

JUSTICE 1 COMMITTEE

Wednesday 21 February 2007

Session 2

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JUSTICE 1 COMMITTEE

† 11th Meeting 2007, Session 2

CONVENER

*Pauline McNeill (Glasgow Kelvin) (Lab)

DEPUTY CONVENER

*Stewart Stevenson (Banff and Buchan) (SNP)

COMMITTEE MEMBERS

*Marlyn Glen (North East Scotland) (Lab)
*Mr Bruce McFee (West of Scotland) (SNP)
*Margaret Mitchell (Central Scotland) (Con)
*Mrs Mary Mulligan (Linlithgow) (Lab)
*Mike Pringle (Edinburgh South) (LD)

COMMITTEE SUBSTITUTES

Brian Adam (Aberdeen North) (SNP)
Bill Aitken (Glasgow) (Con)
Karen Gillon (Clydesdale) (Lab)
Mr Jim Wallace (Orkney) (LD)

*attended

THE FOLLOWING ALSO ATTENDED:

Johann Lamont (Deputy Minister for Justice)

THE FOLLOWING GAVE EVIDENCE:

Robert Brown (Deputy Minister for Education and Young People)
Rod Burns (Scottish Executive Education Department)
Moira Wilson (Scottish Executive Justice Department)

CLERK TO THE COMMITTEE

Callum Thomson

SENIOR ASSISTANT CLERK

Euan Donald
Douglas Wands

ASSISTANT CLERK

Lewis McNaughton

LOCATION

Committee Room 4

† 8th to 10th Meetings 2007, Session 2—held in private.

Scottish Parliament

Justice 1 Committee

Wednesday 21 February 2007

[THE CONVENER *opened the meeting at 09:58*]

Rights of Relatives to Damages (Mesothelioma) (Scotland) Bill: Stage 2

The Convener (Pauline McNeill): Good morning. I welcome everyone to the 11th meeting in 2007 of the Justice 1 Committee. I ask members to do the usual by switching off all things that buzz, such as mobile phones.

Agenda item 1 is stage 2 consideration of the Rights of Relatives to Damages (Mesothelioma) (Scotland) Bill. I welcome the Deputy Minister for Justice, Johann Lamont, and her team: Lorna Brownlee, Michael Anderson and Alison Fraser.

Section 1—Mesothelioma: rights of relatives of a deceased person to damages

The Convener: Amendment 1, in the name of the minister, is grouped with amendments 2 to 4.

The Deputy Minister for Justice (Johann Lamont): Good morning. All four amendments to the bill relate to my announcement on 13 December 2006 that the provisions of the bill will apply to cases that were settled on or after 20 December 2006.

As we are all aware, the purpose of the bill is to remove a dreadful dilemma that arises for mesothelioma sufferers when they consider making a claim for damages. The bill will remove that dilemma by disapplying section 1(2) of the Damages (Scotland) Act 1976 so that the immediate family of a mesothelioma sufferer may claim damages for non-patrimonial loss under section 1(4) of that act after the sufferer dies, irrespective of whether the deceased has already recovered damages or obtained a settlement. In the bill as introduced, the provisions relating to sufferers who have recovered damages or obtained a full settlement would have applied on or after the date on which the bill came into force, which was specified as seven days after royal assent.

During the stage 1 oral evidence sessions, the committee explored the issue of retrospection with witnesses. The consensus that emerged was that limited retrospection to a date announced by Scottish ministers would be helpful to mesothelioma sufferers. When I gave evidence on

13 December, I was pleased to be able to announce that we had decided that the bill's provisions would apply to any case in which the sufferer has recovered damages or obtained a full settlement on or after 20 December 2006. Amendments 1 to 4 fulfil the undertaking that I gave to the committee that the bill would be amended as necessary at stage 2.

10:00

The main retrospective provision is contained in amendment 2, which provides that the relatives of a mesothelioma sufferer who settles his or her claim on or after 20 December 2006—as opposed to after the provisions in the bill come into force—will have a right to damages on his or her death. From 20 December, sufferers have been able to hold someone to account before they die without worrying about disadvantaging their family. As they can now settle their claims or seek accelerated proof dates, some sufferers will be able to benefit from a full damages award before they die. My announcement has also enabled proceedings to be initiated on behalf of sufferers who had put off starting proceedings so as not to disadvantage their families. Indeed, we are already seeing an increase in the number of claims that are made by mesothelioma victims.

Amendment 4 will provide that the bill will come into force on the day after royal assent is granted. There is no longer any purpose in providing for a period of seven days after royal assent before commencement, given that the bill's provisions will be effective from 20 December 2006.

Amendment 3 will insert into the bill a new transitional provision that is consequential on the decision to apply the bill's provisions from 20 December 2006. The amendment covers the possibility that a mesothelioma sufferer's relative might die after the death of the sufferer but before commencement of the bill. The amendment provides that the rights of any such relative will transfer to the executor.

Amendment 1 is consequential on amendment 3. Amendment 1 will avoid the need to repeat the full title of the Damages (Scotland) Act 1976 in amendment 3 and it sets out which subsections of section 1 amend the 1976 act.

Once again, I express my gratitude to the committee for raising the issue and paving the way for the amendments, which mean that we have already removed a dilemma for sufferers of this terrible disease.

I move amendment 1.

Stewart Stevenson (Banff and Buchan) (SNP): I very much welcome the amendments and will support them.

With the raising of the issue more publicly, two new categories of potential sufferers were drawn to my attention only yesterday. First, laundry workers were apparently exposed to risk because the industrial pressing machines that were used in laundries contained a flat bed of asbestos. I have been told of some cases of mesothelioma among people who formerly worked in that industry. Secondly, I met a widower whose wife had picked up asbestos from him and had then suffered from mesothelioma. He survived, but she did not. In tackling this historic wrong, therefore, we have probably not yet fully explored all the people who will benefit from the measures in the bill.

I welcome the progress that has been made.

The Convener: I fully support the way in which the Executive has listened to the lines of questioning that the committee pursued on retrospection. I welcome the fact that the Executive did not take much persuasion on the matter.

Since the minister's announcement that an element of retrospection would apply, has she received any comment from any of the interested parties?

Johann Lamont: The committee's response and the stage 1 debate probably reflected what members picked up in their local communities, in their constituency cases and in the commentary in the press. We have not received any comments directly but, for my part, I can say that it has been a privilege to play a small role in righting what Stewart Stevenson described as a great wrong. That wrong was individually experienced by many different families.

The bill's passage through Parliament has done two things. First, it has shown that it is possible for this legislature to respond when issues, however small, are raised and that the state can respond to and work with communities, individuals and their elected representatives to sort things out. Secondly, the bill has perhaps flagged up to people that, if they have been affected by the issue, they will be able to seek the recompense to which they are entitled.

Margaret Mitchell (Central Scotland) (Con): I thank the minister for those comments. Will amendment 3 address the situation that Frank Maguire described, so that if a mesothelioma sufferer died, one case rather than two cases would be brought? Has that been considered? Will amendment 3 allow one case to progress?

Johann Lamont: Amendment 3 deals just with transition and will ensure that nobody is left out. It concerns the situation that arises when the mesothelioma sufferer dies and their relative dies before commencement, when entitlement will pass to the executor.

The amendments do not deal with the single action issue. We are aware of that and we will continue to explore whether anything further needs to be done on it.

Margaret Mitchell: That is welcome.

Amendment 1 agreed to.

Amendments 2 and 3 moved—[Johann Lamont]—and agreed to.

Section 1, as amended, agreed to.

Section 2—Short title and commencement

Amendment 4 moved—[Johann Lamont]—and agreed to.

Section 2, as amended, agreed to.

Long title agreed to.

The Convener: That ends stage 2 consideration of the bill. Sometimes when we have had the longest inquiry, we have the shortest stage 2—you never can tell. I thank the minister and her officials for attending. We look forward to stage 3 in the Parliament.

The Deputy Minister for Education and Young People is on his way, so I will not suspend the meeting. He is probably shocked that we dealt with item 1 so quickly.

Family Support Services

10:09

The Convener: Item 2 is our family support services inquiry. I welcome Robert Brown, the Deputy Minister for Education and Young People, and his officials—Rod Burns from the Education Department and Moira Wilson from the Justice Department. We have a number of questions for you. Mary Mulligan, who has been the committee's reporter on this issue, will begin.

Mrs Mary Mulligan (Linlithgow) (Lab): First, I want to make two or three points on the Executive's response to my report on the provision of family support services in Scotland.

I agree with the Executive that the best funding arrangement is one that is given through the local authorities and is, therefore, able to respond to local needs and pressures. I think that a local authority working in partnership with the voluntary sector is the ideal in terms of the provision of these services. However, the Executive's response does not make clear how it is intended that that arrangement will work when that situation comes about. We have seen good examples of local authorities such as Dundee City Council and South Lanarkshire Council, which clearly have partnership at the forefront of their thoughts and are delivering accordingly. However, other local authorities have found that to be more challenging. Where there are gaps, how will experience be brought forward to fill those gaps and respond to local need? The Executive's response is not clear on that point.

As the report says, funding is inconsistent and unstable; I do not think that the Executive disagreed with that. However, I am not sure how the Executive envisages ensuring that funding becomes more stable than it is at the moment. Other members will pick up specific details with regard to funding, but issues around how the £300,000 is being used and how the unified voluntary sector fund moneys will be divided between the various regional groups must be addressed. When we speak about the voluntary sector, we are generally referring to the not-for-profit organisations. However, in this circumstance, we are very much speaking about volunteers. We have volunteers offering counselling and mediation and staffing our contact centres. Although I feel quite uncomfortable about reducing the provision of family services to an issue of funding, it is obvious that, without funding commitments from the Executive and local authorities, the volunteers will step back because they will feel that there is no encouragement to get involved. Funding is crucial.

The issue of contact centres is slightly different, because sheriffs make directives that contact centres should be used. Unlike mediation and counselling services, which people attend voluntarily, the majority of people who use contact centres—I know that some people self-refer—are directed to them by the Scottish Court Service. For that reason, it is particularly important that we recognise the value of the contact centres and ensure that their funding is secure. The Executive's response says that the funding of the pilot scheme and the research for the contact officers will be on-going. I should say that the pilots will take about two years and that, during that period, we will be reliant on the contact centres to provide the service that is necessary, particularly for non-resident parents. Therefore, it is important that we ensure that the centres are properly funded and, indeed, are provided—I say that because we came across local authority areas in which they were not being provided.

