bid in the spending review to make the legislation successful. There seems to be a tension. Is that a fair comment?

**Rachel Edgar:** There is a tension between reactive children's services and early intervention. There will be long-term savings if children are given permanent placements or are adopted at a

younger age, because they will not experience lots of moves. We often talk to young people who have been moved to different placements 15, 20 or 25 times. That is bound to have an impact.

We know that looked-after children have poorer mental health, higher prison rates, higher rates of homelessness and so on. There has to be a longer—

**Mark Ballard:** If that is a comparison between fostering and adoption, I am not sure that the Fostering Network would necessarily agree. It does not seem to go along with that point of view.

**Rachel Edgar:** It questioned the statistics on educational achievement.

**Peter Willman:** In particular, it said that the outcomes of the stable, long-term fostering that we are trying to encourage through the permanence order may be comparable to the outcomes of adoption. That may well be right. However, we were comparing adoption and more stable forms of fostering with the outcomes for looked-after children as a whole, including children who have been in residential care and have had 15 or 25 different placements.

**Rachel Edgar:** It is non-contentious to say that reducing the number of placement moves for children is likely to improve their long-term outcomes. Poor outcomes place an enormous cost on society. Even the ADSW's submission alludes to that. In its response to paragraph 369 of the financial memorandum, it states:

"Furthermore it is unlikely that any savings accrued in education or health are going to be handed over to Family Placement."

It recognises that there will be savings. The issue is partly about how those savings will move within local authority or public sector budgets. That is the difficulty; it can be difficult to quantify the savings that are made due to early intervention.

Nonetheless, ministers' position would be that early intervention, more permanent arrangements for children at an early age and appropriate early placements will have an impact on children's long-term outcomes and their long-term future.

**The Convener:** But to give effect to that, ministers have to will the transfer of resources and deal with the consequences of the move from not intervening early to early intervention. It seems to me that one has to put one's money where one's mouth is on these matters.

**Rachel Edgar:** Yes. That is why it is crucial to have an appropriate system of adoption support, fostering allowances and stability in foster placements.

**The Convener:** Maybe our colleagues on the Education Committee can take the issue up with

the minister. It is probably not fair to pursue you on matters that are ultimately for ministers.

Mark, do you have any other technical questions?

**Mark Ballard:** I have a couple more questions on adoption services. First, do you have any idea how the £2.35 million for adoption services breaks down, given the costs of increasing numbers of children being adopted and the costs of the wider range of duties that local authorities will have towards adopted children?

**Rachel Edgar:** We do not have an exact breakdown. Based on the English figures, a significant element is the increasing range of support services and the take-up of those.

**Mark Ballard:** We mentioned that, south of the border, there is a much larger independent foster care sector. Have local authorities told you whether they will have to bring in private sector support services to enable them to meet the new standards? Are you concerned that, particularly in relation to the payment of cash in lieu of services, the higher level of duties in relation to adoption and support services might lead to more independent providers—rather than local authority providers—of services?

11:00

**Rachel Edgar:** The ADSW flagged that up as an issue at a recent meeting with us, and it has flagged that up to the committee in terms of counselling services. We are looking into that in more detail.

One of the other major players in adoption support services is the voluntary sector. There are several voluntary sector providers, and local authorities—especially smaller ones—may choose to contract out some of their services to the voluntary sector. At the moment, however, we do not see any private sector players coming into the game. We do not have profit-making providers in the foster care sector in Scotland—as there are in England—because of a legal restriction on that.

**Mark Ballard:** Nevertheless, the issue has been flagged up with you and you are taking it forward with the ADSW.

You have mentioned permanence orders. The financial memorandum to the bill states that

“the cost of a child subject to a permanence order is likely to be similar to costs for children subject to freeing orders and parental responsibilities orders.”

Can you explain the logic behind that and behind the comments that have been made by the BAAF and the Fostering Network about the fact that there may be an increase in the number of permanence orders? Because such orders are

more flexible, it is hoped that more people will take up that option; however, that would lead to an increase in costs.

**Peter Willman:** The underlying point is that there will now be the option of a permanence order for the same group of fostered children for whom, at the moment, a freeing order or a parental responsibilities order is sought. Making a child subject to a permanence order is not suddenly bringing a new child who requires support into the system; the child has been receiving support and will, in all probability, continue to need some support, but they will now be subject to a permanence order.

**Mark Ballard:** Surely the fact that there will be an increased number of applications for permanence orders, because they are easier to apply for, will bring a cost as well.

**Peter Willman:** There will be a specific cost in obtaining a permanence order, but the number of children who require general support throughout their childhood will not change.

**Mark Ballard:** That leads me to the question of legal aid, which the Scottish Legal Aid Board has raised. How do you respond to its comments about the fact that legal aid costs have been significantly understated? The SLAB suggests that, because permanence orders are easier to use, more people will apply for them, which will lead to greater costs through people hiring advocates and so on.

