



The Scottish Parliament
Pàrlamaid na h-Alba

Official Report

EDUCATION AND CULTURE COMMITTEE

Tuesday 22 November 2011

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CONTENTS

	Col.
DECISION ON TAKING BUSINESS IN PRIVATE	457
EDUCATIONAL ATTAINMENT OF LOOKED-AFTER CHILDREN	458
PROTECTION OF VULNERABLE GROUPS	479
SUBORDINATE LEGISLATION.....	490
Ancient Monuments and Archaeological Areas (Compensation) (Scotland) Regulations 2011 (SS1 2011/373)	490
Planning (Listed Buildings) (Prescribed Form of Notices) (Scotland) Regulations 2011 (SS1 2011/374)	490
Ancient Monuments and Archaeological Areas (Applications for Scheduled Monument Consent) (Scotland) Regulations 2011 (SS1 2011/375)	490
Town and Country Planning (Listed Buildings and Buildings in Conservation Areas) (Scotland) Amendment Regulations 2011 (SS1 2011/376)	490
Historic Environment (Amendment) (Scotland) Act 2011 (Saving, Transitional and Consequential Provisions) Order (SS1 2011/377)	490
Historic Environment (Amendment) (Scotland) Act 2011 (Commencement No 2) Order (SS1 2011/372)	490

EDUCATION AND CULTURE COMMITTEE

12th Meeting 2011, Session 4

CONVENER

*Stewart Maxwell (West Scotland) (SNP)

DEPUTY CONVENER

*Claire Baker (Mid Scotland and Fife) (Lab)

COMMITTEE MEMBERS

*Clare Adamson (Central Scotland) (SNP)

*Marco Biagi (Edinburgh Central) (SNP)

*Jenny Marra (North East Scotland) (Lab)

*Joan McAlpine (South Scotland) (SNP)

*Liam McArthur (Orkney Islands) (LD)

*Liz Smith (Mid Scotland and Fife) (Con)

*Jean Urquhart (Highlands and Islands) (SNP)

*attended

THE FOLLOWING ALSO PARTICIPATED:

David Blair (Scottish Government)

Jackie Brock (Scottish Government)

Angela Constance (Minister for Children and Young People)

Brian Gorman (Disclosure Scotland)

Lorimer Mackenzie (Disclosure Scotland)

CLERK TO THE COMMITTEE

Terry Shevlin

LOCATION

Committee Room 6

Scottish Parliament

Education and Culture Committee

Tuesday 22 November 2011

[The Convener *opened the meeting at 10:01*]

Decision on Taking Business in Private

The Convener (Stewart Maxwell): Good morning, and welcome to the 12th meeting of the Education and Culture Committee in session four. I remind members and those in the public gallery to ensure that mobile phones and any other electronic devices are switched off at all times. We have no apologies for this meeting, although Liam McArthur has to leave us briefly at 11.30 to go to a meeting of the Standards, Procedures and Public Appointments Committee.

The first item on the agenda is a decision on taking business in private. Are members content to take item 6 in private?

Members *indicated agreement.*

Educational Attainment of Looked-After Children

10:02

The Convener: We have with us the Minister for Children and Young People, Angela Constance MSP. I welcome her to the meeting, along with Jackie Brock and David Blair—thank you for attending this morning. I believe, minister, that you have an opening statement for us.

The Minister for Children and Young People (Angela Constance): Yes, convener. I am grateful for the opportunity to make an opening statement. First, though, I thank the committee for inviting me along this morning. I am delighted to be here to discuss this very important agenda and to have the opportunity to set out the Government's ambitions for our looked-after children and young people. We look forward to the conclusions of the committee's inquiry and to assessing how we can work together, which I hope will be a springboard for further and continuous action in relation to our children.

As colleagues and members will be aware, the two core and inextricably linked aims of the education team in this term of Government are to raise the attainment and improve the life chances of Scotland's children. At the heart of everything that we have to do as a Government is ensuring that we have happy, healthy children who reach their full potential, which is particularly important for our looked-after children.

We know that the educational attainment of looked-after children in care is poor. The latest statistics show that they are absent or excluded from school more often, leave school earlier with fewer qualifications and are less likely to go on to further or higher education or employment after school.

The challenges for looked-after children are varied and complex, and unique to each child. We know that what happens or fails to happen in the early years has a huge impact on an individual's capacity for learning and attainment. We also know that a young person's life chances are likely to be adversely impacted on by their experiences prior to and after their experience of care. Those are often the chaotic and destabilising influences that led to their being taken into care in the first place.

In broad terms, we are taking a three-part approach. First, we want to secure even earlier interventions, so that children who are at risk of coming into care are provided with support in their family environment to allow them to go on to lead positive lives without coming into care. Secondly,

we need to promote the taking of early decisions about permanence, so that a child or young person is found a permanent, safe and nurturing home with the least additional disruption in their lives. Drift or delay in decision making is no longer acceptable. Thirdly, we will also continue to promote good corporate parenting, so that those who care for looked-after children and young people are the best substitute parents possible.

As corporate parents, we all have a duty to help to shape the lives of, and provide opportunities for, Scotland's looked-after children and young people, ensuring that they are supported to achieve the same levels of success as their peers and that, when they leave care, they are able to lead fulfilling, happy and healthy lives.

The Convener: Thank you, minister. I pay tribute to those who work on the front line. The evidence that we have received and the visit that we made yesterday have shown us some very committed and hard-working people who are doing their best for children who find themselves in these difficult circumstances. Their hard work and the effort that has gone in at both local authority and Government level over the past 10 years has been significant, but there has been only what might best be described as slow progress in improving the educational attainment of looked-after children, especially those who are looked after at home. In your view, why has that progress been so slow despite the genuine effort and commitment of all concerned?

Angela Constance: I add my thanks to, and express my appreciation of, those who work on the front line with our most vulnerable children.

My reflections are that permanency is taking too long and multiple placements continue to be a significant problem. Children often leave care at a crucial time, during an exam period, and more absences from school and a higher number of exclusions go hand in hand with multiple placements. More work can be done to ensure that the children's education is not seen in isolation; hence the importance of improving permanency for the children and early decision making. That must be one of the fundamentals, as the failure to do that is one of the reasons why progress has not been made more quickly.

More progress could be made on corporate parenting. I see an improvement in the understanding of corporate parenting, which was reflected in the recent parliamentary debate on permanence. In that debate, colleagues will have heard from MSPs who are or have been local government councillors. I remember speaking about corporate parenting 10 years ago, when I was a councillor, and I got some blank looks from around the council chamber. The situation has changed and there is now a greater appreciation

at the local authority level of what corporate parenting means. We would all acknowledge that there is now a better focus on corporate parenting in health, but there are issues within that that we need to take forward. We are also aware that the undiagnosed health needs of looked-after children will have an adverse effect on their learning.

The Convener: You touched on many different areas in your answer.

Angela Constance: I apologise.

The Convener: Not at all. Members will return to those areas as we go through our questions, but I will ask a couple of more specific questions about the policy and legislative landscape that we face.

One of the first things that struck me when we decided to look at this area was that there seemed to have been a lot of policies, guidance and effort over the past 10 years, which on the face of it looked pretty confusing—perhaps there were gaps and overlap. Is there a need to consolidate and clarify policy and legislation in the area of educational attainment for looked-after children?

