EDUCATION COMMITTEE

Wednesday 10 May 2006

Session 2

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EDUCATION COMMITTEE
† 11th Meeting 2006, Session 2

CONVENER

*Iain Smith (North East Fife) (LD)

DEPUTY CONVENER

*Lord James Douglas-Hamilton (Lothians) (Con)

COMMITTEE MEMBERS

Ms Wendy Alexander (Paisley North) (Lab)
*Ms Rosemary Byrne (South of Scotland) (SSP)
*Fiona Hyslop (Lothians) (SNP)
*Mr Adam Ingram (South of Scotland) (SNP)
*Mr Kenneth Macintosh (Eastwood) (Lab)
*Mr Frank McAveety (Glasgow Shettleston) (Lab)
*Dr Elaine Murray (Dumfries) (Lab)

COMMITTEE SUBSTITUTES

Richard Baker (North East Scotland) (Lab)
Rosie Kane (Glasgow) (SSP)
Mr Jamie McGrigor (Highlands and Islands) (Con)
Mr Jamie Stone (Caithness, Sutherland and Easter Ross) (LD)
Mr Andrew Welsh (Angus) (SNP)

*attended

THE FOLLOWING GAVE EVIDENCE:

Joan Atherton (Scottish Adoption Advice Service)
Tam Baillie (Barnado's Scotland)
Robert Brown (Deputy Minister for Education and Young People)
Eddie Follan (Children in Scotland)
Barbara Hudson (British Association for Adoption and Fostering Scotland)
Maggie Mellon (Children 1st)
Lexy Plumtree (British Association for Adoption and Fostering Scotland)

CLERK TO THE COMMITTEE

Eugene Windsor

SENIOR ASSISTANT CLERK

Mark Roberts

ASSISTANT CLERK

Ian Cowan

LOCATION

Committee Room 1

† 10th Meeting 2006, Session 2—Held In Private.

Scottish Parliament

Education Committee

Wednesday 10 May 2006

[THE CONVENER *opened the meeting at 10:01*]

Subordinate Legislation

Joint Inspections (Scotland) Amendment Regulations 2006 (Draft)

The Convener (Iain Smith): Good morning colleagues; welcome to the 11th meeting in 2006 of the Education Committee.

For our first item of business I welcome Robert Brown, Jackie Brock from the children and families division of the Scottish Executive and Douglas Tullis from the office of the solicitor to the Scottish Executive. Members will recall that the minister undertook at our meeting on 19 April to lodge an amending instrument after the committee noticed defective drafting in the original draft regulations.

I ask the minister to make his opening comments, after which we will move to members' questions.

The Deputy Minister for Education and Young People (Robert Brown): I will be very brief. As you said, convener, this is a follow-up to the meeting that took place on 19 April. I said at that time that we would sort out the deficiency that came to light in the course of the Subordinate Legislation Committee's scrutiny of the matter. The amendment was lodged on 20 April and it is now before the Education Committee.

The amendment is very simple; it is to insert "(1)" after "5" in regulations 11(a) and (b). It has the effect of ceasing to create an offence where we did not want one for people who did not have the appropriate documentation. It was a technical omission.

The fact that the committee approved the regulations the last time they came before it has allowed the first joint inspection for child protection services to begin this week in East Lothian. I am grateful to the committee for its co-operation in allowing that to happen. We all wanted to ensure that the inspection process was not held up any longer, and that has been result of the committee's forbearance.

It is not necessary to say anything further. For the committee's information, following consultation, ministers have approved the code of practice. A copy was issued to the committee on 8 May and one has been placed in the parliamentary library.

The Convener: Thank you, minister. Are there any questions or comments?

Mr Adam Ingram (South of Scotland) (SNP): I do not have a question, but I am pleased that ministers have responded to the Subordinate Legislation Committee. Perhaps, in future, ministers might bring forward draft instruments to committees for their consideration. The Subordinate Legislation Committee is about to make that suggestion.

Robert Brown: That is absolutely right, but there was an element of urgency about this matter that lay behind the pressure to get it right. It was a good exhibition of the procedures of the Parliament's committees identifying issues—defects in this case—and helping the Executive to sort them out.

The Convener: I ask Robert Brown to move motion S2M-4299.

Motion moved,

That the Education Committee recommends that the draft Joint Inspections (Scotland) Amendment Regulations 2006 be approved.—[*Robert Brown*.]

Motion agreed to.

The Convener: I thank the minister and his team for coming along this morning.

Adoption and Children (Scotland) Bill: Stage 1

10:06

The Convener: We now move to our first formal oral evidence-taking session on the Adoption and Children (Scotland) Bill. Last week, members took part in three focus groups. The one that I was in was extremely interesting. Reports on those discussions will come to the committee in due course.

We have with us the British Association for Adoption and Fostering Scotland. I welcome Barbara Hudson, the director, and Lexy Plumtree, the legal consultant. Do you have any opening remarks before we go to questions?

Barbara Hudson (British Association for Adoption and Fostering Scotland): Thank you for giving us the opportunity to submit written evidence and to meet the committee today. I do not want to take up a lot of time with our issues because I am sure the committee has many questions. We look forward to answering those and discussing the bill with the committee.

I will make a few introductory remarks. When dealing with the bill, it is important to recognise that adoption has been around for a long time and that in the course of its history a number of valuable lessons have been learned. We welcome the opportunity that the bill gives to put right things that we have been doing because, with the benefit of hindsight, we realise that they need to be changed. We also need to incorporate in new legislation what we have learned.

Adoption is a legal process by which a child joins a new family and enjoys the emotional benefits of that. We hope that adoption will improve a child's life chances and give them a family resource, so ensuring that someone is there for them for life. Anyone who is a parent knows that that role does not stop when a child is 16 or 18; it goes on until they are a lot older. It is important to create an opportunity for children to have such a family experience.

People who have been involved in adoption recognise that it changes their lives irrevocably. The change is mainly for the good, but there are sometimes difficulties along the way. In such cases, people have benefited from having access to support and help, but in the past such opportunities were limited. Moreover, people have occasionally felt stigmatised when they have asked for help and support because they felt that, by doing so, they were deemed to have failed in some way. We must consider such issues.

We have learned from the history of adoption that there must be a strong link for an adopted child between their past and the present and that adoption is not about closing the door, drawing a veil over the past and pretending that it never was. It is important for people's sense of identity to know about their background and to have links and contact with important people from their past; it helps them in the present and provides a good basis for their future development. We think that it is important to include that consideration in the bill.

Finally, we realise that the only way of measuring a legal process is by whether it does what it is supposed to do and how it makes people feel and behave. Adoption is an important legal process for some children and families. Although children need to feel secure and settled in a family that is not their birth family, they might not want to sever links with their birth family—and the people who bring them up need to feel that they can legally act on the child's behalf. The new permanence order, which is a radical measure, enables people who bring up children who are looked after and accommodated by the local authority to act on the child's behalf.

I hope that it has been helpful to identify past difficulties with adoption, to point out how they have informed the present process, and to set out our hopes for the future.

The Convener: Thank you. I will open up the session to members' questions.

Lord James Douglas-Hamilton (Lothians) (Con): In practice, will placing a statutory duty on local authorities to make plans for the provision of adoption and support services make much difference?

Barbara Hudson: Yes. The current regulations make such provision, but adherence to them has sometimes been absent. Introducing a statutory duty will send a very clear message to the relevant organisations that they must make such plans. Adoption is a lifelong process, and any such plans must support it.

Adoption and support services have implications not only for social work departments but for health, education and housing departments. We must remember that the majority of children are adopted from the looked-after and accommodated system. Having, as a result of grave concerns about their health, well-being and welfare, intervened in those children's lives and decided that they should grow away from their birth families, the state, in the form of the local authority, must maintain its responsibility and ensure that every possible step is taken to give them a good deal.

Lord James Douglas-Hamilton: Are you happy for ministers to set out in regulations the information that should be kept about adoptions

and the circumstances in which such information should or should not be released?

Barbara Hudson: I will ask my legal colleague to answer that question. We felt that with this kind of Morecambe-and-Wise presentation we could, between us, cover the various practical and professional issues and legal details.

Lexy Plumtree (British Association for Adoption and Fostering Scotland): We are happy with the provisions in sections 39 and 40, which are similar to provisions in the existing legislation. There are also regulations that govern adoption agencies. We do not know the contents of the regulations that will be made under the bill, but we expect a relatively similar scheme to be developed. That is important because the current scheme preserves the confidentiality of adoption agency records and restricts access to them. I should also point out that adoption agency records are exempt from data protection subject access provisions, which is important in maintaining the necessary confidentiality.

On the assumption that the new legislation will introduce a similar model, we welcome it. However, we would be unhappy if people who have been adopted become subject to extreme restrictions on access to adoption agency records. The tradition in Scotland is that those who have been adopted have reasonable and appropriate access to court and adoption agency records. We hope that that tradition will continue.

10:15

Fiona Hyslop (Lothians) (SNP): I would like to ask about dispensing with parental consent for adoption. The bill is quite stark, because only one of five conditions needs to be met. One is that

"the welfare of the child requires the consent to be dispensed with."

That could be subjective. What practical difference do you think the proposed changes for simplifying dispensing with parental consent will make?

Barbara Hudson: You are right to highlight the fact that the bill presents a stark situation, but it is important to understand that we will have to unpack what we mean by welfare in that context. It might be helpful to develop the idea of a welfare checklist, to agree a set of common areas for discussion, which would enable the agenda to be set when people are having a discussion about what is meant by a child's welfare and why, in a specific set of circumstances, it should mean that we want to dispense with parental consent. A checklist would provide a general set of circumstances, but it would enable us to have a clear remit that focuses on the needs of the child, not just in the here and now but throughout their life, and it would allow us to use the paramount principle as a way of ensuring that. Does that answer your question?

