



**OFFICIAL REPORT**  
AITHISG OIFIGEIL

# Education, Children and Young People Committee

**Wednesday 5 November 2025**

**Session 6**



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**Wednesday 5 November 2025**

**CONTENTS**

	<b>Col.</b>
<b>SUBORDINATE LEGISLATION</b> .....	1
Qualifications Scotland (Appointment of Initial Members) Regulations 2025 (SSI 2025/278) .....	1
<b>CHILDREN (CARE, CARE EXPERIENCE AND SERVICES PLANNING) (SCOTLAND) BILL: STAGE 1</b> .....	2

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**EDUCATION, CHILDREN AND YOUNG PEOPLE COMMITTEE**

**31<sup>st</sup> Meeting 2025, Session 6**

**CONVENER**

\*Douglas Ross (Highlands and Islands) (Con)

**DEPUTY CONVENER**

\*Jackie Dunbar (Aberdeen Donside) (SNP)

**COMMITTEE MEMBERS**

\*George Adam (Paisley) (SNP)

\*Miles Briggs (Lothian) (Con)

\*Pam Duncan-Glancy (Glasgow) (Lab)

\*Ross Greer (West Scotland) (Green)

\*Bill Kidd (Glasgow Anniesland) (SNP)

\*John Mason (Glasgow Shettleston) (Ind)

\*Paul McLennan (East Lothian) (SNP)

\*Willie Rennie (North East Fife) (LD)

\*attended

**THE FOLLOWING ALSO PARTICIPATED:**

Iona Colvin (Scottish Government)

Natalie Don-Innes (Minister for Children, Young People and The Promise)

Gavin Henderson (Scottish Government)

Barry McCaffrey (Scottish Government Legal Directorate)

Roz McCall (Mid Scotland and Fife) (Con)

Tom McNamara (Scottish Government)

**CLERK TO THE COMMITTEE**

Pauline McIntyre

**LOCATION**

The Robert Burns Room (CR1)



**Scottish Parliament**  
**Education, Children and Young**  
**People Committee**

*Wednesday 5 November 2025*

*[The Convener opened the meeting at 09:30]*

**Subordinate Legislation**

**Qualifications Scotland (Appointment of Initial Members) Regulations 2025 (SSI 2025/278)**

**The Convener (Douglas Ross):** Good morning and welcome to the 31st meeting in 2025 of the Education, Children and Young People Committee. We have received apologies from Ross Greer. I welcome Roz McCall, who joins us for this meeting.

The first item on our agenda is consideration of subordinate legislation. The Qualifications Scotland (Appointment of Initial Members) Regulations 2025 are being considered under the negative procedure. Do members have any comments to make about the regulations?

**Pam Duncan-Glancy (Glasgow) (Lab):** Good morning.

I congratulate the members who have been appointed to the board. I wonder whether the committee might like to ask the Government what training and support those members have had, particularly given that they have transferred from the Scottish Qualifications Authority to Qualifications Scotland and that there is a high expectation on Qualifications Scotland to be a different organisation from the one that went before it. Could we ask the Government to give us some reassurance about the information that those board members have been given in order to be able to deliver that aim?

**John Mason (Glasgow Shettleston) (Ind):** I see that there has been an equality impact assessment, but I note that there are five men and two women, which is not ideal.

**The Convener:** Do we agree to write to the Government on the two points that have been highlighted by members?

**Members indicated agreement.**

**The Convener:** Is the committee agreed that it does not wish to make any recommendations in relation to the regulations?

**Members indicated agreement.**

**Children (Care, Care Experience and Services Planning) (Scotland) Bill: Stage 1**

**The Convener:** The next item of business is the final evidence session on the Children (Care, Care Experience and Services Planning) (Scotland) Bill at stage 1.

I welcome Natalie Don-Innes, Minister for Children, Young People and The Promise, and her Scottish Government officials: Gavin Henderson, deputy director for keeping the Promise; Iona Colvin, chief social work adviser; Tom McNamara, head of youth justice and children's hearings; and Barry McCaffrey, a lawyer in the legal directorate. Thank you all for joining us today.

Given the likely length of this evidence session, we have advised the minister and members that we will probably take a break in about 90 minutes, halfway through the session.

We will begin with an opening statement from the minister.

**The Minister for Children, Young People and The Promise (Natalie Don-Innes):** Good morning.

It is a personal honour for me to bring forward this legislation. The provisions set out in it represent a significant step forward in our commitment to keep the Promise and ensure that all children and young people in Scotland can grow up loved, safe and respected.

The bill builds on progress that is already being made nationally and locally. There are now fewer children and young people who are looked after in Scotland, no young people under the age of 18 are being admitted to young offenders institutions, and more people with care experience are going on to positive destinations nine months after leaving school.

However, we all know that the journey that we are on still has some way to go. The pace of change has to be increased, and in more areas and on more issues. The Promise has to become a reality in care-experienced people's lives.

The bill seeks to support that ambition. It makes changes to a wide range of policy areas, including expanding eligibility for aftercare, improving the language of care, establishing a national register of foster carers, tackling excessive profit in the care system, providing statutory guidance to promote understanding, and expanding eligibility for and the right to advocacy.

That last measure is particularly important, because it will empower children and young people, and ensure that their opinions are central

in decision making in their own lives. It also ensures that the voice of care-experienced children and young people is supported and heard throughout the system.

I was at an event hosted by Our Hearings, Our Voice, which was all about celebrating and listening to care-experienced voices. At that event, young people spoke about some of the ways that they would like to see hearings change. They are carrying out some great work of their own, but some of what was discussed speaks directly to the bill, which also includes provisions to help strengthen the children's hearings system, and to strengthen the relationship between children's and adult services, which are key to delivering holistic family support.

The bill is not the sum total of our work to keep the Promise, and nor should it be. Practical changes are being made that do not require legislative reform. Other changes, such as those in chapter 3 on children's hearings, are part of a wider and broader project to redesign children's hearings. However, I am aware that there is a wide range of views on whether improvements and additions can be made to the bill.

I put on record my appreciation of everyone who has responded to and engaged with the development of the bill's provisions, from the original consultation through to providing and giving evidence at stage 1, as well as my appreciation of everybody I have met along the way.

I am also grateful to committee members and party spokespeople for engaging with me at stage 1, and I hope that that co-operation continues throughout the bill's progress in Parliament. I want to make it clear that I am listening.

I am happy to take the committee's questions.

**The Convener:** Thank you very much, minister. You describe it as a "personal honour" for you to take forward the bill, and we are led to believe that it is an important piece of legislation for the Scottish Government. Why, then, has there been so much criticism from a broad range of witnesses that your engagement and consultation in advance of the bill's introduction were so poor?

**Natalie Don-Innes:** I do not believe that there has been a lack of engagement. I think that there has been extensive engagement from me and my officials.

The bill has been informed by the independent care review, which reflected the voices of more than 5,500 care-experienced children, adults and families. We undertook four public consultations. A range of work has been on-going with different organisations. I have engaged with Sheriff Mackie on his report on the children's hearings system.

Most importantly, I have met very regularly with children and young people to determine what their priorities are.

Although I appreciate that there has been some criticism around engagement, I do not necessarily know whether that is criticism of engagement leading up to the bill's introduction; it is perhaps more about a lack of engagement around the specific provisions in the bill.

I have a duty to respect Parliament; I am bound by the ministerial code. I assure the committee that, both leading up to and following the introduction of the bill, I have engaged widely—as have my officials—and I will continue to do so.

**The Convener:** I will go through many examples that explain to us as a committee that that is just not true. I will go through written evidence that was submitted to the committee and oral evidence that we heard. Did you follow all of that evidence, and did you have any concerns at the time, when people were saying things about you and your officials?

**Natalie Don-Innes:** I heard the concerns around engagement.

Mr Ross says that what I have said is not true, but I can assure him that what I have just highlighted in terms of who I and my officials have engaged with is very true.

**The Convener:** What I am saying, minister, is that I am going to start reading out a massive list of different organisations that have been highly critical—organisations that I, whether as an Opposition spokesperson or as an Opposition member, expected to be generally supportive of the bill. Some of them were, but they were at pains to tell us how badly you and your officials had consulted them prior to the introduction of this important piece of legislation. If it is such a big personal honour for you, I do not understand how you can now just ignore what they have said.

Before I read out that list, why did you mention the ministerial code? What were you getting at there?

**Natalie Don-Innes:** There was some frustration that the draft bill—the specific detail on scope and exactly what was to be included in the bill—was not shared with key stakeholders ahead of the bill being introduced to Parliament. However, as the committee is aware, that is in line with parliamentary protocol and the ministerial code in relation to the introduction of legislation.

As I have made clear, both prior to and following the introduction of the bill, I have been very keen to engage as widely as possible, and that includes engagement with committee members.

**The Convener:** Sorry—I am lost now. How can you say that the ministerial code prevents you from doing something before the bill is presented to Parliament but, in the same answer, also say that you engaged widely before it was introduced to Parliament?

**Natalie Don-Innes:** Because I engaged widely with people on what their priorities were for the Promise and on what their priorities were for the bill. I could not engage directly on the specific provisions in the bill, because to do so would be to disrespect this committee and, essentially, to disrespect Parliament. I had to wait until the bill was introduced to be able to speak with stakeholders and members about those very specific provisions.

However, there was a level of understanding of what would be included in the bill, given that four public consultations were under way. I was very clear, leading up to the introduction of the bill, that it was very likely that there would be provisions in the bill relating to those consultations—hence the need to consult in the first place.

**The Convener:** Let us go through some of the criticisms that have been made. In his written submission, Sheriff Mackie, who you yourself mentioned, said:

“The lack of consultation during the preparation of the consultation document and then the drafting of the Bill has meant a lack of engagement with or input drawing on the expertise of the sector or those with lived experience of the Children’s Hearings.”

**Natalie Don-Innes:** Again, I am sorry that Sheriff Mackie felt that way in his evidence to the committee. I have had very good engagement with him throughout the bill process. I have worked closely with him in relation to the findings in his report and how we could possibly implement them. I am sure that we will come back to the issue of the redesign of children’s hearings, but we have tried to keep the ethos of that report in the bill’s provisions as much as possible. As I said, I do not know the specific number of times that we engaged, but Sheriff Mackie engaged frequently with me and my officials in the lead-up to the introduction of the bill. However, again, I could not go through specific provisions and the scope of the bill with Sheriff Mackie.

**The Convener:** With regard to local authorities, we have the Verity house agreement, which is supposed to improve working relationships between Government ministers and local government. The submission from the Convention of Scottish Local Authorities, the umbrella organisation for local authorities, said:

“The lack of meaningful engagement and partnership working with key stakeholders during the development of the bill is a significant concern.”

How do you respond to COSLA?

**Natalie Don-Innes:** Again, I have evidence of where my officials have—

**The Convener:** So why is COSLA at pains to tell us how bad engagement has been with regard to the bill and with you and your officials?

**Natalie Don-Innes:** Well, I will—

**The Convener:** Why is COSLA saying that?

**Natalie Don-Innes:** I will ensure that I discuss that with COSLA and with—

**The Convener:** No. I am sorry, minister, but the committee has received that evidence, and you said that you have followed our evidence. If I was in your shoes, I would have thought that this was clearly an area that I was going to be challenged on. You cannot come here and say that you will now look into it. I would really like to know now why your engagement, in COSLA’s eyes, has been so poor with regard to a bill on which I would have expected it to be working hand in glove with you.

**Natalie Don-Innes:** Convener, I am not saying that I will now look into that. I heard COSLA’s representations, and I will ask my official to speak to some of the engagement that has been undertaken with COSLA in the lead-up to the bill’s introduction. I would like to discuss the issue further with COSLA, because I am not sure whether its comments relate to specific provisions or areas. For example, my officials engaged with COSLA on advocacy—I have evidence of that. Therefore, I would really like to discuss the issue further, either with COSLA or with its children and young people’s spokesperson, to understand exactly what it is referring to.

**The Convener:** It was in COSLA’s written submission, so why did you not reach out to it when you saw that in the submission? That was months ago.

**Natalie Don-Innes:** I have a range of people who I have to discuss aspects of the bill with, and I discuss this on a fairly regular basis with the—

**The Convener:** You are at the committee today saying that you are not sure where COSLA’s concerns stem from, but those concerns have been in black and white, in writing, for months. Why are you now saying that you will go away and speak to COSLA, given that you and your officials saw what it had said in its written submission on the bill?

**Natalie Don-Innes:** I think that it is a case of one side says one thing and one side says another—

**The Convener:** So go and check it—

**Natalie Don-Innes:** As I said, I am very clear that I know that there has been engagement with COSLA on a number of aspects of the bill, so further discussion is required if there is a point of contention, and I intend to have that further discussion.

**The Convener:** There is clearly a point of contention, but I do not know why, given that we are at this late stage, you have not tried to drill down into that.

**Natalie Don-Innes:** I think that I have been wanting to get a fair idea of the evidence to the committee. I will now have a lengthy period of engagement, during which I will be engaging with a range of stakeholders. COSLA will, of course, be included in that. As we speak, COSLA is working in the background with my officials on a range of the bill's provisions and on different data requirements in relation to specific aspects of the bill. I am confident that that work is under way. As I said, if that point of contention is still there following COSLA's evidence, I am more than happy to discuss it further. Perhaps Gavin Henderson could allude to—

**The Convener:** I will come to your officials in a moment.

The committee does not have that luxury. As I said when I introduced you and your officials, this is our final evidence session. After today, we will be writing our report, and I am now not sure where you sit on this matter. You say that you heard those criticisms. The committee has heard multiple criticisms about the lack of engagement—I will come to more in a moment—and what we get from you, as the minister, is that you will now go away and look into them. We cannot include that in our report, because today is our last opportunity to take evidence. Can I also—

**Natalie Don-Innes:** Convener, you are talking about what can be included in the report. I have given you factual information about the engagement that has taken place, and I am offering to bring my official in to clarify that further or to provide more information in relation to what has gone on around engagement—

**The Convener:** You are also saying that you are going to speak to COSLA after this meeting to understand where its concern stems from—

09:45

**Natalie Don-Innes:** Well, you said—

**The Convener:** That is the concern that it noted months ago.

**Natalie Don-Innes:** You said that the letter was sent months ago, which is absolutely right, but, as I said, there has been a period of engagement

behind the scenes with officials in relation to different aspects of the bill, working directly with COSLA. With regard to hearing the concern again during the oral evidence session, there has not been much time since then to arrange a meeting with COSLA. I class that as a priority, and I imagine that I will be meeting with COSLA more than once on the bill, so it is not that I am kicking the issue into the long grass. I am laying out, factually, the engagement that has taken place between COSLA and me and my officials. I appreciate that there are concerns outstanding, which I will discuss further. I am more than happy to write to the committee, once I have had those further discussions, if the committee would like to understand what has been said.

**The Convener:** I will come to Mr Henderson now, because I want to read some more quotes out, and he might want to speak about them all.

I was really surprised that there was such strong criticism from The Promise Scotland, an organisation—*[Interruption.]* Do you know about its concerns?

**Natalie Don-Innes:** I am sorry—I was just agreeing.

**The Convener:** In its written evidence, which was submitted four months ago, with regard to the process of developing the bill, it said:

“It has been noted there has been an absence of meaningful engagement during the development of the Bill,”

and then, almost two months ago, Fraser McKinlay said in his oral evidence:

“Engagement has been frustrating ... In speaking to colleagues who have experience of being involved in legislation in previous years, I found that everyone was struck by how locked down this bill was ... It has landed quite cold.”—*[Official Report, Education, Children and Young People Committee, 10 September 2025; c 32-33.]*

Those are not the comments of someone who has been heavily engaged with the development of the bill. There was a real sense of frustration from The Promise Scotland and from Fraser McKinlay when they were in front of the committee, that you had not tapped into their expertise and knowledge. How do you respond to that?

**Natalie Don-Innes:** Again, I find that surprising on a lot of levels, because I meet regularly with The Promise Scotland and I engaged with it frequently. I emphasise again that that engagement was not on the specific provisions in the bill, because that would not be the correct process. I come back to my earlier comments about the fact that it was very clear that there were areas that were likely to be in the bill, given the host of public consultation exercises on those. I do not have anything further to add, other than that I am disappointed that there is that feeling that

there has been a lack of engagement. However, I assure the committee that my officials and I continue to engage directly with The Promise Scotland. Mr Ross, you yourself said that The Promise Scotland said that it had no idea what was included in the bill, but that is the parliamentary procedure, which I have to follow.

**The Convener:** You are saying that you are surprised and disappointed. Some of that concern is in the written submission, and some of it is in the oral evidence from 10 September. What did you do when you heard that? Did you pick up the phone to Fraser McKinlay? Did your officials reach out to The Promise Scotland about the concerns?

