



OFFICIAL REPORT
AITHISG OIFIGEIL

Public Audit and Post-legislative Scrutiny Committee

Thursday 10 September 2020

Session 5



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PUBLIC AUDIT AND POST-LEGISLATIVE SCRUTINY COMMITTEE
18th Meeting 2020, Session 5

CONVENER

Jenny Marra (North East Scotland) (Lab)
*Anas Sarwar (Glasgow) (Lab) (Acting Convener)

DEPUTY CONVENER

*Graham Simpson (Central Scotland) (Con)

COMMITTEE MEMBERS

*Colin Beattie (Midlothian North and Musselburgh) (SNP)
*Neil Bibby (West Scotland) (Lab)
*Bill Bowman (North East Scotland) (Con)
*Willie Coffey (Kilmarnock and Irvine Valley) (SNP)
*Alex Neil (Airdrie and Shotts) (SNP)

*attended

THE FOLLOWING ALSO PARTICIPATED:

Alison Cumming (Scottish Government)
Eddie Follan (Convention of Scottish Local Authorities)
Paul Johnston (Scottish Government)
Matthew Sweeney (Convention of Scottish Local Authorities)
Sarah Watters (Convention of Scottish Local Authorities)
Beatrice Wishart (Shetland Islands) (LD)

CLERK TO THE COMMITTEE

Lucy Scharbert

LOCATION

The Mary Fairfax Somerville Room (CR2)

Scottish Parliament

Public Audit and Post-legislative Scrutiny Committee

Thursday 10 September 2020

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

Decision on Taking Business in Private

The Acting Convener (Anas Sarwar): Good morning and welcome to the 18th meeting in 2020 of the Public Audit and Post-Legislative Scrutiny Committee. I remind members, witnesses and staff that social distancing measures are in place in committee rooms and across the Holyrood campus. All should take care to observe those measures during our business, including when exiting and entering the committee room. I also remind members not to touch the microphones or consoles.

Agenda item 1 is to make a decision on taking business in private. Do any members object to taking items 3 and 4 in private? If Neil Bibby or Willie Coffey, who are joining us remotely, object, they should raise their hands.

I see no disagreement, so the committee agrees to take items 3 and 4 in private.

Section 23 Report

“Early learning and childcare: follow up”

09:31

The Acting Convener: Agenda item 2 is a section 23 report, “Early learning and childcare: follow up”. I welcome Beatrice Wishart MSP, who is joining us remotely.

I welcome our witnesses. From the Scottish Government are Paul Johnston, who is director general of education, communities and justice, and Alison Cumming, who is interim director for early learning and childcare. From the Convention of Scottish Local Authorities we have Eddie Follan, who is the chief officer for children and young people; Sarah Watters, who is the chief officer for local government finance; and, appearing remotely, Matthew Sweeney, who is the policy manager for children and young people.

Paul Johnston and Eddie Follan wish to make brief opening statements.

Paul Johnston (Scottish Government): Good morning, and thank you for the opportunity to provide evidence today on Audit Scotland’s follow-up report on early learning and childcare.

Much has changed since the report was published in March 2020. However, we accept its conclusions and recommendations and we have work in hand to take those recommendations forward.

We are pleased that Audit Scotland recognised that steady progress was being made to deliver the expansion of funded early learning and childcare by August 2020. It recognised the great deal of planning activity that was under way at national and local levels, and it commented on positive partnership working, good governance and the progress that was being made on evaluation.

The ELC programme represents a massive financial investment. We are seeking to deliver high-quality flexible childcare to all eligible children. We have three long-term objectives: first, to support children’s development and close the attainment gap; secondly, to increase opportunities for parents to take up study, training and work; and thirdly, to improve family wellbeing through enhanced nurture and support. The committee will agree that the impact of Covid-19 makes those objectives more important than ever.

It was a difficult decision to remove the legal duty to deliver the 1,140 hours by August 2020. It was, however, necessary in the exceptional circumstances that have been caused by Covid-19. National and local government required to

focus on responding to the pandemic and on providing critical childcare to vulnerable children and the children of key workers. Capital projects and recruitment were required to be paused.

We are now working closely with partners in local government to re-establish a date for completion of the expansion as quickly as possible. We know that 11 councils are already delivering 1,140 hours for all families, with another three being on track to deliver the full entitlement by the end of October. All councils are providing more than the minimum 600 hours to some or all eligible families.

I acknowledge the excellent partnership work between the Scottish Government and local government that has been led by colleagues on the panel today. Alison Cumming, as the director of early learning and childcare, leads a team in the Scottish Government that is fully focused on delivery of the expanded offer. We will be pleased to answer any questions that are put to the Scottish Government.

Eddie Follan (Convention of Scottish Local Authorities): Good morning. First, I thank the committee for the opportunity to appear before you this morning and to respond to members' questions on the progress towards delivering the expansion of ELC to 1,140 hours. We believe that delivering 1,140 hours is an excellent example of Scotland's two spheres of government working in partnership to improve outcomes for children and their families. As was set out in Audit Scotland's report, we were making steady progress towards delivery of the expanded hours. That reflected the hard work of councils and their local partners to increase the quantity, quality and flexibility of funded childcare.

Members will be aware of the impact that the pandemic and lockdown have had on expansion programmes, and of the fact that the crisis has required councils to refocus their efforts on critical childcare support for key workers and vulnerable children.

As a result of the crisis, in March we agreed jointly, with the Scottish Government, to remove the statutory duty on councils to deliver 1,140 hours. With the return to nurseries over the summer, councils have been revisiting and revising their plans, and we are working with the Scottish Government to consider a new date for the statutory 1,140-hour duty.

My colleagues and I are happy to answer any questions that the committee might have.

The Acting Convener: Thank you, Mr Follan. I will open the questions on behalf of the committee, and I will then hand over to Graham Simpson.

This question is specifically for Paul Johnston and Eddie Follan. Could you give us an assessment of where you think the report card was pre-Covid? Some of the challenges and gaps were pre-Covid issues: how many of them are Covid-related issues now? It is safe to say that there were challenges before Covid, and I want to get an understanding of whether there is acceptance from Government and councils about what the pre-Covid challenges were, and of what the Covid challenges are.

Paul Johnston: I think that the pre-Covid challenges were very fairly reflected in the audit report. Overall, there was confidence that we were, were it not for Covid, on track to deliver the expanded entitlement by August 2020. We still had work to do on two key aspects, at the point of the report; namely, workforce and capital projects. Both are covered in the report, and I am sure that the committee will want to go into detail on them. However, good progress was being made on both those aspects.

I come on to the post-Covid report card. There has now been a significant period in which it has not been possible to undertake capital projects. There have been delays in those projects, and there has been a pause in recruitment. We have been gathering data with our partners in all 32 local authorities in order to come up with a focused understanding of where we are on the two key aspects: where are authorities in terms of their estate and in terms of their workforce?

The fact that 11 authorities are already delivering fully gives us a lot of encouragement that we are not far from being able to set a new date for full roll-out of the entitlement. I am not suggesting that no challenges remain—they absolutely do—and Covid has made some of them more challenging. However, I think that through the concerted effort that is being undertaken between the Scottish Government and local government, the full entitlement will be delivered as quickly as possible.

The Acting Convener: I will come to Eddie Follan again in a moment. Just to be clear, are you saying that if Covid had not happened, we would have resolved the infrastructure and workforce issues by the target date and all 32 local authorities would have delivered the target?

Paul Johnston: Our assessment is that, yes—we were on track to resolve the issues and would have delivered the full entitlement.

The Acting Convener: I am not sure that that is quite what comes out from the Audit Scotland report, but you clearly think that that would have happened.

Paul Johnston: We can point to the various ways in which the matters that are set out in the

Audit Scotland report had progressed and were progressing, even by the time of its publication.