Fiona Hyslop: It does, but we are currently engaged in a debate about what should happen to children of drug-misusing families, which is a specific, practical and real example of such a situation. How do you envisage the new legislation working, bearing in mind that drug dependency—if we get rehabilitation right, which is a big if—may be only a temporary issue, whereas adoption is fairly permanent? As is obvious, every child is different, but do you feel that permanence orders, rather than adoption, might be applicable in such instances? The interpretation of that section could lead people to think that the bill would make it easier for children of drug-misusing parents to be put up for adoption.

Barbara Hudson: It is important to understand the process by which plans are made for children, whether for adoption or for the new permanence order. The local authority that has intervened in the welfare of the child will have a fairly detailed planning process, and decisions will be taken at child care reviews and at something called an adoption and permanence panel, which consists of people who have experience of adoption and fostering, independent people, educational psychologists and teachers. The plan for any child will therefore be scrutinised and considered on the basis of what will be right for that individual child.

I do not think that anyone starts from the general premise that all children from drug-misusing households should be placed for adoption or should not be placed for adoption. For each and every child, you examine the circumstances and consider what their experiences were while they were being cared for, or not cared for, by that parent, what the likelihood is of that parent sticking with their rehabilitation and, if they do stick with it, what the likelihood is of their being able to offer something consistent to the child for the duration of their childhood. Those are the issues that are weighed in any consideration.

Fiona Hyslop: That reinforces your initial point that there needs to be a checklist to assess what welfare actually means.

Do you believe that there has been a shift in the balance between the rights of birth parents and the rights of children in the provision about dispensing with parental consent, or do you think that the balance that was struck by previous legislation has been continued?

Barbara Hudson: The bill is probably restating something that we believe is important, but it also comes at a time when we know more and understand more about the impact on children of their parents' behaviour. We know much more now about the impact on children of living with

domestic violence and the effects that trauma can have, about the impact on children of maternal misuse of drugs or alcohol while the child is in utero, and about the impact of early adverse experiences on the physiological and emotional development of children.

There has been a sense that if no harm was seen to be coming to the child or if no harm was intended to the child, no harm was being done to the child. We now recognise that people do not have to intend to do harm to a child to cause them harm, and that parental neglect or parents' preoccupation with their own issues can mean that children might not receive the optimum amount of parenting. The aim is to focus on the child.

As members will be aware, the message that emerges time and again from investigations and inquiries about children is that people have not focused on the child and that the child is invisible. There has been too much focus on the deeds, wishes and actions of the parents, but not enough on their actions in relation to the child.

Fiona Hyslop: You do not think that legislation has shifted the balance towards the rights of the child; you think that the status quo has been kept.

Barbara Hudson: It is holding things in balance—and there always has to be a balance.

The Convener: I will ask about the issues the courts and adoption agencies have to take into account under section 9 when considering adoption decisions. What impact will the proposed changes have on the adoption process? Are there other issues that you think the courts and adoption agencies should have to take into account when considering whether it is appropriate to place a child for adoption?

Lexy Plumtree: We are reasonably satisfied with section 9, which restates some of the existing provisions in section 6 of the Adoption (Scotland) Act 1978, which relate to the welfare of the child being paramount throughout life, the views of the child and the fact that an order should not be made unless that is the appropriate thing to do.

We are very happy to see the provision in section 9(4)(b), on consideration of

"the child's religious persuasion, racial origin and cultural and linguistic background",

which was originally put into legislation by the Children (Scotland) Act 1995. We are happy to see that provision being continued.

We were happy to see the introduction of a new provision in section 9(4)(c) on consideration of

"the likely effect on the child, throughout the child's life, of being an adopted person."

That was recommended in the adoption policy review group report. The group felt—and we agreed—that that was another factor that ought to be taken into account.

Section 9 lists some important things that should be considered. One would not necessarily wish to have a huge list in that section, but it is important that the overarching welfare of the child is seen as the paramount matter and that the child's welfare throughout life is also mentioned.

Mr Ingram: I want to ask about adoptions by unmarried couples. You are in favour of the provisions that enable unmarried couples to adopt a child jointly. There is nothing in existing law to prevent one person in an unmarried couple adopting a child, while the other shares in the child's upbringing. To what extent does the current restriction on joint adoption deter unmarried couples from adopting? Will the proposal have a real impact on extending the pool of available adopters?

Barbara Hudson: It is more likely than not to extend the pool of people who come forward to adopt. You are absolutely right. People in a partnership have been able to apply to adopt: one person has been able to become the adoptive parent and the other person in the partnership has been able, through other legal orders, to play a role in the child's life.

Looking at that from the perspective of the child, which is our prime concern, it would make sense to the child to tell them that they are being brought up by the two partners, who have made a joint commitment to them under an adoption order. It is always important to think about how intelligible things are to a child or young person. I think, and other practitioners believe, that it would be helpful for children to have an understanding that both the people who are looking after them are their joint adoptive parents.

Mr Ingram: You do not have any quantification of the growth in the pool of adopters that the new provisions might cause.

Barbara Hudson: No. It would be irresponsible to say that the proposal will mean that hundreds more prospective adoptive parents will come forward—would that any provision could make that happen. We would all be delighted if the bill brought about a resurgence of interest in adoption, especially if that helped the children who most need adopting, who are older children and children who have experienced considerable adversity.

Mr Ingram: There is obviously a certain sensitivity around the proposal. Have you encountered any particular problems in dealing with children's carers who are in unmarried or same-sex relationships?

Barbara Hudson: I will unpack the question, if I may. With people who are unmarried and who are

in a partnership, whether they be of the same sex or of opposite sexes, it is inevitable that one person—the person who is the adopter—will be seen as the senior partner in the relationship and the other will be seen as the junior partner, if I can use such business imagery.

It is hard to underestimate the corrosive effect of an arrangement whereby only one partner has the entire legal responsibility, and it poses risks for the child because if anything should happen to the senior partner—the person who has adopted—it can sometimes be quite complex to ensure that the other partner has an equal say in the child's upbringing following their partner's illness or death. That brings me back to my original point. The provision is about providing security for the child rather than about making things neat and tidy for the adults.

Your question might also have been intended to explore what it is like for children to grow up in the care of people who are in unmarried relationships. Children will tell you that what is important is the quality of the care they receive, not the legal status of the two people who look after them. However, that status has a meaning and an effect. Children who are brought up away from their birth families experience difficulties because people do not understand their situation. School fellows and even school teachers can ask questions that make such children feel stigmatised and different. I am not sure that legislation will put that right, but greater awareness of the issues and a better informed public should help.

I will give an example of what I am talking about. Let us say that a school asks the children to bring in a photograph of what they looked like when they were babies. A looked-after child will not necessarily have a photograph of themselves as a baby or a picture of themselves with their mum when they were wee. Children might be asked to do their life charts as part of their work in one of the primary grades. Doing a life chart that says, "Aged two—become looked after; aged three—join a foster home; aged four—move to another foster home; aged five—move to an adoptive family" stigmatises a child. As much difficulty and distress is caused by that process as by any name calling in the playground. That is an observation about the limitations of what we can achieve through legislation. Better education on the issue is necessary.

Mr Ingram: You mentioned stigma, which might be associated with joint adoptions that are carried out by same-sex partners. Do you have any reflections that you wish to share with us on that issue?

Barbara Hudson: I would be very sad if we did not proceed with legislation that would be beneficial for children simply because we believed that its implementation would be affected by the bad behaviour of other people. If we chose not to proceed with the bill on the ground that children would be subject to bullying or name calling in the playground or to having other people make judgments about them because of the sexual orientation of their parents, we would be doing children a disservice.

10:30

The bill is not about adult rights but about widening the pool of people who can be considered as prospective parents. Because of the practice that I see in my role throughout Scotland, I believe and have confidence in the assessment process of prospective adopters. I do not believe that anyone who has anything other than the best intentions to bring up children will pass the scrutiny process of an in-depth assessment by a social worker and an adoption and permanence panel. I do not share the anxiety that frivolous applications or those that are driven by political correctness will proceed.

Children who grow up with gay fathers and lesbian mothers experience care that is no better or worse than any other parenting. There is no evidence that such a situation has a deleterious effect on children's health, welfare or development.

Dr Elaine Murray (Dumfries) (Lab): You say in your submission that you are generally in favour of permanence orders but that you have concerns about how they might work. Some of the adoptive parents whom we met last week expressed concerns about the division of responsibilities. If a court has allocated some responsibilities to birth parents, some to the local authority and some to the prospective adoptive parents, it is difficult for the prospective adoptive parents to know from whom they should obtain permission for a child to go on holiday or sleep on the top bunk of a bed. Why are permanence orders good in principle? What is wrong with the way in which the Executive has presented them?

Barbara Hudson: The permanence order is a new measure, so it is hard for all of us to get our heads round it. Unlike some orders, it is intended to be both a process order and a state order. For some children, a local authority will seek a permanence order to progress planning in relation to a child and to signal a clear intention that a child's future no longer lies with the family into which they were born, that they will not return to that family and that their future may lie with prospective adoptive parents and the application of an adoption order.

In that situation, I hope that a local authority that had obtained a permanence order would use it as

part of planning for a child and would use the allocation of differing amounts of responsibility between itself, the birth parents and the adoptive parents as a way of involving the adoptive parents in the planning and decision making for that child. As the child went through that process, that would give the adoptive parents a sense of being able to claim the child and a feeling that they would become the irrational advocate for that child—the people who fight for the child and who the child needs to represent their views and wishes. The order would be used as part of a process.

The other strand of the permanence order is that it will be used as a state order. The planning for and progression to adoption will not be right for some children. The complete transfer of legal responsibility away from their family of origin and into a new family will not be helpful for them. However, they will need a sense that no more changes will take place. We cannot overestimate the impact on children of repeated changes and rehabilitation attempts and of living a provisional existence, not knowing where they will go next. None of us copes well with uncertainty and doubt. A key principle is that we should attempt to give children certainty and security. A permanence order signals an end to going back into care. To some children, it will mean that they are to go on to adoption, but to others, it will say that they are no longer moving and that they can be sure of where they will have their next birthday and where they will be at Christmas. Children have a sense that they will stay where they are only if the people who parent them day by day can exercise authority on day-to-day activities: taking them to get their hair cut; taking them to hospital; saying, "Yes, you can go and stay with your pals"; taking them on holiday; and consenting to school trips. We want local authorities to share parental responsibility flexibly with the people who are bringing the child up, so that there is a real sense that the people who are looking after the child are the people who are in charge.