**Natalie Don-Innes:** My officials reached out, and I have a meeting coming up—

**The Convener:** Was that in response to the concerns about the lack of consultation?

**Natalie Don-Innes:** If I could bring in—

**The Convener:** Yes, but did you reach out in response to the concerns about the lack of consultation?

**Natalie Don-Innes:** Those concerns were directly discussed, yes.

**The Convener:** The last criticism that I will read out before Mr Henderson comes in is from CELCIS—no, I am sorry; it is from Social Work Scotland. This is a quote from John Trainer, from when he was at the committee:

“the Government did not do sufficient engagement with a range of stakeholders during the development of the bill. That is disappointing. The bill could have been strengthened had the Government engaged across the professional bodies that work to support Scotland’s children, young people and care-experienced adults. It would have been vastly improved if that had happened”.—  
[*Official Report, Education, Children and Young People Committee*, 8 October 2025; c 45.]

What do you make of that comment from Social Work Scotland, which was made to this committee on 8 October?

**Natalie Don-Innes:** I reiterate my comments that I was disappointed to hear and read the response from Social Work Scotland, because, again, I know that my officials engage frequently. In fact, I met with Social Work Scotland last week; I wanted to directly discuss its concerns.

**The Convener:** What did it say to you about that?

**Natalie Don-Innes:** Again, it reinforced the lack of engagement, but it also advised that it is on the phone to my officials almost hourly or daily. There are conflicting stories about the level of engagement between it and me and my officials. However, I very much respect Social Work Scotland and want to work with it on strengthening

the bill. I said last week in my meeting with it that if it feels that the bill could be strengthened in some areas, I am very open to listening—that is essentially what I have said to everyone who I have met. I believe that this is the appropriate point where we need to take that feedback and to consider it ahead of stage 2.

**The Convener:** Given your respect for Social Work Scotland, do you agree that the bill would have been vastly improved if you had consulted more and better prior to the introduction of the bill?

**Natalie Don-Innes:** It comes back to the point, Mr Ross, that I would have broken parliamentary protocol if I had gone into the specific provisions—

**The Convener:** I am not asking you to go into the specifics. Do you agree with Social Work Scotland that the bill could have been vastly improved had the consultation been better?

**Natalie Don-Innes:** No, I do not necessarily agree with that point.

**The Convener:** Mr Henderson, do you want to add anything?

**Gavin Henderson (Scottish Government):** I think that the minister—

**The Convener:** You do not need to press your button.

**Gavin Henderson:** The minister has covered the point very clearly—

**The Convener:** Sorry, you have switched off your mic, so we will need to—

**Gavin Henderson:** Can you hear me now?

**The Convener:** Yes.

**Gavin Henderson:** The minister has covered the point quite comprehensively. On a few specifics, I know, Mr Ross, that you were given evidence from COSLA about engagement on advocacy, for example. There has been regular engagement, including in advance of the bill, to try to get data to inform the financial memorandum but COSLA felt unable to provide information on that in February and March this year.

On the Promise Scotland, the minister met Fraser McKinlay and Fiona Duncan regularly in advance of the bill, including at a session that we were both at, at the Promise’s office, where we talked about the topics that had been consulted on and the likely areas for inclusion. However, the minister was clear that, as a result of parliamentary protocol, she was unable to go through the detail. I understand that the minister had a similar conversation with Sheriff Mackie.

I also followed the evidence from Social Work Scotland. It was disappointing to hear what it said, because, in last week’s discussion with it, it was

made clear that it has been having very regular discussions with policy officials and the Scottish Government throughout the process. All the organisations that were part of the formal consultation process—we had four consultations last year—informed the content of the bill. The message was clearly given out that the Government was primarily looking at certain areas for inclusion in legislation—of course, keeping to the right side of the parliamentary rules to which we are subject.

**The Convener:** You mentioned COSLA and the costings. In its written submission, COSLA said that

“The costings are based on information that was provided for a different legislative change some time ago and is therefore out of date and taken out of context. There has been no engagement with COSLA or Social Work Scotland in relation to this bill to ensure that appropriate figures have been used.”

**Gavin Henderson:** I have emails in front of me that we can share with the committee.

**The Convener:** Why is COSLA telling us that?

**Gavin Henderson:** You would have to ask it.

**The Convener:** I will choose my words very carefully: has COSLA misled the Parliament by telling us that?

**Gavin Henderson:** It is not for me to say that.

**The Convener:** Are you saying that what I have read out is incorrect?

**Gavin Henderson:** I am saying that we have information about the engagement on, for example, advocacy and financial information from February and March this year. I am not trying to accuse anyone of anything.

**The Convener:** The COSLA quote is from its written submission, which you and the minister have read. Did reading it not raise alarm bells?

**Gavin Henderson:** Obviously, those are discussions that we have subsequently had with COSLA.

**The Convener:** Minister, did it raise alarm bells for you?

**Natalie Don-Innes:** Absolutely, considering that I know the engagement that has taken place—

**The Convener:** No—not whether there was enough engagement, but COSLA saying that

“the costings are based on information that was provided for a different legislative change some time ago and is therefore out of date and taken out of context.”

**Natalie Don-Innes:** To be clear, I believe that that statement is about the costings around aftercare—

**The Convener:** Yes.

**Natalie Don-Innes:** —and I appreciate the concerns that have been raised about that. I am sorry, but I probably need to refer to my officials about the engagement that has taken place in relation to that specific aspect.

However, Gavin was referring to the engagement that has taken place around advocacy, and there has been a direct request to COSLA for further information to work with it on that aspect.

I guess that that feeds into the complexity of the issue. Various aspects of the bill will require engagement from different teams of Scottish Government officials. There might be concerns about specific aspects—as I said, I am more than willing to discuss those areas with COSLA or whoever it might be. However, I am clear that evidence exists that attempts have been made to engage and gather data from COSLA on those aspects.

**The Convener:** Paul McLennan wants to come in on that point.

**Paul McLennan (East Lothian) (SNP):** Thank you, convener. I want to build on the engagement aspect, because it is important to bring this back to why we are really doing this, which is engagement with children and young people. Could you say a little bit about that?

I joined the committee during the most humbling part of this process: I listened in on our session with the kids. We met with 40-odd care-experienced kids and that was the most humbling experience. I want to bring this back to the most important part of the process. What was your official engagement with children and young people?

**Natalie Don-Innes:** Thank you, Mr McLennan. That is very important. We must remember what children and young people and, equally, care-experienced adults are saying about the system and the changes and priorities that they would like to see. I could not rhyme off all the engagement that I have had with children and young people.

Most recently, I have met Children's Hearing's Scotland's experts by experience and the OHOV group that I mentioned at the beginning. I engage regularly with children and young people and I would be more than happy to send the committee a record of the different ways in which I have done so. We need to be clear that such engagement is the commitment.

I heard some of the feedback from the committee meeting with children and young people, which was really positive, and I know that children and young people were very positive about aspects of the bill. We need to remember why we are doing this, which is to change the lives

of children and young people who are growing up in care. The feedback that I have had from young people so far—officially and anecdotally—has been very positive.

**Willie Rennie (North East Fife) (LD):** I will ask about aftercare. There is some concern about eligibility, funding and the cliff edge. Could you talk about some of the issues that have been raised and how you would address those concerns about aftercare?

**Natalie Don-Innes:** Sorry, Mr Rennie. You mentioned funding—what else?

**Willie Rennie:** Whether the bill has been costed appropriately, whether there is a cliff edge—the fact that we will stop aftercare at a certain age—and whether eligibility is reaching far enough into different types of care-experienced people. I would quite like to address those issues.

**Natalie Don-Innes:** In relation to funding, I have already picked that up. I know that concerns have been raised around aspects of funding, and I will continue to discuss them and progress the matter with COSLA.

It is a positive measure that we are widening eligibility to aftercare so that more young people with care experience who are in need will be provided with person-centred support to enable more positive transitions to adulthood and help them to thrive. You referred to eligibility—if anything, the bill expands the pool.

We know that there are instances when children and young people's care placements have broken down and they might have been returned home, which would mean that they would not be eligible for aftercare. The bill's provisions change that. When you think about the experiences that a child or young person might have in their younger years that might not be seen to impact them but could in later life, that change is really impactful and a really positive move towards opening up support systems for more children and young people who have experienced care.

Of course, local authorities have the responsibility and ability to provide further support. I do not know whether Mr Rennie wants to get into specific examples around eligibility or that cliff edge. If there are instances where a young person was going to experience that cliff edge, I believe that local authorities have the responsibility to look into the situation that the young person might be in and to provide support where that is appropriate.

**Willie Rennie:** Was there consultation with North Yorkshire Council?

**Natalie Don-Innes:** I am sorry, Mr Rennie, but I do not have that information to hand.

**Gavin Henderson:** I—[*Interruption.*]

**The Convener:** Mr Henderson, you actually switch your sound off when you press the microphone button like that.

**Gavin Henderson:** My apologies.

In response to Mr Rennie's question, I do not know.

10:00

**Willie Rennie:** North Yorkshire Council is hailed as an exemplar in the United Kingdom for its right to return and its always here policy, which, simply put, involves aftercare and support. There is no cliff edge: people can get that support throughout their life. They can get support with housing, employment and the whole range of services. Also, in specific circumstances, there is a right to return to care.

Duncan Dunlop, who gave evidence to the committee, specifically stated that North Yorkshire was an example that we should be following, so I am surprised that that was not at least picked up from him, or picked up before that. With a simple search we can find that North Yorkshire has been hailed as a great exemplar. Why are we not drawing on experiences from south of the border?

**Natalie Don-Innes:** That is certainly something that I am more than happy to look into further. I would reinforce what I have already said, in that local authorities already have the ability to provide aftercare beyond the age of 26, and they would be best placed to understand the specific needs of a child or young person or of a young adult and to decide whether that was required.

There are complexities around a right to return, but our aftercare provisions and our policy on continuing care allow for young people to return to a local authority area for that support where it is required.

I do not know whether Mr Rennie has specific examples of where there is a cliff edge, but I appreciate what Mr Rennie has brought to me with his example, and I am more than happy to look into what it is that is running so successfully—in West Yorkshire, I believe he mentioned.

**Willie Rennie:** The bill's provisions do not extend the right to receive support to those leaving care prior to the age of 16. Why is that?

**Natalie Don-Innes:** That would be based on a needs assessment, but it would allow local authorities to provide—

**Willie Rennie:** But does the bill specify that that support has to be provided? Local authorities can do a lot of things—they have the right to do all sorts of things—but are they compelled to provide that support?

**Natalie Don-Innes:** If a needs assessment found that a child or young person was in need of aftercare, they would be required to get it.

**Willie Rennie:** So, that is wrong; such support is available to all those leaving care prior to the age of 16.

**Natalie Don-Innes:** If it is deemed that it is necessary and appropriate, yes. Obviously, not all under-16s would require it, but, if the needs assessment takes place and it was deemed appropriate for the young person to receive further care, they would get it.

**Willie Rennie:** Some of our witnesses expressed concern that there was no clarity about the definitions—that eligibility was not clear. For instance, is the provision available for informal kinship arrangements? There is a lack of clarity on such things. The provisions are very vague, which is why witnesses have raised concerns.

**Natalie Don-Innes:** On the general point, I know that there are concerns and I am more than happy to consider whether there is any way in which I can make things clearer.

On the point that Mr Rennie raises about kinship, I am very much aware that there are a number of complexities, notably about informal kinship care. Again, it is down to the local authority. It is very likely that the local authority will already have come into contact with the child, so it will be aware of that child's circumstances and needs and would be able to assess the situation adequately.

I take the point, however, and I am more than happy to consider whether there are ways to make things clearer.

**Willie Rennie:** On housing, our witnesses expressed concern that the problems that many care-experienced people have around homelessness will not be addressed by the bill's provisions. Can you reassure me that they will be addressed?

**Natalie Don-Innes:** A statutory duty is already placed on local authorities through regulations to support those who are eligible for aftercare and to provide them with suitable accommodation. The decision should be assessed based on the young person's needs. Underpinning that approach is the Government's guidance on aftercare, corporate parenting, social housing allocations and the homelessness code, which together set out the need to take a prioritised and tailored response to ensure that young people move on from care.

Work is on-going on that. We seek to further improve young people's care experience by finding appropriate housing. Our focus is on progressing the recommendations of the "Improving Care Leavers Housing Pathways"

report. A prevention and strategy group is being set up, led by Kate Polson, chief executive officer of the Rock Trust, which Mr Rennie will be aware of. I will soon meet the Cabinet Secretary for Housing to discuss that work. I am aware that she is coming to the Cabinet sub-committee to provide an update on the priorities for improving care-experienced people's experiences when it comes to accessing housing.

A number of work strands are under way to improve those experiences. Many local authorities have powers to prioritise care-experienced people's housing needs, and many already use them. The powers are used in different ways, so I want to see a little more consistency, which I will look at going forward. I hope that that answers some of the member's concerns.

**Willie Rennie:** Just to return, a distinction seems to have been drawn between the right to request an assessment and the right to receive support. Why does the bill make that distinction between the two? Why not just say that there is a right to receive support, rather than a right to request an assessment?

**Natalie Don-Innes:** Again, we will probably need to look at the data once the policy has been put in place, but if a child or young person who has left care requests an assessment, it is very likely that they have needs, and I imagine that a local authority will have to step in and provide that support. Gavin Henderson can speak on the policy in a little more detail.

**Gavin Henderson:** The position that we reached in the bill was what stakeholders asked us for, and there was a petition in the Parliament on exactly this issue. The approach is to take a proportionate response and provide support to those who need it, rather than formally look after all young people. We need to target our resources to those who will benefit most from the support.

**Willie Rennie:** When people say "benefit most", it always sounds like a way of limiting the available support. North Yorkshire Council says bluntly, "We're always here." It might be that the young person does not need a huge amount of support—they might just need a listening ear—but the message is straightforward. It is not bureaucratic language around the right to request an assessment, which might possibly lead to a level of support. The council does not say, "We have limited resources, so it might not be available to everybody." Why not just say, "We are always here" and make it plain for people who already distrust bureaucracy? Why tie it up? I understand that people might say that you need to have an assessment to ensure that the support goes to the right people, but why not just keep it really clear that you will always be there for them?

**Natalie Don-Innes:** Local authorities can progress that approach if they want to.

**Willie Rennie:** Why do you not progress that approach?

**Natalie Don-Innes:** North Yorkshire is not a country, whereas we are delivering legislation that is Scotland-wide. We provide the powers for local authorities to be able to enhance their support further if they wish to do so, which is the decision that North Yorkshire Council has very admirably taken. I am more than happy to look into its successes. However, I point to the differences: we are speaking about passing legislation on a countrywide basis, which is different from a local authority taking the decision to further enhance the support.

**Willie Rennie:** I am anxious about that. First of all, on the message that you are sending, if you are saying that this is for those who are most in need and that there is going to be an assessment, it sounds like a filter, rather than just saying that there is a right to receive support. I am anxious about the distinction between the right to request an assessment and the right to receive support. It sounds like a budget-saving measure to limit the amount of support that is provided. Why not just bluntly say, “Everybody will have the right to receive support—full stop”?

**Natalie Don-Innes:** As Gavin Henderson alluded to, this is what stakeholders have asked for—

**Willie Rennie:** They have expressed concern to us. Maybe we are hearing from different people, but people have expressed concern.

**Natalie Don-Innes:** Okay, well, we will gather the views and the understanding of where that has come from, and, as I said, I am more than happy to look into those concerns further.

**Willie Rennie:** Thank you for telling me that North Yorkshire is not a country. [*Laughter.*]

**The Convener:** We have all been enlightened this morning. On Willie Rennie’s points, the committee received a response from Clan Childlaw, which has been published on our website. Have you seen that? It is about the bill and that element of the bill.

**Natalie Don-Innes:** I believe that I have, but Mr Ross will have to remind me of what is included in that—

**The Convener:** No, no—if you have seen it, it will quickly come into your consciousness. It says that the bill

“as currently drafted, does not give the same rights to those who left care before their 16th Birthday as those who are aged 16 to 19 years who left care after their 16th Birthday”.

It goes on:

“the Bill gives the lower level of support and protection by way of the restricted rights which are currently available to 19 to 26 year olds under s29(2)”

of the Children (Scotland) Act 1995. That is exactly what Willie Rennie is saying, and people are coming to the committee and telling us that. If they are watching this evidence session today, they will not have taken any comfort from your responses.