The Executive's response is positive as far as it goes, but it does not go far enough in telling us how the services will continue to be delivered after the Executive has passed the responsibilities—particularly the responsibility for funding—to local authorities. I do not want to upset my local authority colleagues by saying that there needs to be direction in that regard. However, we must be fairly forceful in saying that those services need to be provided if we are serious about fulfilling the commitments that we gave during our lengthy consideration of the Family Law (Scotland) Bill the year before last.

10:15

The Executive has said that it will not take on further mapping of services; it expects local authorities to do that and to consider what services are being provided. There is a bit of a conundrum in that, however. If the local authorities do not provide the services, people will not be able to access them; therefore, the local authorities will not think that there is a demand for them. There is a need for more of a lead from the Executive on what services should be provided, so that local authorities can map what is being provided and where the gaps are. Do you agree with that? How do you expect the Executive to go about promoting that?

The Deputy Minister for Education and Young People (Robert Brown): There was quite a lot in that question, so I will take a little while to respond. I welcome the report that Mary Mulligan produced, which is a solid and comprehensive piece of work. It has helped us in our consideration of the issues, as well. As you know, I have taken a personal interest in this subject for some while, although it has come into the remit of

the education ministers only in the past few weeks as the funding arrangements have transferred. Like you, I have had the opportunity to engage with the organisations and I have visited one or two of the projects, which has been interesting. The starting point must be our common agreement that the whole area of family support services is important for a series of objectives that the Parliament, the committee and the Executive share against social breakdown, and so on.

On the issue of working locally, there is agreement—although concern, at the same time—that the proper way in which to provide local services is locally. That is not exactly a directive, but an understanding that has gone across a series of ways in which the Parliament and the Executive have worked. The objective is undoubtedly for local authorities that are already involved in family support services in varying degrees to provide the services in a comprehensive way that suits their local needs. We face the problem that, at present, a goodly part of the funding—which, as you rightly say, has traditionally been a bit patchy—comes from the centre. The challenge is to move the current funding from the centre to the localities without its disappearing into the grant-aided expenditure pot, vanishing without trace and taking some of the services with it. Therefore, the issue of establishing sustainable services is very much at the heart of your question.

As you are aware—you touch on it in your report—we are endeavouring to have a transition period: an additional year of the UVSF funding as a preliminary measure in moving towards more localised funding. There will then be a couple of years of ring fencing under the GAE arrangement. During that period of three years, we will have fairly close contact with the Convention of Scottish Local Authorities and individual local authorities to ensure that the funding moves satisfactorily to the local level.

We hope that the three-year staged arrangements for transferring the funding will land the current funding, as adjusted, in the laps of the local authorities in a way that goes with the grain of what they are doing. The funding will be moved in that way and will be provided at that level, and it is hoped that that will continue with any appropriate adjustments that may take place over time. We are very much focused on the outcomes and—not to beat about the bush—although we do not want to take a directive view on the matter, we are keen to ensure that the change happens. If we discover, as the arrangements move forward, that there are remaining issues about whether certain local authorities are providing the support, we will want to engage with that and ensure that discussions take place—hopefully, in a partnership way—so that the services can be sustained not

just on a static basis, but on a more satisfactory and comprehensive basis in the longer term.

The key to all that, in many ways, is the current round of unified voluntary sector fund allocations, which are under consideration. As you know, the four national bodies and 13 local family support organisations that are currently supported have made bids. We cannot give the committee the precise figures at the moment, as they are still to be announced formally, but in the current funding round we are making significant additional investment in family support. In almost any sector, it is much easier to transform and change through growth in funding than through rearranging static funding that does not go around adequately.

At the level of the sector as a whole, we will award family support that is 46 per cent greater than 2006-07 funding levels. The figure will rise to about £1.8 million, from about £1.3 million at the moment. I hope that the committee will see that as a significant additional investment in the sector that recognises the importance that we attach to it. At umbrella body level, we will award the national family support organisations 49 per cent more than in 2006-07: £917,000, up from £616,000 in the current financial year.

The Convener: Is that additional funding the additional £300,000 that Hugh Henry announced at stage 3 of the Family Law (Scotland) Bill?

Robert Brown: No. The funding to which you refer was one-off change funding, on which Mary Mulligan touches in her report. It was designed to help national and local bodies to move forward towards amalgamation and joint working. They have taken advantage of that opportunity; as members know, Relate and Family Mediation Scotland are amalgamating, and there is a close working relationship between Scottish Family Care and Stepfamily Scotland. There has also been transformation of a number of services at local level, supported by the one-off funding. I am talking about more general, routine, on-going funding that will be the subject of GAE-isation—if there is such a word—over the next three years.

I will summarise the change in the figures. In the sector as a whole, funding will rise by 46 per cent. At umbrella body level, it will rise by 49 per cent. At local level, it will increase by 43 per cent from 2006-07—to £920,000, up from £643,000. We will provide 76 per cent of the funding that the local mediation services that have not previously received support—Argyll and Bute, Orkney, South Lanarkshire and Shetland—have requested in their bid to the unified voluntary sector fund.

We have provided a substantial increase in core funding in the area, both nationally and locally, which will be localised over the three-year period. We hope that it will be successful and will lead to a

widening of services locally. The matter will be taken forward in collaboration between the Executive, local authorities and the central and local bodies that operate in the field as our major voluntary sector partners.

I hope that I have set a good tone for the discussion that we will have today about the way forward. The funding that we have provided is linked to the stability of the sector. Although we cannot determine what will happen in the future, the current Executive intends that family support services should be supported sustainably over the period into which we are moving. Have I answered all your questions?

Mrs Mulligan: I suspect that some of them may require a more detailed response. Colleagues will ask about other funding issues, so I will steer away from that area at the moment.

You indicated that you intend to write to local authorities and COSLA to make clear that we recognise the value of family support services and expect local authorities to look at, and to take decisions about, how they are provided. In other responses that we have received since the report was published, local authorities have made the point that their priority is services that are statutory in nature and which they must provide. As long as there is no statutory basis for family support services, there is a risk that they will be pushed down the priority list and that those that have not yet got to grips with partnership working will not make progress in that area.

I would like a little more detail. You could write to COSLA and to the local authorities themselves, but would that make a difference? Will authorities examine the services that are being provided in their areas to ensure that they meet people's needs?

Robert Brown: I very much hope that they will, and it is very much our intention that they should. Local authorities provide a number of services as a result of statutory requirements. A number of other services—for example, youth work services—are provided in a much more discretionary way although they are not exactly voluntary. Often there are calls for services to be provided on a statutory basis. I do not think that one would ever rule out the possibility of considering that step if it was required.

Local authorities recognise that the work that is done through family support goes substantially towards meeting many of their other policy objectives. If authorities view the issues holistically and corporately—as we know they do, in many respects—it is difficult to ignore the importance of the family support sector, particularly against the background of the challenges that we read about in the newspapers day after day. I do not know

that the divide between statutory and discretionary is so crucial in that respect.

It is necessary, however, to get local authorities into the habit of regarding such services as central to their requirements. We would not normally impose a requirement such as the two-year ring fencing—we have tried to avoid hindering local authorities or putting restrictions on their funding arrangements—but in this instance it is necessary and desirable. Once that measure has been in place for two or three years, there is every chance that there will have been an expansion to more substantial services, through funding changes, and that a sustainable approach will have been taken by the local authorities. If not, we will have to consider whatever measures might have to be taken. Nobody should be in any doubt about our determination to make the proposals happen in a sustainable way. They are central to what we want to do and they will have to happen.

Having said that, I have no reason to think that the local authorities are not keen to sign up to our agenda. The issue is one of bringing local authorities up to a certain level so that services are less patchy than members have indicated and more generally available throughout Scotland. How that is done among the authorities, whether they are small or large, rural or urban, is very much a matter for local decision. Councils may well make use of the expertise of existing centres. Alternatively, they might set up new ones. Whatever they decide, I am sure that they will work with voluntary sector bodies to do that.

Mr Bruce McFee (West of Scotland) (SNP): Page 3 of the Executive's response to the reporter's report states:

"We agree that engagement with local authorities by both the Executive and the family support organisations will be important in ensuring that relationships are developed which create the basis for consistent, sustainable service delivery and future funding of the sector. The Executive will develop plans for such engagement during the coming months, and will ensure this encompasses counselling as well as mediation."

What are your plans for that engagement? What progress has been made?

Robert Brown: I will ask Rod Burns to speak about that in a moment. I have had some engagement with the sector, but the matter has only recently come formally to the Education Department. It all depends on the elections, but I think that I or my successor would be keen to be involved in this work at ministerial level. It is important to keep up that level of involvement.

In addition, contacts and discussions have continued at various official levels—it is not just a matter of writing to local authorities. Scotland's size allows fairly regular close engagement between Executive officials and local authority

officials about all sorts of things. I know that that is the case across the Education Department. I ask Rod Burns to add a wee bit to that and to discuss his own engagement in that regard.

Rod Burns (Scottish Executive Education Department): There are no formalised plans yet from the perspective of officials, and there is no formal business plan for how we are going to set things out. However, as the minister said, we intend to build on the excellent relationships that officials have developed at local and national levels. In addition to ministerial communication of what is important—the fact that family support services is a vital sector—we need to build on our good relationships with the Convention of Scottish Local Authorities and with the national and local bodies so that we are right in the middle of ensuring that services are rolled out and developed. Since the transfer of responsibility for family support services from the Justice Department to the Education Department, we have fairly quickly developed good relationships, with the national bodies in particular, and to a certain extent with the local services. We, as officials, intend to build on that personal and real relationship.

10:30

Mr McFee: Would it be fair to say that your plans are embryonic, particularly in relation to local authorities and COSLA?

Rod Burns: “Embryonic” is an interesting choice of word. So far, we have engaged unofficially with COSLA. We would not have been able to propose the three-stage move into grant-aided expenditure without the unofficial consent of COSLA officials. We have not, however, exchanged correspondence with those officials, nor have we had any kind of formal summit with them. The plans are not embryonic, but nor are they polished final plans.

On the ability of officials and ministers to listen to people out in the sector, in the past six months we have talked deliberately to national bodies and to local mediation service managers. The message has come through loud and ringingly clear that, in mid-2006, if money were to have transferred out of the unified voluntary sector fund into GAE, without ring fencing or a period within which they could develop good working relationships with authorities, there would have been a disaster. The minister touched on that. We listened carefully and then made plans to avoid a disastrous too-quick scenario. We developed a more considered and staged approach, which we hope will allow services to develop good working relationships, and allow family support as a sector and as a body of activity to bed in and become part of the usual children and family services that

are delivered by authorities. Embryonic? No. Final and polished? No. Our plans are somewhere in between, and involve building on good relationships.