Angela Constance: I agree that considerable thought and effort is needed to disentangle certain elements of the policies that have emerged and been developed over the past 10 years, although policy has developed more recently. I am keen to get CELCIS—the centre for excellence for looked-after children in Scotland—to update the two most recent policy documents, “These Are Our Bairns: a guide for community planning partnerships on being a good corporate parent” and “Looked After Children and Young People: We Can and Must Do Better”

I am a bit reticent about having a large-scale rewriting project. I would much rather that we were doing things proactively and working with and supporting our partners on the things that will make a difference on the ground. Although I will listen to any arguments that are marshalled in this area, I hope that the work that CELCIS will do to update those policy documents will satisfy the committee.

Our legislative programme for children, including the children's rights bill and, more significantly for looked-after children, the children's services bill, will give us opportunities to ensure that we have a more cohesive, simple and up-to-date approach.

The Convener: I was not suggesting that you should rewrite on a large scale, but given that a lot of effort has gone into all the guidance and legislation over the past 10 years—you mentioned two examples—how does the Government ensure that it is being implemented on the ground?

Angela Constance: Two important strands of that work are CELCIS and the looked-after

children strategic implementation group, or LACSIG. It is about going shoulder to shoulder with our partners at a local level because it is those partners who are responsible for the delivery of policy. The Government wants to ensure that we are driving change at a national level and that we get consistency throughout Scotland.

LACSIG has what we call activity hubs, one of which is on educational attainment for looked-after children. It is about leaders in the sector championing and taking forward substantial pieces of work. CELCIS is very much about spreading good practice and, as well as being a voice of authority, providing expert advice to local authorities.

Government has an important scrutiny and inspection role. We need to ensure that legislation and policy are actually implemented. Another opportunity for us to fulfil our role is when we report to Parliament, as we will do in February on the additional support for learning legislation. A wide variety of means is open to the Government. It is not always an easy task to ensure that what we legislate for actually happens on the ground, but we seek continuous improvement in that and other matters.

The Convener: I asked that question because, in relation to implementation, co-ordination, co-operation and a number of other areas, one of the most-used phrases in evidence—it certainly stuck in my mind—was, “It’s patchy.” The word patchy has come through from a number of witnesses. How will the Government ensure that we avoid that patchiness?

10:15

Angela Constance: Our big platforms in that regard will be the early years framework and the getting it right for every child approach. Despite the fact that we are a small country, there are different outcomes for children in different parts of the country. It is not for Government to micromanage local government or health boards, and they all do things differently. Often, there are sensible and pragmatic reasons for that—the needs of the city centre of Glasgow are different from those of the rural Highlands. However, we need to ensure more consistent outcomes for children. As I said, GIRFEC and the early years framework are the platforms for that. That was the main driver for our legislative programme and the children’s services bill.

Liam McArthur (Orkney Islands) (LD): The committee has been struck by the grotesque statistics in relation to children who are looked after at home. Yesterday, the committee saw evidence in Glasgow that challenging behaviours are not associated only with those children who

are looked after at home or elsewhere but, nevertheless, that category has proved to be the most challenging in supporting better attainment.

In evidence, the Association of Directors of Education in Scotland suggested that, when children are in local authority residential care or with foster carers, it is easier for schools to build links. A theme that we keep coming back to is the difficulty of ensuring that the home environment is supportive of what is happening in school.

What can social work and education staff do to help support parents in the education of their children? I acknowledge what you said about not micromanaging local authorities, but what might the Government’s role be?

Angela Constance: That is an important area. It is also a huge area, but I will do my best to answer as concisely as I can.

It goes without saying that some parents of children who are looked after at home will be particularly challenging to work with. It also goes without saying that some parents of children who are looked after at home would welcome support to help them become more involved in their children’s education.

In broad terms, I am interested in the arena of parental involvement and I am pursuing the issue in relation to all parents. CELCIS is going to conduct a baseline study of children who are looked after at home, and LACSIG is also taking a particular interest in that group of children.

The work that we want to do on parental involvement is particularly important for children who are looked after at home. It ties in with a lot of the work that we want to do on the early years and early intervention. We must remember that many parents will have had a negative experience of education. Front-line staff will therefore sometimes have to make considerable efforts to make the school or nursery a welcoming place for parents.

We have to listen to parents. They have a right to be informed. If a parent is involved in the life of the child, whether or not that child is at home with them, we should give them information about their child’s learning and about how they can best support it. That is not always apparent to all parents.

The committee will be aware that the Government is committed to a national parenting strategy. A lot of that work is about supporting all parents, not only parents of failing families. Reaching out to harder-to-reach parents is often best done through either the voluntary sector or non-stigmatising services—universal services that are for all parents and all children.

That is a brief overview—I am happy to expand on any aspect of the issue.

Liam McArthur: It is interesting that your comments reflect a little what we saw in practice yesterday, particularly in the Place2Be initiative, which brings in support from the voluntary sector and has made a conspicuous effort to involve parents as well as children.

Some of the family backgrounds that were described to us in the schools that we visited were utterly chaotic. It was not immediately obvious why a more interventionist approach was not being taken or, in many instances, why children were not taken out of that environment at an earlier stage. I suspect that that probably speaks to the point that you made about speeding up decision making where possible and removing the disruption caused by multiple different placements.

Angela Constance: There are two issues. We have to accept and endorse the fact that schools are very different places from what they used to be. We have to accept that difference is the norm in our schools, whether it involves looked-after children or children with disabilities, and that part of the core task of anybody in the front line of a universal service such as education is to engage with all parents. I am not diminishing the fact that that is not without its challenges.

I take very seriously the issue of speeding up decisions about children. CELCIS will become increasingly important as it is doing a number of strands of work, and we need to have sharper and more focused parental capacity assessments. Removing a child from their birth family must always be a last resort, because what we know about attachment theory indicates that, unless there are overwhelming reasons to do that, we can do more damage by removing a child than not. However, when we need to remove a child, we need to reach the conclusion to do so far more quickly, so parental capacity assessments are important.

One-system approaches should be adopted whereby decision making about children is informed by the needs of children and not the bureaucracy or the system. We know a lot about attachment, brain development and child development; it is about the age and stage of a child, not always their chronological age.

I cannot emphasise enough the importance of the early years. We must make a radical shift into supporting parents earlier, particularly from pre-birth up to when the child is three. There is now more of a focus on that age group, on early years and on early intervention than there has been. That is the key to unlocking many of the difficulties in and around children who have poor life chances and whose educational attainment is lower than we may desire.

Claire Baker (Mid Scotland and Fife) (Lab):

Liam McArthur mentioned the visit that we went on yesterday. It was striking that in both primary schools the percentage of looked-after children is quite small but the number of children who need additional support and who have complicated and disruptive home lives is quite high.

It seemed that the children who are looked after became looked after through a reference to the children's panel, which was often related to school absence, and that once they became looked after, they had an assigned social worker. Are you confident that the children who should be classified as looked after are classified as such? The involvement of a social worker seems to be the important factor that goes along with looked-after status.

Angela Constance: The fact that more children are looked after and that children are coming into care younger is evidence that we are identifying needs better and earlier. I do not know that there is an issue with the length of time that children spend in care and what happens thereafter.

In addition, children come in and out of care—

Claire Baker: I am sorry, minister. Most of the children that I am talking about are looked after at home. They still live with their parents, but they have social worker involvement because of their looked-after status.

Angela Constance: It is still true that children can come in and out of care. That is why under our broader agenda for children, which involves our curriculum for excellence and additional support for learning platforms, local authorities have clear responsibilities for identifying, assessing and supporting additional needs for children.

We are identifying children who are at risk, regardless of whether they live at home, but there is still a job to do when it comes to meeting better the needs of individual children, whether they are looked after or not.