I hope that that helps you to understand the different ways in which we expect the permanence order to be used. It is two things. Now that I have explained the rationale behind it, my colleague will explain a little bit about where we think that we need some changes.

Lexy Plumtree: You asked specifically about the situation of a child on a permanence order who is living with prospective adopters; however, some children may be living long term with a foster carer. It is important to make it clear—and, as far as I can see, there is nothing in the bill that does so—that when a local authority makes a permanence order it has the final say in any dispute on a day-to-day basis; otherwise, there will be endless applications going back to court about who can do what. That needs to be made clear.

The idea of the permanence order is also that both sets of parents may continue to have quite a number of responsibilities, where that is appropriate. Obviously, if a court that is granting a permanence order thinks that the birth parents should have very little involvement in the child's life because the child's welfare requires that, the court can take away quite a lot of their responsibilities and rights. However, if—as we hope will be the case in a number of situations—there is not that need to take a lot away from the birth parent, someone must still have the final say in any debate about whether, for example, a passport application gets signed or in a matter of medical consent concerning a younger child who is not able to consent for himself or herself. We would welcome greater clarity about that.

Dr Murray: Your written submission makes the point that it is not clear that local authorities will have the controlling responsibility.

Lexy Plumtree: No. We would like some sort of provision equivalent to those in the Children Act 1989 and the Adoption and Children Act 2002. They deal with different types of orders, but where the same issue arises in the English and Welsh legislation, a ranking system is provided for. I am sorry that I do not have the section numbers at my fingertips; I can find them out.

Dr Murray: You express concern also about the possibility of a permanence order revoking adoption. That strikes me as a little strange. I cannot envisage a real-life situation in which that would happen.

Lexy Plumtree: I hope that that might be the subject of an amendment at stage 2. Under section 87, certain existing orders are revoked when a new permanence order is made. Although I would wish some variation of the section 11 orders and believe that most section 11 orders should fall on a permanence order, I think that an adoption order should not fall. A permanence order should not and will not revoke a birth parent's responsibilities and rights, and an adoptive parent is, by virtue of the earlier adoption, in the same legal position. Their parental responsibilities and rights will be interfered with, to a greater or lesser extent, by the permanence order just as a birth parent's responsibilities and rights will be—that is as it should be. However, at this stage, birth parents and past adoptive parents should be on a level playing field.

It is contrary to United Kingdom public policy to have a general provision that revokes adoption. Legal provision for the revocation of adoption is very restricted both in Scots and in English and Welsh legislation. The provision in section 87 seems out of place, and I hope that it will be removed.

Dr Murray: It is possibly a drafting error.

Lexy Plumtree: I would not necessarily say that. In drafting a complex piece of legislation, it is very difficult to get everything right the first time. We have the opportunity to give evidence and submit amendments, so I am not expressing shock or horror; I am just asking for that provision to come out.

Dr Murray: You are also a bit concerned about section 84(5)(a)

"because it continues with a provision from freeing".

The statement in the policy memorandum suggests that permanence orders will replace freeing orders. Would you like to say a little more about your concern in this regard?

Lexy Plumtree: Yes. We do not see the permanence order as a replacement for the freeing order. Freeing is a very different thing: it is a non-mandatory process en route to adoption, albeit that—for a variety of reasons—local authorities often use it. As I said, freeing orders are non-mandatory; they apply only in the case of adoption.

The idea behind the permanence order, as can be seen in the adoption policy review group report, is to introduce a much more flexible order that can be used in cases where adoption is the plan—although there should be no obligation on local authorities to use it on the route to adoption—and also made available in cases where the child cannot live at home for one reason or another, but for whom some form of legal permanence is required. My colleague explained that.

We hope that the permanence order will be a much wider and more flexible piece of legislation. Perhaps I am being optimistic, but I have always thought of it as a public law reflection of section 11 of the 1995 act. Section 11 allows the court to make any appropriate order relating to parental responsibilities and rights, as may be appropriate for the child. Although most of those orders concern contact or residence, there is nevertheless great flexibility in the provision. We would like to see the same possibility of flexibility in the permanence order, which is not a replacement for freeing or freeing by another name.

Dr Murray: Right. I was a little confused on that. The policy memorandum says:

"The permanence order will replace freeing orders and parental responsibilities orders".

I assume that those orders will cease to exist, but that the permanence order is not an exact replacement.

Lexy Plumtree: Yes. It is a replacement in the sense that it may be used in the sort of hotly-disputed case in which the local authority feels strongly that a child needs to be safely removed, permanently and legally, from a family and put up for adoption. In such a case, the authority may well go down the route of making an early permanence order application to move things along. In that sense, the order may be seen as a replacement for freeing, but it is not a like-for-like replacement. That is why I would not have used the word "replace".

If I may, I will comment on section 84(5)(a). We are concerned about the continued condition in a permanence order—where the plan is for adoption—that the court has to be satisfied that the child

"has been, or is likely to be, placed for adoption".

That does not apply in permanence order applications where no authority is sought for adoption. In freeing cases, this matter has proved to be awkward and difficult. My policy colleagues tell me that it can suggest that the question that is being asked is whether the child is good enough to be placed. That is not comfortable. Permanence orders are not a replacement for freeing. If someone is seeking authority for a child to be adopted, they must, very properly, deal with the consent of the birth parent, either by agreement or dispensation; that is crucial. However, also to have to establish the likelihood of adoption will serve only to get in the way of securing the permanence order for the child. Basically, because of all the safeguards—the consent of birth parents must be gained or dispensed with, the child's welfare must be considered and so on—the provision is not necessary.

Ms Rosemary Byrne (South of Scotland) (SSP): I see that you welcome the provision for regulations about fostering allowances. What impact will that make? How important is this move?

10:45

Barbara Hudson: It is very important. You will be aware that there is a considerable shortfall in the number of foster carers who are available throughout Scotland to meet the needs of children who need placement. Also, work that we and our colleague organisation the Fostering Network have done has estimated that, to provide a properly funded fostering service that fulfils all our aspirations, we would need increased investment of about £65 million, which is not exactly a small amount. That will give you a sense of where we are coming from.

We are aware that, in Scotland, there is considerable variation in the amount of money that each local authority pays its foster carers as an allowance for looking after children and the

amount of money, if any, that is paid for the business of bringing up children. We hope that having and exercising the provision to set a minimum rate for allowances will avoid the postcode lottery that results from local authorities doing what they want in their areas. That lottery creates a mixed economy, which is not helpful for children. We hope that, regardless of where a child lives, they will have the choice of a foster home if they become looked after and accommodated. Therefore, the ability to regulate would be of benefit.

Ms Byrne: Should the same kind of regulation also apply to kinship carers? It might not be a fostering allowance as such, but perhaps there should be some kind of support. We are talking about adoption being an option when the parents are unable to take care of their children's welfare needs, but there is a gap on kinship care and the extended family as one of the routes that could be taken. If such carers are not to be given the same kind of support as foster parents or prospective adoptive parents, it would seem to place them on a lower level of importance. That is my view; what is yours?

Barbara Hudson: I know that you will hear evidence from one of my colleagues about family group conferences. That is an approach whereby, when children first become looked after or there is a risk of them becoming looked after, we bring kith and kin together to consider who might be able to offer something to the child. That is an important approach, but how it is supported financially is an extremely wide and complex question. The availability of financial support for such care is not only within the remit of the local authorities, particularly the social work departments; it takes us into state benefits. Local authorities were not set up to provide benefits; they exist to promote people's well-being and welfare, not necessarily to address their financial issues.

Some research on kinship care has been undertaken in Scotland. I am given to understand that that is likely to be published in the not too distant future and I hope that it will contain recommendations that will give us some ideas about what should be in place. Depending on the timing of that, I guess that it could be possible to determine whether there was an opportunity to address the issue in regulations, if not in the bill.

Ms Byrne: The bill's provisions on fostering are about allowances and nothing much more. Are you disappointed by that and would you have preferred there to have been more on fostering in the bill?

Barbara Hudson: We have high hopes of the regulations and guidance on that because there is probably not a lot wrong with the current legislation on fostering. In the light of more than 10 years of the Children (Scotland) Act 1995, we need to address some of the issues that have come up through practice. One important measure is to use regulations to address fostering allowances.

The regulations relating to the composition of households that are involved in fostering must be reconsidered—in particular, the regulation that prevents unmarried adults of the same sex from being considered as foster carers. That has caused difficulties. For example, if a single woman fosters a young woman, once the young woman reaches adulthood they are unrelated adults of the same sex sharing a household. The regulations could be seen to militate against that. We expect the regulations and guidance to build on what we have learned over the past few years, and we look forward to consultation on those.

Lexy Plumtree: We see the permanence order provisions as providing a big support for long-term fostering. Although they are not called fostering orders, we see them as supporting the fostering system.

Mr Kenneth Macintosh (Eastwood) (Lab): My question relates to the questions that were asked earlier about the provision of information. Can you expand on the importance of the disclosure of medical records? The ability of ministers to prescribe when the medical records of birth parents should be disclosed would be controversial; however, it is important that adoptees have access to their family's medical history. Why is that important?

Barbara Hudson: You have already highlighted the issues. We hope that, when a child or young person becomes looked after and accommodated, the maximum amount of information will be obtained at that time about the health and welfare of their parents. If the parents' situation changes, we hope that that information will be shared. However, parents sometimes find themselves at loggerheads with the local authority that is making plans for the child and refuse consent for everything—that is a way of expressing their distress and anger. Although I recognise the legitimacy of those feelings, as children get older—and increasingly as we understand the nature of inheritance regarding predisposition to certain illnesses—it is sometimes worrying for them not to know the health background of their parents.