**Natalie Don-Innes:** I have said that I will look into these concerns further. I think that it is clear that we are enhancing, improving and widening access to aftercare. As I said, these provisions have been welcomed—

**The Convener:** Clan Childlaw—

**Natalie Don-Innes:** I—

**The Convener:** Clan Childlaw is saying that the bill provides a lower level of support and protection.

**Natalie Don-Innes:** To that specific group—

**The Convener:** Yes.

**Natalie Don-Innes:** —but, as I said, we are enhancing and widening access to aftercare, so—

**The Convener:** Yes, but that specific group of people is an important group that we should be considering.

**Natalie Don-Innes:** What you are referring to would not be the case, Mr Ross, because, as I said, each child’s or young person’s needs will be assessed on a case-by-case basis by the local authority. I do not—

**The Convener:** I am sorry, minister, but people have got to ask for that assessment, whereas, currently, it is an automatic right. As Willie Rennie said, those people do not currently need to go through that process, so why are we putting in that hurdle?

**Natalie Don-Innes:** I am sorry, Mr Ross, you interrupted me and I have lost my train of thought. It is not right to generalise and say that a specific group of children will receive a lower level of support. As I said, we are enhancing and extending the right to aftercare, but, as is currently the case, each child’s needs will be assessed on a case-by-case basis, and their needs will be supported in the appropriate way by that local authority. I have said that I am happy to have the discussion with Clan Childlaw, which I will be engaging with in the coming months.

**The Convener:** Do you think that it is right in what it is telling us?

**Natalie Don-Innes:** I do not think that it is right to generalise. I have been quite clear in saying that all—

**The Convener:** However, it is right to highlight this as an issue of concern.

**Natalie Don-Innes:** I have said that I will look into these concerns further, ahead of stage 2. If there are legitimate ways—

**The Convener:** Well, there is a very simple amendment—

**Natalie Don-Innes:** No—

**The Convener:** There is not—you do not think that.

**Natalie Don-Innes:** I am sorry, but you are simplifying something that is very complex. I am not agreeing or disagreeing; I am just saying that I do not believe that it is quite as simple as saying, “Okay, we’ll just make an amendment.” I have to discuss these concerns further, and I have committed to looking into this further.

**The Convener:** Did you and your officials discuss this as an area that the committee might be concerned about before coming here today?

**Natalie Don-Innes:** We discussed a number of areas.

**The Convener:** I am asking about this area. The letter from Clan Childlaw came in only on 3 November. It is a very recent update—from only two days ago—so this is very topical. Mr Henderson, were you aware of this? Did you brief the minister about the fact that these concerns are coming through from Clan Childlaw?

**Gavin Henderson:** I have not seen that particular letter from two days ago.

**The Convener:** So, minister, you have seen it, but your official has not.

**Natalie Don-Innes:** I am sorry, Mr Ross, but I must have been thinking of another letter or another response from Clan Childlaw. I did not realise that this was a response from two days ago.

**The Convener:** I will bring in Pam Duncan-Glancy.

10:15

**Pam Duncan-Glancy:** Good morning. I will ask a question about aftercare—specifically housing—before I move on to another area. The young people who we spoke to about this legislation felt that some specifics were missing, such as action in certain areas. In some ways, this has been described as a framework bill. However, the young people also said to us, “What about education?”,

“What about housing?”, “What about employment?”, and so on.

My colleague Willie Rennie started to ask about the question of housing. I note your response about North Yorkshire not being a country. However, our problem is that, if we do not do something that is quite specific and empowers local authorities to take action, including with resources backed up to do it, we are really just washing our hands of any responsibility. The response that you gave does not give us much reassurance that the Government is prepared to take the action that is necessary to support local government to do the right thing on the Promise bill. Is that accurate?

**Natalie Don-Innes:** No, I would not say so.

**Pam Duncan-Glancy:** How, then, will you support local government to take action in areas such as housing, so that there are tangible differences to the lives of young people with care experiences?

**Natalie Don-Innes:** I have been clear that we are progressing work on the “Improving Care Leavers Housing Pathways” report. If there are ways to enhance our support to local authorities in relation to housing and other aspects, I am certainly happy to consider those further. As I have said, local authorities already hold the power to provide support to care-experienced people, specifically in relation to housing.

As with a number of aspects of the Promise, we have to remember that ensuring that people with care experience have adequate access to housing is a preventative measure. It would help local authorities to prioritise that from an early point. As much as the Scottish Government can work to support local authorities—we will do that, and we continue to do so—there is a role for local authorities in supporting themselves, thinking ahead and taking preventative measures that will provide ways to save later down the line. I would put housing in that category.

**Pam Duncan-Glancy:** As would I. Prevention is always more appropriate than cure—I think that that is the phrase. However, having the power to do something and having the resources and capacity to deliver on that power are two different things. Is the minister confident that local authorities will have the resources and capacity to deliver the power that she is hoping to give them?

**Natalie Don-Innes:** Yes, I am confident of that.

**Pam Duncan-Glancy:** Has the minister raised these issues in the budget process and the settlement for local government?

**Natalie Don-Innes:** I discuss a number of aspects of my whole portfolio in relation to the budget, and the finances for this bill are certainly

included in that. I could not speak specifically to the budget proposals, though.

**Pam Duncan-Glancy:** Other members will touch on finances, so I will leave that thread there.

You spoke about a pathway for care leavers into housing. Would you consider putting that on a statutory footing?

**Natalie Don-Innes:** It is best to leave that to local authorities, which are best placed to make decisions for their own areas. As I have said, I know that many local authorities already proactively take that approach by prioritising housing for care leavers. I said in my response to Mr Rennie that I appreciate that there is inconsistency. Again, that is something that I will raise and discuss with the Cabinet Secretary for Housing.

**Pam Duncan-Glancy:** Young people told us—and the minister must acknowledge—that local authorities are really struggling to do anything in the margins that is not a statutory responsibility. Is that something that she thinks the bill will take—

**Natalie Don-Innes:** Prioritising housing for care leavers does not necessarily have a cost attached to it. In fact, I would imagine that it would bring savings, because if that did not happen, there could be a breakdown in the person's situation and they could come into contact with services. Therefore, I do not know whether that is an appropriate stance to take.

**Pam Duncan-Glancy:** I will not claim to be able to tell you what you should think is an appropriate view on that. I am concerned that we have something tangible for care leavers, because it is really important. It has already been suggested that another bill will be needed because this bill excludes so much. What is the minister's response to that?

**Natalie Don-Innes:** I think that I have said to most of the committee members when I have met them that I do not know whether another bill is necessary. That will be for the future Parliament to decide. Other aspects of legislation could be progressed in different areas; that goes along with the package of work that is prioritised to deliver the Promise.

We have been very clear that we have legislative needs, so we have the other package of work that is progressing on the legislative side. A future Parliament might deem that some areas will need further legislation, but I cannot comment on that. What I can say is that I know that the provisions in this bill are welcomed by many and have been stated to make a difference in the lives of children and young people with care experience.

**Pam Duncan-Glancy:** I do not doubt that people have welcomed those provisions, but we have also heard significant evidence about what is not there. On that point, what is not there is the commitment to the United Nations Convention on the Rights of the Child in some areas. Many stakeholders have said that the drafting of sections 1 and 2 specifically on aftercare and section 10 on the register of foster carers, for example, amend the Children's (Scotland) Act 1995. As that is pre-devolution UK legislation, it is outwith the scope of the United Nations Convention on the Rights of the Child (Incorporation) (Scotland) Act 2024. What is the minister's view on whether the bill needs to be amended to bring the affected sections within scope of the 2024 act?

**Natalie Don-Innes:** I understand the implications of adding provisions by making amendments to UK acts in devolved areas. Although we have tried to avoid doing that as much as possible in the bill, the member has stated the two areas in which that has not been possible.

A range of members and stakeholders have brought me that issue; I have listened to and heard the concerns that have been raised and I am still taking advice on the matter. Although those are the two areas that do not fall into compatibility with the UNCRC, both are being drafted in the bill in a way that is compatible with the UNCRC. For example, the register for foster carers would be fully produced in scope with the UNCRC. Please be assured that, as I have said, I have heard the calls for concern around that area and I am still considering advice on it.

**Pam Duncan-Glancy:** We do not have much time on the matter. Stakeholders and people with lived care experience would probably have thought that the Government would have done that in advance, given that the Government made a lot of the UNCRC. What specific drafting routes are you looking at to bring the provisions into scope?

**Natalie Don-Innes:** I will need to bring Barry McCaffrey in to speak to that directly.

**Barry McCaffrey (Scottish Government Legal Directorate):** We are not starting from a blank sheet of paper. Wider work is taking place through the children's rights scheme, which is in draft at the moment, to explore the issue about the scope of the compatibility duty to UK enactments.

We have always been clear that, to ensure that legislation is clear and workable, you must look at the matter on a case-by-case basis, for example when you have pre-existing provisions, such as the Children's (Scotland) Act 1995. Part 2 of that act, in particular, has a whole integrated set of

rights to do with children who need protection and care from local authorities. Children who are looked after have rights and obligations that are hardwired into the 1995 act, and there are other rights alongside that, such as continuing care.

The question in relation to aftercare relates to the fact that, if you started to take those provisions out of part 2 of the 1995 act, you would still be left with integrated rights associated with them that would not fall within the scope of the compatibility duty and end up with something even more unclear and unworkable.

The register of foster care provisions does not affect the underlying provisions and duties that local authorities have in relation to foster care placements and so on. Those are hardwired into part 2 of the 1995 act. At this stage, our judgment is that drafting and re-enacting provisions that are outwith the scope of the 1995 act would not solve the underlying issue, which is that they no longer connect with the 1995 act in a coherent and workable way.

**Pam Duncan-Glancy:** Forgive me, Mr McCaffrey, but is that not why we have passed new legislation since 1995, which was a long time ago? If that bill had been tight enough on children's rights, we would not necessarily have needed parts of the UNCRC, but we did, and we have this new bill, which is surely an opportunity. You have said that we are not starting from scratch, but this is a new bill, so you could include the UNCRC and those particular areas in it.

**Barry McCaffrey:** When you look at making new law, your first point is how to connect the law with the existing statutory framework. Aftercare and foster care are integrated rights that are hardwired into part 2 of the 1995 act, so if you tinker about and redraft those free-standing provisions, it will not necessarily solve the problem of UNCRC act compatibility, because those rights cannot be disconnected from the other rights that are still hardwired into the 1995 act.

**Pam Duncan-Glancy:** Could you not just write the gaps in? If the 1995 act has gaps—presumably it does—could you not just write them into this bill?

**Barry McCaffrey:** I am unsure what you mean by gaps per se, but a whole integrated set of rights and responsibilities is included in part 2 of the Children (Scotland) Act 1995. When you look at addressing particular rights that are contained in that framework, such as aftercare or foster care, it is very difficult because you do not have a blank sheet on which to arrive at a solution that ensures that the legislation continues to be clear, workable and fully joined up.

**Pam Duncan-Glancy:** Are you arguing that the 1995 act includes the exact same rights as the

UNCRC, so there is no point in adding anything to the bill?

**Barry McCaffrey:** We are satisfied that the Children (Scotland) Act 1995 as a whole is capable of operating in a manner that is compliant with all relevant rights, whether that is the European convention on human rights or UNCRC, but the problem that we face when we make new law about something that is already on the statute book is, how we do so in a coherent and workable way.

We have looked at that and at how aftercare and foster care provisions sit alongside the whole framework of other rights that are built into the 1995 act. You do not necessarily solve the compatibility problem if you just start tinkering about with particular aspects of the act, and you might end up with something that is even less clear and workable.

**Pam Duncan-Glancy:** Forgive me, minister, but I am slightly confused. What appears to have been said is that we cannot introduce any legislation that includes provisions on further rights that are set out by the UNCRC, because we cannot tinker with any previous legislation. Have I misunderstood? Is that your understanding?

**Natalie Don-Innes:** No, you have not misunderstood. It would lead to duplication and unnecessary complexity if we were to do so. However, I have heard the concerns that have been raised. I am committed to UNCRC and I am getting advice on it, so if I find a way forward that combats those issues, I will act on it.

**Pam Duncan-Glancy:** Okay, then my specific question is this: will assessments that support decisions for all under-16 care leavers, which we discussed a while ago, be justiciable against UNCRC standards of participation, best interests and non-discrimination?

**Natalie Don-Innes:** Yes.

**Pam Duncan-Glancy:** How?

**Natalie Don-Innes:** As we have mentioned, they will be in line with the provisions that are already in place under UNCRC and under the getting it right for every child framework, so local authorities already have that responsibility.

**Pam Duncan-Glancy:** Sorry, minister, they do not, because the bit that the bill refers to is outwith the scope of the UNCRC.

**Natalie Don-Innes:** It is outwith the scope when it comes to challenging, but not—

**Pam Duncan-Glancy:** That was my question. My question was about justiciability.

**Natalie Don-Innes:** Okay, sorry if I misheard your question and went on a different strand. Can you repeat it?

**Pam Duncan-Glancy:** My question was whether those provisions would be justiciable against the UNCRC standards of participation, best interests and non-discrimination.

**Natalie Don-Innes:** Oh, I am sorry. At the moment, I believe that those two provisions would not be. I look to Barry McCaffrey to confirm that. That is why I have said that I understand the concerns and that I will be looking into it further.

10:30

**Barry McCaffrey:** To clarify, the provisions, per se, by being within a UK enactment, are not within the scope of the compatibility duty, so far as that might give rise to judicial remedies under the 2024 act. However, alongside that, the children's rights scheme is looking to enhance the rights of children, and it is a question of looking not just at judicial remedies, but at other ways in which children can have their rights enhanced when local authorities are making decisions about them. Therefore, wider work is being done on remedies, whether judicial or otherwise, to ensure that children can assert their rights in a way that is UNCRC compatible.

**Pam Duncan-Glancy:** Nobody wants to have to go to court to do that—I am not suggesting that—but, ultimately, there is no point having rights if you cannot uphold them. Therefore, is the answer to lodge amendments to the bill on participation, best interests and non-discrimination duties at stage 2?

**Natalie Don-Innes:** That is exactly what I am receiving advice about. Ms Duncan-Glancy knows that I am more than happy to discuss different aspects of the bill. I am more than happy to continue conversations around that point specifically, once I have received fuller advice in relation to amendments for stage 2.

**Pam Duncan-Glancy:** Thank you. I will quote from the note of the meeting with young people: talking about the bill, the group said that

“there needs to be someone, whether a person or a department, who needs to be culpable if it isn't delivered.”

Who does the minister think that that is?

**Natalie Don-Innes:** The issue in that regard is that there is responsibility across a number of fronts to deliver on the Promise. Of course, I am the minister with responsibility for the Promise, so I lead from the front in that respect. However, we have whole-Government effort, local government effort and third sector partners who are working daily to deliver the Promise, so I think that it would be hard to make one person accountable for the entire journey, remembering the time that is involved in that. However, I have been very clear that there is room for more accountability. There are already ways in which we are looking to

understand the level of delivery of the Promise across Scotland.

We have aims and targets for what we want to see, and I have already mentioned the inconsistency across Scotland on the different areas of delivery of the Promise. Further work could be done in that regard, but I do not necessarily think that I can put on record in the committee right now who I think should be seen to be accountable for it, because there are a lot of delivery partners across Scotland. However, there are certainly ways in which we could look to increase accountability.

**Pam Duncan-Glancy:** Someone has to take responsibility for the leadership for it, though.

**Natalie Don-Innes:** I take responsibility for the leadership of it at the moment, but decisions were made prior to my time in the ministerial role, and decisions will be made following my time in the role. At the moment, I absolutely take responsibility, and I lead from the front, as the Scottish Government minister with responsibility for the Promise, but, at the end of the day, I do not know whether we can make one person accountable for delivery of the Promise, given the various efforts and different people who are involved. However, there is room for further accountability, not just from a local authority perspective, but from the point of view of all our delivery partners, agencies and organisations that are involved in delivering the Promise.

**The Convener:** Mr McCaffrey, Pam Duncan-Glancy asked the minister a very clear question, on which we originally got a very clear answer, which was 100 per cent incorrect. As the senior legal representative on the panel of witnesses today, at which point did you realise that the minister was wrong, and why did you not interject?

**Barry McCaffrey:** I am sorry, but I am not clear what you are referring to.

**The Convener:** Well, it was only a few minutes ago. Pam Duncan-Glancy asked very clearly whether elements of the bill that were outwith the scope of the UNCRC could be judicially reviewed under the UNCRC. The minister gave a one-word answer—“Yes”—to say that they could be, and followed that up—[*Interruption.*] I am sorry—yes, the minister did say that. She followed that up and then had to ask for the question to be repeated, and, when the question was repeated, she changed her answer to say—

**Natalie Don-Innes:** I am sorry, Mr Ross—I would need to look at the *Official Report*, but I do not believe that I said, “Yes,” in a one-word answer to Ms Duncan-Glancy. I misunderstood her question.