The Convener: I will push you a little on what we all understand is a difficult and sensitive area. I know that you said that it should be a last resort to remove a child from their home. Although, instinctively, we would all agree with that, should it be the last resort? I am sure that you would agree that it is not a risk-free option to leave a child in a chaotic home. The outcomes for that child, not just in educational attainment but more widely, could be severely disrupted and damaged as a result of a decision not being taken to remove them from that environment.

Angela Constance: The reality is that there is no risk-free option. Removing a child from their family and putting them into care has a cost, which

is why I am keen that we get sharper, better and more thorough parental capacity assessments done more quickly and that we have a sharper focus on risk assessment. We are pursuing that work in the context of child protection.

We must be acutely aware that children get only one childhood, so it is imperative that we all act quickly. I am on record as saying in Parliament that the needs of the child are paramount. That must be our guiding principle and our guiding light: our decisions should always be about what is in the best interest of the child. For some children, that will mean their being removed from their families, and in those cases we need to find them a permanent suitable family quickly.

We need robust planning—we need to have robust plans for children. I am aware that in evidence CELSIS said that, although most children have a plan, there are still issues around the quality of those plans, which do not always take a long-term view. We must have long-term views and aspirations for our looked-after children, just as we would for our own children. The plans must be linked to outcomes. Education has to feature strongly and prominently in those plans for children.

10:30

Jean Urquhart (Highlands and Islands) (SNP): Good morning, minister, and thank you for your introductory remarks.

I want to ask about joint working. The committee has heard in evidence that mismatches often seem to arise between the different agencies. What action can we take to ensure that the agencies involved in additional support for learning and GIRFEC are geared up? We have the policies and the will, and we acknowledge the problems, but barriers remain. Do we know what the barriers are, and what action can be taken to get over them?

I agree that awareness of the idea of corporate parenting and of the needs of looked-after children is increasing among local authorities and the Government, but do leadership issues arise? The subject is sensitive, but the outcomes will be dramatic if we get things right.

Things have not been working for a long time. We have taken some action, but no evidence exists to show that the action has worked. People feel that our policies and agreements are right but that they do not work in practice.

Angela Constance: Many of the issues are cultural, and we depend on people working and talking together and sharing information when appropriate. The children's services bill is in our legislative programme, and as part of the

consultation, we are asking people what helps and what hinders joint working and the sharing of best practice. We need to know that and to encapsulate the ideas.

Where GIRFEC has been implemented and pursued with vigour, the results are better. In Highland, each child has only one plan. It is an integrated plan, not one in which several reports by several professionals are just stapled together. Highland has well-integrated multi-agency plans, which build on what has been done to implement GIRFEC. However, the implementation of GIRFEC is not uniform across Scotland. Different areas are at different stages, which is why we want to put GIRFEC on a legislative footing.

Many examples of good leadership exist in various parts of the Government and the public sector. We need to have an ethos of continuous improvement. There is no room for resting on our laurels; we should always be striving to do more.

Jean Urquhart: Is any of the work threatened by changes in local authorities' budgets?

Angela Constance: I will choose my words carefully here: if the current position in public finances has a silver lining, it is that integrated early intervention and preventative work will be pushed forward. We can no longer afford not to do those things.

Joan McAlpine (South Scotland) (SNP): I have a supplementary question on joint working. I was quite shocked when some of the oral evidence to the committee suggested that one barrier to joint working is different computer systems operating in different local authorities and within different departments of the same local authority. It makes it difficult to share information. I am surprised that we have not managed to deal with what seems to be a fairly straightforward and obvious barrier. Can central Government do anything to overcome that?

Angela Constance: As a former front-line worker, I know that anything to do with technology is never straightforward and obvious. I appreciate people's frustrations about that. The Government is working to try to resolve some of those issues.

Communication and joint working depend on people being willing to walk down the corridor and speak to each other in the same way as they depend on people sending e-mails to each other, picking up the phone and going to meetings. Some technological advances and solutions can undoubtedly make a lot of administration and communication easier, but it ultimately boils down to people.

Initial professional training, whether it be for teachers or social workers, is crucial. Any professional who works with children has to accept

that they have to work with other professionals and be able to resolve thorny issues about information sharing. That is one of the reasons why we are looking at putting clear duties on information sharing into the planned children's services bill.

David Blair or Jackie Brock might have something to say about e-care and the technology that we are working on.

David Blair (Scottish Government): Not that long ago, we held an event with directors of education to consider issues related to looked-after children, and at that event someone offered some good practice that they had developed. There are a number of good initiatives around the country. For example, SEEMiS is a computer system that allows care plans and educational plans to be integrated in one place. It is an elegant and user-friendly system that can be accessed from different computers in different parts of the country. It is still going through some development, and a number of local authorities have sought to adopt it.

Rather than seek to impose that sort of thing, we seek to encourage it. We hold events so that people can share good practice and showcase what is going on. There are certainly solutions to the problem that Joan McAlpine has identified.

Jenny Marra (North East Scotland) (Lab): Minister, I want to ask about resources, which we know are hard to come by at the moment. My colleague, Claire Baker, highlighted the fact that a lot of the children that the members saw on their visit yesterday are not actually looked after. There are three levels: looked after in care, looked after at home and, more worryingly, those who are on the threshold of being looked after. That is a real resource issue.

Last week, I told the committee that there are 707 looked-after children in Dundee city. I have checked the figure since, and it is now 708. Dundee City Council is currently reviewing its budgets. It has overspent on children's services, so it is diverting hundreds of thousands of pounds into children's services to manage the 708 children in the system. Yesterday's visit highlighted the fact that so many children are on the threshold of falling into the category of being looked after. Given our hard-pressed budgets and the council tax freeze, how can we properly support children who are on the threshold?

Also, you made a point about early work and crisis care. Those 708 children have to be dealt with at the crisis end rather than at the preventative end of the scale. Where will the money come from to be diverted back into prevention in the early years?

Angela Constance: That is one reason why we have spoken about a shift towards early intervention and prevention. The reality is that there are older children who have very high needs, so we cannot remove the carpet from under their feet, so to speak.

There are two strands to Ms Marra's question. I will address her point about children currently on the threshold, but we need to be radical by thinking about upstream early intervention. I will give the committee two concrete examples, one of which is from Dundee.

If we do not act until children are on the threshold of being taken into care, that is a missed opportunity. We should act much earlier. The family nurse partnership involves intensive home visiting whereby the nurse develops a productive, close and supportive relationship with the mother from pre-birth onwards. That is one of the few programmes that have been proved to prevent maltreatment of children.

I am also aware of a project in Dundee called the new beginnings service, which works with soon-to-be parents and mothers who have mental health problems, substance misuse problems or learning difficulties. Good early intervention work is going on to enable parents to turn their lives around.

I accept what Ms Marra says about the need to support and help children who are on the threshold, but we need to act much earlier rather than wait until children are on the threshold. The project in Dundee is to the credit of Dundee City Council, because despite being under extreme financial pressure it accepts that it has an obligation to assess the needs of children and provide for them, irrespective of its budget. I do not diminish the challenge for the council to put in extra resource, and it is to its credit that it is doing that.

Jenny Marra: I want to follow up on the issue of resource. I am sure that you are more aware than any of us of the pressing need for such resource in areas of deprivation such as Dundee and Glasgow. The Government has mooted the interesting idea of areas that are most affected by flooding coming together to pool flood prevention funding. Would you support the idea of areas of high deprivation pooling early years funding, which is such a priority for those areas?

Angela Constance: The biggest challenge in tackling deprivation and intervening early is to raise the bar across the country. I draw attention to the work in Falkirk that involves implementing GIRFEC and being serious about early intervention while generating savings that can be used for other interventions for children in need. Falkirk was able to evidence £1 million in savings

in that regard. I ask David Blair to say something about strategic commissioning, because that may get more to the nub of your question.