Sometimes, the parents will have died and the children will want to find out the cause of death. People might say that it was because they took an overdose or something like that, but the cause of death might mask a complex set of health circumstances that led up to that. It is therefore likely to be of benefit to the adopted person to find out that information. We recognise that this is a

fairly controversial measure; however, as I said at the outset, it is very much driven by the experience of adults who were adopted as children and the issues that have arisen for them in later life. If someone develops a particular health condition as an adult and people say that it might be hereditary, the way in which the condition is treated and the person's view of what the future might hold for them will depend on whether the condition was in their family or whether it was just something that happened to them. In those circumstances, it would be important for people to have the opportunity to get some further information.

Mr Macintosh: I have one other question, on an issue that was touched on earlier by Fiona Hyslop. The nature of adoption is changing from families giving up their children for adoption to more children being removed from families without consent. Is it fair to say that, in some of those cases, the process takes too long—it can extend over several years—and can be damaging? Will the bill help to address that situation?

Barbara Hudson: I agree that the profile of children who are being placed for adoption now is hugely different from that of children who were placed for adoption 25 or 30 years ago. That is one of the challenges. We are talking not about relinquished infants, but about children who have been subject to physical, emotional and sexual abuse and to neglect and who have made at least two moves—from their birth family into care and from care to possible adoptive parents—although it is likely that they have made many more moves than that and have had many care givers. We are dealing with a different cohort of children, which is why the adoption support that I mentioned is important.

As I said in response to another member, the focus in the process is on what adults want to happen and say that they will do, rather than on what they are capable of delivering. Sometimes, in the spirit of optimism, people make rehabilitation attempts in the face of considerable evidence that they are unlikely to be able to do them. Being able to signal a clear direction of travel on permanence, perhaps through applying to the court for a permanence order, will help.

The bill provides for considering whether court processes could be shortened. If the processes were timetabled, people would not have to keep breaking off. If matters that are in dispute are agreed on, the parties can focus on them rather than throwing everything into the discussion, such as what the weather was like on a particular day or what the name was of the worker or other person who visited. The key concerns are the capacity of parents to bring up and protect their child, whether they have demonstrated that and whether, if they have not demonstrated that, it is reasonable to risk a child's future by having another go. We hope that the bill will shorten the timescale.

Mr Frank McAveety (Glasgow Shettleston) (Lab): Yesterday, the Finance Committee considered the financial memorandum to the bill. We are concerned more with policy, but the Finance Committee discussed the resource allocation to post-adoption services. Your bigger-picture paper says that about £60-plus million is required in broader terms. Even a reasonable estimate that 20 per cent of that is required would still mean that £12 million needs to be found to address your concerns. Does the financial memorandum significantly understate the resources that are required to meet even the bill's aspirations? Should it avoid the assumption that savings could be made, because that could have an impact on other children's care budgets?

Barbara Hudson: Yes—that is exactly what we tried to say in the information that we provided to the committee. In answering Mr Macintosh's questions, I tried to describe a profile of the children whom we know about—those who are looked after and accommodated. The fact that they will be subject to a permanence order or placed in adoption does not change the nature of those children, who have had some of the most adverse starts in life.

The folk who will bring up those children—whether they are subject to a permanence order or an adoption order—will need access to support, which does not mean just a social work visit or access to respite care because the child is demanding. There are long-term opportunities for therapeutic support for children who have difficulties with making relationships and whose emotional behaviour is of concern. I am not saying that every child who is placed in a permanent arrangement or who is placed in adoption will have problems or that every person who applies to adopt or who parents a child who is subject to a permanence order will find themselves in difficulties, but we owe it to those children and families to say that if they feel that they need support in some situations, it will be available to them.

The support that is available to people varies throughout Scotland. If people live in the central belt, a number of voluntary organisations are able to support them, but if they move further north or to the south-west, there is not the same range. Those organisations provide many services for which they make no charge. The services are good, but their costs are not known and not borne.

11:00

It would be unrealistic and, in some ways, irresponsible to think that we are looking at the bill

as a cost-neutral or cost-saving exercise. We are talking about provisions for very vulnerable children. Members do not need me to rehearse the consequences of children not having a good-quality experience in childhood. I refer to the subsequent costs that are associated with mental ill health, unemployment and people becoming members of the prison population. We know that the outcomes for children who are subject to the variability of care are considerably worse than the outcomes for others. The point of adoption and permanence is that, if we secure children in a family in which they can experience stability and consistency, that cannot but help their ultimate long-term welfare and development and enable them to contribute. I do not want to portray children as victims. They have suffered adversity, but they will not grow up as victims if we provide the right services. They will be able to make a contribution to us in Scotland. Frankly, it is in the interests of all of us to ensure that we invest resources at an early stage, so that later there are folk to take care of us.

Fiona Hyslop: My question is about step-parent agreements. In 2004, there were only about 400 adoptions, but tens of thousands of children—if not more—are living in stepfamilies. Why do you think that step-parent agreements were left out of the bill? What problems will be caused by leaving stepmums, stepdads and their stepchildren in limbo?

Barbara Hudson: The situation at the moment is that if a child is living with one of their birth parents who has remarried, so that there is now a step-parent, the new parent may take on a particular responsibility for that child through adoption. In our view, that potentially cuts out the other birth parent and members of their extended family—grandparents, uncles, aunties and cousins. To maximise children's sense of belonging to a family, it is helpful not to cut people out. The adults should make an agreement—with support or mediation, if necessary—so that there is no question of a child having to choose whom they see as their family. Everyone should work together. I know that that is a counsel of perfection, because we are saying that people who may feel upset, angry and anguished about the end of the adult relationship should work together. However, it is important for the sake of the child's welfare that they should do that. We should look to create the opportunity for step-parent agreements.

Fiona Hyslop: What legal powers would step-parents have under such agreements? Would such agreements be more about them and less about the children?

Barbara Hudson: I refer you to some of my earlier observations about children needing to know that the people who are looking after them on a daily basis can act on their behalf. I hope that the agreement would specify that the person who was living with the birth parent would exercise joint responsibility for day-to-day matters, but that the other birth parent should be involved in critical issues, such as a serious health problem. Such issues would need to be examined in the context of the step-parent agreement. The measure was suggested during the passage of the Family Law (Scotland) Bill, but the suggestion was not accepted. The policy review group suggested that the measure be considered as part of the present bill. The problem is that, until we have a basic principle that we will consider step-parent agreements, it is hard to say how they would work in practice.

Fiona Hyslop: They need to exist in family law first.

Barbara Hudson: Indeed.

Fiona Hyslop: My understanding was that the measure was rejected because an appropriate place could not be found for children's views. Is that an insurmountable problem? Is the issue that children would be put in the vulnerable position of choosing and might resent the step-parent?

Barbara Hudson: I do not know. However, my general take on such issues is that we consistently underestimate children's ability to understand situations and express a view on them. The adults, whether professionals, parents or step-parents, have a responsibility to create a situation in which children can express their views and do not have to second-guess what their mum, dad or stepdad wants them to say. They need to be able to say how they feel.

The Convener: Your submission suggests that a positive obligation should be placed on the courts to consider contact in adoption cases. At the focus group that I was at last week, one issue that was raised was that the contact provisions that might be appropriate for a child at one point in their life might not be appropriate at another point. Is there a danger that, if we require courts to consider contact, the system might end up being too rigid and might operate against the welfare of the child?

Barbara Hudson: You have expressed the dilemma clearly. In my opening remarks, I said that adoption has changed hugely. On contact, practice and philosophy have changed a good deal in the past 25 to 30 years. One difficulty is that the bill comes at a time when practice is changing and research is on-going. The bill must be fit for purpose for the present, but we cannot have measures that will hamstring us in future. To be realistic, the legislation is likely to be on the statute books for the next 20 to 25 years.

It is important to realise that contact, openness, information sharing and knowledge of a possibility

of physical contact with members of the birth family are now clearly part of the canon when we talk about adoption. We are no longer talking about information in a brown envelope that is stashed away at the back of a wardrobe and that we hope will never be asked about. Having opened the box, we must think about the measures that we need. Basically, we need a system in which we can make decisions for individual children, not one in which we take the same decisions about all children who are aged two or six or whose parents misuse drugs. We need to be able to make individual assessments, based on the lifelong impact on the child of being an adopted person. At different ages and stages of a person's life, knowing about, hearing from and having access to members of their original family will be more or less important. The situation will change—depending on a person's age, gender and experiences, they may want to hear nothing or a lot about their original family and they may or may not want to meet their parents or brothers and sisters. The number of variations is the same as the number of children who are likely to be affected by the bill.

It is important that the court, when making an adoption order, thinks about contact issues. However, our general take is that it is always better to arrange such matters by agreement rather than through an order, because orders are made at a particular moment and are fixed. Managing the system and considering what to do if there is a breach puts people into a different ball game. We think that that issue should be considered and that what we think needs to happen on contact should be made part of the adoption support plan.

A lot of interesting information is emerging, such as the fact that even quite young children need to see or hear from their birth family—children need to see or hear from their birth family at an earlier stage than one might imagine. There has been a belief that the younger a child is when they are adopted, the less they remember of their original family; that the original family is perhaps less significant for the child; and that we do not have to consider direct or indirect contact for them in the way that we would for an older child. In fact, normalising a child having contact with and exchanging information about their family is probably the most important thing that we can do. If we can make such things part and parcel of a child's life, it will be easier for the child and their family to deal with those things as they grow up.

We all have to deal with weird and wonderful members of our extended family, such as uncles, aunties and second cousins twice removed, whom we think are a bit strange and challenging to deal with. However, if we know about them and deal with them routinely, either directly at weddings and funerals, or by way of cards, it is easier to understand them than it would be if they were suddenly to appear in our lives at a later stage. I am not trying to be disrespectful to anybody else's family; I have second cousins twice removed who are part of the family.

The Convener: Given our careers, we are probably the weird cousins, aunties or uncles.

Do you have any comments on chapter 6, on intercountry adoptions? What issues in that area need to be addressed?