Robert Brown: We are heading towards the beginning of a three-year transition period: one year of continued funding and two years of ring-fenced GAE. The announcement of the unified voluntary sector funding arrangements in response to the current round of bids will be a good start point. Such things are often lubricated by an element of financial additionality. In this instance, that will be of considerable help in effectively engaging local authorities.

Mr McFee: We are in the post-embryonic stage, and I realise that a number of issues are still to be resolved or even discussed.

How successful will the Executive be in encouraging local authorities to fund family support services, given the enormous pressures on existing local authority budgets? You talked about ring fencing for two years. Once ring fencing has gone, what is the potential for continued engagement?

Robert Brown: There will be continued engagement with the local authorities, as there is across the board in a number of areas. I have no doubt that the Executive has a few levers it could pull, short of ring-fenced arrangements. I very much hope that it will not be necessary thereafter to ring fence funding, and I have no reason to think that it will. I take the matter very seriously—I do not want any situation to arise in which important local family support services disappear off the radar and cease to exist. As we move towards the end of the two-year period, we will know whether there are issues. Although I am not trying to say that we would want to continue any of those sorts of arrangements, we do not rule out anything if it is necessary for continued services. I have no reason to think that we have anything other than an effective and worthwhile partnership with the local authorities on family support services, for the very good reason that it is in their interests, for other policy objective reasons, to make proper use of the facilities and arrangements as part of their panoply of social service provision.

Mr McFee: Family support services would not be the first services for which there had been ring-fenced funding and, when the ring-fenced funding ended, the service had diminished. There is a history of that happening in local authority funding as other pressures are felt. Do you foresee anything else happening?

Robert Brown: It should be borne in mind that local authorities are locally elected bodies and that they have a mandate from their electorates. There

is a difficult but interesting balance to be struck between their local mandate to determine provision of services and the mandate that central Government has. Within limits, the local authorities are entitled to make decisions about allocation of resources; however, if they do not produce the outcomes that the Executive has set as targets on this relatively high-level agenda, the Executive will take a close interest in that and will reserve its position on what it might be necessary to do if things do not work out in the proper way. I have no reason to think that that is going to be the position, and every reason to think that the local authorities are being, and will be, co-operative and keen to see the services supported.

Mr McFee: I am interested in that answer in relation to what the Executive wrote to the local authorities in 2001, although I realise that writing is not everything. In its response to the reporter's report, Relate Scotland said that, on 2 February 2001, the minister had written to ask local government to fund counselling and mediation, but that that had had little effect in practice. Here we are, six years later, being told that there is a continuing dialogue; yet, one of the bodies that the Executive funds has said that previous approaches dating way back to 2001 have, to date, proven to be pretty ineffective. What has changed?

Robert Brown: I think that you are talking about a different sort of process. I was not involved in the 2001 scenario, so I cannot speak from detailed knowledge of it. From what you say, I understand that the issue concerned the desire to deal with patchy provision of services and the responsibility on local authorities to support such services at that time.

The difference now is that we have a plan, if I can put it in that way. There is an arrangement, which has been carefully worked out, both to consolidate and to increase the funding that is available for family support services centrally and to transfer that funding, over a planned period and with a carefully considered response, to the local authorities. I do not want you to go away with the impression that the Executive's or ministers' involvement in the matter is limited to writing to local authorities; it is not. Against that background, we have every reason to think that the transition project ought to be successful.

You are right to query the matter. I accept that policies do not, in a range of areas, work through as they are expected to. However, we have put in place the mechanism and I am fully aware that carrying these things through is nine tenths of the issue. I have also said that the current Executive—and, no doubt, future Executives—will take a close interest in the matter and will not let go of the reins if issues remain about provision of services

throughout the country. That said, the exact provision from the funding must be a matter for local authorities themselves, with their direct local mandate to represent local interests. Ideally, it should not be up to the people at the centre to decide what the precise provision at local level should be throughout Scotland.

Mr McFee: I do not think that anybody here would disagree with that, although some of us may have issues about there being little or no provision of services in some areas. There is a difference between saying that it is up to local authorities to decide how to deliver services and saying that it is up to local authorities to decide whether they will bother delivering those services at all. Those are two separate issues.

Let me sum up. Tell me if this is unfair: you are saying that, in the initial stages, there will be two years of ring fencing to encourage growth of services.

Robert Brown: That will come after a year of continued central funding.

Mr McFee: Indeed. I presume that you expect that ring fencing to encourage growth of services, as opposed to simply maintaining what is currently in place.

Robert Brown: Yes.

Mr McFee: You do not want to micromanage the local services, but is it fair to say that the Executive's intention is to take a closer interest than it does in other services that are provided by local authorities in order to ensure effective delivery?

Robert Brown: That is a fair summary. I would not disagree with that.

The Convener: I will continue the same line of questioning. Are you confident that COSLA is as committed to the provision of family support services as the Executive is? You spoke about your determination and said that you feel strongly about the issue. Does COSLA feel as strongly as you do?

Robert Brown: The answer is undoubtedly that it does feel as strongly. Officials have had detailed contact with COSLA. As we all know, COSLA is an intermediary body that represents the local government sector—it will provide assistance and collaboration but, ultimately, what counts is what happens on the ground in local authorities. We know from contact that we have had that officials who are sympathetic to what we want to do are involved in discussions on such matters at local level. We will try to put in place arrangements to beef up such contact as the plan develops, but I have no reason to think that the local authorities themselves—which I think are key—are not committed to our agenda.

The Convener: I am not sure that I agree with the Executive's position—I remain to be convinced about whether it should be for local authorities to determine provision. I am listening carefully to what you say. It seems to me that if the Executive—which is, after all, responsible for family policy—feels strongly that a range of family support services should be provided, it would not let go of determination of those services unless it was fully confident that local authorities were as committed as you are to provision of those services.

Robert Brown: I take your point. We are responsible for the family support strategy but, as in most areas of Government activity, a good part of service provision is determined, carried out and administered at local level, either by local authorities or as a result of their commissioning or otherwise engaging with voluntary or private sector organisations. That is very much the scenario with family support services. There is no reason why they should be different from other services, even though, historically, that has not been the case.

We want a seamless transition to a locally determined arrangement and we will continue to maintain an interest in both the strategy and the transition. In addition, we engage with the national bodies that are involved at local level, which also have a strategic interest. They provide training and other support to local organisations and know better than the Executive where the gaps are. It is not simply a case of saying that only local authorities will determine provision; the process is slightly more complex than that. Local authorities will do the immediate administration of funds locally, but there will be continuing engagement and partnership, both with the national voluntary bodies that are involved and with Scottish Executive officials. Scotland's size makes that a perfectly feasible way to proceed.

The Convener: I hear what you say about the local bodies being an important dynamic, but I do not necessarily agree that they are best placed to decide on where the gaps are. I may be alone in having this view, but I still think that the legislature has a role to play in making basic decisions about what provision there should be.

I will use contact centres, which we will come on to deal with, as an example. I feel strongly that if a court considers that the use of a contact centre would be a way of moving forward a family contact decision, there should be uniform provision of such centres; I think that Mary Mulligan mentioned that. It seems to me that there are some issues that should be dealt with as matters of policy. I do not agree that it should simply be down to local authorities and the funding bodies to make such determinations. I speak only for myself but, as a

legislator, I think there are basic requirements when it comes to family support. I should be allowed to express my views about what they are and I would like to think that the Executive would take a view on the matter. If the Executive believes that family support services are an important determining factor in how we deal with the social fabric, it should have a view on their provision.

Is there a case for the Executive laying down a code of practice that would state the minimum requirements for the provision of such services?

Robert Brown: I will put the issue into a bit more context. We have already said that we are at an embryonic stage in deciding how we move from where we are now to where we want to be. We are moving into a three-year period during which there will be various forms of contact. I do not want to prejudge what the outcome of that might be because we want that to emerge organically from discussions with local authorities, once we have understood their needs and those of the local and national groups.

However, we have mechanisms for doing such things in other areas. We are trying to move towards having outcome agreements in some areas, which is a perfectly valid philosophy to adopt and approach to take. We are trying to track money that has been provided by the centre so that we can find out what happens to it and whether it is achieving the outcomes for which it was made available. There are tensions to do with teacher numbers, for example. There is a high-level desire for there to be a certain number of teachers across the board, but local authorities employ teachers with money that ultimately largely comes from the centre. Such tensions exist in a number of areas.

10:45

The point about contact centres is important. Facilities are not provided by the centre in a lot of areas—for example, the Executive does not provide social work services that serve the courts. There are issues to do with such things. The Executive does not provide a lot of the facilities into which the court services feed, although it provides some—the Scottish Prison Service, for example, is obviously much more centrally organised than other services. By their nature, contact centres fit naturally with family support services, but we want the organisations and local groups that are involved, in association with local authorities, to determine local arrangements. The Executive can influence that agenda, and is doing so with the family contact facilitator pilots in Edinburgh sheriff court and Glasgow family court, which will be useful.

I do not rule out national standards; indeed, the discussion may move us in that direction. I simply say that it is probably premature to make a decision on that before we find out what themes will emerge from the discussions and what the local bodies can do with the extra funding that is being given to them to rationalise services, and before the national bodies move forward through reorganisation towards a more coherent approach, which I hope will be taken.

The Convener: If you are saying that the Executive will consider whether there should be baselines, I welcome that consideration.

Let us go back a wee bit further. Our stage 1 report on the Family Law (Scotland) Bill considered the Australian system. We know that the Executive will not provide the equivalent of 65 million Australian dollars to set up family contact centres, but we were persuaded that the Government should take a more strategic approach to providing family contact services. I would welcome such consideration for that reason. Such services may not have been available in the past, but it is about time to consider changes. Most people see that there is momentum—

Robert Brown: I entirely accept what you say. We do not want to be static. Our appearance before the committee is not the end of the process.

Mary Mulligan has produced a seminal and timely report. People are looking towards the future of family support services, but we must tease out where the report will take us. When we think about contact centres, we may think about a place. We are concerned about the nature of staffing at that level, facilitation and expertise, and how arrangements will move forward more dynamically into more satisfactory and homely arrangements for contact than those which contact centres, even at their best, can provide. Things depend on the expertise of the local groups that provide the services. I think that interested bids will soon be invited for the Glasgow and Edinburgh projects. Consideration of all those things is relevant.

The Convener: I mentioned contact centres as one example—further detailed questions will be asked about them—but I do not necessarily agree with what has been said. The evidence that I have heard suggests that there should be standards for running contact centres. I would still prefer a baseline to exist if centrally held resources were released and local authorities were allowed to determine what they will provide.