David Blair: The Government has been aware of the resource issue for a while, because the economic crisis has not happened suddenly. The Public Audit Committee looked last year at residential care, and similar challenges were raised about how we get more for less. Part of the response to that came from the national residential child care initiative and the idea of strategic commissioning.

Strategic commissioning is an intelligent form of procurement whereby you look at your medium-term need across all types of care and you reverse-engineer your services in partnership with third sector and local authority services. There is early evidence that suggests that, by doing that, you can achieve what you are trying to achieve and improve outcomes because you are looking at the process from the child's perspective and working backwards to define your services. You can do that with a constrained budget, too.

10:45

Through LACSIG and the commissioning activity work, a lot of work is being done to raise awareness among local authorities of strategic commissioning. We are starting from quite a low point of knowledge and awareness of the process at a local authority level, but it is a valuable tool.

The other thing that is relevant to this area is a report that was produced in 2009—I think—by the former chief executive of the Social Work Inspection Agency. It considered the correlation between local authority spend and outcomes. What is illuminating is that there was a poor correlation between the amount of money that was spent and the outcomes that were achieved. The key factors that drove performance delivery related to local leadership—it was a matter of having the tools, resources and ability locally to make clear decisions based on a rational argument for doing X over Y.

Those are the most pertinent points. Pooling budgets is one option, but all that that does is create a bigger pool of money. It does not necessarily lead to better outcomes by itself.

Claire Baker: I will ask about school support for looked-after children. Earlier, the minister talked about the importance of school attendance. We see an increase in exclusions for looked-after children, and the committee has heard evidence about how that impacts on their educational attainment. To what extent do you think that Scottish Government guidance on attendance and exclusions is being followed?

One of the schools that we visited yesterday has made dramatic improvements in the space of three years. In the initial year, it had a real problem with exclusions, but it has managed to turn that situation around. I am not convinced that it is Government guidance that is making the improvements happen; I think that it is the action that is taken by schools. What is your view on how we tackle the problem?

Angela Constance: The fact is that exclusions are down overall, as well as exclusions of looked-after children. Of course, the figures vary depending on whether you are talking about children who are looked after at home, in foster care or in local authority care, and there remains a gap between looked-after children and non-looked-after children in terms of exclusions.

The direction of travel shows that the guidance is being implemented. You are right to note that good practice at the local level is absolutely responsible for that, but we need to continue to support and encourage that good practice and to share it. That is where LACSIG and CELCIS have an important role to play. The Government's positive behaviour team is also important in that regard. It works with probationers and local authorities in terms of their policy frameworks and the delivery of training and expertise on issues such as solution-focused approaches, nurturing and problem solving. Jackie Brock can say a bit more about that.

Jackie Brock (Scottish Government): The positive behaviour team is based in Education Scotland. The Government has done a good job of providing a guidance framework, as I hope is demonstrated by the one-third drop over the past four years in the exclusion of children who are looked after as well as children who are not looked after. As the minister said, that guidance is backed up, crucially, by the positive behaviour team.

We would like you to consider the issues around curriculum for excellence, which has at its heart the notion of schools and teachers having a responsibility for the health and wellbeing of every pupil. We take that approach not only because it sounds like a good thing to do but because it is backed up by international evidence that shows that a whole-school approach that is characterised by positive relationships between pupils and teachers, respect for pupils and ambition for pupils is effective.

We are lucky to have, in curriculum for excellence, the only set in Europe of principles on responsibility for the health and wellbeing of children. We are trying, at a strategic level, to put those pieces of the jigsaw together around our aspirations for our schools, because that approach works for every child. You are undoubtedly right about what more is needed at school level, and

mention has been made of the positive behaviour team in that regard.

In thinking about how GIRFEC works at early years level, primary school level and secondary school level, we can see that we need a variety of ways of working with young people to ensure that we do so effectively. The GIRFEC guidance might well need a bit of refocusing, if you like—that reflects what the minister has said about wanting to update the suite of guidelines that are already in place, based on the good practice that we have seen to date.

Claire Baker: We have heard some evidence about the use of part-time curriculums. They might be a solution for some young people, but concern has been expressed that they do not benefit from that approach. Do you have any views on their use?

Angela Constance: My overriding view is that we have one curriculum for a reason, which is that we have to provide the same opportunities to all our children. I am glad that the development of curriculum for excellence has resulted in the same curriculum in terms of the outcomes and opportunities that we work towards for all our children, despite the fact that different children have different needs and require different levels of support. In the senior phase of the curriculum for excellence in particular—although not exclusively—the curriculum and learning do not have to be delivered solely in schools. For many children that is both positive and important.

We have clear guidance and expectations. For children in primary schools, the curriculum is 25 hours; for secondary school children, it is 27 hours—Jackie Brock can correct me if I have got that wrong. That has to be what we provide to all children. For children who have been excluded, we have a period of three days in which to get alternative plans in place. At times, there might be reasons to go for the build-up approach to getting children back into school, but we need to work on the basis that we are trying to deliver a full curriculum experience to all our children. We should not have narrow, diminutive aspirations for our children, irrespective of their complexities.

Claire Baker: Another subject that has come through strongly in evidence is the importance of relationships and the presence in school of an individual whom the child can trust. The Place2Be project, which has already been mentioned, was running in one of the schools that we visited yesterday. It is to the credit of the other school, which does not have that service, that it still had lots of innovative practices and involvement with parents and teachers. Deputies took responsibility for looked-after children, although they recognised that having an additional service such as the Place2Be project would be advantageous.

The project is being piloted at the moment. Are you confident that the resources are available to roll out that kind of service, which is really an in-school counselling service? Do you also recognise the need for such a service for all children in school, and not just those who are characterised as looked after?

Angela Constance: You made a point about relationships and resources. In relation to the “Extraordinary Lives” report, it struck me that the one thing that we need to extrapolate and develop further is the need to have an individual, perhaps a teacher, who can show that they care and take an interest in the child. Designating school managers works well, but they might be responsible for many looked-after children, depending on how many are in the school or the year, and on the size of the school.

I am attracted to the idea of there being a specific named person in school for a looked-after child. Some local authorities use that approach well. There is, perhaps, an argument for all children to have a named person in school. I am a former social worker, so forgive me for using the analogy of a key worker, but such a one-to-one relationship is often what is needed to enable services to go the extra mile to support a child.

I am keen to ensure that our most vulnerable children and our looked-after children get what they are entitled to from the universal resource. Despite the climate that we are in, our universal resource, whether in relation to health or education spend on children, is still phenomenal. We continue to spend a huge amount of money on universal services for children and we must ensure that the ways in which we deliver that universal spend mean that our looked-after children in particular get what they are entitled to.

I am absolutely clear that supporting our looked-after children is not a peripheral project; it must be at the core of everything that we do. Some children have additional support needs and require more targeted support, but if we use and deliver our universal services correctly, we will be able to meet those additional needs and provide more specific, targeted services.

The Convener: Three people want to come in on this subject. I will let them in only if the questions and answers are quick.

Liam McArthur: I will take you back to Claire Baker’s question on exclusions, minister. Yesterday, we saw a school that, in the somewhat challenging, chaotic aftermath of a merger of multiple primary schools, had a very high exclusion rate. The number of exclusions had come down dramatically but, in some of the classes where there was a high proportion of looked-after children and a high incidence of

challenging behaviour, children were affected by those who had previously been excluded.