Lexy Plumtree: As we understand the chapter, the intention is more or less to duplicate the existing system for intercountry adoption. However, as we said in our submission, there is no provision for applications for Hague convention adoption orders for people who have gone abroad to adopt a child but who come back to Scotland to adopt; we need such a provision. The current provision is section 17 of the Adoption (Scotland) Act 1978, which relates to a slightly different type of adoption order.

We noted with interest that in section 72 the Executive has given itself the power to charge for the service that it, as the central authority, operates. In intercountry adoption there is often quite a lot of expense for the prospective adopters, because some local authorities and agencies will charge for the home study. Some Scottish authorities charge and some do not. By and large, charges in Scotland are much less than those in England, where some authorities charge £5,000 or £6,000, which is a lot of money. We are slightly concerned that there will be another charge for the prospective adopter for the processing of paperwork, which the Executive has to do for adoptions from Hague convention countries and other countries. I do not have huge expertise in this area, but I understand that the Hague convention is not desperately happy with the idea of central authorities charging for processing of papers, important though that is.

The Convener: I thank Barbara Hudson and Lexy Plumtree for their useful evidence and written submission. I will suspend the meeting for five minutes while we change witnesses.

11:14

Meeting suspended.

11:17

On resuming—

The Convener: On our second panel this morning are Eddie Follan, head of policy at Children in Scotland; Maggie Mellon, director of children and family services at Children 1st; Tam

Baillie, assistant director of policy and influencing—that is an interesting title—at Barnardo's Scotland; and Joan Atherton, service manager at the Scottish Adoption Advice Service.

We have received your written contributions, but please feel free to make any brief opening comments before we move to questions.

Maggie Mellon (Children 1st): Our submission was brief. I will concentrate today on the role of the wider birth family in making decisions about adoption and permanency for children.

Eddie Follan (Children in Scotland): I follow Maggie Mellon's line in that we have a specific interest in advocacy for children. Our colleagues on the previous panel covered many of the technical aspects of that.

Tam Baillie (Barnado's Scotland): We have a general interest in the policy of the bill, about which I am happy to answer any questions. I am particularly interested in fostering. We manage three fostering services that have placed about 150 children. We also have an interest in the adoption side of the bill.

Joan Atherton (Scottish Adoption Advice Service): We provide services to 15 local authorities in Scotland and we work with about 500 people each year who are affected by adoption and permanency. I will speak about the need for adoption support services and how they are resourced.

The Convener: Thank you for those opening remarks. I am sure that those issues will be picked up during questions. Questions might be directed to individual members of the panel, so do not feel that you have to answer every question that is asked. Obviously, if you feel that you have a contribution to make, feel free to do so.

Ms Byrne: My first question is really directed at Children in Scotland and its concerns about the recognition of the rights and views of children under the age of 12. Could you expand on those concerns?

Eddie Follan: It is always a difficult point. We are saying that the bar—if you like—in legislation is set at age 12 and it is presumed that children who are over the age of 12 have capacity and can consent to an adoption order, for example, which is fair. We also have the Age of Legal Capacity (Scotland) Act 1991. We need to take into account the views of younger children. Although there has to be an emphasis on age, there should also be an emphasis on maturity.

We have spoken to children of 10 and 11 and although their views should be taken into account, they really cannot consent or otherwise to any order. The issue should be covered by guidance, and the emphasis should be put on maturity.

The Convener: Do you have a follow-up question Rosemary?

Ms Byrne: Do you want me to go on to the fostering issue?

The Convener: We will come on to that later.

Ms Byrne: There are great pressures on the foster care system at the moment; Barnardo's mentioned that. We know that there is a shortage of foster care and that because of current problems with drug misuse and so on, the services will be pushed further. Can you give us a bit more information about your concerns and say how we can improve the situation?

Tam Baillie: I should say at the outset that we are positive about the legislation and endorse much of the evidence that you have heard this morning. I am sure that you will hear our views later.

Some of the omissions from the bill are about fostering. The Scottish Executive rightly endorsed many of the review group's recommendations and agreed to legislate further. Most of the recommendations will be acted on through regulation. However, you have also heard about the permanence orders being relevant to foster care. Much of our looked-after system relies on a good and robust fostering service.

We have already had estimates that not enough resources are being put into fostering. That leads to multiple placements for children and does not give the permanence that the permanence orders seek to achieve. We need to consider the fostering service and perhaps go a bit beyond regulating it through secondary legislation.

I have some examples. The first is placement limits—the number of children who would ordinarily live in a fostering household. There is no mention of placement limits in the bill. Just last week, the minister confirmed that there are no plans to bring in statutory limits. That will leave Scotland in a different position from the rest of the United Kingdom. We are mindful that that should be looked at, certainly at stage 2.

My second example concerns the retention and training of foster carers. If we do not get that right, we will not reach the required target, which is estimated at approximately 4,000 foster carers in Scotland, and do little to improve the lot of children who are looked after and accommodated through fostering.

Although the bill was always intended primarily to change the legal framework for adoption, if we leave the provisions on fostering to regulation, we might miss an opportunity that does not come around that often.

I have one other example, which I forgot to mention—leaving care. Many children who are in

foster placements leave care prematurely, before their peers. We have tried on numerous occasions to regulate the age at which youngsters leave care, but they still leave care at far too young an age. The bill might provide an opportunity to address the situation for youngsters who are fostered.

Lord James Douglas-Hamilton: Should ministers be able to lay down in regulations what information must be kept about adoptions and the circumstances in which that information should or should not be released?

Joan Atherton: Can you expand on the second part of your question, about the circumstances in which the information will be released?

Lord James Douglas-Hamilton: The proposal is that the matter should be covered by regulations made under the bill later, rather than by the bill.

Joan Atherton: I agree with what Lexy Plumtree said. Adopted people should have access to information. We do a lot of work on the matter. It is important that adopted people feel that they have the right to access information.

Lord James Douglas-Hamilton: Are there problems under the current legislation that need to be addressed?

Joan Atherton: In relation to information?

Lord James Douglas-Hamilton: Generally. Does the bill address the current problems?

Joan Atherton: Like Barbara Hudson, I would welcome medical information from the birth family being released to adopted people. Adopted people would very much welcome that development.

There are two issues about access to the adopted children register. At present, only adopted people have access to the register, to find out their birth name, but the bill states that agencies that act on behalf of adopted people will have access to it. I am not sure why that provision is in the bill. It is important that adopted people feel in control of the information about themselves.

We act on behalf of birth parents who would like to find out how the children from whom they have been separated are. When we do that, we protect the identity of the adopted person. It is possible to find the information through adoption agency records, but records are sometimes lost. We cannot act for birth mothers when there are no adoption agency records, and there is no other way for them to find out how their child is. That affects only a small group of birth mothers, because adoption records usually exist, but I wondered whether the bill could enable agencies that act on behalf of birth mothers to apply for the information to be released from the adopted children register.

Fiona Hyslop: I attended a focus group with birth mothers last week. A fundamental need for them is to know whether their child is still alive. Can anything be done in the bill or in guidance to address that issue?

Joan Atherton: The bill should provide a way for agencies that are acting on behalf of birth mothers to access that information. However, I accept the fact that the rights rest with the adopted person, and the adoptive parents when a child is involved. They should have the final say. The current legislation enables agencies such as us to act on behalf of birth mothers. That is sufficient. We do not need to give birth parents extra rights, apart from the one small matter that I mentioned.

Fiona Hyslop: The written submission from Children 1st says that the proportion of children in kinship care as opposed to stranger care is 75 per in New Zealand but only 12 per cent in the United Kingdom. In other countries, the proportion is over 30 per cent. What do you want the bill to do? Do you want kinship carers to be given specific adoption rights, or do you regard kinship caring as an alternative to adoption?

11:30

Maggie Mellon: This relates to sections 6 and 9 of the bill. Before a decision is made to place a child for adoption, the bill suggests that an adoption agency should be satisfied that no other arrangement is better or more practical. However, the bill does not say explicitly that efforts should be made to try to keep the child within the wider family.

Fiona Hyslop: Does that mean adoption or—

Maggie Mellon: It could indeed mean adoption.

Fiona Hyslop: Or could it mean, to use the older term, private fostering?

Maggie Mellon: Well, it could be achieved by means of an order or by means of a voluntary agreement of the parents and others concerned.

We want the bill to include an understanding of the wider family; the child's best interests should be seen as lying within their wider birth family. What often happens is that just one part of a family has a problem—the birth parents, or perhaps only one of them—and only that part of the family, not the wider family, is assessed for its capacity to care for a child. Children can be placed for adoption without the birth father's family being explored—or even the birth father himself. Before the new legislation on paternal rights came in, the consent of birth fathers who were not on the birth certificate was not needed.

In many situations, the wider family has not been involved, but in the best interests of the

child's welfare the first port of call should be the extended birth family—the wider kinship network that Barbara Hudson talked about. That does not happen often enough and the bill should do more than simply say that adoption agencies should be satisfied. There should be a clear statement in the bill about the wider family. It will be important to demonstrate that the wider family has been explored.

In our submission, we describe a couple of real cases. Sometimes, the kinship group will be brought together and it turns out that they cannot offer the child care. However, the child will benefit from the huge amount of information that emerges from the conference—the photographs, the stories and the contacts that can be arranged will serve the child well if they have to be adopted outside their family. It is not the family's right to decide what is best, but it is the child's right to have the family explored before they are removed from it.

More than 90 per cent of the young people Tam Baillie referred to—the ones who leave care prematurely after being held in care, sometimes against their parents' wishes—renew contact with their families of origin at the age of 16. They may have terrible difficulties with relationships that have been severed, but they are back in touch. Families are there for them, weak and bad and fractured as they might be. That is what happens to most young people who leave care—the ones who have not been adopted—and it shows the importance of family relationships.

Fiona Hyslop: Does "kinship carer" have to be defined in the bill, to give such carers legal status similar to that given to foster parents?