Robert Brown: I do not rule that out. We might want to consider such things as we move forward and as the Education Department gets to grips with the issues in the role that it has taken over. I

do not want that to be taken as a commitment, but we will want to work through issues in the three-year process.

Stewart Stevenson: Before we move on to money, it is clear that political accountability for driving forward the family support work lies with you, minister. The previous 20 minutes have made that clear. However, who will get fired in the public services if it is not delivered?

Robert Brown: I do not think that is the direction I want to go in—

Stewart Stevenson: Let me stop you immediately, minister, and say that, if you cannot identify somebody in the public services who will be accountable for delivery, you will simply not deliver. I ask you again—who in the public services will be accountable, and would they be fired or moved if they did not deliver?

Robert Brown: I repeat that I do not want to go in that direction. The lines of accountability are obvious. The minister is ultimately accountable and officials have the role of advising ministers. In so far as the matter moves forward to local authority level, chief executives and councillors have line responsibility, as is the case in delivery of any public service. If, in my ministerial role, I make a hash of the work, Parliament would no doubt say nasty things to me and the First Minister might desire to do something with me as a consequence. I readily accept that that is reasonable.

Stewart Stevenson: There is a distinction between the making of policy and its implementation. The making of policy is clearly your responsibility. I understand that, and you articulated what might happen if there was a failure of policy. However, I am interested in what would happen if there was a failure of implementation, which is the responsibility of the officials who have to manage the policy and deliver it on the ground. Are we absolutely clear about who is responsible for that?

Robert Brown: Delivery of the service after the three-year period will be the local authorities' responsibility. That is the purpose of transferring the funding in their direction. In fact, I think I am right to say that, technically, it will be their responsibility after the first year, albeit that we will ring fence the money in that period.

That said, local authorities will not deliver the service themselves but will farm it out to voluntary sector bodies that have expertise. There will be the usual relationships between the bodies that deliver the services and the local authorities that fund them.

Stewart Stevenson: Okay—so we have established that it will be the local authorities'

responsibility. I am content with that, but if that is the case, why is not the Executive putting all the money into the local authorities' hands and allowing them to decide to what extent they want national bodies to represent them and co-ordinate the work? Under that approach, the local authorities would fund the national bodies. The current figures appear to show that substantial amounts of money are put directly into national bodies rather than into local services and the local authorities that actually have responsibility for delivery. Is the funding skewed in the wrong direction?

Robert Brown: The arrangements are somewhat more complex than that, as they often are in such matters. The issue of national bodies and capacity building at the national level arises in other spheres, including the youth-work sector, which I mentioned in a slightly different context. It also arises in relation to a number of umbrella bodies in the voluntary sector. In those areas, we provide capacity at national level to do things that could not be done as readily at local level in all 32 local authorities.

There are, depending on the size of the national body, often difficulties with engagement between bodies that operate throughout Scotland and the 32 local authorities that we have under the current system. Against that background, funding the national bodies is often a rational and reasonable response that provides, for example, appropriate training support. You will be aware that some of the core funding that goes to the national bodies is for training and other support of local organisations. We take the same approach in relation to the scouts, the Boys Brigade, the Girls Brigade and the girl guides. In my view, it is an efficient and effective approach. We provide capacity-building availability at the centre, which enhances the national bodies' work on both setting of standards, which has been touched on in other contexts, and training and support for local organisations. That is a good approach and the relationships work well.

Stewart Stevenson: I accept the need for national bodies. Of course, local scout, girl guide and Boys Brigade groups are not accountable to local authorities and are primarily funded and supported by the individual organisations on the ground.

It might be convenient for national Government and its officials to have strong national bodies, but given that delivery takes place in local authorities and that the people who deliver on the ground are accountable not to national Government or to national bodies but to local authorities, should not we skew the funding in favour of local authorities, rather than putting substantial amounts of money into national bodies?

I would in no sense argue with an approach whereby money arrived in national bodies via the decisions of local councils and the local bodies who deliver on the ground, if councils and local bodies had identified a need for national bodies. My concern is ultimately about not organisations and structures, but the delivery of services on the ground. I want every penny to sweat and to be in the hands of the people who deliver services. Are you certain that you have struck the right balance?

Robert Brown: I do not think that our positions are far apart. I am interested in the efficiency of Executive spend and it seems to me that efficiencies can be carried through across a series of areas in which there is a national body—efficiencies can be gained from providing funding in that way. National bodies can be funded through subventions from local groups, but such an approach quite often leads to a weak national body that cannot operate effectively. A reason for that is the need for organisations in the voluntary sector to have a degree of independence, so that they are at arms length from Government machinery of any kind. The establishment of national bodies that have a degree of corporate independence, albeit that they are subject to national funding, can achieve not just the most efficient approach to spending money, but the best way of setting standards and establishing common practice across the sector, which might not otherwise happen.

Bruce McFee asked whether we can be certain that giving all the money to local authorities would be the right approach, but now we are considering the contrary approach. The reality is complex, but the balance between the local funding of local services and the central funding of national bodies works quite well and gives voluntary bodies an element of independence that they would not have under alternative arrangements. However, I readily accept that such matters are open to debate and that people have different views.

The Convener: Stewart Stevenson talked about accountability. If, in future, an SNP—*[Interruption.]* I meant to say "MSP"—I should make that clear.

Stewart Stevenson: You were spot on.

The Convener: If an MSP asked the Executive a question about, for example, their constituents' lack of access to contact centres, or long waiting times for couple conciliation services, would the Executive respond by saying that that was a matter for local authorities?

Robert Brown: There might be an element of that. We should bear it in mind that local authorities have elected members, so there is democratic accountability. We sometimes overstate our importance as MSPs, given that there are other elected layers of government.

However, it is clear that ministers retain the responsibility for strategy and issues throughout the country, so a minister would find it difficult to wriggle off the hook if major issues were emerging. The same interrelationship is relevant when a member asks about difficulties in a school in their part of the country, when things have not gone as well as they might have done. The issue is the immediate responsibility of the local authority, but ministers are often drawn into such matters because they have responsibility for national standards.

The Convener: Are you saying that if an MSP asks the Executive about waiting times, they will receive an answer? Can we hold the Executive to account on such matters, given that Executive money is being spent, albeit that it is translated into GAE? I like to think that the Executive accepts that elected members of Parliament have a role, notwithstanding the role of elected members in local authorities, to hold it to account for money that is going to local authorities to be spent on services such as contact centres and reconciliation services.

11:00

Robert Brown: Members of the Scottish Parliament absolutely have that role. I do not think that anybody could claim that the Executive is not held to account on education services, albeit that education services in detail are provided by local authorities. The arrangement will be fairly similar once the funding has gone in through GAE. I do not think that you can expect to hold ministers directly accountable for the specific things that happen under the aegis and control of local authorities, which by definition at that time—

The Convener: I want to be clear.

I take the view—you may disagree—that when we debated the importance of reconciliation services in the context of shortening the times for divorce, some of us thought that putting resources into supporting relationships could prevent divorce. If I thought that a couple in my constituency were waiting too long for a reconciliation service, that would be important to me. Could I hold the Executive to account for that, or are you saying that couples having to wait for a reconciliation service is a matter for the local authority, end of story?

Robert Brown: With respect, I do not think that I am saying either. The principle is that if local authorities are running or commissioning the services—

The Convener: I cannot hold you to account.

Robert Brown: No, that is not the principle. The local authorities are primarily accountable for the

detail of the service provision. That follows in relation to almost anything else for which they have responsibility. By the same token, the Executive does not entirely lose its responsibility. If a significant issue is developing throughout the country, you are perfectly entitled to ask for—and I imagine that you would seek to get—an answer from ministers about whether a general problem has arisen. I do not think that the minister would resign because X local authority has a bit of a problem developing. It is not that kind of accountability, but the minister would take a close interest in the fact that problems were beginning to emerge. Because of the responsibility that we have for strategy, the interrelation with all the other issues that we have been talking about and that, as you say, funding ultimately comes from central sources, we would take a close interest in and would be accountable to Parliament for those matters, but not in the detailed way that we would be if we funded the services directly.

The Convener: I will leave it. I do not see why the issue is becoming so difficult. If I asked you about the national health service, you would say that the Executive has waiting time targets.

Marlyn Glen (North East Scotland) (Lab): The committee is pushing at boundaries. The comparison with education is not particularly helpful; although there will be, for example, variation in teacher numbers, that will be within statutory guidelines and baselines that must be met throughout the country. There are also inspections of schools. When we considered the Family Law (Scotland) Bill we wanted further provision to help families. That provision might well become as regulated as the work of the Education Department, but at the moment it is not. We are trying to push the issue. In the light of the United Nations Children's Fund report, this is important. I suppose that it is unusual for a justice committee to be pushing at this kind of boundary, but it is connected to our work on justice.

Robert Brown: I accept that. I have tried to say that the Executive and I attach extraordinary importance to the matter. It is a very important policy, which we are keen to see delivered effectively.

Perhaps a better parallel is with the provision of money advice services—remember the discussion about such services in connection with warrant sales, debt and so on. Although it is not my area, I do not think that the provision of those services is statutory in the sense that there is a requirement to provide a certain level of service. However, the Executive has been funding, through local authorities and voluntary sector organisations, an expansion of the delivery of those services. In some ways, there are parallels with what we are discussing today. Money advice and debt are

important, and are not a million miles away from the issues that we are talking about. The local authority would be responsible and accountable for its spend and the Executive would have a more general responsibility for ensuring that the policy objectives that the committee set, in legislation or whatever, were delivered.

The two levels of responsibility must be recognised. The hope is that all that would work in partnership and would become a seamless and totally successful arrangement. That is the objective of the exercise.

The Convener: We will move on to funding after I call Stewart Stevenson.

Stewart Stevenson: I will make my last point before ceding to colleagues on funding. I listened to what Robert Brown said about moneys for the next three years. Will that start to fill satisfactorily the gaps that Mrs Mulligan's report identified? What will happen after those three years?

Robert Brown: Those are yes-yes questions. The funding will begin to fill the gaps. It is clear that 46 per cent extra in funding will help and will widen to every local authority the potential to have input into such services. Whether services will be delivered in every local authority area by a centre or in collaboration across local authority boundaries—I think that the centre in Glasgow supports services in one or two neighbouring local authority areas—is a matter for local determination on a practical basis. The funding will allow an expansion of services.

We cannot bind the decisions of future Executives after the three years, but the intention is that the increased funding will be mainstreamed and will become part of a council's GAE funding allocation. That will be against the background of partnership and close interest that we have analysed.