Just to give one example—

The Acting Convener: Please do.

Paul Johnston: The audit report talks about the need for contingency planning in relation to some capital projects. By the time of the report's publication, those contingency plans were in place—I think for all the capital projects. Alison Cumming could perhaps say more about that in a moment. A huge amount of progress had been made.

Whether the full flexibility that we might aspire to would have been available in August is probably a matter for debate. Would the entitlement have been offered to all families? We are confident that it would have been.

The Acting Convener: Okay. And the workforce challenges?

Paul Johnston: Again, we were seeing real progress being made in recruitment and training. We were also seeing, as the audit report highlights, increased use of private providers that were able to provide the capacity that was needed.

The Acting Convener: Okay. Perhaps Eddie Follan can go back to the first question on the report card and also respond to some of the follow-ups.

Eddie Follan: What Paul Johnston has said is fair. The Audit Scotland report set out the challenges that we had. I do not have much to add to that. I might bring in Matthew Sweeney on workforce issues, because I know that he will have something to say about that. For us, the infrastructure issue was a challenge, as was the workforce issue. We are aware that they remain challenges, but as Paul Johnston said, all the data that we are collecting shows that we are on track to make good progress. Matthew Sweeney might be able to add a bit on the workforce.

Matthew Sweeney (Convention of Scottish Local Authorities): I agree with the comments that everyone has made. It is particularly challenging to answer the workforce question both about a reality in which Covid had not happened and the one in which it has. However, the fundamental point is, as you would expect, that it was likely that a lot of our recruitment would have happened over the summer. A bunch of detailed plans were made at local level to ensure that recruitment would be timed well, and pipelines were put in for local training and other such ways to ensure that the work could be done.

Obviously, the pandemic made it impossible to recruit, train and induct staff in the usual way;

doing so is difficult now. As Paul Johnston pointed out, some councils are delivering the 1,140 hours. Those that are not delivering that much are looking to maximise the amount of childcare hours that they can provide in funded settings. The challenges are being worked through and people are working as quickly as possible and as much as they can to get as much free childcare to families as possible.

The Acting Convener: Eddie Follan wants to come back in.

Eddie Follan: All that is underpinned by the commitment from councils to deliver 1,140 hours, which remains solid. As Paul Johnston said, we are working with the Government on when we can restart the statutory duty, but the agreement to commit to 1,140 hours remains. That is borne out by the fact that councils are working to do that.

The Acting Convener: This is a similar follow-up question to the one that I asked Paul Johnston. Are you asserting that you believe that, if Covid had not happened, all 32 local authorities would have delivered the target, the infrastructure would have been in place and the workforce would have been sorted?

Eddie Follan: There were challenges, but I agree with Paul Johnston that we were on target. We might have had some issues in terms of flexibility, as Paul said, but it is a big programme. I would therefore say yes—we were on target.

The Acting Convener: So you and Paul Johnston assert that, with just a few months to go before August 2020 and only half the infrastructure projects complete and half still to be completed, that would still have been done. You would have done the other half in a few months.

Eddie Follan: Yes. Paul Johnston will come in.

Paul Johnston: I will say a bit more about what we were doing to support completion of projects. It was critical that projects had contingency plans in place so that where there was slippage there would be alternative arrangements to accommodate children. Alison Cumming will add more.

Alison Cumming (Scottish Government): As Paul Johnston said, we had contingency plans in place by January for all critical capital projects, through the work that local authorities had done supported by the Scottish Government and the Scottish Futures Trust. There was good—

The Acting Convener: I am sorry, but I just want to be clear on the contingency plan. Would that contingency plan have meant delivering the hours but not the infrastructure?

Alison Cumming: Yes. It would have been a way to ensure that the service was delivered.

Throughout the programme, our focus has been on ensuring that children would be able to access their entitlement. To an extent, the infrastructure and workforce were component parts of making that happen. That was plan A, but we also had plans B and C in place so that if any individual projects were not completed on time for any reason, as can happen, alternative provision would be available to allow those children to receive their high-quality ELC entitlement.

09:45

Some authorities have made use of contingency plans through the work that they have done in response to Covid-19 and to deliver the expanded entitlement from August 2020. We are absolutely confident that all children would have been able to access their funded entitlement. That might not have been done as we had planned for under plan A, but contingency plans were in place to ensure that they would be able to access those funded hours.

The Acting Convener: To be clear, is it the Scottish Government's view that we would have met the target on the service but would not have delivered all the infrastructure projects, and that contingency plans were in place for the infrastructure projects that were outstanding?

Alison Cumming: I am confident that we would have delivered the funded entitlement. I cannot say absolutely certainly that all the infrastructure projects would have been delivered—

The Acting Convener: I do not think that anyone would expect you to say that we would have completed half the infrastructure projects in three months.

Alison Cumming: I can say that we recognise that infrastructure projects are not always delivered on time, which is why we were so focused on putting contingency plans in place for critical projects.

The Acting Convener: Of the half that were not completed, for how many would it have been likely that contingency measures would have been needed, rather than their being completed?

Alison Cumming: I do not think that we have collected specific data on the numbers.

The Acting Convener: You must have had a tracking system.

Alison Cumming: We had a tracking system through the Scottish Futures Trust. My recollection is that we were looking at about 90 per cent of capital projects definitely being delivered on time, and that we were working hard on the contingency plans to get the outstanding 10 per cent over the line.

The Acting Convener: So we expected 40 per cent to have been completed within a few months, and 10 per cent to have been in contingency.

Alison Cumming: Yes—although those numbers would have been the projects that were scheduled for August. Some capital projects were scheduled for completion thereafter. Some of the projects that were due to be completed were refurbishments or extensions, so the work had to take place during school holidays when children were not on site. There were service delivery reasons for why certain projects had to be scheduled during the summer holiday period.

The Acting Convener: Some people might think that it is far fetched to say that 40 per cent of the projects would have been completed within a few months, but I will take your word for it.

Only four of the planned 35 outdoor centres were completed. Are you saying that 31 outdoor centres would have been completed in time to meet the targets, if it were not for Covid-19?

Alison Cumming: We invested significantly in supporting authorities and working closely with the Care Inspectorate to improve the registration process and the understanding of it to make it easier for people to understand better what was required for outdoor provision. We held five engagement events, which we termed “quality conversations”, on outdoor registration. The Care Inspectorate established an outdoor learning group to support the inspectors who were assessing and registering new settings. Two cohorts of Care Inspectorate inspectors completed Forestry Scotland's specialised training to support that.

Since the figures on indoor and outdoor provision were published in the Audit Scotland report, the 272 outdoor centres referred to in the report have increased to 281, and about one third of those are open at present. Covid-19 has enhanced the understanding of the benefits of outdoor play and learning for children, so that the outdoor provision is a factor for every child's early learning and childcare experience—and not just in dedicated outdoor settings.

The Acting Convener: You had contingency plans for infrastructure. If Covid-19 had not happened, do you think that those 35 outdoor settings would have been delivered by the target dates, or would contingency plans have had to be in place?

Alison Cumming: There would have been contingency plans for any of those that were considered critical to local authority numbers.

The Acting Convener: How many were in contingency?

Alison Cumming: I do not have those figures to hand, but we can provide them to the committee. The overarching principle is that we were confident that local authorities had those contingency plans in place and that provision, or alternative provision, would be in place from August for all eligible children.

The Acting Convener: The figure is from October 2019. Before Covid struck—for example, in February this year—how many of the 35 outdoor settings were open?

Alison Cumming: I do not have a breakdown of the outdoor projects as opposed the remainder of the projects, but we can provide that to the committee.