Maggie Mellon: No, I do not think that that would be necessary. There could be legislation on adoption, on fostering and on securing a child. Sometimes it might be necessary to secure a child legally so that they are not living with their birth parents but with other relatives.

We are not proposing that a range of family members should be given new rights to go to court; we are saying that no adoption order should be made without the court's giving consideration to family relationships. A good assessment would provide ample evidence that solutions in the wider family had been explored.

Fiona Hyslop: I suspect that historically more young people were looked after by family members and that in previous decades the figures for kinship care were similar to the current figures in New Zealand and America. Why has practice in the United Kingdom diverged over the piece, with the result that we have so few kinship carers?

Maggie Mellon: Some kinship carers might not be counted. The Scottish Executive is about to publish the results of the audit of kinship care in Scotland—Jane Aldgate is involved in that work. We might find that kinship care is not included in our figures because it is not formally recognised as it is in New Zealand.

In the 1960s in Scotland—and I think throughout the UK—there was a huge move towards adoption outside the family. Adoptions in the 1960s and 1970s account for the bulk of people who are affected by adoption in Scotland.

Fiona Hyslop: I understand that guidance indicates that agencies should consider family members, but even now—

Maggie Mellon: They do not.

Fiona Hyslop: Is that the understanding of other witnesses? What do you think of the proposals from Children 1st?

Tam Baillie: Barnardo's Scotland contributed to the research on kinship care arrangements, which are topical in the context of substance misuse. We might increasingly have to consider alternative care arrangements. Kinship care is happening by default and an increasing number of youngsters, particularly youngsters from substance misusing families, are being cared for by members of the extended family. It is worth considering how we routinise such arrangements without killing off the key element: family members want to take care of their problems. The last thing we want to do is discourage such an approach by overregulating, but we want to promote kinship care within safe boundaries.

Fiona Hyslop: There is an issue about funding and support. If we want to recognise families as being special, we should not necessarily treat them in the same way as we treat foster carers. However, if kinship carers are not treated in the same way, will they be regarded as second class?

Tam Baillie: Research indicates that outcomes are very positive for children who are accommodated in kinship arrangements, which might be an argument for having a different threshold for kinship care assessments. However, we are in the early days of trying to routinise how we access that untapped resource.

Maggie Mellon: Children 1st manages family group conference services in nearly half the councils in Scotland, so we have experience of relatives coming forward to offer care. We find that people do not ask for the moon and we would not argue that fostering rates should apply to kinship care. However, we would apply the rule of thumb that no family—particularly a grandparent—should be disadvantaged as a result of taking on grandchildren or family members. Whether people are working or are pensioners, they should not have to sacrifice the standard of living that they expect to enjoy. For example, carers should not

have to do without their yearly holiday or weekly night out.

Social work services are often surprised that families do not ask for the moon. Family members regard the children as their responsibility.

Joan Atherton: I add a note of caution. The approach that is proposed should not involve a long timescale in which things drift and decisions are not made. People forget that childhood is short. The investigation into members of the birth family who might care for a child should be carried out quickly and should not hold up the process of finding a permanent home for the child.

Maggie Mellon: It takes six weeks to organise a family conference—from the initiation to the meeting itself. Sometimes the conference is just the end of the process and is not needed, because the exploration of the issue with different family members has provided a solution.

Six weeks is our average turnaround. That is tiny compared with the time decision-making processes in care take. The point at which a child enters care and their first review can sometimes be six weeks apart, and the review might only set arrangements in place. The process should not be lengthy.

Ms Byrne: Maggie Mellon mentioned the fact that 90 per cent of children return to their parents—usually their mother—after being in care.

Some children of parents who are misusing drugs or alcohol are given up for adoption without their parents' consent. If such parents go through rehabilitation and turn themselves around in two years, they have still lost the child and the child has still lost them. That is quite scary. What is your view of that issue?

Maggie Mellon: One can see this issue from both points of view. That is why we emphasise the importance of the wider family. If a drug-using parent is clearly not giving their child adequate care, there should not be a simple choice between staying with that birth family and coming into public care. The outcomes for public care are not good either: you sometimes find that you have replicated the very situations that you were supposedly rescuing a child from.

It is important to find out whether other carers are available in the wider family group. That can be quite successful and is much better than removal. For example, if a grandmother looks after the child and the mother or father get themselves together over a couple of years, there will have been contact and the child will not have lost that relationship, so rehabilitation of that relationship might be possible. If the wider family cannot be offered that contact, it is important that the child is not left in limbo while a mother or father motivate themselves to get treatment. It can be tragic if treatment is not available, but the child cannot be left hanging around going back and forth between the family and care—although all too often that is what happens.

Tam Baillie: I am sorry to have to bring the discussion back to what happens when people leave care, but we have to remember that a significant number of youngsters—I do not want to get into the argument about percentages—leave care to live independently, not to return home. They might eventually return home, become homeless or something else, but, initially, a significant number will live independently. That is why my opening comments were about the age at which youngsters leave care. We have to examine our practice with regard to fostering and other forms of care in relation to those youngsters.

The Convener: I think that we have explored those issues quite widely. We should return to issues relating to adoption.

Mr Ingram: In what way will the proposals to allow joint adoption by unmarried couples benefit children who are waiting to be adopted? Barbara Hudson told us that she thinks that, from the point of view of the child, the issue is not so much to do with extending the pool of adopters as to do with normalising family relationships to ensure that both parents have equal rights and responsibilities. Do you agree with that point of view? Is there any evidence to back it up?

Joan Atherton: I agree with Barbara Hudson that ensuring that both parents have the same legal responsibilities in relation to a child will promote stability.

11:45

Tam Baillie: The one thing that I would add is that the Scottish Executive has agreed to revoke regulation 12(4) of the Fostering of Children (Scotland) Regulations 1996, which debars same-sex couples from fostering. That is all well and good—we agree with doing that—but that approach will leave a difference between the revocation of the bar on adoption, which is in the bill, and the revocation of the bar on fostering, which will be in regulations. It will not make any material difference, but that demonstrates the different ways in which we are dealing with adoption and fostering.

Mr Ingram: So the bill will not affect the position in relation to fostering. Are you saying that the regulations will follow on?

Tam Baillie: The Scottish Executive has already made a commitment that the regulations will follow on. We hope that they will follow on fairly swiftly, because it would be inappropriate to have different

legislation on adoption and fostering. That might be an issue this year, but we hope that the Scottish Executive will follow through on its commitment.

Mr Ingram: You will be aware that the general issue is contentious to some extent. Are there any downsides to adoption and fostering by unmarried couples or those in same-sex relationships? Have you come across any downsides to such relationships for the care of the children?

Joan Atherton: That is not something that I could comment on. To pick up Barbara Hudson's points, there could be stigma, but that can be an issue for adopted children in general. I do not have any specific evidence or examples.

Mr McAveety: MSPs will be lobbied by elements within and individuals committed to faith organisations. How do you, as people involved at the sharp end, challenge the assertion that it is of substantial disadvantage to children to place them with unmarried or gay couples? That is the nub of some of the difficult public debate.

Eddie Follan: That debate is really about the child's welfare. It is also about the child's views and what the child feels is best for them. In challenging such views, we have to consider whether the relationship is stable, regardless of the couple's sex. There is a process that must be gone through; we are not talking about arbitrary adoption and saying that just because a couple is a same-sex couple, they can have a child. Regardless of anybody's sexual orientation or whether they are married, we would argue firmly that the child is at the centre of the process and they are the one whom it must benefit. We refute the arguments that there is something wrong with such relationships or that they are unstable or would harm the child in some way. As you can see from our submission, 40 per cent of looked-after and accommodated children have mental health and emotional problems. What could be worse than that? Will the situation improve for them if they move into loving, stable, family homes, or will they just have to live with those problems?

Mr McAveety: When we spoke to adoptive parents last week, they talked about the rigour of the assessment process and the assumptions that social workers were already working on. The idea that some people would leapfrog the system, suddenly seize children and drag them into a circumstance that would forever condemn them to damnation in hell strikes me as absurd, but that argument is being used and we need to challenge it.

Tam Baillie: If it is of any assistance, not all faith groups have the same position on the matter. It comes down to the needs of the child.

Maggie Mellon: We would agree that the issue is what is in the best interests of the child. The same tests would have to be met, whatever the situation in which a child would be living. The process is lengthy and anyone who had just a short-term interest in adoption would be quickly dissuaded from pursuing it. Sometimes wrong decisions are made in assessing heterosexual married couples; some of them are not right for adoption and sometimes those adoptions fail. Over the years, social work and other professions have learned from their mistakes. As Barbara Hudson said, practice has developed and people are now more aware of what is likely to make an adoption fail or to make a couple or a family not work. Those are the key issues, rather than any particular characteristic of a family home.

Mr McAveety: I have relatively little experience of the research base. If I was looking for research to justify a position that said that a decision to place a child with, for example, an unmarried couple, was inappropriate, would I find much to back up the claim?

Maggie Mellon: That question might have been better addressed to the BAAF when its witnesses were before you. I am aware that such placements are practised in other jurisdictions; even in this jurisdiction, they have been successful. Currently, one partner applies to adopt and the adoption goes forward on that basis. I do not know what the statistics are and whether the failure, breakdown or outcome rates are worse for such families than for other families. I suspect not. I suspect that you would find a similar failure rate across the piece. I do not know whether there is a significant enough number to judge.

As Eddie Follan said, we would first of all look to the wider family, if there is one. If there is not, children should not be brought up in public care. There are frequent changes of foster carers because there are too few of them and because those with whom children are matched might not be suitable for them. There are unqualified staff in residential care—it is also hard to recruit staff. That is not to say that anybody who comes forward should be given a child, but given the rigour with which assessment is approached, we would say that the outcomes for a child who is placed with a properly approved couple are bound to be better.

The Convener: There may be unmarried or same-sex relationships in the wider family.

Maggie Mellon: Absolutely. We would say that each case should be taken on its merits.