I hope that the agenda will develop. I would be surprised if, in the three years, new issues and new challenges did not come out of the woodwork, which might mean demands for new funding contributions. I would be up for that, because funding such services is important. However, that would be a matter for future Executives to determine in the next spending review and the review after that.

Stewart Stevenson: I welcome the thrust of what you say, but I may continue to pick at the detail. Does what you say imply that national standards might be established—Marlyn Glen referred to that—that would guide and perhaps constrain local authorities in the use of what will be part of their GAE allocation rather than specific funding? That would ensure that local authorities were subject to a duty and had funding.

Robert Brown: If I am hearing one message, it is that the committee is interested in national standards or something that would deliver what national standards might do. I have said that we did not rule out such a measure, but I wanted it to emerge from the forward programme. The committee's input may provide greater impetus, which is probably useful. Such a measure would not go against the grain of anything that we have suggested or done and we would probably want to engage with the committee on it as the programme moves forward and as the embryonic stage to which Bruce McFee referred becomes a more developed understanding of what we require to do to make progress. I hope that that helps.

Margaret Mitchell: Obviously, funding is crucial to the delivery of family support services. I will press you a little more on the idea that local authorities are the best people to deliver services because they know local needs. Would anything in your proposals prevent a local authority from indulging in empire building and in developing through its staff and by recruiting people a service that is already out there and is delivered perfectly adequately in the voluntary sector? I suppose that we return to the question of where the checks and balances are.

How do you respond to the submissions from Scottish Marriage Care and Stepfamily Scotland? They expressed a concern that we have all expressed about the emphasis on mediation services, which inevitably lead to break-up, as opposed to counselling services, which examine emotional and other factors leading to a break-up and can sometimes achieve reconciliation. How do you respond to those groups' comment that equal weighting for those two services has not been given? If local authorities are to deliver the funding, will they give more emphasis to mediation rather than counselling services? Those are important questions.

Robert Brown: Absolutely. Being an optimistic chap, I like to look at the situation more positively. We hope that, as the discussions with local authorities and voluntary sector organisations proceed, such issues will come out of the woodwork.

There is a degree of difference in emphasis between, for example, Relate Scotland and Scottish Marriage Care, which are in the same business but historically come from different traditions. Both organisations have done interesting work. For example, Relate is getting involved with prisoners and issues related to that, and important work is taking place in that connection. I know that Mary Mulligan visited Scottish Marriage Care's REACT—relationship, education and counselling team—project in Easterhouse, which I have also visited. That

seemed to take an interesting approach. Much more than the other bodies, SMC is into early relationship counselling rather than mediation once relationships are breaking down. There is clearly a place for both organisations.

However, we need to get a greater handle on the success rates, the evaluation that is possible, the balance between the approaches, the needs for them in different local areas, and the probable take-up. To a considerable extent, Scottish Marriage Care comes from a Roman Catholic background—those were its origins—and a good bit of its counselling work relates to people getting married. It is church-linked to some extent, and those issues lie behind some of what we do.

We know that there is a different pattern of religious marriage, civil marriage and cohabitation from what there once was. The fabric of society operates differently from how it did 20, 30 or 50 years ago, and those realities have to be reflected. Our discussions with those organisations should tease out those implications, but we want largely to leave the organisations to identify their own direction of travel. It is a matter of saying not that they should follow one way or another but that each group has its expertise, that there is a role for both and that we need to work out the balance between the two in the provision of local services.

The coming together of the organisations in the way that they have done will facilitate the use of that rich diversity of traditions, and it should be a dynamic process. I look forward to that, and we will keep an eye on the process as it develops.

On Margaret Mitchell's point about empire building, I suppose that there is always an issue about whether local authorities want to provide services in-house or otherwise. I think that I am right in saying that no local authorities currently provide such services in-house, and we have no particular reason to think that they might in future. South Lanarkshire was mentioned, and I know that it has a neighbour mediation service to address disputes. That is not quite the same thing, but useful liaisons could perhaps be established between similar services in the voluntary sector and otherwise as we want the critical mass and groups striking sparks off each other.

It is an exciting agenda, and there is substantial potential for making something good if we do it right.

Margaret Mitchell: I have two other points. Scottish Marriage Care and Stepfamily Scotland have said that the current anomalies in the funding have not been accurately or properly addressed. They make the point, which is the same for any voluntary or independent organisation that has experience and provides a good service, that spending time on fundraising rather than delivering

services is clearly not the best use of their money. Minister, I earnestly ask you to look at that situation.

Finally, Stepfamily Scotland has said that current funding streams make it difficult for it to access local authority funding or funding from the change agenda, even though its national helpline is readily accessible to anyone in Scotland and provides a service in remote areas where other services are undeveloped or do not exist. Will you consider that, too?

11:15

Robert Brown: That is an important question that brings in the rural dimension, which has been a wee bit absent from some of the discussion. The provision of services in rural areas presents particular and specific challenges. If I recollect correctly, Mary Mulligan mentioned some of those challenges in her report. Services in such areas sometimes must be delivered differently and with different availability. That again makes the point about the complexity of the relationship—it is not really a simple matter of saying that all the services are central or local. One issue is about how we can provide a service that is available more broadly, throughout several authorities.

The anomalies can be subjective as well as objective, but I hope that the changes in the unified voluntary sector fund that we are about to announce will go a considerable distance to helping in that regard. There have been issues for a while with Scottish Marriage Care's funding. We must sort those out and ensure that the organisation is sustainable and that what it is funded to deliver and what it thinks it can deliver with that funding are in balance. That issue will be part of the discussions that we want to have and is very much part of the reason for the one-off change funding, which was to help tackle the issue. A lot of progress has been made.

The issues are on-going, so I am not saying that they will not still exist in days to come. However, considerable progress has been made to create a mechanism to allow us to discuss the new agendas proactively and, I hope, arrive at adequate solutions.

Mrs Mulligan: I will follow up Margaret Mitchell's question. I do not want to pick you up on a comment, minister, and I am sure that you did not mean it the way it came out, but can we be clear that Scottish Marriage Care and Couple Counselling Scotland provide services for people of all denominations and none and that there is no discussion about that?

An issue arises about how we decide on funding for counselling or mediation services. While I was putting together my report, I attended a

conference in Glasgow at which people from various organisations acknowledged that their skills are complementary and that it is therefore important that we have counselling and mediation. I was interested in your comment about measuring the success of services. How would you measure their success?

Robert Brown: On your first point, I was simply referring to the origin of some of the organisations. For what it is worth, I believe that those traditional connections give strength to voluntary organisations in many cases. My comment was in no sense negative. I have a lot of time for the work of Scottish Marriage Care, Relate and other such bodies.

I am not into tick-box measurement. I have, I hope, a healthy scepticism, as do members, about some evaluation methods that are used fairly generally in the Government machinery. Nevertheless, we need to get a handle on the effectiveness of the approaches. Research is being done that follows on from the court facilitator project to get a handle on the contact issues. That is entirely appropriate and will give us a lot of insight in considering how to progress. That was what I had in mind. Instinctively, one feels that pre-relationship counselling has a lot to offer, but we need to burrow down a little into whether that feeling is borne out by experience. Similarly, mediation and counselling at later stages clearly have a lot to offer and one feels instinctively that they are the right thing to do and have all sorts of benefits.

However, we have to keep our minds open about and constantly engage with the sector on the effectiveness of the various techniques and methods that are used and, indeed, the people who are involved, to ensure that the reasonably considerable amount of money that is now being spent on these services is having the best effect for the whole of society. It might be argued that one aspect of accessibility is whether people know about these services. For example, are they used by knowledgeable middle-class families or do they reach the sectors of society that might need them most? We want to know about such matters.

Mike Pringle (Edinburgh South) (LD): I congratulate Mary Mulligan on her excellent report, in which she points out that despite the fact that there are contact centres right across Scotland, 11 local authority areas still do not have any. Who is responsible for filling the current gaps in provision and ensuring that contact centres are available everywhere?

The report also identifies a considerable disparity between the amount of funding received by contact centres in Scotland and in England and Wales. During our consideration of the Family Law (Scotland) Bill, the convener highlighted how

effective contact centres can be. Very substantial investment has been made in contact centres in some areas, and Scotland seems to be lagging behind England and Wales in that respect. How will we address both that problem and the fact that not every local authority area has a contact centre?

Robert Brown: As I was a family lawyer for some of my legal career, I have an instinct for these issues and, indeed, know about some of the matters on which the committee took evidence in its consideration of the Family Law (Scotland) Act 2006. Although things have moved on a lot since I practised family law, one thing that has remained constant is the tortuous nature of the relationships that give rise to some of these contact matters. Issues such as facilitation, keeping the father—more often than not—in closer and better contact with the family and awareness of, for example, violence within families form an important background against which to address the problem.

As we have detailed in our response, the question of contact centres is organically and intrinsically linked to the question of mediation and counselling services. The agenda is the same and both issues should be taken forward in the same way.

We want to address the point about certain local authority areas not having contact centres through our additional funding and support to local organisations, which forms part of our resource and capacity-building approach to the family support sector. Although it is important to have a physical place in which contact can be made, it is equally—if not more—important to have trained people with the expertise to supervise or support such contact in the desired way. Of course, the expertise of people in other sectors is also important. As the convener said, certain aspects are linked to the court structure and can involve sheriffs. We need to be able to follow these matters through.

We have to find out what the need is, how best to tackle it and how successful the current arrangements have been, which is why we have instituted the research programme on court orders and privately arranged contact. For example, Professor Fran Wasoff from the University of Edinburgh has carried out a survey of sheriff clerks and has produced a literature review on child contact that sets out the international dimension. All that important information will feed into what we are trying to do and give us a clearer picture of what is required.

I do not know the detail of the position in England and Wales. This issue has not been in my portfolio before now, but we are keen to move forward on it, and undertakings were given by fellow ministers when the bill was passed. Moira

Wilson might want to add something from the perspective of the Justice Department.

Moira Wilson (Scottish Executive Justice Department): Not on the development of contact centres, which we see as firmly engaged with the family support services, but I can say more about the research and the family contact facilities, if you would like.

Mike Pringle: That would be helpful.

Moira Wilson: You might want to come to that later.

Mike Pringle: My next question is about court services. In all sorts of cases, courts are increasingly reliant on the information they get from contact centres, mediation services and so on, but the Scottish Court Service and the Justice Department do not provide any funding to help with the delivery of those services. Do you think that it is perhaps time the Justice Department and the Scottish Court Service started to provide funding for those services? You can talk about research at the same time.

Moira Wilson: I cannot speak on behalf of the Scottish Court Service, as I do not work for it: I work for the Justice Department.