How do we maintain the opportunities for the other children in classes in which exclusions have come down dramatically, if the challenging behaviours that have a knock-on effect on other children in the class and the wider school have not necessarily been removed? Are you confident that the guidance on reducing exclusion, which we all support, will not lead to the behaviour of children who were previously excluded having a knock-on effect on the wellbeing of other children in the school?

Angela Constance: In a nutshell, that is about the whole-school approach to positive behaviour and relationships.

That is probably as quick an answer as I can give. I ask Jackie Brock whether there is anything more specific that it would be appropriate to highlight.

Jackie Brock: We should remember the various drivers that there are in secondary and, to a certain extent, primary school. The leadership of the school will balance the absolute priority to look after each child with the need to think about attainment issues for every child, such as whether standards are being raised and what the impact will be if there are young people who are disruptive.

As Ms Baker said, the clue is in relationships. International evidence backs the assertion that inclusivity is working. Schools will be mindful of ensuring that they have classes that work and that the relationships within them are good. It would be bizarre if a dramatic reduction in exclusions had been achieved in a school at a cost to the wider school community. We would hope that that inclusive approach would benefit every child.

Joan McAlpine: The clear message from the pastoral care teachers at a school that we visited yesterday was that looked-after children were not attaining because they did not attend school. They said that those children would attain if they were there, but that there was not a great deal that they could do if they were not there.

The teacher who looked after, I think, fourth-year children told us that she could identify in their first year the kids who were going to have problems. She had followed them through and worked really hard to get them to come into school, but the tools at her disposal were limited. Often, unless the children were physically at risk, it was difficult for social workers to make them a priority. Even when she managed to get them categorised as looked after, they often did not have a named social worker. She said that the tools at her disposal to get them to attend school were often punitive—she had to go down the

warrant road, which damages the relationship between the school and the child. There seems to be a fundamental attendance problem that we need to address.

11:00

Angela Constance: Absolutely. In many instances, getting looked-after children to school, particularly those who are looked after at home, will be the first very important step. That point is well made.

In terms of our wider agenda, it is crucial that we work better and earlier with parents to ensure that they get the right support at the right time. The parenting agenda is at the heart of the work of the early years task force and the change fund. Much of that is pitched at all parents, but it is also the best way to reach harder-to-reach parents.

The hardest and most important job anybody will have is being a parent and we need to do much more to support parents. That is why we are committed to a national parenting strategy, but while that is being developed I assure the committee that we absolutely will not stop doing things to support parenting and take the parenting agenda forward. We need to work collaboratively and inclusively with parents and, at times, be clear with parents and carers as to what their responsibilities are.

Clare Adamson (Central Scotland) (SNP): We took evidence earlier from directors of education and social work about the additional support for learning legislation. They suggested that, despite being fairly new legislation, it was not fitting in with the GIRFEC approach in the way they expected, that overenthusiastic parents were using it and that it was not delivering for a lot of areas

You mentioned health issues not being diagnosed for looked-after children. If the ASL legislation is settling down in that way and a child who is on the threshold of being looked after is not getting advocacy from their parent or carers, what steps are you taking to monitor the implementation of the legislation and to ensure that the needs of looked-after children are being met?

Angela Constance: I am always a bit disappointed when I hear parents being labelled. Sometimes when parents are striving for the rights of their child, they are unnecessarily labelled as difficult because they are an inconvenience to services. In any group of people there are always difficult folk, but I am not sure that that should be the premise of our approach to parents.

Notwithstanding that, I am very aware that for a parent of a child with additional needs, it takes considerable energy to exercise their rights to refer the case to a tribunal if they feel that the local

authority is not fulfilling its duties to them as a parent or to their child. That is in addition to the energy that they already spend on caring for a child with additional needs. In that sense, I entirely accept that we need to build on the synergy of GIRFEC and the additional support for learning legislation, which was strengthened comparatively recently. We will report to Parliament in February on the things that we have an obligation to report on under the ASL legislation; looked-after children will be a feature of that report, which will help us better to meet the additional support needs of looked-after children.

The Convener: Thank you. We have three areas on which we would like to get your views on the record, minister, if possible. I am aware of the time, but if members are speedy and responses brief we should get through them.

Liz Smith (Mid Scotland and Fife) (Con): Minister, it has been put to us that there is patchy good practice when it comes to the awareness of the professionals who are involved in care of what other people are doing. What discussions have you had with bodies such as CELCIS and the General Teaching Council for Scotland to try to improve that?

Angela Constance: We have on-going discussions with those bodies. We certainly have a close working relationship with CELCIS, and the Government funds the corporate parenting national training programme. I have not been involved in any discussions with the GTCS, but it is an important partner in taking forward Donaldson's work. Donaldson reflected a lot on the need to improve initial teacher training to equip teachers better to deal with other professionals and the many and varied needs of children who are catered and cared for.

Does Jackie Brock want to add anything specific to that?

Jackie Brock: The General Teaching Council for Scotland is on the curriculum for excellence management board and it actively takes part in work on advice and guidance in relation to all responsibilities in the system, including health and wellbeing and the delivery of the ASL legislation.

Liz Smith: The Donaldson review suggests quite major changes to the teacher training structure. What reaction has the Government received to that so far? Donaldson recommended that the structure must be much more integrated and cross-curricular. Have you had time to reflect on that?

Jackie Brock: Yes. A national partnership group is taking forward Donaldson's recommendations, and the GTCS and the teacher unions are represented on it.

Liz Smith: Is there a specific focus on people who need special attention in schools?

Jackie Brock: Absolutely. That is a core part of the curriculum, and delivering it is part of the recommendations.

Liz Smith: What is the timescale for that group to report back?

Jackie Brock: It has just met. I can get back to the committee with the specific milestones.

Liz Smith: I would be interested to know about them. Thank you.

Angela Constance: I am happy to provide that information.

On a different but related matter, I met Dyslexia Scotland with the deans of initial teacher education institutes. There is a great appetite for Donaldson and doing things differently in initial teacher education.

The Convener: On a similar point, I am sure that other committee members have also received correspondence on the effectiveness of the training regime and the ability of teachers to identify problems. An issue that has come to my attention recently is teachers' ability to identify children whose education has been impacted on by domestic abuse at home. I am sure that other members have had correspondence on that issue. I hope that the group that was mentioned is looking at a wide range of issues, including that one. Is that the case?

Angela Constance: Absolutely. It is fair to say that a teacher will not be taught everything about every potential need of a child in initial teacher training. It is called initial teacher training for a very good reason. Continuous professional development is therefore important. CELCIS and LACSIG will have important roles in that respect, as they have a remit to work with all professionals who come into contact with looked-after children.

Marco Biagi (Edinburgh Central) (SNP): An issue that has been raised with us is the possibility that there is too narrow a focus on attainment and that, for many looked-after children, we should look at their broader achievements in overcoming all kinds of barriers. Which approach is better to focus on at this stage? What is the Scottish Government's desire for the levels of attainment of looked-after children in the narrow sense?

Angela Constance: We must have absolutely the same ambitions for our looked-after children as we have for all our children. We should not narrow down or limit our ambitions; rather, we should focus clearly on bringing the attainment levels of looked-after children up to levels that are on a par with those of non-looked-after children.

We must not be short of ambition or vision for our looked-after children.

As for whether we measure attainment too narrowly, I point out that we only take a snapshot at S4 when a lot of the children in question are leaving care. There are all sorts of difficulties with that and, as a measurement, it is quite limited. There are arguments for measuring achievement more widely, but I think that that is true for all children.