Matthew Sweeney: Alison Cumming covered two points that it is important to highlight. One is about the way that ELC intake happens. Some children start in August, with more coming after Christmas and Easter. It is not like primary school, where we expect all the children to come in at once. There is an intake process across the year. It is helpful to know about that context.

Not all infrastructure projects involve building new nurseries from scratch. Many involve perhaps updating part of a nursery or refurbishing a setting, and that work could not happen until the summer. We would not expect councils to build something that would stand empty for a long time. It made sense for those projects to come on line over the summer and to be ready when the children would be there to need them.

The key point is that the work that we, councils and the Scottish Government did was about making sure that there was contingency in place for all the projects that were critical, so that the funding entitlement could be delivered.

The Acting Convener: Going back to the target, both COSLA and the Scottish Government have asserted that they believe that they would have met the delivery target, but that there were challenges with infrastructure. They seem to suggest that 10 per cent of projects would have entered contingency but that 90 per cent would have been complete.

Only half the additional workforce had been recruited by September 2019. Are we honestly saying that, if it were not for Covid, we would have found the other half of that workforce by August 2020?

Paul Johnston: I can start on that. Detailed planning was being done on an authority-by-authority basis, with national support on how that additional workforce would be brought in. As Matthew Sweeney said, the point was to bring in that workforce at the right time, and not significantly before those workers would be

required. Alison Cumming may have more detail on that.

Alison Cumming: We adopted a contingency planning approach to the workforce. We held a national event with local authorities at the end of February to look at their contingency plans for the workforce. Different local authorities were phasing in their recruitment plans in different ways. A lot depended on the strategies that they deployed.

We anticipated that a significant number of new recruits would have come from those completing HNCs in 2020. They would have completed their courses and started work with local authorities and other providers over the summer.

Modern apprenticeships have also provided a successful route into early learning and childcare. In 2016-17, we set a target for apprenticeship places of a 10 per cent year-on-year increase, and we have seen year-on-year growth of almost 20 per cent in modern apprenticeships. An additional and particular strength is that those apprenticeships have improved the diversity of the workforce. We are reaching people who might not otherwise have considered a career in early learning and childcare. That has been encouraging.

Over the past few years, we have invested in 3,650 more HNC places—those are in addition to the baseline that colleges support year in, year out—and we are seeing more than 6,700 modern apprenticeship starts in total. We are seeing new entrants coming through those pipelines. Similar to what happened with capital, local authorities were planning to bring people into post when they were needed to deliver services to children, so there were good and valid service reasons why significant numbers were due to start in post in the 2020 calendar year.

The Acting Convener: Thank you. There was a 50 per cent gap in September 2019. What was the gap in February 2020?

Alison Cumming: We do not have data for February 2020. We had an agreement with the joint delivery board to collect data, with effective dates in September and April, based on the intake dates that Matthew Sweeney referred to. For reasons that I am sure are understandable, we paused and did not proceed with the 2020 data collection. We felt that it would put a disproportionate burden on local authority teams to require them to provide that data at a time when everybody's focus was on delivering the critical Covid response.

Alex Neil (Airdrie and Shotts) (SNP): Despite the removal of the statutory duty, which had an August deadline, a number of authorities provided children with the hours that it would have been their statutory duty to provide anyway. How many

of the 32 local authorities did that? Irrespective of the decision on when it again becomes a statutory duty, of the authorities that have not yet doubled up to 1,140 hours, how many are on course to do so by, say, Christmas?

Alison Cumming: At present, 11 of the 32 local authorities are offering the full 1,140 hours to all eligible families, which is a fantastic achievement in the circumstances. Another three authorities are on track to roll it out to all families over September and October.

You might be aware that, through the joint delivery board, we have committed to undertake an assessment of delivery readiness by the end of the calendar year. The next stage in that process is detailed stock-take meetings with the local authorities that have not yet fully rolled out 1,140 hours provision, and those are taking place this month. The stock-take discussions will provide us with intelligence on when, according to their current plans, those local authorities are likely to deliver the 1,140 hours provision.

I have to say that the picture is very encouraging. We are seeing more and more developments in those remaining authorities, almost on a weekly basis. As Paul Sweeney said in his opening statement, all authorities are now delivering more than the minimum 600 hours to some or all families, which we welcome. The authorities that are taking a phased approach are rolling out more of the 1,140 hours throughout the year. The process that we are going through now will allow the joint delivery board to consider that evidence of when readiness looks likely across the country as a whole.

Alex Neil: Good. It would be helpful, convener, if we could get a list of the authorities: first the 14—the 11 authorities, plus the three authorities—and then the 18 authorities, with an update on where they actually are in getting near to achieving the 1,140 hours.

It would also help to have an update on when a decision will be taken as to when provision of 1,140 hours will become a statutory duty again. I am not fussed whether it is statutory or non-statutory this year, but I am fussed that we get to 1,140 hours as soon as possible.

Sarah Watters (Convention of Scottish Local Authorities): Covid has had a very variable effect on local government finances across the piece. For example, some councils have had to deliver huge amounts of critical childcare during the pandemic. Councils have had to divert resources into a huge range of activity to support people of all ages within communities, and, obviously, flexibilities were afforded on the ELC funding.

Importantly, we are now undertaking a piece of work to look at the 2019-20 expenditure by

councils in terms of revenue and capital. In the 2020-21 assessment, we will look at what ELC funding had to be diverted to critical childcare, because that was part of the flexibilities that were afforded. For some councils, that will be significant and will impact on their capacity.

The issue must also be considered in the context of wider finances and the areas into which such councils have had to divert resources over the past couple of months.

10:00

Alex Neil: It would be helpful, convener, if we could find out whether the councils that are under such pressure are those in our most deprived areas, or whether other factors have an influence. We should be conscious of our objectives on closing the attainment gap. If the situation is concentrated in areas of poverty and deprivation, that would have a huge impact on the kids there—not just immediately, but for many years to come.

The Acting Convener: Alison Cumming wants to come back in on that point.

Alison Cumming: We will follow this up in writing, but I can provide the committee with details of those authorities just now. The 11 authorities that are delivering in full are Angus, Argyll and Bute, Clackmannanshire, Dumfries and Galloway, Dundee, East Renfrewshire, Inverclyde, Scottish Borders, South Ayrshire, Stirling and Shetland. The committee will see that there is a real mix of characteristics there.

Alex Neil: Is North Lanarkshire not included?

Alison Cumming: North Lanarkshire Council is making good progress with its roll-out of 1,140 hours and is on track to achieve full roll-out in September.

Alex Neil: Right. Good.

Alison Cumming: The other two authorities that are on track between now and the end of October are Western Isles and Orkney.

Alex Neil: What about Glasgow and Edinburgh?

Alison Cumming: They are delivering a mix of provision. At present, they are delivering 1,140 hours where they possibly can.

I understand that in Glasgow City Council's area almost all settings are delivering provision of 1,140 hours and that the council is working through the remaining Covid impacts to roll out the remaining provision as soon as possible. Where provision for 1,140 hours is not offered, priority is being given to offer working families and those with vulnerable children an expanded entitlement, and other families are being offered up to 900 hours.

The most recent information that we have for Edinburgh is that 85 per cent of children are currently receiving their entitlement to 1,140 hours, and the authority is offering more than 600 hours to a number of other families.

We can therefore see that really good progress has been made in Edinburgh and Glasgow, as well as in the other authority areas that I mentioned.

Alex Neil: Good. Thank you.

Graham Simpson (Central Scotland) (Con): That list of areas was the one that the First Minister read out last week. Alex Neil obviously was not listening to that bit, or he had switched off at that point. It would be useful to the committee if Alison Cumming could send us the full list of councils and where they are at with provision, which I think is what Alex was getting at.

You say that 11 councils are offering 1,140 hours, but are they simply offering those hours, or are they actually providing them? There is a difference.