Only last year the Justice Department had responsibility for family support services, but it was decided that that portfolio sat across two departments and more neatly in the Education Department, which has responsibility for children and families more generally. As a result, the funding that the Justice Department had, which went with the responsibility for developing the services, went from the one department to the other. It is appropriate that it stays in that pocket and does not get developed in isolation as a separate piece of funding for a separate service.

Robert Brown: I agree with that. It does not matter so much what the funding source is; we have a Scottish block, which is allocated administratively into different departments. The real issue is whether the funding is spent appropriately to meet requirements. This is a developing agenda. The pilot projects in Edinburgh and Glasgow that provide family contact facilitators should tell us quite a lot about what is required to service the busy courts in those cities. You may be aware that the project that will be physically stationed in Edinburgh will have the capacity, all being well, to take on cases from elsewhere in the sheriffdom of Lothian and Borders. It will be able to find out about the demand in country towns and in the city, which will also inform the direction in which we go. That is not strictly about contact centres, but it is the same agenda.

Marlyn Glen: The report says that we are concerned about the wide disparity between funding for contact centres in England and Wales and funding for contact centres in Scotland. Do you want to comment on that?

Robert Brown: We are responsible for dispensing funds in Scotland. This is a developing agenda. To some extent, there have been different patterns of requirement in England. I do not know the detail of what support is available in England. We are seeking to have in place arrangements that will work in liaison with the courts, which is why the two pilot projects have been set up in that environment. However, that is not the end of the development of the process. You have touched on the fact that there are 11 areas where there are not the facilities that there ought to be. We want to build capacity to provide those facilities. That is the direction of travel.

The issue is not so much the comparison with England and Wales—no doubt such comparisons could be made across a series of agendas—as whether the service in Scotland is adequate. It clearly is not yet, but we hope that it will be over time, helped by the arrangements that we are beginning to put in place.

Marlyn Glen: I am interested in the research as well, but the research is really about child contact enforcement, which is coming to it from a particular perspective. That is definitely necessary, but there are other perspectives that are important. It is good that family support services have transferred from the Justice Department to the Education Department. Nevertheless, I wonder whether money should still be provided from the Justice Department, given that courts rely on those services so much.

11:30

Robert Brown: I take the point, but the money has moved with the current support for the services, so to speak, although the new developments are coming from the unified voluntary sector fund more generally. If I may, I will make the parallel again. I am not exactly sure how social work services are funded at the local level, but in effect they come to the courts from the local authorities. The source of the funding is not really the important issue; surely what is important is the delivery of the service, the timescales and all that sort of thing.

Marlyn Glen: Basically, I would be interested in the outcome rather than where the funding comes from, too.

You mentioned violence in families. The Executive response does not mention supervised contact. In terms of family law, we find that particularly concerning. I am aware that we are

talking about a minority of cases, but they can be cases that are exceptionally important. From the point of view of Scottish Women's Aid, surely there should be a minimum requirement for the availability of supervised contact, right across Scotland.

Robert Brown: Supervised contact is important. It melds into supported contact. In the context of the slightly longer-term environment, you might agree that supervised contact is not a very satisfactory end product. It may meet a need in the shorter term, but ideally one would want things to move forward into something that is a bit more organic. Supervised contact is not the most brilliant thing for the children.

Marlyn Glen: But let us go back to basics: we are talking about facilitating contact with children, when it safe to do so.

Robert Brown: Yes, absolutely.

Marlyn Glen: And the safety of children is paramount.

Robert Brown: Yes, absolutely. The courts have to have control of that. We all know many examples—mine relate to my professional practice—that illustrate the big, big issues around all of that. We have to get it right.

I am not arguing with the provision of supervised contact; all I am saying is that, in a sense, supervised contact is—hopefully—an intermediate solution that leads on to something more satisfactory for the children in the longer term. One of the problems is that it does not always do so. Supported contact is also relevant to that kind of agenda.

We undoubtedly need a range of provision, as that will allow us to deal with the different situations that emerge. We also know that what is needed in Glasgow, with its concentration of cases, is one thing and that what is needed in Stornoway, with its rather smaller number of cases, is different. We would not necessarily have a full-time family contact facilitator in a small rural court—there is a need for the same service, but not for it to be provided in quite the same way as it in Glasgow, for example.

Marlyn Glen: I would not like us to go away with the idea that Scottish Women's Aid works only in Glasgow. It has cases all over the country.

Robert Brown: No, I am not saying that. All I am saying is that we have to recognise the differences in the way in which we wish—and need—to provide these things, to reflect the dimension and geography of Scotland. In a sense, given the smaller number of cases in rural and smaller courts, the way in which it can be done somewhere such as Stornoway is a different proposition in some respects from the way in

which it is done in a large city court with large number of sheriffs and where a large number of clients come before the court. We have to be able to reflect that in the way that this goes forward.

We should learn a fair bit from the family contact facilitator pilots, the research and, of course, the experience of existing contact centres and, hopefully, from the widening of the existing programme.

Mr McFee: My question is on that point. I seek clarification on the work that the Executive has done to provide some form of costing for the provision of contact centres across Scotland. In other words, if the facility were made available nationwide where it is required, what would it cost?

Robert Brown: That perhaps goes back to the answer to the previous question: it will vary across Scotland. It will take account of some of the existing facilities and the nature of the demand if the service were fully in place.

Mr McFee: Yes, precisely—so what would it cost to roll the service out across Scotland?

Robert Brown: I cannot immediately give an answer. Perhaps we can come back on that.

Moir Wilson: I think that we do not have any particular information to hand, minister.

The other thing to bear in mind is that what may be developed may not necessarily be a contact centre working in isolation. The new service may build on an existing family support service and which—

Mr McFee: Indeed, indeed. I understand the point entirely. The problem is that much of this floats round in airy-fairy land: the local authority is responsible for delivery, but it may not deliver. I understand that the Executive has rejected the possibility of separate funding for contact centres. It said:

"Funding available to family support services, and the funding already available to local authorities for child and family support, can be used to support appropriate contact facilities within local areas."

If, as you say, the funding exists and can be used to support contact facilities, you should have an indication of how much it would cost to do that.

Robert Brown: We must go back a stage. Local authorities get a substantial amount of GAE support, which has gone up since the Scottish Parliament was established, for their activities. That is additional to council tax. A large amount of money goes to local authorities generically, to enable them to provide services across the board. I am teaching granny to suck eggs, but the starting point is that it is up to local authorities to provide the services that they see as appropriate in their

areas from the GAE, as adjusted over time and with whatever additions are made. We have accepted that there is a need to expand provision in the family support sector. The considerable announcements that we have made and will make shortly about the unified voluntary sector fund are related to that issue.

We are not closing down the agenda in any sense. We are trying to say that, over the three years during which the sector moves towards local authority control, we need to develop a clearer view of what is required. Moira Wilson made the point that there will not necessarily be a family contact centre in every local authority area. We need to get a feel for what is required, so that we can take the issue forward. The research that has been done, the pilots and existing experience will be helpful. Some money has already been spent in this context. One could work out what it would cost to provide a family contact centre with a certain level of staffing in every local authority area, but it would not be realistic because it is unlikely that that is what will happen. The process must be seen as more organic than that.

I accept that the member's point is important. I will reflect on this discussion and try to get a feeling for the sort of figures about which we may be talking. It is important that the committee and the Executive should have a handle on the issue.

Mr McFee: Will you restate what additional moneys will be available in each of the next three years?

Robert Brown: In 2007-08 total funding in the sector will increase from £1.3 million to £1.8 million. I think that the funding will remain static thereafter, with an inflation-related increase.

Rod Burns: The funding will be split between national and local bodies. The national bodies will stay within the unified funding arrangement, but funding for local bodies will be included in GAE.

Mr McFee: So funding will go up by £500,000 a year.

Robert Brown: Yes. Next year there will be a baseline addition of approximately £500,000 a year across the board.

Mr McFee: Do you believe that an extra £500,000 a year will address the issues that have been discussed today?

Robert Brown: The short answer is that in many sectors it probably will not. There is a fixed Scottish block allocation that goes up over time, following spending reviews. Adjustments are made between priorities across the Executive.

Mr McFee: So it is not true to say that local authorities could provide contact facilities if they so desired. There would be a funding problem even if a local authority wished to provide such facilities.

Robert Brown: That is not what I am saying. Local authorities, like the Executive, have a fixed fund, allowing for changes over time. Within our respective funds, they and we have to make priority choices about how the money is spent. If family support services are important—as we believe they are—local authorities can make additional provision for them. We want to discuss some of the possible lines of development in the area.

Mr McFee: I would like you to confine your remarks to family support services. Would £500,000 across Scotland address the issue?

Robert Brown: I have already answered the question. I have nothing to add.

Mr McFee: So local authorities will continue to have to choose between the vision of one service and that of another. I understand your desire to be optimistic and to look forward, but I want to understand what can realistically be provided for £500,000 a year.

Robert Brown: I accept the point that you make, but the wider context must be considered. Within their domains, the Scottish Executive and local authorities have the ability to make funding choices. The issue that we are debating is only one element of those choices. You should not view that funding in isolation, although I accept that the end effect will be additional resource going to local authorities, above GAE funding of the amounts that will emerge from the settlement. That money is only a contribution. It is no different from what happens in any other sector when we advance over time by making improvements to the funding arrangements—if we can—and honing the priority choices that we make, as opportunity offers.

Mr McFee: I accept all that. It would be useful to have some figures to indicate what you think half a million pounds, split in the way you described, will buy on the ground. I presume that in making the calculations you had some idea of the costs involved.

Robert Brown: The money is for individual bids. You will see what they get for that in the announcements about the unified voluntary sector fund allocations that we will make shortly. That will be a relatively clear exercise.

I would like to see whether I can usefully give the committee a wee flavour of some of the arguments about contact centres.

The Convener: We were involved in the matter way before you, in the sense that we looked at it in the context of the Family Law (Scotland) Bill and all the issues that were brought to the table. The committee pushed hard on those issues with Hugh Henry, who was the minister at that time, because

we saw an opportunity to influence the policy. In fairness to the Executive, it conceded a number of important points. One was about additional funding; the second was about research—we might want to hear more about that; and the third was about family contact officers, about which we will speak.

We are trying to push the matter further with you because you are now the minister responsible. It is crucial that we explore the issue of contact centres. It is not good enough to say, “Well, we won’t be able to provide that facility for you” just because someone lives in a rural area. That is the question we need to address. I have taken a strong interest in access to children and the breach of contact orders, which has been controversial.