**The Convener:** I know. You said, “Yes,” and then, when Pam Duncan-Glancy asked how that could happen, you started to give an answer. When you asked for the question to be repeated, you then said that Pam Duncan-Glancy was correct and that it was not possible. I am just wondering why the senior lawyer on the panel did not pick up on that.

**Barry McCaffrey:** I did not understand that that was what the minister saying, in that respect. I did make an intervention, because I discussed—

**The Convener:** The minister asked you to come back in again when there was clarification, but if you did not hear that and you did not pick up on that, that is fine.

**Barry McCaffrey:** I made the point that, beyond judicial remedies, there is scope for enhancing rights, so I was picking up on the point that those specific provisions, being within the 1995 act, would not fall within the UNCRC compatibility duty.

**The Convener:** Which was completely different to what the minister had just said, but she corrected herself. I am just wondering why no one else on the panel sought to correct that because, had Pam Duncan-Glancy not challenged it, that would have been the information that we had on the record. However, we can go away and look at it again if we want.

On this point, minister, I am sorry, but I am going back to where I started this morning. This has been a major issue, both with the written submissions and oral evidence. I understand that I am not allowed to repeat what was said to us in our private session, but we had your officials on their own with us, and this issue was raised with them right at the very beginning. How is it that we are at the point of coming to write a report on this bill, but you are still seeking advice on it?

**Natalie Don-Innes:** It is an extremely complex matter and I need to seek legal advice on it.

**The Convener:** But how do we then write a report on this issue? The minister is always the last person to give evidence, because they are supposed to provide us with the answers to the queries that have come through our work. Compatibility with the UNCRC has been a consistent theme throughout our evidence, and at the moment, when we are writing our report, we still have a big question mark over where you and the Government are on that.

**Natalie Don-Innes:** I do not want to tell you how to write your report, Mr Ross, but what I would say is—

**The Convener:** Do you accept that it will be challenging?

**Natalie Don-Innes:** We have been clear that we have tried to draft the bill and the provisions in line with the UNCRC as much as possible. There have been complexities in relation to two areas, which have already been gone through by officials.

Despite those two areas not falling into compatibility with the UNCRC, there are still safeguards and protections in place for children in relation to those areas, and those aspects of the bill are still being produced in line with the UNCRC.

I have said that I am taking the concerns seriously and I am looking to get further advice. I appreciate that that is not a final point for the committee report, but I have been clear that I am open to moving further on this if that is what the legal advice tells me that I can do.

**The Convener:** Okay. Mr Henderson or Mr McCaffrey, what advice could still go to the minister that has not gone to her in the past few months while we have been raising this issue at committee?

**Barry McCaffrey:** Forgive me, but I am not going to be drawn on what legal advice may be sought or given in relation to the bill. What I—

**The Convener:** Have you withheld anything to this point, or have you provided the minister with everything?

**Barry McCaffrey:** What I have tried to do, including in my evidence a short time ago, is to explain the complexity of taking things out of an existing legal framework and putting them—

**The Convener:** But that explanation was, “We’re not going to change it”.

**Barry McCaffrey:** No, I was not saying that at all. You are looking for evidence on the bill’s provisions as they stand, and I was trying to explain the situation, so that you can understand why the Government has taken a position in relation to those two specific provisions in the bill and why our judgment has been on the basis of the consideration to date.

**The Convener:** But, at the moment, your legal advice would be that there is no requirement for amendments and that it should stay as it is?

**Barry McCaffrey:** It is not a question of my legal advice, and I am not going to be drawn into what legal advice I may or may not be giving in the context of the bill, but I can explain to you—

**The Convener:** But you are not suggesting changes at the moment.

**Barry McCaffrey:** As I say, it is not for me to make suggestions about whether or not there should be changes, but I can try to explain, as I have tried to do—

**The Convener:** Are you providing further advice to the minister on that point?

**Barry McCaffrey:** As I say, the minister is looking at a number of areas—

**The Convener:** Yes, but is the minister looking at what we already know, or are you preparing more information to go to the minister?

**Barry McCaffrey:** I will not be drawn on specific legal advice.

**The Convener:** Okay. Minister, what discussion have you had with other departments, ministers and cabinet secretaries about the issue?

**Natalie Don-Innes:** I have requested further information, which I assume will be coming.

**The Convener:** My question was about other cabinet secretaries, ministers and departments.

**Natalie Don-Innes:** I have not discussed this specific aspect with other cabinet secretaries. I am seeking legal advice.

**The Convener:** This issue came up in our evidence sessions and it is not unique to this bill. For example, the exact same issues were raised by stakeholders with the Housing (Scotland) Bill, and amendments were drafted at stage 2. There seems to be an issue in the Government about this problem. When you heard in the evidence that there was an almost identical problem in the Housing (Scotland) Bill, did you not go to the Cabinet Secretary for Housing, or did your officials not go to officials in other departments, and say, “How do we resolve this?” Did you ask the Cabinet Secretary for Housing about it?

**Natalie Don-Innes:** I did not ask the Cabinet Secretary for Housing about this issue specifically—

**The Convener:** Even when you saw it being raised in our evidence?

**Natalie Don-Innes:** No, but my officials have done that in the background. If you will allow me to bring in Gavin Henderson, he can speak to that.

**The Convener:** Mr Henderson?

**Gavin Henderson:** As Mr McCaffrey set out, the position that we had reached at the introduction of the bill is what is set out in the bill. There has clearly been some challenge to that position in relation to those two areas of the bill. There have been a number of discussions on the back of that within the Government across departments, including with officials who support other cabinet secretaries and with wider interests, such as constitutional interests, about what advice we will put to Ms Don-Innes and other ministers about the approach that will be taken. That is the stage that we are at.

**The Convener:** Why did you not do that before the introduction of the bill? The Housing (Scotland) Bill was well ahead of the Children (Care, Care Experience and Services Planning) (Scotland) Bill, and those concerns had already been highlighted. Are there no discussions within the Government about this issue? Is that why we keep having problems at stage 2 with UNCRC compatibility?

**Natalie Don-Innes:** The Government is seeking to tackle that from a wider perspective. We want to progress engagement with the United Kingdom Government to explore the removal of the legislative restrictions that currently limit our ability to enhance human rights protections across areas that are devolved to Scotland. However, if that engagement does not prove successful by November 2026, the Government will seek a more straightforward and effective route to extending protection for children’s rights by commissioning a review of the provisions in the acts of Parliament of the UK that affect devolved areas to identify key provisions that interact with children’s rights.

**The Convener:** So, that will be in a year’s time?

**Natalie Don-Innes:** No, because as I said clearly at the beginning of my answer, we are looking to engage further with the UK Government on that. That is not my specific portfolio responsibility, but I will be more than happy to provide the committee with an update on it.

**The Convener:** That would be helpful.

**Natalie Don-Innes:** This goes back to the problem that Mr Ross highlighted. We continue to have problems because a decision was taken to limit the Scottish Government’s ability to enact the UNCRC to its fullest extent. I appreciate that these problems are in different areas, but there is a Government approach to combating the problem as a whole. At the moment, we are having to take a more piecemeal approach in relation to the different portfolio areas. I have been clear with the committee and I have heard the concerns. I am awaiting further legal advice to see what approach would be best ahead of stage 2.

**The Convener:** This problem is not an issue of conflict with the UK Government; it is because part of the bill—sections 1 and 2, and section 10—amend the Children (Scotland) Act 1995. You are saying that the UK Government could maybe write off some of the legislation—

**Natalie Don-Innes:** No, I am not saying that in relation to this specific bill—

**The Convener:** That is what I am saying. Your answer seemed to be about the UNCRC in general rather than about this bill, which could be sorted with amendments at stage 2 without any further involvement from the UK Government.

**Natalie Don-Innes:** Yes, absolutely. I was giving the committee an idea of the general response to the UNCRC and highlighting the issues around that. I have already been clear in my answers about what I am doing in relation to the concerns that have been raised on specific aspects of the bill.

**The Convener:** Will you provide the committee with more information about that cross-departmental work?

**Natalie Don-Innes:** I will be happy to do so. Every party spokesperson that I have met with has raised this issue with me—

**The Convener:** That is because it has come up so much in our evidence, which is why I had hoped that we would be further on today regarding our deliberations. Do you understand that frustration?

10:45

**Natalie Don-Innes:** I absolutely understand that. As I have said, I am awaiting further legal advice, and I can only apologise that we do not have a fuller position for the committee.

**The Convener:** Okay.

**George Adam (Paisley) (SNP):** Good morning. Paul McLennan brought up the main issue in his usual very quiet and dignified way, which is the fact that children and young people are the most important people with regard to this bill. Various people have told us that the bill is a starting point and that it is not the main delivery mechanism, because local authorities and other areas do a lot of the work. As the bill is just now and with the work in partnership with other authorities and organisations to deliver the Promise, do you believe that the bill will be the starting point—the jumping-off point—to ensure that we deliver it?

**Natalie Don-Innes:** Absolutely. In fact, I slightly disagree with Mr Adam—I do not believe that this is a starting point at all; I believe that this is a mid-point. We are in 2025 and halfway towards delivery of the Promise. I feel that a host of work has already been done, and is on-going, that has made significant improvements to the lives of children and young people—we hear that daily.

I believe that many of the provisions in the legislation will have extremely positive impacts. As I have already clarified, there will obviously be other areas of consideration further down the line, but I believe that the bill speaks to a lot of the issues that have been raised with me and with the Government through the years in relation to the experiences of children and young people with care experience.

**George Adam:** I am thinking about some of the examples that we have been given. I come from a pretty chaotic background family-wise and never had that type of support. In what is deemed a normal family upbringing, you always have mum and dad to go to; the whole purpose of the bill is to use organisations and ourselves to put an arm around the person who is going through all that difficulty and say, “We’re here for you and we’re gonnae support you”.

It backs up something that Willie Rennie said about North Yorkshire Council’s idea of simplifying the process. Local authorities are already doing that—you and I will know that, minister, from our similar background in Renfrewshire Council. When they do housing, they take into account the needs of young people who are going through the process. It is a case of ensuring that local authorities continue to do that work, because, as you have rightly said, there are areas in which things are going really well and some in which they are not going as well. We have heard the evidence on that. How do we balance that out?

How do we provide encouragement for local authority areas such as ours that have been doing various social housing prospects where they include housing for young people in those situations among everyone else, as well as ensuring that the support is there for the young people as well? That support is the important thing—it is not just about flinging them a set of keys and saying, “There you go. Pay your rent, do your thing and get on wi it”.

**Natalie Don-Innes:** That wraparound support and the provision of holistic, person-centred approaches to the needs of children and young people is important. I know that some local authorities are doing that very well. This is not about calling out any specific local authority—some local authorities excel in some areas and some in others. Mr Adam hits the nail on the head: it is about sharing best practice. Sometimes, local authorities—rightly so, given the pressures that they are under—think that policy changes or thinking about different ways of doing things can be extremely complex. I know that, because I have been in the room when it has happened. Sometimes, sharing information, abilities and different ways of doing things can have huge benefits.

We are talking about inconsistency here. I come back to how we measure and track the progress that is going on and really understand and home in on the areas where we need to see improvements. Equally, there must be a level of responsibility—I do not want anyone to get offended if the Government approaches them and looks to support and enhance specific aspects. We all want to do better and make improvements, so taking

responsibility and thinking, “Yes, we can do better” is really important. I am sorry—I went off track there.

In relation to understanding what is going on across the country, we have “The Promise Story of Progress” and on-going work to understand, and gather more data on, what is happening. That provides and will provide a clearer view and understanding of what is happening and will allow us to proactively approach areas where we think that support could be enhanced or things could be improved.

There was a lot in there—I hope that that speaks to the questions that you have asked.

**George Adam:** That brings me on to another thing, which both of us will know from our local government backgrounds. Corporate parenting is mentioned quite a lot when you are a local councillor. Although I do not think that it is looked on as an important thing if you are outwith a local authority—and a lot of people do not like the phrase “corporate parenting”—I believe that it is quite an important issue when you are trying to look at how authorities or local authorities deal with it. Some people told us in evidence that they are very positive about the idea, which they see as a form of support and help, but others told us that they see it as a piece of state intervention. How do you feel about that, and how do we ensure that we pitch it as an idea to help someone?

**Natalie Don-Innes:** I have heard about the concerns in relation to corporate parenting. Again, that is something that I want to delve into a little further. I believe—I get the sense that Mr Adam does, too—that corporate parenting really lies at the heart of Scotland’s commitment to care-experienced children. The extension to corporate parenting duties offers a strengthened lens through which public bodies, with an understanding of the experience and potential needs of children, can continue to provide the best trauma-informed and rights-respecting support for them and their families to ensure that they thrive.

Legislation is very clear that corporate parents can act only in ways that are consistent with the proper exercise of their other public functions, such as within legal and budgetary competence and authority. For example, the provisions do not mandate compulsory reviews for non-looked-after children or force care-experienced children to share their status.

I heard some of the concerns around that issue come up at committee. Off the top of my head, I do not know exactly where they came from, but I plan to discuss that issue in an effort to alleviate some of those concerns. As I said, I hold the importance of corporate parenting very high, and I

see it as lying at the heart of our commitment to care-experienced children.

**The Convener:** Is that you, Mr Adam?

**George Adam:** That is me.

**The Convener:** Okay, I am just checking, because I think that this is probably a good point to take a break.

10:52

*Meeting suspended.*

11:06

*On resuming—*

**The Convener:** Welcome back. We move to questions from Miles Briggs.

**Miles Briggs (Lothian) (Con):** Good morning. I want to ask about advocacy services, which have been raised with us consistently by the young people who we have spoken to about the bill. Minister, what is your position on independent advocacy as it currently stands in section 4 of the bill, and is the balance right? I have picked up a lot of concern about that.

**Natalie Don-Innes:** Independent advocacy plays an absolutely crucial role in ensuring that the views and wishes of care-experienced individuals are represented. During the bill’s development, it was decided that further detail on the definition of independent advocacy would be set out in regulations. However, I have listened to the committee’s evidence on that, and yesterday I met Who Cares? Scotland, which raised the issue. I understand that there is a wish for the definition to be a little stronger in the bill. Although I cannot get into detail around it, I can assure Mr Briggs that I am considering the issue ahead of stage 2.

**Miles Briggs:** That is useful to know. I really want to see that reflected in amendments, so I hope that that work can progress.

My next area of concern is that kinship care arrangements, which many children and young people experience, are not included in the bill. At this stage, ahead of amendments being introduced at stage 2, what are your thoughts on whether kinship care can be included and significantly improved in the bill?

**Natalie Don-Innes:** Mr Briggs and I have discussed kinship care several times, and he knows that I am very committed to improving support and circumstances for kinship carers in general. There are ways to do that in a non-legislative fashion, but there might also be room for legislation. I am exploring what changes could be put in place. It has proved complex, due to some of the factors around kinship care, such as

kinship care orders and whether kinship care is informal or formal.

I understand the concerns about kinship care not being included in the bill. The committee might be aware that I am developing a vision for kinship carers, in which I intend to lay out what has been raised with me regarding how to support kinship carers and most effectively improve their experiences. I am still considering that; unfortunately, the timings for the bill did not allow for that work to be included. I have committed to continuing to discuss the issue with Mr Briggs in relation to where I feel that there is room for those non-legislative moves and whether there is room for amendment prior to stage 2.

**Miles Briggs:** I appreciate that. Some progress has been made—the national kinship care payment is one example—but the general principle of equity between a young person in the care system and one in kinship care should be accepted. That is, I think, what the Promise was originally trying to suggest: that the country should provide that support for kinship care. I hope that that can be included in the bill, so that kinship care support is not an afterthought. A lot of families are looking for that support. They do not necessarily want the state to be in their homes providing it, but there are barriers to what support is out there for families and we need to use the bill to break them down.

It is not only this committee that has heard that. When I was on the Social Justice and Social Security Committee, families were making that very view known. In fact, I think that we were on that committee together at the time.

I appreciate the point, and it is perhaps something that we can push the Government on in relation to stage 2 amendments.

I will move on to family group decision making. Children 1st has put forward an important argument and concern that there has been a missed opportunity to strengthen the legislation around family group decision making and to improve consistency in peer and financial support for kinship carers. It also wondered what amendments could be lodged to ensure family group decision making.

New Zealand made a lot of progress quite a long time ago—a lot of the principles of the Promise have perhaps come from that. I am aware that the Government is mindful of the potential to include family group decision making in the bill.

**Natalie Don-Innes:** I will be very open and state that I am a little less in favour of including that in the bill. However, I am more than happy to continue the discussions around it.