Alison Cumming: There is a difference. The reason for that difference is that, unlike the situation with primary schooling, this is an entitlement—there is no obligation on parents. Parents get the offer and their child has the entitlement, and parents can choose whether to utilise some or all of the entitlement.

Through the on-going baseline progress delivery exercise, we are currently gathering data on the level of uptake in those authorities that offer 1,140 hours to all children.

Graham Simpson: Right. If I am a parent with a child who is eligible for that provision and I am offered 1,140 hours, that might not be provided at the nursery that I want them to go to. That is entirely possible—that is going on.

Alison Cumming: It is entirely possible, and there will always be an element of that. An individual nursery could be oversubscribed because of parental demand rather than because of the number of places available there. That is a fairly routine circumstance that my local authority colleagues have to deal with, and it has been an issue for private nurseries as well local authority nurseries.

We have developed a policy for early learning and childcare that is based on flexibility and choice for parents. There are no catchment areas as there are for schools, so it is perfectly possible and legitimate that more parents could be seeking places at particular nurseries than there are places available. However, each council and each individual provider will have admissions policies in place to deal with such circumstances.

Graham Simpson: Do we know how many parents are being offered 1,140 hours but are not, for various reasons, taking them?

Alison Cumming: We are gathering that data. We are gathering data on not only how much is being offered but the uptake. That is work in progress and we will publicly report on it in due course.

Graham Simpson: Will you report on a council-by-council basis?

Alison Cumming: Up to this point, we have been publishing the delivery progress data for the expansion at Scotland level rather than individual authority level.

Graham Simpson: Why have we not got the figures on an individual authority level?

Alison Cumming: There are two reasons for that. First, during the expansion period, the expectation has been that the delivery progress data that local government has been sharing with the Scottish Government delivery assurance team has been a safe space, in effect, to share challenges and gain support with some difficult issues. Secondly, we agreed through the joint delivery board that it is for individual local councils to have arrangements in place to report their local progress to their local communities.

Graham Simpson: Does COSLA have anything to say on that?

Matthew Sweeney: I do not have a huge amount to add, but I want to make it clear that in some cases this is a national programme and in other cases it is 32 local programmes. Some of the questions around the programme are being regularly overseen by the elected members, who have the statutory responsibility and duty to oversee this work. I would expect that type of scrutiny to be going on at a local level.

Graham Simpson: I know that another member wants to focus on the issue of whether the provision is made through council provision or private provision, so I will leave that one. However, in a case that I came across, a mother in Cumbernauld worked in nearby East Dunbartonshire, so it was more convenient for her to drop her child off for childcare there. She could not do that, though, because the money would not transfer across that invisible border. Have you come across that problem, and can it be rectified?

Paul Johnston: We expect arrangements to be made, where possible, so that places can be made available across borders. Alison Cumming might have more to say about the details of that.

Alison Cumming: Under the funding follows the child approach—and certainly with the full roll-out—our expectation is that parents will be able to

access places across local authority boundaries. Indeed, my understanding is that there should be an agreement in place between the authorities in the west partnership to allow cross-boundary placement, subject to there being a place available in the nursery. There might be particular Covid-related challenges at the moment that are having a bearing on the operation of that—I do not know. However, my team would certainly be happy to follow up any specific instances such as the case that has been cited, because our policy expectation is that it should be possible to access places across local authority boundaries.

Graham Simpson: Right. I can send you the details of that case, but it would be interesting to know how that is working across the country. It is entirely possible that some councils will not even be aware of that agreement. The message needs to go out that the policy has to be flexible, because people have different work patterns and often live next door to a council boundary—well, you know what I am saying.

My final question goes back to the infrastructure issue. Do we know the number of buildings that still require to be built or refurbished?

Alison Cumming: I have data as at April 2020, but no recent data. The April figures, which are based on the number of places, show that around 29 per cent of the planned additional spaces had been delivered in April but that a greater percentage of the additional spaces required for August—35 per cent—had been delivered.

Obviously, construction work was halted across Scotland and has begun restarting, with restrictions, over the past couple of months. The Scottish Futures Trust is working with local authorities to gather data on their reprioritised capital programmes and to support them in delivering those as quickly as possible.

I referred to a data collection exercise that is under way with local authorities. We will publish Scotland-level figures, which will include an update on infrastructure progress.

Graham Simpson: You gave me a percentage only. Do you have actual numbers?

Paul Johnston: For the most recent data collection, from April, which Alison Cumming referred to, we were looking at 912 projects. Bear in mind that that could refer to a variety of things: a new build, a refurb or an extension.

The Acting Convener: Were those projects that completed, or were they outstanding?

Paul Johnston: That was the total number of projects that we were looking at at that point, in order to deliver the expansion. Forty three per cent of those projects were completed at that point.

The Acting Convener: By April 2020.

Paul Johnston: Yes.

The Acting Convener: The figure was 43 per cent, but you are still convinced that you would have reached 90 per cent by August if it had not been for Covid-19.

Paul Johnston: Yes. We have referred to the various steps that were in place, both to deliver—

The Acting Convener: Okay. Anyone listening to that would think that it was very far fetched, but we will take your word for it.

Alex Neil: The pandemic is obviously the biggest issue this year and probably will be the biggest issue for some time to come. I am told that a report was produced in 2016—one for the Scottish Government and one for the United Kingdom Government—about preparing for a pandemic. Nobody knew when there would be a pandemic or what it would be caused by, but the report was published in preparation for a pandemic. Can you enlighten us as to the status of that report? Could we get a copy of it, and what did it say about preparing education services for a pandemic?

Paul Johnston: I will have to take the question away, as I do not have that information at my fingertips.

I can confirm that, within the Scottish Government and in conjunction with the UK Government, work has been done on the key risks that the country faces. Certainly, the prospect of a pandemic was identified as one of those key risks. There will be publications that set out in more detail the sorts of scenarios that a pandemic could bring about, such as fatalities and impacts. We will share as much information as possible with the committee.

Alex Neil: My understanding is that, in the UK register, a pandemic is the number 1 risk—above climate change, terrorism and other issues. Confirmation of that would be extremely helpful.

Could you specifically come back to the committee and let us know whether there was a report around 2016, what its status was and what it said about education? It might be useful for the committee to get copies of that report, because I would like to measure how well prepared we were for a pandemic and whether that report was just stuck on the shelf and ignored. If that is the case, why was it done in the first place and why was it ignored?

I will zero in on independent ELC providers. In my experience—I am talking about authorities that I would normally rate highly on their provision in education, which are committed to high spending and good-quality services—the way in which the

independent sector is being treated raises a whole host of issues, with some justification, both in the eyes of the independent sector and to somebody who is looking at the issue from the outside. Can you comment on that and specifically on whether local authorities have a conflict of interests between being the major providers of early years education and being the funders of the independent sector?

I am not referring to one particular local authority. It seems to me that there is clear evidence that local authorities are siphoning off money that should really be going to the independent sector for positions and so on within the local authority. Is there a need to distribute the funding for the independent sector in a more independent way, to avoid such serious conflicts of interest in the future?

10:15

Paul Johnston: I will make a couple of important overarching points before passing over to Alison Cumming, who can pick up some of the other points that you have made. We have made it clear, from a Government point of view, that our approach to the 1,140 hours target is neutral as to providers. We want parents and carers to have the greatest possible choice of provider.

Alex Neil: Absolutely.

Paul Johnston: We are working in partnership not only with local government but with the representative bodies of a number of private providers. When we talk about partnership, we should not see it simply as Scottish Government and local government. We may come on to governance, and private providers have been part of that. Where possible, we are trying to work closely with them.

The use of private providers has been increasing. Indeed, it has increased slightly more than was projected. We have been trying to support local government in how it contracts with private providers, to ensure that it is fair. That includes ensuring that private providers can sign up to the fair work principles and pay the living wage. Alison Cumming will have more to say on the specifics.