The Convener: Other than the issue of kinship, are there any specific elements that you think should be taken into account by the courts or the adoption agencies before considering whether to place a child for adoption, particularly in relation to section 9 of the bill? What impact do you think the

proposed changes in the bill will have on the process?

Maggie Mellon: Does section 9 refer to the views of any relative?

The Convener: That is in section 10.

Maggie Mellon: Our concern is that the adoption agency must satisfy itself that adoption is the best course. We would say that in order to do that, the wider family should be considered. Family group conferencing is a tool for doing that. We are not saying that you must make that a requirement under the bill, but we would like the bill to say that there has to be evidence that the wider family has been considered. There has to be evidence that grandparents and siblings have been approached and that their circumstances have been established. Internationally, family group conferencing has been developed as the best way of collecting that evidence. There have been proven results from research, not just from New Zealand but, more recently, from Scotland, Scandinavian countries and Ireland. The guidance should say that that is the best way to demonstrate that the family has been involved. That would reassure families, in terms of their trust in services. Especially in the case of drug-using parents, the wider family would want the opportunity to say what they can offer before the child is taken for adoption. That is why we would like a much stronger reference in the bill to the wider family; we would also like the guidance to set out clear recommendations on family group conferencing.

The Convener: Does any other organisation wish to comment on the provisions in the bill on the considerations that the courts must, in satisfying themselves, take into account?

Eddie Follan: I spoke to some of the civil servants about this, and they realise the difficulty of having a limit, if you like, on the age at which a child's views can be taken into account. They said that, often, it will be down to the sheriff to decide what is in the best interests of the child. We are not calling for the age limit of 12 to be lowered, but we need to explore whether what the sheriffs take into consideration can be regulated. I would need to check that out, but it is an idea that we have mooted with the civil servants.

The Convener: What practical differences do you think that the proposed changes to the grounds for dispensing with parental consent will make? Do the new provisions strike the right balance between the rights of the birth parents and the rights of the children?

Joan Atherton: Yes. I do not have any concerns about that.

Maggie Mellon: Our concerns have already been stated, and I will not overstate the case. If the consent of a parent is dispensed with, there should not be an automatic assumption that adoption is the best option. The welfare of the child may be best served within their extended family, and that should be clearly stated somewhere.

Fiona Hyslop: The written submission from Barnardo's supports the simplification of the legislation, although the bill is quite brutal. All the agencies are approaching the issue from the point of view of the children; however, we also have a responsibility to consider the rights of other people. Whether or not you agree that that is a good thing, do you agree that the balance has shifted more towards the agencies that seek fostering and adoption and away from birth parents' rights?

Joan Atherton: I think the opposite. The evidence shows that too many children have been affected by decisions not being made early enough on their behalf and have drifted in the system. They have been placed with adopters years too late and there have been difficulties with attachment—such children do not know where they are.

The child has to come first. Generally, we listen to adults' voices too much. Even in considering adoption support needs and contact agreements, our experience is that adults often have the stronger voice. The child's voice might not be a verbal voice. Through their behaviour, it might be clear to people who have the right skills where the child is coming from and what their needs are. Too often, their voice is not heard and listened to.

Maggie Mellon: The proposal could result in a huge swing away not from the rights of parents, but from the interests of the child within their broader family. It is important for our culture to respect and look at the extended family when we are considering the interests of the child. We consider the birth parents' right to put a child up for adoption without being encouraged to consider what their wider family can offer and the right of the child to be seen as an individual. We are all very much connected to and identify with kinship groups, networks and communities; yet, we have a narrow definition of the welfare of the child. The interesting issues are what the best interests of a child are and what best serves their welfare.

Dr Murray: Your written submissions do not make much mention of permanence orders, although Barnardo's says that it is generally in favour of the idea of permanence orders. Do you have any further comment to make? Do you, like the BAAF, feel that although the orders are a good idea in principle, the way in which the bill is drafted is slightly counterproductive?

12:00

Joan Atherton: Because my organisation is not a placing agency, I cannot really comment on that question other than to say that I agree with the BAAF that permanence orders seem to be a good step forward.

Eddie Follan: Children's involvement in permanency planning has been notoriously patchy. Professionals have found it difficult to involve children in the process, and research has suggested that, when such involvement takes place, it is not done particularly well all the time.

Given that legislation such as the Education (Additional Support for Learning) (Scotland) Act 2004 and the Mental Health (Care and Treatment) (Scotland) Act 2003 has placed more emphasis on advocacy services for adults, parents and, indeed, children, we think that primary legislation should give a similar right to a particular group of children. I know that I keep going on about the fact that, in the bill, a 12-year-old child is presumed to be able to form a view on these matters; however, we feel that an advocate could be a very valuable contact for children who are 10 or 11 years old.

A piece of research that we are just about to publish called "My turn to talk", which examines looked-after children's participation in review meetings, has drawn attention to the gap between child-centred agendas and professional-centred agendas. Advocates work with the children, but simply represent their views. Our research found that that approach was missing in permanency planning. As Joan Atherton pointed out, adults often have the power in such situations.

Given that there are legal precedents with regard to the duty to provide advocacy services, we have asked the civil servants to consider whether there is a case for making similar provision in the bill for a particular group of children. For example, certain looked-after children who go straight to adoption could, if they chose, ask for an advocate who would work with them at the start of the process and represent their views to professionals and everyone else involved in the process.

I realise that I might have strayed off the topic of permanency planning, but children's involvement in such planning has emerged as an issue.

Dr Murray: The courts will judge who will be responsible for making certain decisions under a permanence order. Would an advocate have a role in that respect?

Eddie Follan: They should be involved at the earliest possible opportunity. Some might argue that we are adding another layer of professionals to the system. I am not saying that an advocate would not look after the child's best interests; they would simply represent a child's views, regardless of what they were. Every other professional involved in the process is, quite rightly, tied by professional interest. Many young people have told us that all they want is someone who will sit with them, listen to them, be on their side and, if they choose, represent their views to other parties. That is not to say that the professionals are not on their side, but young people often have the perception that the professionals are there to look after them. That is not the role of an advocate.

Tam Baillie: Although we support the introduction of permanence orders, I should point out that, according to the financial memorandum, because the orders will make adoption easier, costs will be offset and, in fact, the provision will be cost neutral. However, given the priority that local authorities give to adoption support services and the need to expand such services, we question that assumption. After all, we already provide services to nearly 15 local authorities. It is difficult to say what impact the bill will have, but it might result in an even greater increase in demand for adoption support services, which are already the subject of increased demand.

Dr Murray: A similar point was raised when the Finance Committee considered the bill's financial memorandum yesterday. I am sure that those issues will be reflected in the report that this committee receives from the Finance Committee.

When young people leave care, will they have more security if they have been the subject of a permanence order even if it did not lead to adoption? Will that address some of the problems facing young people who do not have adoptive parents who continue to look out for them as they enter young adulthood? Will the permanence order help to foster such relationships, which can give people more stability as they come on in life?

Tam Baillie: It might. However, we need to look at the issue more closely. At the moment, all youngsters who leave care have been the subject of statutory supervision—there is a statutory duty on local authorities. That has still led to very patchy coverage of services for that group of youngsters. However, the issue is worth considering.

Dr Murray: Irrespective of statutory duties, might the relationship issues mean that such youngsters, having had a stable relationship with a family, find it easier to receive support later on?

Tam Baillie: Yes. That is why it might be worth looking at the particular caring set-up that fostering or family care provides. We might be able to improve matters in that setting. We will certainly consider that in our discussions on what is possible under the framework of the bill.

Joan Atherton: I believe that the permanence order is a good step forward, but there is anecdotal evidence that authorities sometimes do not plan for children to be adopted because of the resource implications. Although resources can be targeted at fostering, adoption support is much harder for authorities to ring fence. As Barbara Hudson mentioned, there is a need for therapeutic resources to help families with contact issues and to help children to understand their adoption. In some situations, although adoption could be the best option for a child, I think that authorities have not gone down that route because of the resource implications.

We have evidence from people who have come back to us as adults that adoption gave them a sense of belonging, with their adoptive parents acting as advocates in a way that foster parents often cannot. In one recent situation, the permanent carers were very concerned about the child's school placement but they felt that they had little or no voice in the matter, whereas adoptive parents could have really grasped the nettle and gone for it on behalf of the child.

I am not sure about the resources that are planned. Provision for an adoption support assessment is a good step forward, but adoption support is often needed throughout the lifetime of the adoption and not just in the first three years. Our concern is that we already have to tell service users that we cannot provide a service because, although Barnardo's contributes voluntary funds, local authorities are unable to subscribe enough to allow us to continue to provide the service. I do not see that the bill will make that much difference. We have a real concern that if resources are not dedicated they will get lost in local authority budgets, especially given the need for emergency and short-term care, which is currently taking such a lot out of local authority budgets. The provisions look good on paper but, given the needs of adopted children both now and in future, if the provisions are not properly resourced they will not lead to an increase in adoptions.

Mr Macintosh: You have just answered some of my questions, but I want to explore the issues further. I thank Barnardo's for facilitating last week's meeting with adoptees, which Adam Ingram and I found beneficial and informative. There is anecdotal evidence that fostering is a more attractive option for local authorities because it attracts more financial support. Is that because of the current statutory bases of adoption and fostering or is it because of the specific allowances that they attract? Can you be more precise about why fostering is more financially attractive to local authorities?

Joan Atherton: I guess the reason is that, if a child is looked after, the authority has a direct responsibility but, with adoption, the child ceases to be looked after and becomes the parents' responsibility. Adoption allowances are not on the same level as fostering allowances, although we hope that that will be addressed through regulations. Local authorities cannot pull in the necessary resources for adoptive families, so the families are left to look for them.

Mr Macintosh: I ask because behind the suggestion that we need to address the fact that fostering allowances are more generous than adoption allowances is the implication that we should increase adoption allowances. To follow the logic, if the increase in adoption allowances did not come directly from central Government social security payments, and local authorities had to find the resources, adoption would be even more unattractive to the authorities. Is that a fair comment, or do I misunderstand how local government finances work?