There are mixed views in relation to family group decision making. I do not know whether additional legislation has a clear benefit, and it could contribute to an already complex landscape. There could be some issues around it. Local authorities already have the ability to lead on that, and there are many areas in Scotland where family group decision making is already used with success, such as in early support services, which I am sure that Mr Briggs is aware of.

However, I have heard from COSLA and Social Work Scotland that any further legislation in relation to family group decision making would not necessarily have the benefit that we might think that it would have. Informed by the discussions that I have had, I would like to allow for time to explore that further, and for it to grow organically from a local authority perspective. However, I am always more than happy to continue discussions on the matter.

We have family decision making in 21 local authorities at the moment, so it would be helpful for me to discuss with those local authorities the successes that they have had and—to come back to what we discussed earlier—where there are opportunities to share best practice. Again, this is not a closed book. I am considering the matter further, but not necessarily in respect of the bill.

**Miles Briggs:** None of us wants the bill to become overly bureaucratic. However, it is about flexibility.

I would say that we have a crisis in relation to people coming forward to be foster carers here in the capital in Edinburgh. When I speak to care-experienced young people, they often highlight to me family members—such as uncles and aunts—who cannot take them on financially, but who they would have wanted to take them on. There is a real opportunity to include family members in that group decision-making process in a way that might open up more opportunities in the future. I am interested to pursue that and see what opportunities there are.

I return to Willie Rennie's question about housing support. The Housing (Scotland) Bill introduced specific new duties to act. Where there is not a crossover into homelessness services for care-experienced young people, what amendments to the Housing (Scotland) Bill will now be included on the back of what may be included at stage 2 of this bill, to improve homelessness actions for care-experienced young people?

11:15

**Natalie Don-Innes:** Mr Briggs can correct me if I have picked up his question wrongly but, at the moment, I am not considering any further

amendments in relation to housing under the Children (Care, Care Experience and Services Planning) (Scotland) Bill. Amendments to the Housing (Scotland) Bill were passed that will impact on care-experienced young people, such as the duty to ask and act. That is not to say that this is a closed book, in that work is on-going in relation to the recommendations in “Improving Care Leavers Housing Pathways”. That continues to be a priority, despite it not necessarily being in the bill before us.

**Miles Briggs:** I know that some very good work is going on. For example, Barnardo's is doing a lot of good work on housing models and peer support for care-experienced young people. However, in most of the casework that I have had over the almost decade that I have been in the Parliament, there has been a demand on care-experienced young people to declare themselves homeless before a package is put in place. I am talking about older care-experienced people, who will now potentially be told that a different model is coming. Expectation management will be problematic, because there clearly will not be a different model around housing.

If we are going to suggest that there will be a different model, the Government needs to consider that. The right to return is also part of that. What the issues actually look like in the Housing (Scotland) Bill—probably because of how the bills landed in the Parliament—has not kept up with other legislation that has been put in place. It may be something to look at at stage 2 or stage 3, but it is an important area, and it is where most crisis is sitting for people: it is around housing issues.

**Natalie Don-Innes:** I will bring in Gavin Henderson in a second, but I want to pick up on two points. First, you mentioned housing specifically designed for care leavers. Organisations are focusing in on that transition point, which is key in providing support so that young people, or even older care-experienced adults, do not end up in that situation. Some of what Mr Briggs refers to takes us back to the importance of advocacy. As you said, there are instances where young people or older care-experienced adults are having to declare themselves homeless. Some key interventions could happen prior to that point that would stop that happening. The offer of lifelong advocacy speaks to that.

I do not know whether I have said what you were going to say, Gavin.

**Gavin Henderson:** It is fine: what the minister has said is absolutely right.

**Miles Briggs:** It is important to consider how to change the gatekeeping model. We talk about

trauma-informed services, but the current model in operation is to say that nothing can happen until someone has declared themselves homeless—here in the capital, anyway. That needs to be looked at as part of the bill.

**Gavin Henderson:** Care leavers should already get the aftercare package, which includes support for housing. We look to expand that to formerly looked-after children, who can ask for a needs assessment—that is an alternative pathway, is it not? People can ask for that support without having to go down the homeless route. We hope that would be something that could help.

**Miles Briggs:** Thank you. We met some care-experienced young people a couple of weeks ago—Paul McLennan and I were on the same panel. I was struck by a young person who had been at the beginning of this journey. They met Nicola Sturgeon at the launch of the Promise and they spoke about their real hope for us to do things differently. I was struck by what they said to me and I wrote it down at the event. They said that the Promise was being lost in the Government machine. That was their view. I wondered whether the minister understood that concern. Given where we are, and given all the issues that have been raised by members, how will she try to unpick that? I feel concerned that we could let down a lot of people, who we have spoken to in this building and who are expecting something from the bill. It does not feel like it is in the right place at the moment.

**Natalie Don-Innes:** I am sorry to hear that that young person feels like that. That point of view has not been brought to me previously by a young person.

I am trying to look at it from their perspective, but I do not believe that the Promise has been lost in the Government machine. The Promise is extremely complex. There are a lot more challenges in the way than could have been foreseen back when we first set out to deliver the ambitions of the Promise.

As I said, the Government has a clear position on the legislation that is being delivered. The Government also has a clear ambition in relation to our aims and priorities and the many non-legislative ways that we are working to deliver on the Promise. I come back to what I said about complexity. There is the work that the Government has to undertake, the work that is being done by local authorities, and then we have everyone else who is involved, whether that be health boards, schools or third sector organisations.

As I say, I am sorry that that young person feels that way. If there is a way of making clear the range of work that is under way on the delivery of the Promise, that would be beneficial.

It might also be beneficial to highlight the work that is being done across the Government. My portfolio is for children, young people and the Promise, but we have already talked about housing today, for example. There are asks of other areas of Government that will be required to be delivered for the Promise. The Cabinet sub-committee meets next week and I will get an update on how other Government ministers are implementing their ambitions to deliver on the Promise. Perhaps we also need to make it clear that the work is not being done in just one area of the Government—it is a cross-Government priority and approach.

I will take that comment on board and keep it in mind as I try to ensure that young people are aware of the full suite of work that is under way to deliver on the Promise. I thank Mr Briggs for bringing it to my attention.

**The Convener:** Paul McLennan would like to come in with a supplementary question on the points about advocacy that Miles Briggs raised.

**Paul McLennan:** Miles Briggs's point about advocacy came through quite strongly, and you said that you would look at that, minister, so I do not expect you to expand on it. Advocacy also came through very strongly when we met the care-experienced kids.

Gavin Henderson touched on another issue that came through strongly at that meeting, which was aftercare advocacy. In itself, aftercare is fine, but I am asking about advocacy services for children aged up to 16 and then up to age 26. An issue that came through strongly was about advocacy all through those people's lives. The people who come out of the care experience will come through it in different ways, but there is still that trauma attached to some of them. The importance of whole-life advocacy came through in our meeting.

I come from a local authority background, where we see kids going through the care system and then having kids, who then have the same issues. It is about breaking that cycle.

Can you say a bit more about whole-life advocacy, which came through strongly when we met the group of care-experienced kids? I know that, as you said, local authorities and health boards have to come in, and I know that there is a whole-Government approach, but I would like to hear how you see whole-life advocacy all the way through the system.

**Natalie Don-Innes:** I see it as extremely important, Mr McLennan. When you were speaking, I was nodding along and I will come in directly on your points.

An example of a key point in a care-experienced person's life is when they have children. At that

moment, or in that time period, trauma that might have been buried for a long time can arise again because the person is going through very different experiences. That can happen in a number of ways—having a child is just one example—and I have spoken directly with young people about that. You never know when that is going to happen, so having lifelong advocacy available is fundamental.

We want to support children and young people who are in care, but we also have a duty to those who have been in care, and we need to ensure that support is there for them throughout their life. I think that the bill's provisions speak to that directly and ensure that no one will be left behind, even when they get past the point of the cut-offs that we have been talking about and things like that. If you are suggesting that 25 is seen as a cut-off, I would say no—people will be able to access that advocacy for lifelong support.

**Paul McLennan:** Thanks.

**Bill Kidd (Glasgow Anniesland) (SNP):** I thank the minister and her officials. It is great to see you all here.

A number of witnesses have expressed to the committee concerns about leaving guidance on care experience to secondary legislation. What provisions have been drafted in that respect, minister, and why has that approach been taken instead of a definition of "care experience" being proposed in the bill? Is there a downside to having such a definition in the bill?

**Natalie Don-Innes:** I believe that there could be a downside to defining "care experience" in the bill. We have already discussed this morning the issue of different groups, or certain young people, feeling that they might be left out, and so having a clear and rigid definition on the face of the bill could cause problems in the future. Working that through in guidance, as we propose to do for a number of other areas of the bill, would allow for the issue to be considered and worked on with children and young people and, indeed, other organisations that we have already mentioned. It would also allow us to have the appropriate time and flexibility to get to the heart of what we are trying to do. From the conversations that I have had so far, I believe that that is the right approach.

**Bill Kidd:** Are you saying, basically, that the bill will keep growing after its passage has been completed and that there will still be room for care-experienced people to bring in their experiences so that you can keep developing what the Promise means to people?

**Natalie Don-Innes:** With regard to some of the guidance and regulations, not just in relation to the definition of "care experience", but a number of other things—for example, the register of foster carers—there will be opportunities to engage with

not only the people who will be impacted but those who might implement aspects of the policy. It will give additional time and flexibility to realise the bill's aims. As I have said, I do not think that there is always a necessity for specific aspects to be in the bill.

**Bill Kidd:** Thank you for that.

**The Convener:** I call John Mason.

**John Mason:** You will not be surprised to hear that I want to look at money, finances and so on. First, I have a question about profit limitation, which is a phrase that is used in section 8 of the bill. As you might have seen, in our previous evidence-taking sessions we have talked about excessive profits, superprofits and things like that. Can you say something about your thinking on that aspect, especially the definition of the term "profit"? I am not an expert, but I am an accountant, and I know that it is possible for people to interpret the idea of profit in many different ways.

**Natalie Don-Innes:** That is the case, Mr Mason—you are absolutely correct. There is a level of complexity here. For a start, work is under way to consider the question that you have just posed to me. Obviously, the consultation on the issue has closed, and I do not think that I can necessarily define what "excessive profits" are at the moment.

As I have said, there is a complexity here, because we know that there could be an element of reinvestment, whether it be in the estate, a centre or whatever. Again, it probably comes back to what I was talking about with regard to regulations. Giving ourselves more time to develop this area further is, I think, very appropriate, because we want to get it right. I know that many people have the right aims at heart when it comes to delivering support for our children and young people, but the whole idea and aim of the bill have come directly from children and young people themselves, who said in the independent care review—and, indeed, have said repeatedly afterwards—that people should not be profiting from their care.

I know that that does not answer your question directly, Mr Mason, but I recognise that there is a level of complexity here, which is currently being considered.

11:30

**John Mason:** I suppose that that is one of my concerns—that this is so complex that we might be better just focusing on the price that somebody charges and the quality of the product that we get. When we buy, say, the Forth road bridge—or anything—with public money, it is all important, as

is this. Is it not just the quality of care and the actual cost that we should focus on? I have forgotten exactly who it was, but when I asked, "Where is the quality of care best?", at least one witness answered that it was better in the private sector than in the public sector.

**Natalie Don-Innes:** Data suggests that the position is a little bit more nuanced than that. I do not think that you can necessarily say, "The public sector sits here, and the private sector sits over there, and over there is better." Again, it needs to be seen on a case-by-case basis, and we really need to delve into that a little further.

As for the work that is under way, I might bring in Gavin Henderson to respond to the more specific points that you have raised, but, as I have said, there is a clear ambition to remove profit—or excessive profit—from the system. Likewise, similar efforts with the same aims are going on across the UK, and we will work with our counterparts to explore the challenges and complexities arising in those systems.

Gavin, can you speak to some of the points that Mr Mason has raised?

**Gavin Henderson:** Mr Mason has raised a difficult question, which is whether we can get a unit price for this level of support. Many children who receive such services have additional needs, and there is complexity around the tailored support package that they need. It is more complex than simply saying, "This is the rate you're getting", and that is it.

Of course, that is part of the challenge, because a range of families rely on quite intensive and supportive services in children's homes in Scotland. We need to ensure that, as we move towards the zero-profit system in order to keep the Promise, we do not create disincentives for current private sector providers. We do not want those providers to remove themselves from the market, because that will mean that families will not get the support that they currently receive.

**John Mason:** I did not ask specifically about that, but that concern was raised with us.

With regard to controlling profit, I am sceptical about whether that will happen UK-wide or indeed elsewhere, because I know from experience that big companies are very clever at manipulating profit, charging management fees and so on.

On the night when committee members met the young people here, I met only a few of them, but it was interesting to hear one or two say that they were relaxed about whoever ran their care home making a bit of profit, as long as it went back into making buildings better and so on. They were more concerned about the possibility of the director or chief executive officer—whoever they

might be—driving around in a really fancy car. If the director had a really nice car, that would reduce the profit—and that is my point. Once you get into such minutiae, it is almost impossible to control that sort of thing.

**Natalie Don-Innes:** Mr Mason, you have rightly highlighted some of the complexities around this issue. I do not believe that it is impossible, and, equally, I do not want to comment on anyone's specific circumstances, but I appreciate how things can look to children and young people. As I have said, all those factors will be considered as the work progresses.

**John Mason:** Okay. We will keep an eye on that.

Building on that, I note that a slightly different approach has been proposed with regard to fostering, because the fostering service has to be a charity. First of all, can you explain the difference between the two approaches?

**Natalie Don-Innes:** The difference between the two relates to the fact that, under the Public Services Reform (Scotland) Act 2010, independent fostering agencies are already required to operate on a not-for-profit basis; no such restrictions currently apply to the residential side of things. Only a small number—nine out of 26—of independent fostering agencies are not yet charities.

Gavin Henderson spoke about destabilising provision. I think that there is less risk of that on the fostering agency side. At the moment, 48 per cent of residential services are run by private providers so, if those two measures were applied in the same way immediately, there would be a higher risk of losing placements or providers exiting the market. The proposal reflects a more balanced approach. I think that we could still get there with the residential side, but that approach reflects a more timely and safer way of doing so, to ensure that we do not lose out on placements.

**John Mason:** I have a slightly wider question on the bill's financial memorandum. Pam Duncan-Glancy and others have touched on aspects of that already.

As I understand it, the three big bits of money are for extending aftercare, for increasing advocacy services and for children's hearings, the latter of which is primarily about paying the chairs.

How comfortable are you with the figures? I am looking at the final column, covering the year 2029-30, by which time everything should have settled down and stabilised. There is a figure of £7.4 million for aftercare. However, there seem to be a lot of questions about how much aftercare will be needed, because we cannot predict the demand. Similarly, there is between £5.3 million

and £7.2 million for advocacy services. How certain are you of those figures?

**Natalie Don-Innes:** I have already said that I know that concern has been raised about the figures for aftercare. I note that the figures were provided by local authorities. We asked for the most up-to-date information, so that was the best information that we had to go on.

It is difficult to put a price on aftercare, because it can be delivered and provided in different ways. As we have alluded to this morning, every child and young adult's needs are different.

Based on the figures that were provided, a good effort was made to realistically envision those costs, but I have been clear that further work, especially in relation to aftercare, is on-going with COSLA to tighten those up a little.

**John Mason:** Can you clarify what figures the local authorities gave you? Did they represent what they currently spend on aftercare or what they think they might spend on it in future?

**Natalie Don-Innes:** I ask Gavin Henderson to come in on the details.

**Gavin Henderson:** As I understand it, the figures were based on statistical returns that local authorities make to Government, with an uprating applied.

**John Mason:** Do you mean that they are historical figures?

**Gavin Henderson:** As you know, the rates were from a historical point of view, but the statistical figures were, as I understand it, up to date.

**John Mason:** I am interested in the term "statistical figures". That suggests that they are definite and historical, as compared with forecasting—

**Gavin Henderson:** It is the number of cases, Mr Mason.

**John Mason:** I am not expecting you to know how many people are going to need or ask for aftercare, but I suggest that that is a very uncertain figure. Do you agree?

**Gavin Henderson:** It is difficult to predict a demand-led budget ahead of time, as we discussed on a previous occasion.

**John Mason:** I will leave it at that, convener.

**The Convener:** With regard to some of those points from John Mason, we had a very critical letter from the Finance and Public Administration Committee, which has looked into the issue and noted that some of the submissions suggested that the financial memorandum includes

"inaccurate assumptions in some areas"

and that it

“uprated inflation costs from 2011-12.”

It went on to say:

“The respondents noted that simply adjusting for inflation costs from more than 10 years ago is not sufficient to ‘reflect the current demand and the need that social work, education and community supports experience’.”

Is there no better way than looking at figures from more than a decade ago?