Marco Biagi: Could the Government consider measuring attainment in a wider sense or differently? The inquiry has been predicated on the statistics for the educational attainment of looked-after children but yesterday it was pointed out to the group of members who visited primary schools that young people could be in care right through primary school and then come out of care, which would mean that they would not count as looked-after children in the statistics, while things could happen the other way round in secondary schools. If the underlying statistics are not reliable, how can we make our inquiries, how can the Government take adequate action and how can the local authorities respond adequately? Could that situation be reviewed?

Angela Constance: We could look at that.

Jackie Brock: We are finding that local authorities, for example, are using increasingly sophisticated measures of attainment at S4 level and tracking reading, writing and other skills. We would like those measures to be broadened out, but at least the basics are there. There is also tracking between school catchment areas, while other local authorities focus on their bottom 20 per cent. All of that is proving to be positive in redirecting effort at school level towards improving performance for every child. The debate is certainly live and I am sure that the minister will want to come back to you on the matter.

Marco Biagi: Can you specify any local authorities we might contact for further information on such practices?

Jackie Brock: Fife would be one.

The Convener: That is very helpful. Liam McArthur has a very brief supplementary.

Liam McArthur: I think that Jackie Brock picked up the point in her response. It has been raised with us that figures for attainment more generally do not necessarily give a real feel for what is happening in each education area or each school, but you seem to be saying that you are aware of that and that there might be a case for finding a different way of capturing the data. Is that right?

Jackie Brock: Yes.

Clare Adamson: Some of the legislation that will be introduced, including the children's services bill and the children's rights bill, has been mentioned. Can the minister give us a little flavour of how those will inform the Government's strategy for moving forward with this area of work? Should looked-after children's issues be kept separate from or incorporated into the work on the children's services bill?

Angela Constance: I am very keen for looked-after children to form part of our everyday business and not to be seen as a small group on the periphery. In our schools and indeed in any children's service, we have to accept and work with the fact that difference is the norm. As far as our work on GIRFEC, curriculum for excellence, additional support for learning and so on is concerned, this is all about individualised support to individual children.

With regard to our overall strategy, I am very keen that with the children's rights bill we as a Government start by setting a standard and placing on ourselves the expectation that we will lead by example in having regard to the United Nations Convention on the Rights of the Child. That will be done in advance of the children's services bill to ensure that we can say that we have tried to put our own house in order before we seek improvements from our local government and health partners.

At this stage, there is no definitive list of what is in or out of the children's services bill. In very broad terms, we want to update the Children (Scotland) Act 1995, which is now 16 years old, and put GIRFEC and the early years framework on a statutory footing. For by that, our ears are open and we will listen to what those on the ground have to say about what works and what does not work.

The Convener: I thank the minister, Jackie Brock and David Blair for their attendance and their instructive and helpful evidence.

I suspend briefly before we move on to the next item.

11:14

Meeting suspended.

11:18

On resuming—

Protection of Vulnerable Groups

The Convener: Agenda item 3 is an update from the minister on the information technology system that underpins the protection of vulnerable groups scheme. The minister wrote to the committee on 27 June about the progress that had been made on implementation and about some of the issues. A copy of the letter is included in the committee papers.

I again welcome the Minister for Children and Young People and thank her for staying with us. I also welcome Lorimer Mackenzie, who is the head of corporate affairs and policy at Disclosure Scotland, and Brian Gorman, who is the head of Disclosure Scotland. I thank you all for coming to the meeting and ask the minister to provide us with an update.

Angela Constance: Thank you, convener.

As colleagues are aware, I wrote to the committee on 27 June to set out the position on implementation of the protection of vulnerable groups scheme, which is operated by Disclosure Scotland.

As I said in my letter, ministers' overriding priorities are to ensure that children and vulnerable adults remain protected through our disclosure arrangements, and that people who want to work with those groups are not unduly delayed by the disclosure processes. Progress on the IT system has been made since June through the BT recovery plan, but significant work remains to be done; it will continue well into 2012. BT is reimbursing the additional costs that Disclosure Scotland has incurred as a result of the problems with the system.

Throughout the period, Disclosure Scotland has continued to deliver a service to the public. As of 15 November 2011, it was processing correctly completed Police Act 1997 disclosure applications with no further inquiries within seven days, and PVG scheme applications with no further inquiries within 13 days. That compares favourably with the target of 14 days.

The Convener: Thank you, minister. I ask members to indicate whether they want to ask questions.

I will begin by going over a little bit of the background. We obviously have your letter to the committee dated 27 June. You say that the PVG scheme commenced on 28 February and that there were five rounds of testing ahead of the go-live date, but as far as I understand it, the issues that came to light after 28 February can be

categorised into four areas: availability and stability, functionality, performance and data integrity. Forgive my ignorance on IT issues, but it seems to me that that is pretty much everything. Can we get some detail on how a scheme that went live in February had an IT system that was not fit for purpose?

Angela Constance: Absolutely. You will understand that, from my perspective, we are processing PVG applications; we are doing that work on time and we are continuing to provide a valuable public service.

There are lessons to be learned and I have been taking, and will continue to take, an extremely close interest in the matter. Throughout the summer, I received weekly updates on our progress. I currently receive updates twice a week and I have spoken with Neil Rogers, the president of global services in BT, on two occasions.

Lorimer Mackenzie will talk about the technical background to the issues.

The Convener: I am aware that Disclosure Scotland is carrying on the work that it has to do.

Angela Constance: Yes.

The Convener: The problem is that a system that was due to come in in February was in such a state of—I will say disrepair, but that is perhaps being too polite.

Lorimer Mackenzie (Disclosure Scotland): I am not able to go into the technical detail of the project, but we are willing to come back to the committee on questions of technical detail.

Our colleagues are today starting a lessons-learned process, which involves the major players and stakeholders who have been involved in the project and programme over the past couple of years. We are trying to identify what went wrong so that we can learn lessons—not only for ourselves, but for future programmes.

Since the asset was transferred to Disclosure Scotland at the end of February and responsibility for the project as a whole was transferred in June or July this year, we have focused on working hard to ensure that we have been able to deliver the service to the public and, in particular, on safeguarding public protection. We are starting to learn lessons about how we got into this position.

The Convener: I do not doubt that for a moment, but my concern is about not only the failures that I listed at the point in February when the system was supposed to be ready to go live, but about the BT recovery plan. The minister said that the recovery plan would continue until 2012. I am not sure when in 2012 that is. Perhaps you can clarify whether it will be early or late 2012.

My understanding was that the BT recovery plan would be completed by the autumn, with complete PGV functionality achieved by August 2011.

Angela Constance: Yes.

The Convener: Can you explain what has happened to the recovery plan and why—as you said in your opening remarks—it will be completed sometime in 2012, despite promises of complete functionality by August?

Angela Constance: Yes. Work needs to be done to improve day-to-day functionality, and the infrastructure of the project needs to be co-ordinated in a particular way. If there is further information on the technicalities that I can get to the committee, I will be happy to oblige. If the committee would like to be briefed by a full range of officials, we could certainly arrange that.

On the timescale, we expect significant progress to have been made by the end of January, but completion of release 1 will not be achieved until summer 2012.

The Convener: Forgive me. I do not want to be difficult, but the PVG programme's independent technical adviser, the NCC Group, reported that it had a high degree of confidence in BT's ability to successfully complete the recovery plan. The recovery plan was due to provide full functionality by August 2011 and we are now talking about a completion date of summer 2012—a delay of 12 months. What advice have you now received from the NCC Group on the recovery plan?

Angela Constance: I accept that the timescale is less than satisfactory. That is probably an understatement. However, we continue to have confidence that we will get things sorted and that the matter will be resolved. In the meantime, we assure the committee that we are getting on with the day-to-day work of an important public service.