Alex Neil: Before Alison Cumming comes in—although Alison can address this as well—I suggest to Paul Johnston that the problem is that there is no recourse to a third party when there is a dispute between the independent provider and the local authority. That varies, as some local authorities are very good at handling such situations but others are not good at all, and it is Big Brother time, with a “We’re the boss and you’ll dae whit ye’re telt” attitude, which is not

partnership. That is one of the more negative aspects of the current arrangements.

My view is that there has to be some recourse for independent providers when they are in dispute with the local authority, which, in some instances, is effectively a competitor for provision. There should be an independent way of resolving the dispute instead of the local authority acting as both provider and regulator. There is a conflict of interests there that needs to be resolved for the system to be fair, in my view.

Perhaps Alison Cumming can address that point.

The Acting Convener: That was quite a specific claim about councils, so COSLA should also have the opportunity to address those claims or accusations. Alison Cumming can respond first.

Alison Cumming: It is fair to say that the Scottish Government and local government have jointly recognised that partnership is an area that we, together with the private and third sectors, need to invest in and improve through the expansion. In some parts of the country, there is a long history of arrangements working very well and of constructive relationships, but I accept your point that that is not the experience of providers throughout Scotland.

Throughout the development of the funding follows the child model, the 1,140 hours and the national standard, we have increased the opportunities to engage directly with private and third sector providers. Our policy development and our development of the national standard have been greatly enriched by our having direct conversations and understanding the context and experience within which they operate.

In 2018, the Scottish Government and COSLA jointly established a partnership forum, which was designed to bring together local authority representatives, the Scottish Government, the national membership and representative bodies for private providers and individual providers, so that they could work through some national policy issues practically, understand local issues of interest and find practical ways through them. That forum had met on six occasions and had held a national event prior to lockdown. We held an event in each of the six regional improvement collaborative areas, so that providers from across the country had the opportunity to engage.

We have been seeing improvements in partnership working through that investment. As Paul Johnston said, our funding follows the child policy framework was intended to be provider neutral. That was a result of what we had heard through the blueprint consultation in 2016 about parents’ experiences of accessing flexible ELC and accessing their child’s entitlement in the

private sector, if they wished to do so. The policy framework is set up and designed, and we have been working with local government to implement it in a way that gives equity and parity to all types of provider.

Importantly, all providers in all sectors are subject to the same principles and same national standard. An important part of the funding follows the child policy and the national standard is the payment of sustainable rates. Those rates need to be sufficient to allow all providers to pay at least the real living wage—the Scottish living wage—to all their childcare staff.

We have worked with Scotland Excel to produce guidance for authorities on the methodology that they can adopt to develop a sustainable rate. We promote dialogue with and gathering data from individual providers so that, as far as possible, the rate is based on knowledge of cost. The way in which the rate has been arrived at should be transparent, and providers should have an opportunity to participate in that. In recent months—it was predominantly pre-Covid—a number of local authorities or regional improvement collaboration groupings have undertaken independent exercises to work with providers to gather data and set the rates.

In the two years to August 2019, the average funding rates went up by 26 per cent for the 600 hours, and we expect further increases. Through the multiyear funding, we have been seeking to ensure that more of that goes in to recognise the costs of quality provision in the private and third sectors. Alongside the sustainable rates guidance, we have produced contracting guidance through Scotland Excel, which provides local authorities with options that they can choose to adopt. That means that local authorities' contracting approaches will embody the funding follows the child policy.

The key point about that policy is that we are seeking to place the power in parents' hands so that they have the choice to access their child's entitlement in any setting that meets the national standard, that is willing to contract with the authority and that has a place available. That will be quite a big culture shift in some authorities, and it will take time to bed in, but a lot of progress is being made.

I accept Alex Neil's observation that there is potential for conflict, but the policy framework is intended to ensure that the local authority, in allocating, going through an admissions process and working with parents on places, treats its own nurseries in the same way as it treats private and third sector nurseries.

My COSLA colleagues may wish to comment further on that.

The Acting Convener: I see that Matthew Sweeney wants to come in but, before I go to him, I ask whether Eddie Follan or Sarah Watters wants to come in.

Eddie Follan: I was going to bring in my colleagues, because I think that all three of us probably want to pitch in.

On the general point about partnership, our leaders in the 32 local authorities have signed up to the programme. There will be variation in approach but, as Alison Cumming outlined, we have a strong policy framework, strong partnership at a national level and strong engagement from local authorities in that partnership as we deliver the provision. That can still be challenging. A lot of work has been done on what is a major expansion, but there will be ups and downs in that partnership, and there might be areas where a bit more support is needed. That is exactly what we are considering with our partners in Government.

I will bring in Sarah Watters, and then Matthew Sweeney will want to make a few points, because he has worked on the area intensely.

Sarah Watters: There is that positive relationship that Eddie Follan and Alison Cumming have talked about. A transitional support fund has been launched for third and private sector providers, and local government has a relationship with those providers. That grant scheme for third and private sector providers is now open. It will give them support to get through this period and to make the adjustments that are required due to Covid. The Scottish Government recognised that that relationship is there and that that was the obvious way to set up the grant scheme.

There is transparency and accountability. The grant is ring fenced and is for a particular purpose—the delivery of ELC. There is a lot of scrutiny: there is internal and external audit and the reporting that we have discussed. Every council receives reports on progress and on how the funding has been used. It is a specific grant for a specific purpose. I have recent experience in local government and I know that there is a team approach, as councils do not have the capacity to deliver that alone. There must be a locally appropriate response, with community planning and using the capacity that is found in each local authority area. Private and third sector providers are a key part of that. Local authorities have had to play a leadership role, but that does not exclude others; they are part of a wider system, and it is important to note that.

Matthew Sweeney: I agree with the points that have been made so far. My colleagues have given comprehensive answers.

COSLA agreed a set of partnership principles. Those were co-developed with the National Day

Nurseries Association of Scotland and they set out a helpful checklist that we felt would support local relationships. There is work still to be done to ensure that those local partnerships function as well as possible.

Alison Cumming touched on a key point in that rates of pay have significantly increased as a result of the multiyear funding agreement. Our most recent data is from 2019-20 and is for 600 hours, because the 1,140-hour provision had not been rolled out. We saw a 20 per cent year-on-year increase in the average rate being paid by local authorities to providers, which is a result of the new approach that is being taken.

The funding follows the child. We will not have a set number of places or a cap, as happened in the past. Provision will be based on what individual parents choose, and the parent's decision will decide where children take up places. The funding follows that.

Local authorities are accountable. They are democratic bodies and they are accountable to local constituents and voters. That is fundamental. They are not unaccountable; they answer to their communities, in line with the national policy framework.

Alex Neil: Can either the Scottish Government or COSLA provide the committee with a figure for the funding per head for early years provision that is paid to the private and independent sectors, and to the local authority itself in each local council area? Have you looked at that? Do you monitor it? If you do not, how do you know that there is fair allocation of resources?

Alison Cumming: We do not monitor that in the way that you have described. We monitor the funding rates that are paid by councils to private and third sector providers, including to childminders. We ensure that that also reflects payments for the meals commitment.

There are reasons why it is difficult to arrive at a figure for a local authority that could be compared to other funding. It is hard to take a simple look at the overall funding allocation because local authorities often provide services in areas where they would not be commercially viable. Costs are therefore higher, to—

10:30

Alex Neil: Can I interrupt you? Sorry, Alison. Come on—you are not telling me that, with the army of accountants and auditors that you have, you cannot distinguish between central services provided by local authorities and direct costs associated with nurseries that are actually running themselves, and compare that to the funding?