**Natalie Don-Innes:** I agree, Mr Ross. I have already touched on that. The figures are specifically in relation to the aftercare point that we have already highlighted. I believe that there is a better way, and that is what we are working through with COSLA at the moment. I have committed to providing any updated financial information to the finance committee, and I will do the same with this committee.

**The Convener:** Would you not have had that by now, had COSLA not also said to the finance committee that it was

“not engaged on the content of the financial memorandum ... despite being clear that Local Government was ready and willing to engage”?

That is a direct quote from COSLA to the Finance and Public Administration Committee. If COSLA was ready and willing to engage, why were you not?

**Natalie Don-Innes:** I have been willing and ready to engage. Again, I will perhaps need to look into some of those concerns further. I can certainly ask Gavin Henderson to come in on the updated conversations or on the statistics, but, as I have said, that was the information that local authorities provided to us and that was what the Government had to work on.

**The Convener:** Is it news to you that COSLA said that it was ready and willing to engage, but was not engaged on the content of the financial memorandum?

**Natalie Don-Innes:** It comes back to the discussion that we had when—

**The Convener:** I know that it does, but it causes us significant problems that affect not just our committee but the Finance and Public Administration Committee. Real and strong concerns have been raised about a number of Government and non-Government bills. I experienced that myself.

The Government is continually criticised about the quality of financial memorandums. I find it really disappointing that, as the minister, you have accepted figures that, as was pointed out earlier, are more than 10 years old. You are now looking for alternatives, but we needed those when the bill was introduced. You knew what was in the

financial memorandum when you submitted it, so why did you and your officials not highlight those concerns at the time? Why are we now coming to our stage 1 report, and a vote in Parliament in a number of weeks, when work is still being done on the financial memorandum because you accept that it is deficient?

**Natalie Don-Innes:** Mr Ross knows that I take a keen interest in financial memorandums. We have discussed them at length with this committee.

In a second I will bring in Gavin Henderson to speak to the engagement side, but I think that it comes back to the complexity around many of the measures. The bill has various aspects and provisions, and efforts have been made to engage on specific aspects. I admit that there is a level of complexity in refining the figures, but, from my side, there have been active attempts to engage and find the most appropriate financial figures to provide to the committee.

**The Convener:** I ask either Mr Henderson or the minister: at what point did you start to look for those alternatives? In the financial memorandum, someone typed in 2011 and 2012 and just uprated the figures by inflation, and you have known for months that people have been unhappy with that. At what point did you start to look for alternative, better and more up-to-date figures?

**Gavin Henderson:** The challenge on the numbers has come following the introduction of the bill.

**The Convener:** Your department introduced the bill and the financial memorandum, and we are hearing from the minister today that she has concerns. Were those concerns not highlighted at ministerial or official level prior to the bill's introduction?

**Gavin Henderson:** The information that we had was the best that we were able to provide.

**The Convener:** The minister is not happy with it.

**Natalie Don-Innes:** If I could just be clear, I have heard the concerns, I appreciate the challenges with using old data, and I would like to explore further ways in which we can refine our approach and find more up-to-date figures.

I am sorry, but I was asking Gavin to speak to how we are going about that.

**The Convener:** However, you would have appreciated the situation when you lodged the financial memorandum.

**Natalie Don-Innes:** I was provided with the best information that I could be given at the time, and I had to choose between progressing with a bill under the timeline that was given to me or committing to updating that information further. As

Gavin and I have alluded to, information was requested from COSLA on a number of different aspects of the bill, and the most efficient and useful figures were not provided in all areas.

**The Convener:** Mr Henderson, as the senior official, did you question the memorandum at the time? Did you send it back to say that the minister and the Government would not be happy with it, that the finance committee would challenge it and that the education committee might also do so? Did you not say, "Look, we are going to look silly, putting in figures from more than a decade ago and just uprating them by inflation"?

**Gavin Henderson:** That was the best information that we had.

11:45

**The Convener:** Did you think that it really was the best, or did you try to get more? Did you just accept what you were given?

**Gavin Henderson:** Yes.

**The Convener:** You did. Okay.

I will bring in Miles Briggs in a moment, but first I want to quickly follow up on John Mason's point about profits and suchlike. The bill was lodged in Parliament on 17 June and, in response to Mr Mason's first question, you said that you have just had a consultation. That opened on 11 August and closed on 6 October. Why did the consultation happen after the bill was lodged in Parliament—indeed, almost two months after? Why did you not do the consultation beforehand, given that that aspect is now included in the bill?

**Natalie Don-Innes:** Time would not have allowed for that, if I wanted to be in a position where I could—

**The Convener:** Sorry, but why not? What was the time constraint?

**Natalie Don-Innes:** The other consultations that we ran were decided on and implemented, in some cases a year or two years prior to the bill's introduction. In this case, the timescales would not have allowed for that. If we had consulted prior to the introduction of the bill, I would most likely not be sitting here today, because I would have wanted that provision in the bill and we would most likely—

**The Convener:** Sorry, but the provision is in the bill.

**Natalie Don-Innes:** Sorry?

**The Convener:** It is a provision in the bill.

**Natalie Don-Innes:** Yes. I am talking about what would have happened if we had chosen to consult prior to the introduction. There is a

timescale involved in arranging consultations, then consulting and then carrying out the analysis that has to follow.

**The Convener:** You were able to do that on a number of other aspects of the bill but now, in an area that has caused a significant amount of debate, we have a consultation that closed less than a month ago. We are looking at the issue to enable the Parliament to scrutinise what is in the bill. The response that we get from you, as the minister, is that we will get more information on that in future because a consultation has just closed. I cannot understand why that consultation could not have taken place prior to the bill being introduced, so that you could inform the development of the bill and in particular our scrutiny of it.

**Natalie Don-Innes:** The decisions were not taken at the same time. As I said, I had to consider a range of factors in relation to what would be in the bill and the appropriate timescales for those. I am very clear that the timescales would not have allowed for a consultation to have been undertaken prior to the introduction of the bill.

**The Convener:** So why did you feel that there was a need for a consultation? You had already included the provisions in the bill when you introduced it in June, so what happened in the weeks after that to make you think that you needed a consultation?

**Natalie Don-Innes:** Nothing happened in the weeks after that. I had been planning to consult to answer some of the challenges that we have already—

**The Convener:** But do you accept that you are not answering those challenges? You have told the committee that the consultation closed less than a month ago, so you do not have that information for us. I accept that, but you could have had that information. Was there a blockage? Was there something that meant that you, as the minister, knowing what you were putting in the bill before it was introduced to Parliament, could not have consulted? Was there a legal problem? Was there a problem with officials?

**Natalie Don-Innes:** It was simply down to timescales.

**The Convener:** It was not. There is nothing that prevents you from doing that. The Government consults ad nauseam. Was there a legal impediment to prevent you from doing it? Were officials saying, "Don't do this until you introduce the bill?"

**Natalie Don-Innes:** No. There were just a number of considerations that had to be gone through in relation to what was going to be in the bill. There were tight timescales involved. As I

said, those timescales did not allow for consultation on those points.

**The Convener:** Sorry, but the phrase “did not allow” sounds quite strong. The timescales did allow. If you, as the minister, had said, “This is going to be in the bill. I want to make sure that we have a consultation on it before I introduce the bill”, that would have happened. Can any of the officials say that, if the minister had said that to them, they would not have allowed the minister to put the matter out to consultation? No.

**Natalie Don-Innes:** Mr Ross, you are not giving full credit to the complexity of introducing a Government bill. As I said, I have to consider a range of factors around what will be in a bill and how we gather the data for that. There was no thought of, “We’ll put this in the bill and then consult after.” It was very much about the timescales involved in introducing the bill prior to summer recess. That was my focus. I can only apologise again if we have not given the committee the fullest of answers in relation to that specific aspect of the bill.

**The Convener:** The Law Society of Scotland said:

“the Scottish Government is consulting further on this matter. This consultation closes on 6 October 2025. It therefore concerns us that inclusion of the provisions in this Bill is premature, pending the outcomes and any recommendations made within related reviews and consultations.”

It is not just me or this committee that is concerned—it is the Law Society. I still do not understand what barriers would have been in place that would have prevented that consultation from happening.

**Natalie Don-Innes:** I will engage with and work on those concerns, and we will discuss and work through them as we analyse the consultation response and work to build on those aspects of the bill.

**The Convener:** When will we get an update on that? It clearly cannot be part of our stage 1 report, so will it be before the stage 1 debate and vote? Will it be before stage 2?

**Natalie Don-Innes:** I am sorry. I do not have that information, but I will ask Gavin Henderson to come in.

**Gavin Henderson:** We will write to you about the timing.

**The Convener:** Surely you, as the minister, can give us a commitment that, although you accept our disappointment that we cannot have the answers today when we expect them, you will provide them before we publish our stage 1 report.

**Natalie Don-Innes:** I am sorry, Mr Ross. I was just about to commit to providing you with that information in as timely a fashion as I possibly can. I cannot give a definitive date because I do not have that information and I do not want to mislead the committee. I will write to you after the meeting with a more direct response about timelines, and you have it on the record that I commit to providing you with the information in as timely a fashion as possible.

**The Convener:** How many consultation responses have there been? If it is 10, it will not take long, but if it is 1,000, it will.

**Gavin Henderson:** I am not sure about the numbers.

**The Convener:** Minister, do you know?

**Natalie Don-Innes:** I have the number 147 in my head, but that might be a different consultation—I am dealing with five at the moment. We will follow that up. I am pretty sure that I can confirm that it is definitely not 1,000.

**The Convener:** Again, the committee and the Parliament need that information because it is an area that has caused significant concern, as shown in our evidence sessions.

**Miles Briggs:** As John Mason has highlighted, there is concern about unintended consequences. From looking at it, I think that the legislation model is the same as that in Wales. The Welsh model will not come into effect until 1 April 2026, so we will not have real-world experience of the impact that the legislation could have.

The majority of providers in Wales are from the private sector, as are 48 per cent in Scotland, as the minister outlined. Providers are telling us that they are already under significant financial pressures with staffing and energy costs, and providers exiting the market in some parts of the country will be a disaster if there is no additional capacity. The cost of that to the taxpayer has also not been factored in.

When we were speaking to the young people, it was interesting to hear that they support the principle of the legislation, but the unintended consequences have not necessarily been seen and, as I say, the Welsh model has not yet come into force. Will ministers be live to that? Wales is working towards implementation by 2030. Will that be a key principle that the minister will also include in the bill?

**Natalie Don-Innes:** Again, I do not want to put a definitive timescale on it. It is most important that we get this right. The clear response to Mr Mason’s question about why we have taken a different approach is that it is to avoid some of those unintended consequences. I believe that the approach that we are taking is the right one, but it

will be developed further. I do not want to put a definitive timescale on it, because I want to give the appropriate amount of time to work through the issues with concerned stakeholders.

As Mr Briggs said, we are not going to see the full effects of the Welsh model, and I have been clear that I want to work with my counterparts to find the best way forward and meet challenges before they arise. That is a fair summary.

**Miles Briggs:** The commentary on the Welsh model shows that one of the real concerns is disinvestment. There is a concern that some companies may be looking to exit the system by 2030, which means that there is no incentive for them to upgrade their facilities or invest in our young people. We must be mindful of the consequences, which is an issue that was also outlined by the young people we spoke to, who want to see investment in services. That is not necessarily a question, but I am putting it out there because it is important that that does not get lost because of the bill.

**Natalie Don-Innes:** We absolutely must strike a balance. There will be consequences, but I hope that we would all agree that there should be no excessive profiteering from the care of children and young people. If we do take that stance because we think that it is necessary for delivering on the Promise by 2030, we must take steps towards that. The steps that we are taking are timeous and proportionate and will give us time to develop the work and get it right, which, as I said at the start of the meeting, is my priority.

**Jackie Dunbar (Aberdeen Donside) (SNP):** Good morning—just.

**Natalie Don-Innes:** It is just still morning, yes.

**Jackie Dunbar:** We have heard in our evidence sessions that some stakeholders would like to see clarity about the idea of a register of foster carers, because they are unsure about the purpose of such a register and about how it would be managed. What do you see as the main purpose of that register? What issues would it address, and how would it be managed and by whom?

**Natalie Don-Innes:** There are two ideas at the heart of the proposal for a register: promoting a positive experience, and the safety of children. A national register will work to strengthen safeguarding and transparency so that we do not repeat the mistakes of the past. The Scottish child abuse inquiry has heard about the need for more consistent and joined-up protection for children and the idea of a national register is a direct response to that.

At present, we have no national mechanism for tracking who has been approved as a foster carer, what their history is and whether their current

status is active, suspended or withdrawn. A national register would help to support consistent oversight of foster carers across Scotland and to ensure that fostering services have access to accurate, up-to-date information so that decisions can be made in the best interests of children and young people.

As with other aspects of the bill, we have given ourselves time to more fully develop the idea of a register and to work with those who have an interest in order to get that right. We also have the experience of the adoption register.

**Jackie Dunbar:** I am going to go off piste a wee bit. Could the model of the adoption register be used for the foster carers register? Would it be along the same lines?

**Natalie Don-Innes:** There are certainly similarities and there are things that we can learn from the adoption register, which supports agencies to match approved prospective adopters with children who are in need. That speaks to much of what I have just said. There is an element of safeguarding and—for lack of a better term—an element of making the matching process a little easier. I am not saying that a foster carers register would exactly draw on the adoption register, but there are similarities that we can look at and there are always lessons that we can learn.

**Jackie Dunbar:** Who would manage a foster carers register?

**Natalie Don-Innes:** I have directly discussed that with several stakeholder organisations and I know that there are concerns about the independence of that register. I do not have a straight answer at the moment, but the register will be created by secondary legislation, which will allow us time to consider the points about having an independent holder for the register, as well as other matters.

**Jackie Dunbar:** Are you looking for an independent holder, rather than having local authorities keep the register?

**Natalie Don-Innes:** Stakeholders have come to me with concerns about ensuring that the register is independent. I do not have a definitive answer, but I can certainly see why that would be the right approach and am considering that.

**Jackie Dunbar:** Those concerns were raised with us, so I am glad that they have been raised with you, too. Who Cares? Scotland said that the register should capture complaints and concerns that are raised by young people about foster carers. What consideration have you given to that suggestion?

12:00

**Natalie Don-Innes:** When I met Who Cares? Scotland yesterday, that issue was not mentioned, but I know that it has come up previously. Again, we will consider that suggestion, but there are already appropriate ways to log complaints, which Ms Dunbar referred to, or whatever it might be. I go back to my original answer about the rationale for the register. I appreciate that, on the face of it, the register does not necessarily seem like a big, flashy aspect of the Promise bill, but it will help to enhance safeguarding for children across Scotland. Anything that we can do to further that aim will be considered when the regulations are drafted.

**Jackie Dunbar:** Thank you.

**Pam Duncan-Glancy:** Good afternoon, minister—we are just into the afternoon.

I want to ask about children's hearings and, specifically, single-member panels. Witnesses, including those from the Scottish Children's Reporter Administration, the Children and Young People's Commissioner Scotland, Clan Childlaw and the Law Society of Scotland, said that more clarity is required on the proposals for single-member panels—for example, what is meant by "procedural"?—to ensure that children's rights are upheld. Some young people who attended the committee's evidence session with Who Cares? Scotland said the same and were not supportive of single-member panels. Our Hearings, Our Voice found that most young people it spoke to did not support the proposals, either. What is the minister's response to that? Does the Government have any plans to address those concerns?

**Natalie Don-Innes:** Yes. In a minute, I will bring in Tom McNamara, who, I know, has been itching to come in. We are very mindful that there is a wide range of views on the subject of single-member panel decision making. We have kept in place appropriate safeguards in relation to appeals and reviews of such decisions, and the single panel member will have full recourse to a panel, should that be deemed necessary or appropriate. However, having taken into account the questions that the committee has raised and some of the evidence that has been provided, I am considering what further safeguards could be implemented.

I ask Tom McNamara to say how decisions by a single-member panel would progress.

**Tom McNamara (Scottish Government):** Good afternoon. I might be able to bring a wee bit of light on the underlying intention of single-member panel hearings in the context of redesign more generally. The focus is on releasing the broader volunteer panel member capacity to focus on substantive dispositive hearings and to engage with the major forward-looking aspect of the

redesigned system, which should resonate with Sheriff Mackie's report and recommendations.

The position reflects the current 2013 procedural rules. The functions of procedural or administrative decisions, which Pam Duncan-Glancy referred to, are dealt with in secondary legislation under the current system, but I will give an example of the types of decisions that we think those chairing members would be able to make. Such decisions would be on factual matters, such as the deeming or undeeming of relevant persons, the identification of potential appointments for safeguarders and recommendations on the potential involvement of legal representatives. We would focus the expected range of functions on the cohort of remunerated chairs, so thousands of panel members would not be engaged in those matters.