The Convener: I am sure that we will come on to discuss the impact on Disclosure Scotland and the users of its services, but I am interested in the inability of BT's IT people to deliver a system on time. I am sure that we will have questions about whether it will be delivered on budget too, but there has clearly been a failure on timeliness; even the recovery plan has failed to meet its timescale.

My question is not directed at the Government; it is about how we can manage projects to ensure that those who supply the technical information and the software and hardware are held to account. What are your views on that?

Angela Constance: That is the thrust of our ongoing dialogue with BT, as part of which we are having some challenging discussions. BT is under no illusions about my and this Government's dissatisfaction with the state of affairs, and it

continues to work intensively with us to resolve the issue.

Lorimer Mackenzie: You asked about the NCC report. We have not gone back to NCC for further views, but its recommendations included ways in which Disclosure Scotland should enhance its skill sets to ensure that we could keep on top of BT on the technical side. We are using Scottish Government contracts to get support from experts in particular fields and IT specialisms. A member of the Scottish Government's IT side is working closely with us and with the project team to ensure that we can deal with BT's approach with great rigour.

Part of the reason for the delay in the project is that the greater rigour on our side as the customer has resulted in a need being identified for greater rigour on the part of BT in how it tests and prepares releases of the system. There has been a delay partly because our experts have identified that BT's approach was not as robust as it should have been. As the minister said, that is part of how we negotiate and work with BT day to day, and it is part of how we negotiate the agreed outcomes and what we expect it to deliver for us in contractual terms.

Angela Constance: We are dealing with BT at a very senior level.

The Convener: I certainly hope so.

11:30

Liz Smith: I share the convener's concerns. The minister was right to put it on the record that the Government is also deeply concerned about the long time involved.

People accept that computer systems can be faulty from time to time, but the fourth category—data integrity—is a major issue in relation to protecting vulnerable people. What assurances have parents and employers been given about the problem and how it is being resolved?

Angela Constance: We are not hiding the problem under a bushel. The issues were highlighted on Disclosure Scotland's website and Disclosure Scotland has worked closely with stakeholders—the Convention of Scottish Local Authorities, the police and the Scottish Social Services Council.

I stress that there is no reason for parents to be concerned. More than a job of work must be done on the technical systems, but the interim procedures that we have put in place provide enhanced protection. We are processing PVG applications and providing further safeguards to parents and vulnerable groups. In relation to the service that is received and the protection that is given, Disclosure Scotland is doing the work.

Intense work is going on to resolve the continuing IT issues. Extra efforts are being made to meet the day-to-day work. The term that is used is “workarounds”. Lorimer Mackenzie can speak about that.

Liz Smith: You said that you had weekly updates. Do COSLA and people in schools receive them? Is information about why the problem happened and when you expect it to be solved being handed out to parents, schools and employers, or do they have to look at Disclosure Scotland’s website?

Angela Constance: We do not need to hand out information to parents and schools; that would cause unnecessary alarm. I would be one of the first people to advocate ensuring that parents get necessary information, but Disclosure Scotland is doing the job that it must do, albeit with extra effort.

We will continue to press and work hard with BT to resolve the technical issues. Those technical issues with the new system do not mean that we are not providing additional safeguards to our children or vulnerable groups.

Liz Smith: I do not suggest that. If looking after and protecting particularly vulnerable children is paramount—as you said in your opening statement—and is the prime aim, as it must be, are you confident that parents are aware of the timescale and are getting good information about what is being done to address the problem? When can parents have confidence that the problem will be solved?

Angela Constance: The Government has been open about the problem. I came into my post at the end of May and wrote to the committee about the issue in June. The committee meets in public and involves MSPs who pursue the Government as appropriate and as is their absolute right. We are hiding nothing.

Brian Gorman can provide an assurance about the robustness of information.

Brian Gorman (Disclosure Scotland): I reassure the committee that the data’s integrity is paramount. The PVG system as supplied did not give us confidence, so we had to introduce a separate system to recheck the data from the live databases with which the system was to interface. We did not just accept the results from the PVG system—we went offline to the police national computer, the Scottish criminal history system and the national police cross-reference system to ensure that the results that we got through the PVG system matched the results that we got directly from the live systems. That is a workaround, as we call it, and BT is providing the extra finance to cover it.

The data that we are sending out are 100 per cent accurate, as far as we can tell from the systems that we have. There is a straightforward transfer of data from those systems.

The system has been performing more slowly than we expected. We have given additional resources to that—again, funded by BT—to ensure that our turnaround times remain within those that are specified in the service level agreement. At the very start, we fell behind those times by a few days but, as the minister has reported, for some weeks now we have been working within the service level agreement, in relation to PVG.

From day 1, on 20 February, we have processed in the normal way PVG applications from all the bodies that are registered with us—those that can countersign an application on behalf of the people who work in the adult and child client groups. We could not produce a final PVG certificate, but we produced a certificate that contained all the information that was required. We also ensured that all applicants were checked through our new protection unit.

One of the main functions of PVG is to decide whether people are unsuitable to work with children and vulnerable adults and should be barred from doing so. That function started on 28 February and has continued unabated since then. There has been no challenge to the process resulting from the IT issues. Disclosure Scotland has put in place considerable workarounds and has done a lot of hard work to ensure that the downside of the IT failures has not affected our accuracy or performance, or our interaction with our customers and registered bodies.

Liz Smith: I totally accept that, and it is good to hear that there have not been any specific challenges to that. The issue is more that, as the convener suggested, there has been a considerable delay in the process. The Government has been quite good in engaging with the committee on this matter—it did not only write a letter; it offered us briefing sessions as well. However, the issue is more about engaging with parents and people who want to protect children from unsuitable people. They need to be told about the scale of the change that is having to take place and the reasons why we are in such difficulties. I am not quite sure that that is happening at the moment.

Brian Gorman: One of the jobs of the compliance team at Disclosure Scotland is to go out and explain the situation to the registered bodies. We get daily requests to visit those organisations, and we organise seminars and meetings to explain where we are with PVG. I am now proposing that we hold seminars throughout Scotland to bring everyone up to date with exactly

where we are and what we are doing, to explain how the legislation operates and to assure people that there is no risk attached to the IT deficiency, because we have put in place the necessary measures to prevent that risk from moving beyond the IT system.

The Convener: I am also reassured by your comments about risk in relation to those adults who should not be working with children. I absolutely accept your assurances on that point.

We have talked about some of the costs that BT will meet as a result of its failure, but I want to be absolutely clear on this point. Will BT meet all additional costs?

Angela Constance: Yes.

The Convener: There is no argument about that.

Angela Constance: Just to reassure you further, the Government has not paid a penny since these difficulties have emerged for the PVG-related work. I hope that it will be of some reassurance to the committee and to parents to know that 118,000 PVG applications have been processed since we moved on from the interim procedures.

The Convener: I am taking from what you have said that BT has accepted financial responsibility for the situation that it has caused.

Angela Constance: BT has accepted that Disclosure Scotland will need to be reimbursed for additional costs incurred.

The Convener: The Government has not paid for the system.

Angela Constance: No.

The Convener: And will not pay for it—

Angela Constance: We have not paid any money for the scheme since these problems have emerged.

The Convener: There were some up-front costs, but you have stopped payments until the situation is resolved.

Angela Constance: Yes.

The Convener: That is clear.

You mentioned 118,000 applications.

Angela Constance: Yes.

The Convener: Is there a backlog? If so, what size is it and how is it being dealt with?

Angela Constance: Currently, PVG turnaround time is 13 days. Our target is 14 days, which suggests to me that there is not a backlog, but I will let the experts answer.