In your original answer to this, you emphasised, quite rightly, the principles of parity and equity. You have just basically admitted that none of you knows whether there is parity and equity, because you are not mentioning it—

Alison Cumming: If you will allow me—

Alex Neil: —and, honestly, I do not believe that, in this day and age, that is impossible to measure.

Alison Cumming: My point is not that it is impossible to measure; it is about whether the figures that are arrived at can be meaningfully compared.

When setting the private and voluntary sector funding rates to ensure sustainable funding, our focus is on working with local authorities to equip them with the methods and the tools to set a sustainable rate. In looking at how public money is spent and the value-for-money and best-value considerations around that, it is important that funding rates be based on an understanding of the costs of delivery from private and third sector providers.

The guidance that Scotland Excel produced on our behalf sets out various methods that councils can use to do that. Their success relies in large part on providers engaging openly with those processes, so that we can build up the rates based on the actual costs of delivery, and can ensure that we have understand the various cost factors and cost drivers for the private and third sector providers

We seek assurance—and we have that assurance—that local authorities are undertaking a process of setting sustainable rates that is evidence based and involves the private and third sector providers. Based on that evidence, we can be assured that those rates represent best value and value for money in terms of the use of public funds.

Alex Neil: The flaw in that is that the costs will, to a large extent, be determined by the limitations on the funding. It is about the cart and horse. In some local authorities—I am not referring to any individual authority—that is silver plated, which is good because of the layers of supervisors and all the rest of it, but they are paying higher rates for certain individuals, and so on. The reason why the costs are lower in the private and third sectors is that they cannot get the funding from the local authority to match what the local authority is doing.

With regard to what the role of the Government should be, if you really believe in equity and parity, you have to measure them objectively and fairly. Nothing that I have heard suggests that you are doing that. If we are going to achieve the policy objective of the provision, I think that we, as an audit committee, have to make sure that equity

and parity are properly measured and are being achieved. I do not think that you can prove that, at the moment.

The Acting Convener: You have made that point very strongly, Mr Neil. Alison Cumming wants to come in on that, then I am keen that we move to the next question.

Alison Cumming: One short final point of clarification is that rates are not set based on affordability to the local authority; they are set based on the understanding of the costs to providers. One of the undertakings in the multiyear funding agreement was that the funding agreement was set at a level that allowed local authorities to pay sustainable rates to providers. Therefore, rates should be based only on costs, not on affordability considerations.

The Acting Convener: Thank you. I call Colin Beattie. We are waiting for Mr Beattie's microphone to come on.—[*Temporary loss of sound.*] I will move on to Willie Coffey.

Willie Coffey (Kilmarnock and Irvine Valley) (SNP): Thank you, convener. You have already asked a number of my questions, including about preparedness, but I would like to go back to that issue. I think that what the councils have managed to deliver so far is nothing short of remarkable, given where we are. The figures that Paul Johnston read out are really quite encouraging.

As a member of the Public Audit and Post-legislative Scrutiny Committee, I am always interested in whether we have had to incur additional costs because of the impact of Covid. The investment in resources and facilities, and our ability to get premises ready in time, must surely have been affected by the pandemic. Could Paul Johnston say a little bit about whether we have incurred significant additional costs for the whole programme?

Paul Johnston: Certainly—and it might be useful also to hear from Sarah Watters, who can provide more details from a local authority perspective.

Undoubtedly, additional costs have been incurred and are being incurred. At first, there were costs associated with the delivery of critical childcare in the Covid environment, and now there are costs associated with ensuring that early learning and childcare can be delivered in a way that reflects all the enhanced hygiene and other requirements on which the Scottish Government has issued detailed guidance.

The flexibility that was offered by the Scottish Government in relation to the 1,140 hours policy is intended to enable local authorities to meet those costs. As Sarah Watters has said, work is under

way at present to quantify those costs on an authority-by-authority basis.

Sarah Watters: Since the beginning of the pandemic, COSLA has been working with all local authorities and the Scottish Government to establish all the additional costs for local government right across the piece, including critical childcare, food parcels and various other measures.

We are now getting into the detail of what those funding flexibilities have been used for and how they have been deployed. I think that we should, by the middle of October, have information from all councils about the 2020-21 spend.

In parallel with that, we are also doing an exercise about additional expenditure for safe reopening of schools. Of course, some of that will spill across into schools that have nurseries, so the picture is quite complex. As time has gone on, we have been factoring in any consequentials and other bits of funding that have been passed to local government to support the response to the pandemic. We are collecting all such information on an on-going basis, and ELC and critical childcare are key parts of that.

Willie Coffey: That is encouraging, but I am not sure whether there is a commitment on the part of the Government to fund those extra costs. I sincerely hope that there will be.

For the councils that are nearly there, there is still a bit of work to be done on recruitment, which has had to be paused because of the pandemic. Is there any indication of when that process can get under way so that we can get the staff in place that we need in order to be ready? Paul Johnston, could the Scottish Government set a new date for delivery of the full programme?

Paul Johnston: The fact that 11 local authorities are already delivering the required number of hours and three are about to come on stream is testament to the progress that is being made. The audit report comments on the robust governance arrangements that we have had in place throughout the programme. Those governance arrangements need to continue to operate as we move into the important phase of setting a new date.

You will see from the audit report that the overarching governance involves an ELC programme joint delivery board. That board will be invited to look in the coming weeks at the data that we have got back from the 32 authorities, and to make a recommendation based on it on what a new date should be. We are certainly working hard to ensure that we get to a place where we can have the date confirmed as quickly as possible. We want the entitlement for all children in Scotland to be available soon.

Willie Coffey: Could you clarify what you said in response to Graham Simpson about take-up? We are keen to see that families in some of our more challenging communities take the opportunity to use the hours when they are made available. Are you gathering data to let the committee and others know about levels of take-up across the country?

Paul Johnston: Yes—absolutely. We will see more and more data about take-up coming on board over the coming months. Inevitably, there is a bit of a lag.

We have already published in the past few months the first suite of data and evidence, which are concerned with the baseline for early learning and childcare. That is part of the Scottish study of early learning and childcare, which is mentioned in the audit report. We have already produced the first two extensive publications, which give a lot of data on what is going on in terms of take-up and the characteristics of those who are accessing ELC.

We still have a lot of work to do—I will be absolutely open about this—in getting more finely grained data on take-up. A huge amount of work is on the go, including a data-transformation project to ensure that we get really high-quality data, particularly on the equalities characteristics of those who are taking up entitlement.

In broad terms, though, take-up of the offer for three and four-year-olds is very high; I think that we would say that it is near universal. Take-up of the offer for two-year-olds still requires a lot more work. We are seeing encouraging progress, but as the audit report highlights, we know that we still have a lot of work to do to ensure that all those who are eligible for the two-year-olds offer are aware of it and are encouraged to take it up.

Willie Coffey: It is really encouraging to hear that. My final question is about looking ahead. Have you had an opportunity to think about maintenance of standards and so forth, and the evaluation process? This is a major policy initiative that almost doubles provision for the relevant children. Where are we in looking at standards, quality, the evaluation of outcomes and so forth?

Paul Johnston: When I was previously in front of the committee to discuss early learning and childcare, we recognised the need to do a lot more in relation to evaluation. We need to make sure that this very substantial programme of investment is delivering both the short-term outcome—that is, high-quality flexible provision for our children—and the longer-term outcomes that I mentioned, which are about closing the attainment gap, helping parents into training and employment, and improving family wellbeing. I know that we all care about those things.

That is where the Scottish study of early learning and childcare comes in. It is a very extensive piece of research and evidence. As I said, we have already published the first two parts of that evaluation, which were largely designed to give us a really clear baseline. We will see more publications in the coming months and years, so that we can monitor the full impact of the programme.

The Acting Convener: I believe that we have resolved Mr Beattie's microphone issues.