The intention is to release capacity in the system so that a broader group of children can benefit from swifter processing and more consistency and continuity in relation to personnel.

There is a fair debate to be had on what is appropriate for a single-member tribunal to be able to decide, but it is also fair to observe that such an approach is deemed appropriate elsewhere—for example, in the mental health tribunal and other comparator tribunals in Scotland—and that it is okay, and is already well-established practice, for tribunal members to decide certain matters on their own, while recognising that, for other matters, it is essential for the full tribunal to be convened.

That is where we have got to at this stage of the game but, as the minister has said, we remain receptive to the observations that have been given to the committee and the correspondence that has come in on the back of the committee's call for views. We are thinking about that internally within Government. If the minister takes a different view and feels that we need to be a bit more precise in prescribing what needs to be on the face of the bill, or that we need to be a wee bit firmer in our thinking about what needs to be in secondary legislation, we will obviously do that.

**Pam Duncan-Glancy:** In that case, minister, what do you think needs to be in the bill in relation to the responsibilities of a single-member panel?

**Natalie Don-Innes:** At the moment, I am fairly content with where we are in the bill; after all, I introduced it. Tom McNamara has rightly explained the situations in which the single-member panel would be called on as well as the safeguards to ensure that we can be confident in the system. If Ms Duncan-Glancy has specific thoughts about what she believes should be in the bill, I would be happy to discuss them ahead of stage 2.

**Pam Duncan-Glancy:** Perhaps we can do some of that just now, because it would be helpful to get your views on the record. Do you think that a single-member panel should be able to establish grounds?

**Natalie Don-Innes:** I am not necessarily going to put yeses or nos on the record in response to these questions, because, as Ms Duncan-Glancy will be aware, I will be receiving advice on what are complex matters. Therefore, I do not want to say yes or no, because a range of different circumstances and complexities could be involved that could mean that that might be okay sometimes, and sometimes not. If we want to get into a fuller discussion on these matters, it will be much more helpful if we take it out of the committee space and if I can, as I have committed to doing, discuss amendments with all members ahead of stage 2.

**Pam Duncan-Glancy:** I understand that this is complex and that we do not have time to go through everything here, but you will appreciate that, for the people watching and for the sake of good scrutiny, it is important to try to get some of these matters clarified on the record. If you cannot say anything about the panel establishing grounds, what about its issuing or extending interim compulsory supervision orders?

**Natalie Don-Innes:** Ms Duncan-Glancy will be aware of the changes that we are making in relation to establishing grounds. I am sure that, from that particular section, you can understand the complexity involved. There are cases in which grounds can never be established, and those are now going to be put right over to the sheriff. Perhaps that could be a decision for a single-member panel; that is not something that I would want to commit to saying yes or no to at the moment, but I can see how there might be a way forward in that respect.

In relation to other grounds on which there is clear agreement, we are now going to take that straight through to the three-member hearing, but those grounds would still be established. In other words, we are getting rid of the grounds process at the beginning, but we are still establishing the grounds at the start. Establishing the grounds is an extremely important part of the process of the children's hearings system.

As I have said, there are complexities in how that can be taken forward, but the position that we have got to with the bill is a very positive one. I do not know whether that helps you in trying to understand the level of complexity here and why I feel that your question does not necessarily merit a yes or no answer.

**Pam Duncan-Glancy:** It does not really help, I am sorry to say. I understand that these matters

are complex, and it has taken many people many months—years, in some cases—to come up with suggestions on them. At this point in parliamentary scrutiny, however, detail matters, and people watching this session will be looking to understand the Government's intent. Does the Government intend to make one person able to decide on someone's liberty? Does it intend to make one person able to decide on grounds? Is that what the Government intends? Not having answers to those questions at this late stage in the game makes it quite difficult for the committee to do its required scrutiny.

**Natalie Don-Innes:** The provisions in the bill are very clear, so there is a level of information in it that the committee can, rightly, scrutinise. I will bring in Tom McNamara again to speak to some of those specific aspects.

**Tom McNamara:** It is fair to draw a distinction between the two examples that you gave, Ms Duncan-Glancy. The decisions around interim supervision orders—at least in relation to the first ISOs, as we call them—were made as a matter of urgent necessity. The intention was to create urgent necessity measures to keep the child safe in quite defined circumstances while the referral was being made from the reporter to the sheriff.

You referred to the single-member grounds hearing, which is a bit different, because it needs to be seen within the context of the Government's proposed approach to the updated take on establishing grounds overall. Only in a particular tranche of cases would it be clear and appropriate for a single member to take that role in a clear and transparent manner, taking the responsibility from the reporter. That is an example of where, in a nuanced way, we are trying to do justice to and honour the "Hearings for Children" report recommendations, whereby the reporter is much more engaged with the family in order to establish their appetite, capacity and inclination in relation to grounds and to see whether a further clarifying conversation is needed with the chairing member, as the independent tribunal member who takes the lead role in the discussion about that family.

The purpose of that is to establish whether we would get anywhere in seeking agreement on the grounds or whether we need to go to the sheriff. The idea is that, as the minister said, it is not as simple as extracting that particular conversation without thinking about where it fits in the overall trajectory during the early stages of the process; it is a bit different.

**Pam Duncan-Glancy:** I understand that, but children and young people who might be subject to some of this are looking at it and thinking, "More than one person makes the decision now, so what happens when just one person makes the decision? Is there any check and balance on

that?" It would have been helpful to have a bit more clarity about any parameters within which that one member will operate, and I am afraid that we have not had that. Minister, do you understand why people watching this will be slightly uneasy about not having clear parameters around that?

**Natalie Don-Innes:** I have been clear about the safeguards that are available, and I have committed to exploring other potential safeguards with committee members, should they have any to put on the table. As I have said, if you have ideas about specific amendments that could be made to strengthen the provisions further, I would love to hear them.

**Pam Duncan-Glancy:** Thank you. I guess that that will happen as we progress to stage 2.

I have another question. What training and qualifications would you expect the single member on the panel to have?

**Natalie Don-Innes:** Again, that ties in with wider work on enhancing the role of the reporter. Training and qualifications will need to be established for that, including in relation to the changes that are taking place through the redesign of the children's hearings system as well as other non-legislative work. I ask Tom McNamara to come in on that.

**Tom McNamara:** On that point specifically, we are looking to provide enough definition of the overall intent and scope of the roles, while respecting the autonomy of the national convener at Children's Hearings Scotland. Their independence is protected in statute already. It is essential that the national convener is positioned to articulate for themselves what they see as the essential attributes that individuals should arrive in the role with and what support and training arrangements should be put in place in order to ensure that everyone who is involved, particularly children and young people, have confidence in those decision makers—especially when they might be operating in chambers on their own. There is real clarity around certain aspects of that, and some defined detail has been shared with us very recently by Children's Hearings Scotland. The national convener has also embedded a member of his team within our team to work to bring more clarity. We expected that the committee would have a real interest in that.

That information, which we received relatively recently, answers some of the questions on the attributes and potential competencies that individuals would arrive with, where they would be expected to operate and what the national convener would offer them by way of training, monitoring, quality assurance and expectations.

12:15

**Pam Duncan-Glancy:** Can you share those details with us now?

**Tom McNamara:** We would be delighted to share the information with you. We will either do that ourselves or we will speak to the national convener to ensure that the information is transmitted to the committee as soon as possible.

**Pam Duncan-Glancy:** It would be helpful for the committee to have that information, so that we can understand a little more about the expectations.

Will there be an appeal or review route?

**Natalie Don-Innes:** If you mean in connection with the single-member panel, I believe that I mentioned that in my response to your first question on this area.

**Pam Duncan-Glancy:** Forgive me; I did not pick that up.

My next question is about the obligation on a child to attend a hearing. Generally, witnesses have supported the removal of the obligation, but a number of them felt that it could be replaced by a presumption of attendance, as was recommended by the hearings system working group. Why did the Government choose not to include a presumption of attendance in the bill? Do you feel that there is adequate provision to ensure that children's voices are heard?

**Natalie Don-Innes:** I believe that there is. I will bring in Tom McNamara in a second to speak to some of the specifics. It comes down to what we have heard from and discussed with stakeholders. We have tried to keep as close as possible to Sheriff Mackie's report when we can. In the conversations that I have had, the general feeling has been that a presumption to attend would not necessarily have the intended outcome or make the difference that we would want it to make. I believe that the approach that we have taken in the bill is more balanced and speaks to the recommendations.

**Tom McNamara:** The Government has sought to strike a balance to arrive at the same destination, picking up on our understanding, insights and reflections on the practices that have developed in various parts of Scotland over the years. The pre-existing test for excusing children from attending hearings has a high threshold: it looks at physical, mental and moral welfare and is almost a life-course-changing test. We are not clear that human, empathetic and motivated tribunal members always apply that test. A level of damage needs to be done before we excuse children from attending hearings.

We felt that a presumption of attendance would tend to fossilise the pre-existing inclinations and cultures on excusing children, presumption and so on. The Government wants to encourage and support proper participation in the hearings journey, rather than mistaking physical attendance for good participation. That resonates with the overall children's hearings trajectory. We are making improvements to advocacy and information sharing, and to the ways in which we can support different groups of children and young people to take the part that they want to play in their hearings. By and large, we want to be led by children and young people and give them a level of agency. As a backstop or failsafe, when the tribunal believes that it needs to see and hear from an individual child or young person on a specific day at a hearing, they are able to reach for that lever.

There is a fair debate to be had about that, but the intentions are absolutely sincere: we want to try to support children and young people to exercise their rights to how, where and in what manner they engage in the process overall, rather than soothing ourselves with the thought that obliging children to attend a hearing is some sort of proxy for good participation. We have tried to raise our sights, apply some practice insight and be respectful of the various voices on the issue, and to strike a balance. It is absolutely fair to acknowledge that there are a range of perspectives on that.

**Pam Duncan-Glancy:** Thank you—I appreciate that.

This is my final question, minister. In a setting in which the child is not in attendance and there is only one panel member, what safeguards do you think are necessary to ensure that UNCRC rights are upheld?

**Natalie Don-Innes:** To be clear, a number of people will be in the room when the hearing takes place. It might be a single-member panel, but there will be a range of associated people in the room, so there will be safeguards.

**Pam Duncan-Glancy:** How will you know that the people who are in the room are advancing the views, wishes and rights of the child at that point? How will you provide protection in that respect?

**Natalie Don-Innes:** Of course, children in the children's hearings system have a right to advocacy. If an advocacy worker has been provided, they will have someone there to stand up for their rights. The proportion of children in the hearings system who take up advocacy is higher, overall, than the proportion of those in the general population of care-experienced children and young people who take up advocacy. That speaks to the fact that there can be someone in the room who

has the child or young person's best interests at heart. I think that that is an appropriate safeguard.

Yesterday, I discussed with Who Cares? Scotland how we can increase the uptake of advocacy such that all children and young people take up that offer and have an advocacy worker in the room to safeguard their rights.

**Pam Duncan-Glancy:** Thank you.

**John Mason:** We have had evidence to suggest that the area of grounds hearings and the role of the reporter is becoming quite complex. Sheriff Mackie said that grounds hearings can become very difficult and confrontational and that cases in which grounds are not opposed would best be dealt with by a system that was more administrative, which would avoid the need for a hearing. Do you agree? Is that a possibility?

**Natalie Don-Innes:** I agree with that to a certain extent, and I think that that comes across in the provisions that we have included in the bill. We understand that, in some situations, there might have to be grounds hearings, but, given the nature of those hearings and the fact that 86 per cent of cases result in an application for proof, we want to reduce their number. The provisions in the bill will help to do that and to take people out of a situation that they should not really be in.

However, as I have said to Sheriff Mackie, I still see grounds hearings being required on certain occasions.

**John Mason:** Sheriff Mackie said that the bill stops short of introducing a more administrative system, and, instead, reinforces the existing system.

**Natalie Don-Innes:** I saw the evidence session with Sheriff Mackie, and he wrote to me directly to explain some of his concerns. I discussed those matters at great length with Sheriff Mackie and provided him with a bit more data around the reasoning for our approach, and I think that we are in a better position. Of course, I do not want to put words in his mouth, but I think that Sheriff Mackie was a little more favourable towards the proposals after our discussions. I feel that we are in a better place, following the engagement that I had with him on the issue, in which I sought to provide him with a greater understanding of why I have taken the approach that I have taken.

**John Mason:** As far as I can see, Sheriff Mackie, who is the expert on some of this, is struggling to understand how what you are proposing will work, and the rest of us are definitely struggling with that, too.

With regard to the role of the reporter, it has been suggested that there could be a conflict of interests for the reporter in meeting the child or the family earlier on than is presently the case. One

witness suggested that the child might incriminate themselves if they meet the reporter earlier on.

**Natalie Don-Innes:** That highlights the importance of advocacy and the question of who would be there to support the child. The offer of advocacy will now be made at an earlier point. The provisions will open up opportunities to streamline the system to make it more effective for children and young people. I can certainly consider ways to avoid those concerns from arising. Perhaps, if it is a fear among children and young people, we can try to appease them. However, I believe that the provisions will have more benefits than negative impacts.

**John Mason:** Is it just advocacy, or would there be a need for legal representation in some cases?

**Natalie Don-Innes:** Every child's case is different. If specific offence grounds were being considered, there could be a need for that. We will need to work through and consider the detail of that. Tom McNamara, do you want to come in?

**John Mason:** I will let Tom McNamara speak in a second, but one suggestion was that the reporter might end up having to meet two or more groups separately, even within a family, before they went forward.

**Tom McNamara:** This slightly echoes the conversation that we had with Ms Duncan-Glancy. We want the various interactions and conversations to be seen in the aggregate rather than in isolation. As I think that I mentioned to Ms Duncan-Glancy, the "Hearings for Children" report recommended that the reporter should, while discharging their duties, work in a more relational and on-going way with children and families. However, the process is not about accepting or establishing grounds at that point; it is about being in the early foothills and establishing the capacity, the understanding and the appetite of children and families to accept the grounds.

The important safeguard is that that is then followed up, and the tribunal member takes the pre-eminent role—it is not the reporter marking their own homework. It is important that the hearing establishes its own jurisdiction subsequent to that conversation.

The only other aspect that I will draw on is that I understand that similar approaches have been trialled in Dumfries and Galloway and elsewhere. That has led to grounds being established more reliably and more quickly, which has driven down some of the early-onset proofs and appeals aspects. We take some encouragement from that, but it is admittedly a difficult tale to tell when we describe one particular interaction without the wider context about what is intended.

**John Mason:** It sounds good to have a bit more informal contact, understanding, relationships and all that kind of stuff. However, the reporter will still have to write a report, will they not?

**Tom McNamara:** Yes, the reporter will either make a referral to the sheriff or a referral onward for the hearing.

**John Mason:** I suppose that we all have some of the public inquiries on our minds. If, for example, the chair of a public inquiry gets too close to one party or another, there can be at least the perception of a problem. That is perhaps what is being flagged up here: that the reporter could be swayed or something.

**Tom McNamara:** I will finish my observations on that point, which is very important. We have been trying to reconcile those challenges. We have heard and tried to respectfully respond to voices in relation to continuity in panel chairs and members and their ability to build a relationship throughout a child's journey through the hearings system, while trading those things off against the tribunal being genuinely independent and impartial and not getting too tangled up in a child's overall care journey and the implementation of the tribunal's own orders, as it were.

We believe that there are appropriate safeguards in place. That is in part to do with the on-going identity and autonomy of children's panels, but it is also in part about the clarity and reassurance that would come through the practice stuff from the national convener and the principal reporter—that is, how the panels would deal with the reporter aspect of that. I hope that I have brought that all together for the benefit of the committee.

**John Mason:** Okay, thanks very much.

**Paul McLennan:** I have another couple of questions on children's hearings. You have touched on the issues already. Sheriff Mackie mentioned adding a provision to the bill that states that the children's hearings system would be "an inquisitorial, non-adversarial process." What are your thoughts about having such a provision in the bill?

12:30

**Natalie Don-Innes:** That speaks to what we have been referring to in relation to the grounds process. In the attempt to establish grounds, there are likely to be families who are never going to agree on those grounds. From what I have heard from people with experience, those meetings can be extremely difficult—almost adversarial—which sets up children's experiences of the system in the wrong way. Much of what Tom McNamara and I have been speaking about, over and above the

changes to the grounds process, will help to reduce the incidence of such experiences.

I referred to this in my opening statement, but when I was at the Our Hearings, Our Voice conference last week or the week before, I heard about ways in which we could change the children's hearings system. Some of those involve legislation such as the bill before us—which was welcomed. However, it is also about attitude.