Brian Gorman: There is no backlog. There is work in progress, which amounts to about 3,000 applications going through the system at any one time, but we do not consider that to be a backlog. A number of applications take longer than the 14 days—13 days is an average. As with the old system under the Police Act 1997, we have to go to police forces throughout the UK and other organisations to gain information. Although we have service level agreements with them, they are not enforceable and sometimes it takes longer than the 14 days to get information back. Some applications take longer than 14 days, but that represents work in progress as opposed to a backlog.

The Convener: I am not sure whether I agree with that definition of what is not a backlog. I accept that the average is 13 days. Can you give me the spread? How quickly are the quickest done and how slowly are the slowest done?

Brian Gorman: Some can be done in two or three days; others can take four or five weeks.

The Convener: Five weeks would be the longest.

Brian Gorman: Depending on some of the issues that arise, it could take longer. I noted one that took about 120 days.

The Convener: Okay. That is helpful.

Minister, you said earlier—I hope that I am quoting you correctly—that there was no reason for parents to be concerned. I accept what you said. Could you make the same claim about organisations, in terms of their engagement with Disclosure Scotland and the process that they have to go through?

Angela Constance: Disclosure Scotland is doing the work that it needs to do and we should all be reassured by that, irrespective of the fact that we are all dissatisfied by the current situation.

It is worth noting that the rate for complaints about Disclosure Scotland is currently four per 10,000, which is great credit to the staff there. Despite the additional difficulties that they have had, they are delivering on PVG. Applications are being received and dealt with, complaints are low, and it is delivering to our timescales. Disclosure Scotland has been engaging with stakeholders. If we need to do further work to reassure the committee or stakeholders, we will of course undertake to do it.

The Convener: I am grateful. I would be grateful—as I am sure the committee would—if we could get regular updates on progress on the project, which would be helpful.

Angela Constance: We would be delighted to do that.

The Convener: I want to ask Disclosure Scotland about complaint levels. Are the complaints directly attributable to the IT problems, or do they relate to different problems? You might be aware that I am representing an organisation that has some difficulty with Disclosure Scotland and has complaints about your level of service. The complaints relate to handwritten letters, wrongly addressed correspondence and blank e-mails being sent to the organisation that were supposed to contain information. We are also talking about sensitive information being sent to a variety of addresses and the response being, "Well, you share your premises with more than one organisation," although that is pretty routine. Is that anything to do with the IT situation, or is that due to something else?

11:45

Brian Gorman: The incident to which you refer was partially down to the IT situation. The organisations have the same street address, share the same building and are within the same faith group. We hope that we have now addressed that. I note your recent communication of Monday, which we are looking into. We will get back to you very soon with a response. I will have a wee look at that, because I thought that we had addressed it and had it down as a fix.

The Convener: I do not want to get into a personal discussion about a case that I am involved with, but it indicates that you have IT problems. Blank e-mails and wrongly addressed correspondence that is sent to other organisations seem to reflect a fundamental problem. We are dealing with serious and sensitive information being wrongly addressed. I am trying to understand not the specifics of that case but the wider implications of that example for your IT system. If that is the experience of one organisation, who else is experiencing the same?

Brian Gorman: As far as I am aware, it is the only organisation that is experiencing that because of the unique set-up there.

The Convener: I fail to understand why the set-up is unique. There are multiple organisations that are all in the same faith group within the same building. That must be common. I used to work in an organisation that shared a building with other voluntary and third sector groups. How can an envelope containing sensitive information be delivered to a different organisation with a different title, albeit that they are in the same building? How is that possible?

Brian Gorman: I would need to recheck our information before I could give you an answer to that question. As far as we can see, the first time, the address to which we had sent the letter

seemed to be correct; whether there was a postal error, whereby the Post Office put the letter through the wrong letter box—

The Convener: I am sorry to interrupt—I do not want to get into a personal spat about that one example. The letter was correctly addressed in terms of the street and the postcode, but the name of the organisation was incorrect—a different organisation's name was on the envelope. That organisation opened the envelope, which contained sensitive information, and that happened not only on one occasion but on several occasions.

Brian Gorman: I shall go back and check that.

Angela Constance: Although it is not for me to cut across the operational matters of Disclosure Scotland for reasons that you will understand, I ask to be cited on your correspondence to Disclosure Scotland. I take very seriously the constituency interest that MSPs have a duty to represent, and I am always interested in hearing about members' individual experiences of things that are happening on the ground.

The Convener: I am more than happy to copy you into it. I am not trying to resolve that constituency problem in the committee; I am concerned that it is an example of an IT system—customer service is another issue, but we will not discuss that here—producing material that is incorrectly addressed. I am not concerned only about that one case; I am concerned that it is an example of a deeper underlying problem with the IT system.

Liz Smith: I share that concern. I cannot comment on the specific example, but if there are cases in which sensitive information has gone to the wrong place because of a fault in the system, that should concern us. Given that we are now talking about the problem being fixed next summer rather than this autumn, we have a responsibility to ensure that it is sorted out.

Angela Constance: From my perspective, one complaint is one complaint too many. Notwithstanding the fact that, at four per 10,000, the complaint rate is low, we should always look very carefully at individual cases to ensure that there is not a wider, systemic issue.

The Convener: Members have no further questions on the matter. I would appreciate further updates, as I am sure the committee would. I also have one final question. Who is ultimately responsible for the whole situation with the IT system?

Angela Constance: BT. There will be a lessons-learned exercise, which will be shared with the committee. From where I am sitting just now, I think that the responsibility is with BT.

However, if there is anything that the Scottish Government can learn, we will take that seriously.

The Convener: I am sure that the committee is reassured by that answer. I share your finger pointing—if I can characterise it in that way—at BT, which has clearly failed to live up to expectations. That is very disappointing. I am sure that it is disappointing not only for Disclosure Scotland but for all the other organisations and individuals who depend on the work of Disclosure Scotland. I look forward to further updates and I thank the witnesses for coming along to discuss the issue.

11:51

Meeting suspended.

11:52

On resuming—

Subordinate Legislation

Ancient Monuments and Archaeological Areas (Compensation) (Scotland) Regulations 2011 (SSI 2011/373)

Planning (Listed Buildings) (Prescribed Form of Notices) (Scotland) Regulations 2011 (SSI 2011/374)

Ancient Monuments and Archaeological Areas (Applications for Scheduled Monument Consent) (Scotland) Regulations 2011 (SSI 2011/375)

Town and Country Planning (Listed Buildings and Buildings in Conservation Areas) (Scotland) Amendment Regulations 2011 (SSI 2011/376)

Historic Environment (Amendment) (Scotland) Act 2011 (Saving, Transitional and Consequential Provisions) Order (SSI 2011/377)

The Convener: Item 4 is subordinate legislation. The committee is asked to consider five Scottish statutory instruments under the negative procedure. No motions to annul have been lodged in respect of any of the instruments. The Subordinate Legislation Committee has drawn the Parliament's attention to SSI 2011/376 on minor technical grounds but has accepted that those are not sufficient to affect the validity or operation of the instrument. The Subordinate Legislation Committee determined that it did not wish to draw Parliament's attention to any of the other instruments. Does the committee agree that it wishes to make no recommendation on the instruments?

Members *indicated agreement.*

Historic Environment (Amendment) (Scotland) Act 2011 (Commencement No 2) Order (SSI 2011/372)

The Convener: Item 5 is consideration of SSI 2011/372, which is not subject to any parliamentary procedure. Does the committee agree that it wishes to make no recommendation on the order?

Members *indicated agreement.*

11:54

Meeting continued in private until 12:48.

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