Colin Beattie (Midlothian North and Musselburgh) (SNP): I would like to look at the distribution of funding to councils. The report highlights that COSLA leaders did not accept the multiyear revenue settlement for ELC, under which revenue funding was to be distributed on the basis of a formula. Instead, it was distributed to councils on the basis of a financial template. Some councils have received more funding than was expected and others have received less.

Midlothian Council, which is in my area, seems to have got the short end of the stick in that it received 24 per cent less revenue funding than it had projected. How do you expect such a council to be able to deliver with 24 per cent less revenue funding than it projected it would require? The leader of Midlothian Council has been lobbying me for a change to the formula. How does that work?

Paul Johnston: I will say something on that first, and then perhaps my colleagues in COSLA will want to comment.

As has been said, the approach that was ultimately adopted differs from the approach that we had worked on. It involves funding on the basis of a financial template, but with an adjustment that involved us looking at National Records of Scotland population estimates from 2014, which were the most recently available estimates at the time. We would all accept that that means that any area that has had particularly rapid growth has experienced greater financial challenges.

10:45

I recognise the Midlothian Council figures. My understanding is that Midlothian is the fastest growing local authority area in Scotland by quite a long way, and Midlothian Council is working hard to deliver in the context of that rapid population growth. It is also important to note that work is under way on a longer-term funding solution for early learning and childcare. The current arrangement goes into the 2021-22 financial year, but beyond that decisions are still to be made and the sorts of issues that you raise about authorities experiencing rapid population change need to be taken into account in that context.

The Acting Convener: Does anyone from COSLA want to come in?

Sarah Watters: When the template exercise was initially undertaken, there was a difference between the estimates that the Scottish Government had made for delivery and what local government felt was an appropriate quantum of funding. The template exercise was done twice to establish a realistic quantum from a local government perspective for delivery of the service, factoring in all the aspirations around the policy and the delivery. The view that was presented to COSLA leaders—the opinion from the COSLA governance and the governance that the Scottish Government and local government is involved with—was that it should be based on a distribution; there was an available quantum but a distribution basis should be used for the funding. The risks were highlighted to leaders around exactly what Colin Beattie articulated—if you distribute based on actuals, you are not factoring in the ability for that annual updating of the indicators, as you would with any client-based approach. Those risks were highlighted. Obviously, the decision was taken democratically by leaders, and that is the current arrangement.

Alison Cumming and I have mapped out the rest of the year—in fact, we had mapped out most of the beginning of this year—to look at what we will do going forward from 2022-23, because it is important that we get a sustainable funding model. We want councils to be able to cope with population growth and to ensure that delivery is sustainable. We had hoped that by June this year we would be taking a report to the leaders and recommending to ministers what would be sustainable in relation to distribution, but that work has been paused. We expect that we will be able to get that work back up and running by Christmas. That would involve looking at the quantum and the basis for distribution so that we take account of the types of issues that Mr Beattie highlighted.

Colin Beattie: Will there be a revision of the funding exercise in future? As you can well understand, councils have to plan ahead. Midlothian Council is not alone; it is just the worst.

Sarah Watters: Absolutely; Alison Cumming and I are aware that we need to do that work sooner rather than later because we want to give councils a good lead-in time for post-multiyear settlements. Next year will be our first year of business as usual; we had hoped that 2021-22 would be business as usual, but that is unlikely in relation to ELC. We are in a difficult position because we thought that we would have more information about what it costs to run an ELC service of that type. We will not have that until a bit later, but rest assured we are doing the work now

to make sure that councils have certainty as soon as possible in the next calendar year.

Colin Beattie: Why pick 2014? Much more up-to-date figures are available.

Sarah Watters: That was the best available date at the time that the templates were being done.

Paul Johnston: Alison Cumming will have more information on that.

Alison Cumming: When the local authority estimates were produced, the National Records of Scotland 2014 estimates were the most up to date available on a local authority by local authority breakdown. NRS 2016 estimates were available but only at Scotland level and the political agreement that was reached between COSLA leaders and Scottish minister was to apply the NRS 2014 estimates as the ones that were available on a local authority level at the time that local authorities were producing their financial estimates.

Colin Beattie: One important thing that I have certainly taken on board is that councils such as Midlothian have to plan ahead. The year 2021-22 is not that far ahead, in terms of council planning. Councils need to do medium and long-term planning, and if they have an unsustainable gap in their funding, it is a real problem for them. How do they plug that gap? How do they move money into that service? It seems disproportionate and very harsh that Midlothian is 24 per cent down.

Paul Johnston: My understanding is that, despite the challenges that it is facing in terms of its population, Midlothian is making good progress towards delivering the 1,140 hours entitlement in its available budgets. The Scottish Government, COSLA and the Improvement Service will be working with Midlothian to support it, as we will work with other authorities that are not yet at 1,140 hours. I can assure the committee that that is being taken forward now, and we will continue to do that over the coming weeks.

Colin Beattie: Are you comfortable that Midlothian will deliver the 1,140 hours entitlement with that level of underfunding?

Paul Johnston: We are continuing to work that through with Midlothian and other authorities that are not yet at 1,140 hours. My understanding is that all authorities are expecting to deliver the 1,140 hours entitlement within the current available funding. The new statutory obligation is not yet in place and we need to do detailed work with those authorities that are not there yet. I am certainly anticipating that it will be delivered within available funding.

Whether there may be less flexibility and choice in some areas than authorities would aspire to—I

think that the audit report mentions that—is, of course, possible. We will have to work through that.

Colin Beattie: I think that Alison Cumming touched on the living wage. The report indicates that, on affordability and enforceability grounds,

“It is unclear whether the living wage commitment will be fully implemented”.

You touched on a few aspects of that. Can you fill in a little more of the background?

Alison Cumming: I am happy to. I will take the affordability point first, because that is slightly simpler to explain. The point that was made in the report was about the fact that local authorities have been setting their sustainable rates now, after the funding deal has been agreed, and that there could be issues, as Mr Neil alluded to earlier. What would be the issue if the sustainable rates exercise, including payment of the living wage, produced a rate that was higher than had been factored into the funding agreement? That is not the case at the moment, so we have no concerns about affordability. The overall multiyear settlement is there and it is for individual local authorities to pay those sustainable rates.

The challenges that we have around the living wage are not specific to early learning and childcare. They are about the complexities in the context of the Parliament’s devolved competence and interaction with various elements of procurement law regarding what can be enforced in relation to payment of a wage that is not the legal minimum wage that is set in statute.

We have undertaken extensive work with procurement specialists, including the local government procurement specialist, Scotland Excel, to work through how we can put in place contractual mechanisms that can support the shared aspiration of the Scottish Government and local government that all childcare workers delivering the funded entitlement should be paid at least the real living wage. The guidance that Scotland Excel has produced for local authorities includes specific ways to do that. Forgive me; this could get quite technical, but I will try to keep it brief.

The national standard sets out that we expect all providers that are delivering the funded entitlement to operate fair work practices. It says that:

“If the provider does not provide sufficient evidence to the local authority that”

the fair work criteria are being met, it is permissible for the local authority to

“not contract with the provider.”

We would consider the payment of the real living wage to be a significant factor in how a provider shows its commitment to fair work practices. Local authorities, in their procurement and contracting processes, can therefore treat that as a key indicator of whether fair work practices are being met.

There is also scope in the terms and conditions that the local authority agrees with a provider that

“in accepting the sustainable rate, a provider acknowledges that an element of this rate reflects an expectation that there is payment of at least the real Living Wage to all childcare workers delivering the funded hours.”

I agree that it is not straightforward. However, as I said, we have been working hard to find mechanisms to ensure that that aspiration and commitment are delivered.