Joan Atherton: I am not sure.

Tam Baillie: You might want to ask that question of the minister who is responsible for the bill.

The Convener: We might also want to ask the local authorities when we speak to them.

Mr Macintosh: I am just trying to understand the difference between how the money comes in for fostering and how it comes in for adoption. There is clearly a difference between the two—the fostering money has a firmer basis.

You have already said that making a difference is not only about improving statutory rights, because there is a question of resources. In last week's meeting with adoptees, I was struck by their concern about secrecy in their lives. Their need for support often revolves round their need for information. However, they also pointed out, as witnesses have done, that the background is changing. In the past, many children were adopted as babies, which involved a lot of stigma, so it was a secretive world and little information was passed on. These days, because of the circumstances in which most adoptions take place, contact is far more regular and information is far more regularised. Does the bill get the balance right on extending information to adoptees and on information on contact orders? I do not want to ask too many questions at once, but are we doing enough on information and contact for adoptees? I would like you to consider that question in relation to adoptees who are given up at birth and those who are taken from families.

Joan Atherton: I do not want us to go down the road of contact orders.

Mr Macintosh: Sorry. The BAAF suggested that there should be a positive obligation on the courts to consider contact in adoption cases.

Joan Atherton: We think of that as being done through contact agreements, which can be changed as the child's needs change, rather than through court orders, which can become fixed in time.

There is now less secrecy and more openness, although that is not always the case. Adoptive parents are now given huge amounts of information, some of which is difficult and is about the child's traumatic past. The evidence is that more resources are needed to support families and to help them share difficult information with children. As you say, adoptees do not want secrets. We advocate that children should grow up knowing about the trauma that they have lived through, because that is their history. That might be difficult, but they need that information to grow up with a sense of their history and a sense of self. Parents need support with that. Most of us would struggle to share some of the awful backgrounds that some children have experienced. Parents are now given far more information, but they can be left with a time bomb waiting to go off. They often wait until children are in their teens and demand information, which is the wrong time to land that sort of information on children.

12:15

Mr Macintosh: None of the adoptees whom you are helping and to whom we spoke last week want their birth parents to have the right to contact them, but they would all welcome their birth parents trying to contact them and being made that offer of contact. They all said that they want the support that local authorities and organisations such as yours offer to be reviewed constantly, not just as a one-off, because people's circumstances and needs change at different stages in their lives. That might not be the sort of thing that can be included in legislation; perhaps it needs to be in guidance. Is there enough in the bill about that sort of issue, and about the fact that birth parents could be encouraged to contact their birth children—or at least could be given the opportunity to contact them? Should they have the opportunity, not the right, to do that? Should adoptees, even as mature adults, still have the right to access support services and to have their needs reviewed regularly?

Joan Atherton: Very much so. There is a sense that the bill is stuck in time. Although we are talking about adoption support, it seems to focus on the first three years or on what happens at the time of placement, when an adoption support assessment is done. There should be opportunities for that assessment to be reviewed. If resources were available, all parties affected by adoption would know that they can go back and get the support that they needed when they needed it; it is a question of when rather than if.

Maggie Mellon: Another need-to-know issue arises when adoptions fail. There is a case for parents whose consent to adoption is dispensed with on the grounds of their inability to care for their children at a particular time in their lives to have access to information that an adoption has failed. That could be damaging in some cases, but it has always seemed to me to be a complete injustice that a child can be removed for adoption by a local authority, then have a couple of failed adoptions and spend most of their life in a succession of different care placements. It is unjust that the original family, having been deprived of the opportunity to care for the child, is not then revisited. The birth parent might have wanted to give up the care of the child, but often that is not the case. I know that there is a birth link register in Scotland, which allows people to register if they want to share information with one another. That could be extended and used for on-going adoptions.

Mr Macintosh: I want to ask about two other issues that arose last week; I know that Fiona Hyslop wants to ask about them too. First, there was a specific issue about birth certificates. At the moment, the full birth certificate of an adoptive child—not the abbreviated version—has a bold statement at the very top stating that it is the birth certificate of an adopted child. All the adoptees who gave evidence to us felt that that was stigmatising. The birth certificate is one of their first ways of accessing information and they all made that point about it. Could the bill do anything about that, directly or indirectly?

Secondly, there is a question about resources. Would it be true to say that, because of the shift in the nature of the children who are being adopted—away from children who are given up for various reasons and towards children who are removed from families in difficult circumstances—their needs are greater and that, with or without the bill, there will be a need for greater resources for adoption? The need for support is growing every year, so should an increase in the resources for such support be built into the bill?

Joan Atherton: Yes, I very much back that. For adoptive parents, the issue is knowing where they can go for support and accessing people who will be aware of the issues that they are dealing with. Just now, if the links with the local authority fostering and adoption team have ended because the adoption has gone through, the parents can access local social work services for support, but they often do not meet people who understand the issues that they face. Adopters also sometimes find that health services and mental health services do not understand particular adoption issues, and they feel that they are failures or that they are blamed for the problems that their children experience.

Maggie Mellon: I agree completely that the adoption, fostering and care system needs more resources, but I add the note of caution that if resources are not given to the preventive side as well as to the side that supports families in caring for their children, you will find the demand for resources increasing on the preventive side. That is why it is important to support the wider family in their care of a child; not because other options are more expensive—although they are—but because that stops the demand going over to the higher end of the system, where outcomes are not so good.

Fiona Hyslop: I was struck by what Joan Atherton said about the bill being stuck in time, in the sense that it probably addresses what will happen in the future. The birth mothers whom we met last week, when Birthlink hosted a focus group for us, spoke in a similar vein. Everybody has made the point that, because adoption is not a one-off event but a lifelong process, the bill will have to address what has happened in the past as much as what will happen in the future.

I do not know whether you can comment on this now—if not, you can get back to us afterwards. The birth mothers were struck by the situation that many of them saw when they visited Ireland, where there has been a comprehensive and radical change in approach. Every house in Ireland received a leaflet asking whether the householder was adopted or whether they had any connection with adoption. Many different people are touched by adoption, from adoptive parents to adoptees and others. What can Scotland learn from that experience? Is there anything that should be in the bill about the past and helping to support the past, as well as the technical issues about how we will support children in the future?

Joan Atherton: There needs to be more awareness, although there is a lot about adoption in the media. We used to get more phone calls after soaps ran particular stories. There is more awareness, but birth mothers, adopted people and adopters have to feel that it is okay to ask for services, which should be available to meet their needs.

We now have an extra challenge to provide services to birth parents who have failed in the parenting of their children. Often, those birth parents go on to parent other children. We are looking at offering services to that group. We are working with birth mothers who are currently in Cornton Vale prison. They are not going to parent other children because they are in there for long terms, but we have been helping them to contact their children. The children have a negative view of their birth mothers—it is difficult for them if their mother has committed a serious offence. We have been encouraging contact so that the children get a different sense of their parents, not just as parents who have committed crime but as whole people. That can help the young people with their sense of identity and self worth.

Fiona Hyslop: That might be a matter more for policy than for legislation.

Joan Atherton: Yes.

The Convener: There are no more questions, so I thank Eddie Follan, Tam Baillie, Joan Atherton and Maggie Mellon very much for coming along this morning to give evidence. I thank them also for their written submissions, which will be taken on board by the committee. We will take further oral evidence on the bill at our next meeting.

Annual Report

12:24

The Convener: It is a requirement of the standing orders that we produce an annual report, the format of which is determined by the Scottish Parliamentary Corporate Body. I invite comments, but advise members that we must set out the report in the required format.

Fiona Hyslop: I mention a few minor details. Where the draft report refers to our pupil motivation inquiry, it does not mention the visit that was made to Cumbernauld. Although I am conscious that all our meetings were held in Edinburgh, we visited more schools than are mentioned in the draft report, which should be registered. The report currently reads as if we visited only schools that were taking part in the YMCA smart young people project. That is not the case; we also visited other schools, which we should highlight.

The Convener: Are there any other factual points?

Fiona Hyslop: Paragraph 11 is on petitions. The clerks to the Public Petitions Committee interpreted that two petitions—one from Ken Venters, on behalf of the Carronhill action team, about special needs education, and the other from Alexander Longmuir, about rural school closures—were linked, but the Public Petitions Committee corrected them. We should make it clear in the report that the two petitions are separate and distinct.

Did we take evidence on the annual reports of various organisations that are accountable to the Parliament, such as the Social Work Inspection Agency and I think, Her Majesty's Inspectorate of Education? Is there room to reflect our scrutiny of their reports in our annual report? Obviously, we read and commented on certain reports, but perhaps in our annual report we should make a point of commenting on areas on which we are not holding inquiries or creating legislation. Perhaps we should reflect our scrutiny of certain organisations' annual reports. We could check the timescale for doing that.

The Convener: Other than the reports that we were expecting, there have been none since I took over as convener in September. However, more might have emerged in the past year; we can check that.

Fiona Hyslop: It would be good if we could.

The Convener: The parliamentary year is very odd—it runs from the beginning of May, which is the anniversary of when the first Parliament was elected.

Fiona Hyslop: That is nice.

The Convener: Or rather, it is the anniversary of when the Parliament first met. Are people happy for me to sign off the annual report with those amendments?

Members *indicated agreement*.

The Convener: That concludes today's business. Next week, we will take more oral evidence on the Adoption and Children (Scotland) Bill. We will also receive our six-monthly update on child protection issues.

Fiona Hyslop: What about the step-parents' consent question? It was not agreed during consideration of the Family Law (Scotland) Bill. Is it possible to ask the Scottish Parliament information centre or an adviser what happened to the provision? Are we precluded from considering the matter as part of the Adoption and Children (Scotland) Bill?

The Convener: It might be useful to get a note on how the matter was dealt with in the Family Law (Scotland) Bill.

Fiona Hyslop: Let us ask what prevented inclusion of the provision in that bill and whether it is retrievable.

The Convener: We will ask the adviser and SPICe to produce a briefing for us.

Meeting closed at 12:28.

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