One of the ways in which you might persuade parties to take the first step of giving access to the parent who has not had access to the child is if they can be persuaded that a contact centre is a safe environment. If that facility does not exist, it will fundamentally and directly affect what a court can do to try to nurture access arrangements for both parents, which I believe is important. I would like to think that the Executive has a policy position on the matter, too. That is why it is important that we push in that direction.

We heard some comments about how contact centres are run that suggested that some direction should be given from the centre about the standards they should adopt. Marlyn Glen pursued the issue of supervised contact for specific reasons. If supervision does not exist, the decision makers in that process might or might not decide to push for access because supervision is required and is not available or they might allow inappropriate access. That is why the Executive should grab hold of some of the central policy issues on the delivery of service.

Robert Brown: If there was any suggestion in what I said that rural areas should not get the same facilities as urban areas, I would like to make it clear that that is not what I was trying to say. Nevertheless, I was brought up 10 miles from Huntly, which is 40 miles from Aberdeen. There are geographical implications in that sort of situation for the availability of facilities, expertise and supervisory people. The centres must be convenient for the people who require them. We need to look at the particular requirements of rural areas in the context of what we do here as well as more generally. It might be that slightly different solutions have to be found, to make facilities available.

I accept entirely the agenda that the committee is pushing—you are absolutely right to do so. I also have a close interest in that agenda, to which the Executive has responded increasingly in the context of the bill and beyond.

11:45

Solutions often boil down to funding arrangements and how they can build service capacity. We cannot just click our fingers and have everything just the way we want it. We have to build things in an organic way—with services and expertise available and with funding in place. That is what the expansion of family support services generally—not just the expansion of local services or of the headquarters function—is designed to do.

The committee’s comments have been very useful, and such considerations will be at the heart of our discussions on how we can expand services as effectively as possible. Resources will be an inevitable restriction. We do not have an endless pot, but we want to put more resources in and are doing so—no doubt some will say that we could put more in. We will have to see what we can do in the next session of Parliament.

Marlyn Glen: I want to ask about relationship preparation services, which you have already touched on. I am curious about how the issue comes under your department, but never mind.

You said that you visited the REACT project in Easterhouse. I have not managed to visit it myself. How satisfactory is it if organisations are left trying to make room for relationship preparation services among all their other services? In policy terms, relationship preparation services seem too important to be left like that. Organisations have limited budgets and their resources are always under pressure. It seems short-sighted of the Executive not to make such services central, because early intervention could be effective and could save time and resources further down the line.

Robert Brown: I challenge the view that an effective reaction requires central intervention; I do not think that it does—for the reasons we have gone on about at length today. However, I also do not think that we can just leave things to the organisations. We want to utilise the expertise of the organisations. We have to do that, because they have experience of what works and they know their priorities. Scottish Marriage Care has received some project funding to support the REACT enterprise, but most of the funding came from extraneous sources and from fundraising—I stand to be corrected, but I think that I am right in saying that. We encourage the bringing in of funding from other sources as well.

I visited the REACT project three or four months ago. It is fair to say that a relatively small number of people have achieved long-term conclusions. The project is very interesting. An interim report was being launched, but we await the final report, which I think is due after two or three years of the project. The report will indicate the success of the

project, and will give us an idea of whether its ideas can be used elsewhere. That is what usually happens with pilot projects. It has yet to be determined whether the REACT project shows the way forward, but it is very interesting and there have been many good indications.

The Convener: We are getting towards the end of our questions and we should finish by covering anything that has not yet been covered. I would like to spend a few minutes exploring the Executive's commitment to family contact facilitators. Two pilots are running, in Glasgow and Edinburgh. I welcome that.

If people cast their minds back, they will remember that our debate was a response to an amendment in Sylvia Jackson's name, supported by me. It was about the number of contact orders that were breached and how we should deal with that.

Looking around the country, it is hard to say what is happening in any particular sheriffdom, but there have been hundreds of cases in which a court has made a decision about access to children but the order has not been respected. However, progress is being made.

We have had responses from sheriffs who are wondering about whether there is value in this. That is why I think the research is so important. We would like to hear about that. The figures that we had for breach of contact orders were for the whole United Kingdom. We found it difficult to identify the Scottish issues separately.

As you know, Glasgow has a dedicated family service because there are two sheriffs—the committee has met them—who deal with family cases day in, day out. We took useful evidence from them during the passage of the Family Law (Scotland) Bill. However, we have to find some answers to this problem.

Can you give us some information about how long the pilots will run and how it will be evaluated?

Robert Brown: It is important to remember that the court represents the pathological end of the process, if you like, where families have run into problems. There is a kickback effect if people think that they are not going to get contact, which can affect their actions. Nevertheless, there are many other situations in which contact is worked out reasonably well, whether with the assistance of mediators or otherwise.

As the committee knows, Moira Wilson's team has a project involving two pilots. Perhaps she should detail the process and the timescales.

Moira Wilson: Okay. The sheriffs and sheriffs principal of the family courts in Glasgow and Edinburgh have agreed to run the pilots in their

courts. We spent some time working with them on the terms of reference and the role of the two family court facilitators.

We are now about to procure a host organisation, which will recruit the family court facilitators and act as their manager. Their work will be embedded in the court, but they will be managed separately by another organisation. We hope that the facilitators will be in place—I hesitate to say shortly; they will be in place in the early summer. The procurement process takes a little while.

The facilitators' main functions will be to work, under the sheriff's direction, immediately with families who are in conflict and for whom contact is an issue. We also expect them to contribute to the wider research project that we are doing by bringing in some valuable additional and slightly different data. The third arm of their responsibility will be to examine the local services that exist to support families and to work in partnership with those services to see how they could be developed. The lessons learned can be spread out at the end of the project. Therefore, their main function will be to work with individual families but there will be other elements to their work.

Our plan is that the facilitators will be employed for two years in the first instance, with a possibility of extending that to three years if we feel that we need longer to evaluate the pilots, which will be evaluated independently on a continual basis. One of the key questions will be whether they make any difference to the outcomes for families, but we will also be very keen to ensure that they do not just displace activity that would have been done by someone else anyway.

The Convener: When will the facilitator role kick in? Will that happen when the sheriff has made a decision about contact that is not going to be honoured by the resident parent?

Moira Wilson: The role will kick in at different times, at the sheriff's discretion. We have agreed that the facilitators will work only with cases that are about to go to court or are in court. If the sheriff thinks that the work of a facilitator would be beneficial to the family, he or she can bring them in at any stage of the process.

Family solicitors who work with families who might be on the verge of going back to court will be able to apply to the court for access to the facilitator for the family. The court will manage the terms of engagement with the facilitator, but will not have to hear the case. There will be a variety of entry points.

The Convener: Are you talking about cases that are going to court because there is an argument about contact?

Moira Wilson: Yes. The case will be either in court or about to return to court.

The Convener: I see. We are talking about cases that are going to court because the parties cannot agree on contact arrangements.

Robert Brown: By "in court", I think that Moira Wilson means cases involved in a live court process.

The Convener: I am pleased that Glasgow is participating in the project, but how easy will it be to evaluate its success? Because in Glasgow such work is dealt with almost exclusively through the family court initiative, Glasgow sheriffs tell us that they are able to interact with parents who do not comply with contact arrangements, so the system works quite well. However, in other sheriff courts there is not the time for such close relationships to be established with parents. Is Glasgow the best choice for a pilot?

Moira Wilson: The sheriffs in Glasgow see the potential for added value in the approach that we are piloting. The decision to take part in the pilot was very much at the discretion of the sheriff court. Edinburgh sheriff court also sees the value of this approach, and in that context the slightly rural dimension to the facilitator's work will give us the benefit of an additional perspective.

Robert Brown: It is important to know to what extent the close involvement of the sheriff and the force of the court are important features when a couple disengages from the process. We want to know whether that force can operate at arm's length through the family contact facilitator. We expect a number of issues to emerge from discussions about the pilots.

Moira Wilson: Such matters will be considered when the project is evaluated.

The Convener: That will not happen for at least two years. I have come across cases in which sheriff courts that are not taking part in the pilots have not tried hard to enforce decisions. Those courts will continue to operate in that way during the next two or three years. We hope that the pilots will go well. Will you produce interim reports or inform other courts about how the project is going? Such an approach would demonstrate that the issue is being taken seriously.

Robert Brown: The evaluation will be on-going, so early lessons might emerge. However, it will probably take a reasonably long time to come to a clear view about whether the approach adds value and offers a way forward. That is not to say that other relevant pilots cannot be considered for other courts, although I can make no commitment in that regard, because I am not sure what ideas might emerge. However, I am sure that we can consider what might be done elsewhere.

The Convener: Many people write to me about court enforcement, because I am interested in the matter. I take it that the Executive is happy for members to feed in cases about which they are concerned, given that you are considering the issue.

Robert Brown: I am not sure what we could do about individual cases. We are talking about a court-based project, which will have nothing to do directly with the Executive when it has been set up. We might be more interested in the lessons that emerge from the cases that you hear about. You might form a general view on the challenges that are faced, which might be useful to us.

12:00

Mrs Mulligan: As the convener said, Sylvia Jackson, who lodged amendments to the Family Law (Scotland) Bill to do with contact orders, had hoped to attend the meeting. It is unfortunate that she could not be here. Like the convener, she became involved when individual cases in which there were delays in establishing contact were brought to her attention. I think that she shares my disappointment that it has taken so long for us to reach even this stage.

Although I understand the need to take two years to review how the project operates, waiting for that additional two years will prove heartbreaking for a lot of people. For many of the children who are affected in areas where the pilots are not happening, it will mean that their contact with their non-resident parent will continue to pose a problem. I hope that you will therefore take on board the comments that the convener has just made about how we try to assist in those areas.

Why has the Executive taken the decision to consider a separate host organisation for the family contact facilitators, and which organisation do you envisage being the host? Who will oversee the facilitators' role?

Robert Brown: On the first point, you will realise that that element does not come under my departmental portfolio.

Mrs Mulligan: I appreciate that.

Robert Brown: I will report back to the justice ministers on our conversation. It is important to do that, and we will do a formal feed-in to their discussions on the whole subject.

Moira Wilson could perhaps answer the other point.

Moira Wilson: There is a practical reason for having a host organisation. The facilitators will be employees neither of the Scottish Executive nor of the court. They will have to be employees of some organisation that will look after their pay and

rations, training, networking and so on. It is difficult to say precisely who will apply, but we hope that a number of people who operate in the sector already will be attracted to the project as a way in. As I have said, there will be an on-going evaluation of the pilots.

We hope that an advisory board will work with the sheriff courts, the Executive and the facilitators themselves as the project progresses. The nature of the project means that we do not have somebody set up and ready to run the service.