I regularly speak with children with experience of the system, and I believe that the provisions that we are introducing will help to cut out some of what Mr McLennan mentions and will go a long way towards supporting those children and young people further.

**Paul McLennan:** In giving evidence to us, some witnesses spoke about the criteria that apply to the member who chairs the panel. There is also the matter of how specialist members work in practice. Can you say more about your thoughts on those aspects, which were raised in evidence?

**Natalie Don-Innes:** I will bring in Tom McNamara to speak to the detail around those specific roles.

**Tom McNamara:** The introduction of the possibility of having specialist panel members of one kind or another is not directly intended to help us with the processing power of the system, if you like. Instead, it is supposed to be an enabling, future-proofing approach that allows the national convener to tap into tranches of existing expertise or to move forward strategically in seeking to strengthen one particular discipline or another. That is another reflection of the Government going so far but no further and not articulating what the provision is intended to do.

The specialism aspects are to help the national convener cope with how the make-up of the children referred into the system might evolve in some aspects. Some needs may be latent at the moment, but they could reveal themselves in future. The national convener may wish to reshape elements of the national children's panel in future in order to better grapple with the issues while adding value and expertise. We might think of a number of examples, but at this stage we are a bit reticent to name a few, because that would almost be like we were ruling out a whole load of others.

I refer back to the discussion of parallel issues with Ms Duncan-Glancy. This is another area on which it might be an idea to invite a wee bit more detail from the national convener. We would be delighted to share that with the minister and, through her, the committee.

**Paul McLennan:** Do you see a timescale for that? I note our timescales in moving the bill forward after today's discussion. You have

mentioned a consultation and discussion: where do you see the timescales around that? That is not to put you on the spot, but could you give us a rough idea?

**Tom McNamara:** I am mindful of the convener's observations about the committee's timescale for preparing the stage 1 report and so on. We have had a good chunk of detailed material shared with us already, but we have not had a follow-on conversation with the national convener and others. I have no doubt that he is watching me very carefully this morning, and he will probably already be looking into this.

I would expect us to be able to get that detail to the committee in fairly short order—in the next couple of weeks, I would have thought.

**Paul McLennan:** That is really helpful.

I want to move on from children's hearings, and my next question is more about children's services planning. As we have heard today, that involves Government and local authorities, but health comes into it, too. Integration joint boards, in particular, are a really important aspect. I remember the role of IJBs in tackling homelessness from my time as Minister for Housing.

One of the key things is the proposal about IJBs and how they are required to plan. What are the key objectives and drivers behind that and how do they tie in with the bill? What work will be done in future? Legislation is legislation, but the key thing is how it is implemented and embedded. How will we move beyond the bill to embed the culture change that is required?

**Natalie Don-Innes:** It is really important to have a level of consistency and to break down some of the local barriers that we all know exist and can prevent bodies from working with one other. I know that that concern has been raised in evidence to the committee, but I want to mitigate that because I believe that it will make services fit for the long-term future. The issues we are trying to resolve were identified in the independent review of adult social care—the Feeley review—and in other reviews. CELCIS recently undertook some research that emphasised the potential for that provision to encourage shifts, break down silos and barriers, and enable better community planning.

We are looking at the provisions and thinking about IJBs and their responsibilities. I know that the committee heard evidence about the focus on adult services and you may have been given the impression that children's services are not relevant, but that is a dangerous way of thinking because children's services undoubtedly relate to adult services. Many children come into care because of family breakdown caused by addiction,

violence in the home or a number of other factors that are related to adult services. We must be clear about that. Also, children who are in care or who experience difficulties in childhood will become adults with their own difficulties if they are not supported. It is important to look at a long-term strategy and to really understand that services are linked together, because we will be able to make better local decisions for our families and communities if those decisions are taken at the same time.

I have been clear in telling everyone that I appreciate that we may not see the benefits when the bill is passed, but I believe that it will have long-term benefits in improving consistency and breaking down local barriers.

**Paul McLennan:** I have a supplementary question. We heard evidence from the chief executive of Aberdeenshire Council about how it embeds what the Promise is trying to do into its services. You are going to have a challenge with IJBs, which include health boards and local authorities. Can you say a little more about what the engagement work will be after the bill is passed? What is next for the IJBs? You have advocated for the importance of IJBs, but what will the concrete next steps be after the bill is passed? How will we embed the bill and the culture that it will promote into the work that the IJBs do? That has to be sustainable, but the quicker we can do it, the better it will be for everyone concerned. Can you say a little more about how you see that developing?

**Natalie Don-Innes:** I will bring Gavin Henderson in in a moment, but I see a range of different approaches being taken across the country. Some local authorities already function in that way and they would not need to take next steps, unless we go back to what I said earlier about sharing best practice to show that working differently does not have to make things harder but can make them easier and far more fluent. There is no one-size-fits-all approach to the next steps. A period of working and engagement will be required to find the best way forward for each local area, drawing on the best practice that already exists.

**Paul McLennan:** Gavin, do you want to come in?

**Gavin Henderson:** I think that the minister has answered the question, but Iona Colvin might want to come in.

**Iona Colvin (Scottish Government):** Speaking as an ex-IJB chief officer, I basically do not see the difficulty in this, if I am honest. In my IJB, children's services were integrated, so I had responsibility for children's health services. We have a difference, which is mainly between the

east and the west of the country, but half the country is already doing this.

It is about how the IJBs will play their lead role in relation to planning children's services. As the minister said, it is not just about children's services. It is also about making sure that drug, mental health and other services that are needed by adults and the parents of the children are lined up because, otherwise, we will end up with children in care because their parents are not getting access to rehabilitation services. That is one aspect.

Another aspect, which is even more important in the areas where children's services are not integrated and sit solely on the health side, is about how to bring together children's health services and children's social work services to best meet children's needs. We have high levels of complexity—we have children with neurodiversity and with mental health issues. The answer for those children is a combination of the expertise that exists in social work and social care and in health, and particularly the mental health approach. How do we bring those services together to support children in a better way than currently happens? You can see that in the parts of the country that have developed joint and integrated approaches across nursing, social work and other aspects. For example, for younger children, that has happened with health visiting.

If we get it right, another advantage will be in relation to children who are transitioning from children's services into adult services. That applies particularly to children with disabilities, but also to children with complex needs and additional support needs. In many areas, that is not well handled, but in other areas it is very well handled.

That is the expectation, and half the country is doing it already. In children's services, we already work with the people who are responsible for the strategic leadership of each area. For example, the director of children and families regularly convenes a meeting with those people. We have some of the structures, but it is about revisiting some of that and maybe raising our expectations.

**Paul McLennan:** As you said, and as the minister said, learning from the best practice is really important.

**Iona Colvin:** Yes—absolutely.

**Paul McLennan:** That is something for us to consider.

**The Convener:** As I said at the beginning, we are joined by Roz McCall, who has taken a keen interest in the bill. I will bring her in now.

**Roz McCall (Mid Scotland and Fife) (Con):** Hello, everybody, and thank you. It has been a long morning, and we are now into the afternoon. I

will start by following up on the points that Mr McLennan made about IJBs.

I totally accept and understand that there is a blending and that the process works in a certain way and will smooth things out. However, many of our IJBs are under massive financial strain, so what is the funding model? As far as I can see, there is absolutely no funding to smooth the process for the areas that are not doing it. Can the minister or officials give an update on what support there will be for the IJBs that are under the financial cosh right now?

**Natalie Don-Innes:** We might have discussed this separately, but I have been clear about the need for a preventative approach. I have alluded to the issues that can follow a child through their life or that can arise as a result of poor services for adults. I completely appreciate the financial challenges and difficulties that local authorities face, but I would argue that, going forward, there is a need to further invest in the services that we are talking about. It does not necessarily involve a financial ask; it is about joining up approaches, breaking down silos and getting people to work more closely when their services are related. As I have said, and as Iona Colvin said, many local authority areas or IJBs already operate in that way. It is about sharing best practice and understanding whether there are concerns that need to be addressed.

12:45

**Roz McCall:** To summarise, you are saying that there will not be a financial implication and that it will be best practice for local authorities and health boards to move into implementation smoothly. That is your wish for the bill, if it is passed.

**Natalie Don-Innes:** I appreciate that not everything will go smoothly. As you said, there might be challenges on the way but, yes, that is my intention.

**Roz McCall:** The committee has had an interesting group of evidence sessions and we are coming to the end of that process. If I am summarising correctly, a few key risks and observations have come up, one of which is that the bill is a missed opportunity. Multiple witnesses have said that the legislative layering could add a layer of bureaucracy rather than simplify delivery. The UN convention contradictions were discussed earlier, so I will not go into that. However, two other points that have been highlighted are the funding gap and financial issues, which have already been mentioned, and workforce fatigue. For me, the implementation will be essential.

Given that funding issues have been highlighted, I will quote the point about Care Inspectorate costs from the Finance and Public

Administration Committee's letter. The committee talks about certain responsibilities under the bill in relation to the re-registration of fostering agencies as charities, and it notes:

"The Care Inspectorate submission challenges the assumption in the FM that the resources required for re-registrations are expected to be 'minimal and manageable within existing capacity'. The submission goes on to say that this will require around 970 work hours and that this is 'not minor nor manageable'."

That is a classic example of where there is an absolute need for additional funding, but it is just not there, so there is a funding issue. The Children (Care and Justice) (Scotland) Act 2024 meant that we were going to need 500 more social workers, but we are nowhere near having that. The number of foster carers is down by 8 per cent, and we are going to need 400 more in Scotland just to stand still. We will also need family support workers if we are to be able to implement the provisions.

Minister, I just need to ask whether we have got the funding and the workforce process right, because, as far as I can see from the submissions, we are not there.

**Natalie Don-Innes:** I believe that we have it right. I have been open about various aspects of the financial memorandum that might need to be reconsidered and updated to reflect updated positions. I am more than happy to do that, and I will be transparent with the committee on that.

I will bring in Iona Colvin in a moment to speak to the raft of measures that were taken to support the workforce. Ms McCall and I have discussed that regularly, and I am aware of the pressures that the social work workforce is under. I was speaking to Social Work Scotland about that just last week. The social work workforce is fundamental to the delivery of our aims in the bill, which is why we are progressing more support for social workers and establishing the national social work agency.

We are seeing some positive movement. Ms McCall will be aware that we ran a national recruitment campaign on fostering, which she also mentioned. A number of measures were taken to support foster carers, and that support will be enhanced when the full response to the fostering care consultation is released. However, there has been an increase in foster household applications and a rise in the proportion of households that are approved. That increase is bucking the trend, and it is positive. I know that it does not go the whole way towards fixing the issues, but to buck that trend after a series of years of decreases is extremely positive.

We have similar good news on social work applications for the graduate apprenticeship scheme—Iona Colvin can correct me if I said that

incorrectly. People want to get into fostering, people want to get into social work and people want to support children and families. From the Government side, we still have moves to make to support them further in doing that, but the data that I have received on applications shows that we are moving in the right direction, which is positive.

Iona, will you give a brief summary of the ways in which we are working to support the social work workforce?

**Iona Colvin:** We are establishing the national social work agency. Joanna Macdonald has been appointed as the chief social work adviser and she will start in December. The agency is really about how we profile and ensure that we maintain a priority in relation to the social work workforce—by which I also mean the paraprofessionals, many of whom work to support children and their families, so it is not just about social workers.

The most important thing that we have done is to establish the Scottish social work partnership with COSLA and Social Work Scotland, because the Scottish Government does not employ the workforce—it is employed by local government and by the charity sector. The children's charity sector is important, and particularly charities such as Aberlour and Children 1st. They are all involved in the Scottish social work partnership, because it is about what we in the Government can do to help them with implementation. It is therefore very much a partnership. COSLA will lead on the workforce, including workforce planning; Social Work Scotland will lead on professional governance; and we in the Government will lead on education and training.

However, we have not just been waiting for the partnership to be established. We have increased the bursaries and we are looking at how we can ensure that we have enough students coming in. At the moment, there are about 500 a year. We have been working with the higher education sector very proactively on that. We have increased the bursaries and the support to students on placements. We are trying to ensure that we continue to bring in enough students.

We have launched the graduate apprenticeship with Skills Development Scotland. This is just the pilot year and there are only 30 places, but it has been heavily oversubscribed. The apprenticeship is particularly about social work assistants and people who have a lot of experience in looking after and working alongside children and young people being able to access the qualifications. It provides really good experience for people who could otherwise not afford to do the qualifications.

We are also looking at how we improve retention, because we know that 25 per cent of people leave social work within six years. How do

we stop that? We have been working on support, which involves a supported first year for newly qualified staff to ensure that they are not just thrown into the fire—obviously, most local authorities try not to do that. We are also working on a model of what we are calling local learning partnerships, which bring together the higher education institutions, local authorities and us to support the workforce in a better way to think about what advanced or post-qualification practice social workers need, particularly in children and families social work. That includes Scottish child interview model training and the advanced training that people need in order to work with children and families who have been extremely traumatised—we are thinking about children who have experienced abuse.

The other side of that is that we are working across Scotland to look at how we develop trauma-informed practice across the piece. That involves working not just with local authorities but also with others. For example, in Glasgow, we have been working with health staff and local authority staff on mental health. Many of the areas that we are working with are around children's services.

**Roz McCall:** That is all very positive and I appreciate it. Given where we are now and the number of additional staff that we require, including in the third sector, when do you think that we will get to the right level?

**Iona Colvin:** Do you mean with regard to social workers?

**Roz McCall:** Yes.

**Iona Colvin:** We hope that it will be within the next couple of years. We really need to make sure that we keep the pipeline going, and we need to tackle the retention issue. It is too early to say so, hand on heart, I cannot say to you that that will definitely work, but those are the things that we are trying, and we are monitoring things across the partnership. This is not just about the Scottish Government, as we are not the employer. COSLA has a lot of concern in this area, too.

We are looking at how we ensure that we keep the flow of recruitment going and that we retain staff—including experienced staff, because the other problem is about the proportion of staff who are less experienced, who need the more experienced staff to learn from. We look to see the position improving in the next couple of years, but there is an issue—

**Roz McCall:** You cannot give me a number and a timeframe—for example, that we hope to have an extra 300 social workers by a certain time.

**Iona Colvin:** Not at the moment, but we hope to be able to achieve this within the next couple of

years. At the moment, we need stability, so we are aiming to make the numbers stable, and we will then start to increase the numbers as we go. The graduate apprenticeship is key to that, including for rural areas and the Highlands and Islands, where it is very important to be able to bring people into the workforce who could not otherwise afford to train as social workers.

**Roz McCall:** That is all great, but I am very conscious that everything that we are trying to do is about implementation. We can take legislation through the Parliament, but my bugbear throughout the process has been how we ensure that things will work on the ground, and workforce planning is essential. However, I understand and accept what you are saying, and I really look forward to a day when this is not a problem.

Minister, I was quite surprised to hear that you had not heard from young people the idea that the Promise has been lost in the Government machine, because I hear that all the time in my role. Is that something that you recognise?

**Natalie Don-Innes:** I guess that I was referring to that specific term. Don't get me wrong: of course, with regard to young people, it is not all smiles and happy days, and challenges are absolutely brought to me from young people. I was just referring to the specific challenge that Mr Briggs raised about delivery of the Promise getting lost in the Government machine. That specific challenge has not been brought to me. However, I hope that my answer to Mr Briggs appeased the committee. We all know that we need to go further as quickly as we can. However, with regard to what I have said today about the non-legislative and legislative actions that we are taking, if I need to do more to draw out the different things that are going on or to highlight to people the work that is under way—including "Plan 24-30", the stories of progress and the different reports that we are putting together to track, analyse and understand what is going on—I will absolutely take that on board.

**Roz McCall:** I appreciate that. I have been speaking to local authorities, one of which has highlighted that, when it comes to the Promise, the foot has been taken off the gas—I think that that is the phrase that was used—so I would appreciate some strong leadership from the minister to reset that. If we have young people and councils saying that, there is definitely a disconnect. If you could focus on and highlight what is being done, the community would appreciate that.

**Natalie Don-Innes:** Yes, of course.

**The Convener:** That concludes questions from committee members. Minister, I say as politely but as strongly as possible that, as I think you know and your officials have accepted, we now have a

very short timeframe in which to produce our report. You committed to write to the committee on a number of things. If that can be done in days rather than weeks, we will be able to include that information in our report. If it takes too long, the committee will be unable to consider that. I understand that you have time pressures and that this is not the only thing that you and your officials are working on, but I make that plea, as respectfully as possible. That would certainly help the committee.

I thank the minister and her officials for their time. The committee will now move into private session.

12:58

*Meeting continued in private until 13:45.*

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

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