**Peter Willman:** The Scottish Legal Aid Board raised a number of points, as you say, and we are setting up a meeting with it to discuss them further. The Scottish Legal Aid Board is right to say that, insofar as there are court proceedings, costs will be associated with them. In its submission, it mentions a number of offences provisions in the bill, but almost all of those are simply restated from the Adoption (Scotland) Act 1978. In terms of offences, therefore, we think that the impact of the bill will be considerably less than the Scottish Legal Aid Board fears, although we will want to discuss that issue with it.

In considering legal aid costs, we looked into the existing number of cases of a similar type and considered things such as freeing orders and parental responsibilities orders. We hope that the permanence order proves to be a useful and popular instrument and that the number of such orders will increase. That will, potentially, have an effect.

**Mark Ballard:** As you said, the Scottish Legal Aid Board argues that several matters such as

“The ability to raise proceedings in the Court of Session”,

the number of contested cases and a greater number of permanence orders will lead to

significant additional costs. That is separate from the new statutory criminal offences that are mentioned. Do you have any comments on those detailed concerns about additional costs that will arise from the additional options that families will have?

**Peter Willman:** As I have said, we need to discuss that in more detail with the Scottish Legal Aid Board. However, I can comment on some of the items that are listed. The bill will not make a great difference to access to the Court of Session; it simply restates existing provisions that can lead to action in the Court of Session in some circumstances.

On the more general question of parties to proceedings, it is true that the bill includes clearer provision for informing potentially interested parties of court actions that may or may not lead to those parties wishing to intervene.

**The Convener:** We talked a wee bit about the First Minister's statement yesterday on children in families who are affected by drug and alcohol abuse. We talked about the volumes in residential care that would trickle into fostering. Is training an issue, perhaps in the context of pre-adoptive and post-adoptive services for children who have had particular experiences and the support that foster parents require to give them? Is that a provision that is not mentioned in the financial memorandum but which might be required as the policy develops?

**Rachel Edgar:** As the Fostering Network's submission said, the adoption policy review group report on fostering raised several issues that are not in the bill. That is because we have committed to taking forward some of those issues elsewhere through regulations or guidance. We are considering the training of foster carers in the broader context. Mr Peacock has announced the intention to publish a national fostering strategy and we are considering training in relation to that rather than the bill.

**The Convener:** A general issue is that bills are being introduced with financial memorandums that sometimes contain assumptions that are being shifted by separate policy drives or strategies. The Finance Committee's view is that it would be better for the costs that are associated with bills to be defined not narrowly as the costs of implementing purely legalistic change but as the overall financial consequences of introducing the bill in its proper context. The source of many issues that we have raised with the bill is the restrictive way in which financial memorandums are typically written. The costs of implementing the policy are likely to be greater and are not precisely defined by the legalistic changes that are associated with the bill. The process will be costly and will require significant financial resources to

make it effective, and I am not sure whether they are reflected in the financial memorandum.

I thank you both for coming along today. Our intention is to complete our report, probably in a couple of weeks' time. That report will be passed on to the lead committee for the bill, which is the Education Committee, and that committee will presumably use it as one arm of its quizzing of the minister in due course.

I suspend the meeting for a couple of minutes to allow the witnesses to withdraw before we move on to the next agenda item.

11:10

*Meeting suspended.*

11:12

*On resuming—*

## **Adult Support and Protection (Scotland) Bill: Financial Memorandum**

**The Convener:** Agenda item 3 is to decide what level of scrutiny to apply to the Adult Support and Protection (Scotland) Bill. As committee members can see from the approach paper by the clerk, it is proposed that we adopt level 3 scrutiny, which is to take written and oral evidence from those bodies on which costs fall and oral evidence from Executive officials. In this case, it is proposed that we take oral evidence from the Convention of Scottish Local Authorities as well as from the Executive.

I should mention that the Scottish NHS Confederation, which is mentioned in the paper, was disbanded at the end of March, so I suggest that we might need to contact individual health boards. Perhaps it might also be worth trying to get written evidence on the bill from Enable and the Scottish Association for Mental Health.

Do members agree with those suggestions?

**Members** *indicated agreement.*

## **Annual Report**

**The Convener:** Item 4 is consideration of our draft annual report. As committee members can see from the paper by the clerks, it is a factual report that documents the work that we have done. The format and length of the report have been set down by the Conveners Group, to ensure consistency across committees. Do members have any points to make on the report?

**Mr McAveety:** There is no mention of the recognition that the committee has received, such as the committee of the year award at the Scottish politician of the year awards. We should stick it in.

**The Convener:** That is true. I am not sure that the Conveners Group would necessarily welcome that. The problem is that there is a word limit and we would have to take something out of the annual report to put that in, so I will assume that people know about it.

We agreed to take agenda item 5, which is consideration of our report on the financial memorandum for the Tourist Boards (Scotland) Bill, in private, so we now move into private.

11:12

*Meeting continued in private until 11:17.*



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