Mrs Mulligan: I appreciate that you do not wish to put anybody off coming forward, so you might be a bit reluctant to specify people. The suggestion has been made by one sheriff that the facilitators should come from within the Scottish Court Service. I see an opportunity for conflict over how the facilitators will fit into the scene. That is why I am keen to press you on who you think might be responsible for overseeing the facilitators.

Moira Wilson: In terms of assessing their performance?

Mrs Mulligan: I am referring to their employment and to who will oversee them.

Moira Wilson: The host organisation, once we have one, will be asked to recruit the two facilitators, in partnership with the Executive and with the sheriffs involved, and there will be a clear specification for the kind of person who will be required for the role. We are asking the sheriffs to play an active role in the recruitment process, if they so desire, as individual relationships will be key to the success of the project. As we see it, the host organisation will have those functions, but not on its own.

Mrs Mulligan: That is a bit more helpful. I am keen to ensure that there is no antagonism between those who are responsible for the individual facilitators—whoever they may be—and the people who will be working with them. If the facilitators are not part of the Scottish Court Service or do not come from that field, there is always a risk that they might not be brought into the process as quickly as they could be. It would be helpful if the people who are to work with the facilitators were to be involved, even at an early stage.

Robert Brown: There is also a certain perception about whether the facilitators are to form part of the official machinery or whether they will have more of a stand-back role. That is important for their relationship with their clients. That explains, I assume, why things have been done in this way.

The Convener: The question is important, given the impression that we were given from the very

beginning. The title has changed from “court enforcer”—which was perhaps not the best—to something more appropriate, but we were certainly given the impression that the role would come within the court system. It is about trying to enforce court judgments—that is where we started off.

I am a wee bit concerned that the purpose of the role is being watered down. Mary Mulligan is right to press you on what the facilitators’ relationship with the courts will be and on who are the candidates to be the host organisation that will employ the facilitators.

The problem is that some clients are breaching decisions that were made by the courts. You said that there might be cases in which the facilitators can help clients to avoid going to court, but it is clear that there are cases in which the court’s decision is ignored, and presumably the facilitator will be brought in at that point.

Robert Brown: The role is that of facilitation, but with the sanction of the court lurking closely behind it. That is an important aspect. Equally, however, the facilitator must be capable of moving things forward from a position where, for whatever reason, people are not obeying the court order to one where they understand the implications and importance of the order and have some understanding of what is best for the children.

I do not think that I can say much more about the host organisation, except to say that that is being put out to tender—

The Convener: Can you say who the candidates might be?

Robert Brown: We do not know which organisations will apply. There will be a specification. Do we have a specification document at this point?

Moira Wilson: Not a final version. However, it is about to go out to tender.

The facilitators’ day-to-day relationships with the court will be very much embedded in the court. The provision of a host organisation is about the practicalities of having somebody who will do the pay and rations, give the facilitators accommodation if the hard-pressed courts cannot find room and facilitate networking in the area with other people who provide services. However, their day-to-day relationships will be with the court staff, the sheriff clerks and the sheriffs.

Mr McFee: I have a question on a slightly different subject. I want to tie up a loose end—I do not like loose ends, particularly when they are financial. When I asked whether the plan is an embryonic engagement plan that is being built up, Rod Burns said that you had formed some basic views and that one of the things that was not

embryonic was that you had been able informally to run past COSLA the question of ring fencing resources in 2008-09 and 2009-10. Did you run that past the Minister for Finance and Public Service Reform as well?

Robert Brown: I think that the answer is yes, but I ask my officials to confirm that in case I am wrong.

Rod Burns: The finance ministers made an objection. We will have to have the battle on the matter. The general principle of moving away from ring fencing and giving discretion to people at the local level is important, but in the circumstances that we are discussing, there is potential for a disastrous disappearance of resources into GAE—exactly as the local services said. We had to sit up and pay attention to that scenario when responsibility for the matter came from the Justice Department to the Education Department.

The rules and the general assumption that we will not ring fence things might have to be bent a little for this particular policy area, because otherwise resources might simply disappear into GAE and will not support the services that they were intended to support.

Mr McFee: That is precisely the point. The fact that that has been missed is fundamental. We were told that one means of encouraging local authorities to ensure that the money is properly spent on family support services in 2008-09 and 2009-10 will be the fact that it is ring fenced, but three weeks ago—you did not report this to us, minister—the Minister for Finance and Public Service Reform, Tom McCabe, specifically came out against any form of ring fencing. He said:

“I support the transfer of funding for family support services into the core local government finance settlement as this would tie in with the reduction of local government funding streams out with the core settlement. However, ring-fencing the funding could only be achieved by making it a specific grant within the settlement and I would not support this because of the additional bureaucracy that it would create.”

We have two diametrically opposed positions. I will be interested to see whether the positions can be conciliated and who will win the punch-up on the issue. Given that part of the case that was presented today is that ring fencing will ensure that the moneys are invested in these services, it seems strange that the Minister for Finance and Public Service Reform has said, “I’m not going down that particular road.”

Robert Brown: I do not want to try to square circles indefinitely. In relation to this announcement, the position that I have given to you is correct. The Minister for Finance and Public Service Reform and the Executive, in general, have a view against ring fencing, which I share. We accept entirely the arguments against long-

term ring fencing. However, there are good reasons, relating to the long-term interests of family support services, why the funding should be ring fenced for the transitional period to which we have referred. That is the Executive’s position on the matter.

Mr McFee: So, Mr McCabe needs to update his advice to the committee and say that he accepts that, between 2008 and 2010—

Robert Brown: You can press me on it if you like, but I think that his comments were made in the context of the long-term arrangements for these matters. I accept his point entirely in that context, but we are talking about short-term ring fencing for the second and third years of the transitional period until we reach our ultimate and desired objective.

Mr McFee: It would be helpful if your colleague, the Minister for Finance and Public Service Reform, could make that clear. It is important and relevant to what you have said today.

Robert Brown: I am making that clear to the committee today on behalf of the Executive—I am giving you the Executive’s position.

Mrs Mulligan: I appreciate the lengthy discussion that we have had this morning, during which a number of questions have been answered. However, you will see from the committee’s enthusiasm on the issue that questions remain to be answered, especially in relation to the financial settlement. We have concerns that services should not be affected by the changeover from central funding to local authority funding and that sufficient funding should be available within the overall pot to ensure that services are improved. All the organisations involved tell us that they cannot meet existing demand, so any reduction in services would be a real disaster.

I want to follow up an issue that other members have raised about pre-relationship counselling services. In our discussions on the Family Law (Scotland) Bill, we spent a lot of time discussing how people get out of their relationships, and the committee realised that we spend very little time helping people to consider the issues before they enter into relationships, whether marital or not. There is a huge need for us to consider how we can provide that support to people, especially when children are involved. I accept that that support should be delivered locally, but having dealt with the Family Law (Scotland) Bill, the committee recognises that as a real need.

You will have picked up on the fact that we want a strategic framework for the way in which family support services should be delivered and baseline standards for those services. If those are not delivered, we want somebody to be answerable

and say, "This is not good enough. People deserve this service and we will ensure that it is provided." Unless we have those safeguards, the committee will continue to be nervous about the kind of services that will be provided in the future.

Robert Brown: The phrase that you used about any reduction in services being a disaster was an unfortunate phrase, given the fact that we are providing almost 50 per cent additional funding for the arrangements that are about to be announced. That is not how family support services are being talked about at the moment. We are expanding support for those services and recognise, to a significant extent, a lot of the issues that have been raised. I very much hope that we, or the next Executive in the new session of Parliament, will continue to do so.

I take the points that you make. If the committee wants to continue to be involved in the discussion, I am sure that, after the election—that is the timescale that we are now talking about—ministers will be more than happy to continue to engage appropriately with the committee on this agenda. That may be an issue to include in the committee's legacy paper.

The agenda is important and we need to take it forward. The arrangements that are being put in place are a considerable development from the base point, but much expansion has to take place. The three years during which we are homing in on reform and the changes that will take place in these services provide a major opportunity to examine the issues that the committee has discussed both today and previously, such as standards, the strategy and contact centres.

The agenda is exciting and important. I am grateful for the extent of the committee's interest in the direction of travel.

The Convener: On the committee's behalf, I thank the minister for a full and frank exchange. I also thank his officials. It is almost guaranteed that the issue will be in our legacy paper.

Robert Brown: You will be back.

The Convener: Someone will.

Subordinate Legislation

Police (Injury Benefit) (Scotland) Revocation Regulations 2007 (SSI 2007/28)

12:15

The Convener: Agenda item 3 is subordinate legislation. We have three negative instruments. Members will recall that we considered the Police (Injury Benefit) (Scotland) Regulations 2006 (SSI 2006/610), which had several defects, so we asked the relevant minister to consider producing new regulations. The Police (Injury Benefit) (Scotland) Revocation Regulations 2007 are the replacement regulations, which are now properly put. They revoke the 2006 regulations to allow for regulations that are to our satisfaction. Do members wish to comment or simply to note the regulations?

Stewart Stevenson: I certainly note the regulations and I thank the minister for his appropriate response. However, I am not clear that the 2007 regulations that are before us are the replacement regulations, because they simply delete the 2006 regulations. So far, so good, but we will read the new regulations with care when they arrive.

The Convener: You are correct, deputy convener.

Members are content to note the regulations.

Registration of Civil Partnerships (Prescription of Forms, Publicisation and Errors) (Scotland) Amendment Regulations 2007 (SSI 2007/53)

The Convener: Members have a note from the clerk that outlines what the regulations do. As no member wishes to comment, is the committee content to note the regulations?

Members indicated agreement.

The Convener: We are content to note the regulations.

Registration of Births, Deaths and Marriages (Re-registration) (Scotland) Regulations 2007 (SSI 2007/54)

The Convener: Members have a note on the third and final set of regulations. As no member wishes to comment, is the committee content to note the regulations?

Members indicated agreement.

The Convener: The regulations are noted.

That is the end of our meeting. We have meetings scheduled for Tuesday 6 March, Tuesday 20 March and Wednesday 28 March—I suggest that we discuss those dates in future. We have not previously had notice of them, but in view of the Parliamentary Bureau's decision that Parliament should meet for a full day on Wednesdays, we will have to meet on Tuesdays. I propose to discuss with the clerks and perhaps the deputy convener the amount of business that we must get through between now and dissolution and how we can do that efficiently.

I say that because I am mindful that members gave up much time to complete our inquiry into the Scottish Criminal Record Office and that members thought that, in lieu of that, we would have fewer meetings. We will consider what can be done.

Meeting closed at 12:19.

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