The other point that is that there will be business reasons and other incentives for providers to pay their employees the real living wage in attracting and retaining staff. We know about the benefits of payment of the real living wage for productivity, absenteeism and staff morale across the piece. That is not about just the ELC sector; prior to the current commitment, a number of private and third sector providers were living wage accredited. As part of the national standard, we are not looking for all providers to reach that extra level of accreditation, but it demonstrates that it is possible to have business models that ensure that it is sustainable to pay the real living wage to childcare workers.

Colin Beattie: The report refers to the living wage implementation group. I cannot remember whether you have referred to that, but it was due to meet early in 2020. Has it met? Who is represented on it?

Alison Cumming: It has not met, which is a result of our focus and that of our partners being elsewhere as a result of Covid. We are working to get that group up and running as quickly as possible. Its role will be to support implementation of the commitment, particularly in giving practical support to providers, through monitoring and evaluation of the payment of the living wage and gathering wider evidence of terms and conditions in the early learning and childcare sector. We expect the membership to be made up of representatives from the Scottish Government, local government, trade unions and individual providers. That is the basis on which we have been working with partners to get the group up and running.

The Acting Convener: I will come to Mr Simpson in a second, but I want to go back to Mr Beattie’s question about Midlothian Council and its 24 per cent negative revenue gap. How many councils have a negative revenue gap?

Paul Johnston: I do not have that information immediately to hand, but Alison Cumming might.

The Acting Convener: I will continue my questioning while Alison Cumming is looking for it. You said that Midlothian Council has made good progress and that you still expect councils to meet the statutory obligation when the new date is set. Midlothian Council should be congratulated on its progress, but do you recognise that when there is a revenue gap, a council has to make up the shortfall from somewhere? You are deliberately or inadvertently—people can make their own judgment—making councils make cuts elsewhere to meet their obligations on childcare. Midlothian Council has to make up that 24 per cent from somewhere. You are asking Midlothian to find that money from somewhere, which means that a different service is perhaps being cut. Do you accept that?

Paul Johnston: I do not have the details of the way in which Midlothian Council is planning to deliver 1,140 hours within its funding allocation. I do not know whether—

The Acting Convener: How do you think it is planning to fill the 24 per cent gap?

Paul Johnston: We would want to get more detailed information on that from Midlothian Council. I would not necessarily want to draw a conclusion without hearing the detail from it directly.

The Acting Convener: Have you not asked for that detail before now?

Paul Johnston: Colleagues in Alison Cumming's team are working on it with the council. Unless she would like to say more on that, I suggest that she will be happy to take that question away and provide the committee with more detailed information.

11:00

The Acting Convener: You accept, however, that the council will have to find the money from somewhere.

Paul Johnston: It will have to either find the money from somewhere else or find ways to deliver the service within the available budget. As I have said, that could be done by using contingency arrangements or by not being able to offer as much flexibility and choice as it would aspire to do. It might take any of a range of approaches.

Alison Cumming might want to add to that.

Alison Cumming: I have a brief point. We have worked with Midlothian Council through a multiyear funding agreement under which local authorities effectively set their own phasing in the

estimates for the pace at which they would arrive at roll-out of the full 1,140 hours. We had discussions with the council and allowed it to carry forward funding that was planned for phasing into the delivery years. That helped it to smooth that element, but it obviously then had an impact on the extent to which it was able to phase ahead of this year.

The difficulty for us in commenting too much further on that is that it involved a political decision, which was taken through democratic processes, to go with a distribution method that was based on the local authority estimates.

On your earlier question to Paul Johnston, paragraph 23 of Audit Scotland's report states that "twelve councils will receive less revenue funding than they estimated the expansion would cost".

The Acting Convener: Can you list those 12 councils?

Alison Cumming: I do not have that information to hand, but we can provide it to the committee.

The Acting Convener: Are any of those 12 among the 11 councils that have currently reached the target of 1,140 hours?

Alison Cumming: I do not have that information to hand, but we can provide it to the committee.

The Acting Convener: Okay. Excellent.

Do you recognise, however, that funding to close that gap has to come from somewhere? If the Government puts more and more pressure on local authorities' overall budgets, then asks them to deliver a new service but does not give them adequate funding to deliver it, that piles on even more pressure. In some ways, it also shifts the blame when that target is not met or when other services are cut.

Paul Johnston: I certainly do not think that our approach has been about shifting blame; it has genuinely been about partnership and working together to find ways of delivering the 1,140 hours for all Scotland's—

The Acting Convener: What about beyond the 1,140 hours? Has an envelope of funding been provided to local authorities for that?

I accept that there has been great partnership working on the 1,140 hours target, which is a good thing. However, it might be that you are not giving adequate funding for it. You have created a statutory target of 1,140 hours, but the same local authority that has the statutory obligation to deliver it is having its overall budget squeezed, which creates pressure. It means that it has to make difficult decisions, which often means that cuts

have to be made, such as closing libraries or cutting other services. Is it not true that we cannot look at such things in isolation?

Paul Johnston: I agree that we need to look at things in the round. From my frequent engagement with local authority chief executives I am aware that they are having to make difficult choices on funding—as, of course, is the Scottish Government in relation to the range of pressures that exists versus the funding that is available.

I do not seek to suggest that the situation is easy. However, I want to make it clear that if we look at the whole of Scotland, we have put in place the level of funding that is necessary to deliver 1,140 hours. That was done Scotland-wide by COSLA with support from the Scottish Government.

The Acting Convener: I will come to Eddie Follan and Sarah Watters in a moment, but first I have another question. You said that agreeing the funding model involved a political decision. Do you accept that agreeing the funding envelope for local authorities also involves such a decision?

Paul Johnston: Yes.

The Acting Convener: Okay.

Eddie Follan: I want to emphasise the partnership approach. We have tried to work—and have worked—closely with the Government to ensure that we are supporting authorities. COSLA constantly discusses with its members the funding pressures that they face, which are significant and are not confined to early learning.

To return to the point about the choice of model, I stress that it was the decision of all the leaders to go for that one. As Sarah Watters said, we are looking at the area again, and planning it out with the Scottish Government. Our partnership approach at the national level can only serve to help councils that are in such a difficult position.

Sarah Watters: What the convener described is exactly the argument that COSLA puts forward every year with regard to the core funding—we use that term frequently—and the unprotected bits of spend that are subject to the cuts.

We want to work with the Government to get to a place where we define a quantum for ELC that does not rob one part of the council to pay for another. We need a sustainable service that sits at the centre of a community's resource—we really want it to be like that. That will help parents, employers and the wider community. We have to ensure that we get the system on to a sustainable footing for 2022-23 onwards, and that we do so in a way that is equitable across councils. The template exercise that was undertaken to define a realistic quantum was done in that spirit. However, a political decision was then taken.

The Acting Convener: I am pleased that you said that. I know that councils across the country will be watching this meeting, and they would probably have expressed their frustration if you had not said what you did about considering the wider context when we talk about these issues, and recognising that partnership working is important.

Graham Simpson: I will follow up on that line of questioning with one question. You have all described what is essentially a postcode lottery across Scotland. Some councils are getting 1,140 hours fully funded, and some are not. The committee would need the list of councils—I think that 12 councils were mentioned—that are not getting the full funding. Those councils, such as Midlothian, which Paul Johnston mentioned, may have to make tough choices. Parents in Midlothian, and presumably in some other council areas, will not get the same range of childcare choice that parents in other council areas will get, because those councils are not fully funded. I would like to know which councils are affected, the level of underfunding and how that is affecting choice in those council areas. I am not necessarily asking you to respond now—you can come back to us with that information.

Paul Johnston: I am happy to follow up with further information on that point.

The Acting Convener: But you have that information—it is somewhere.

Paul Johnston: We should be able to get that information and share it with the committee.

The Acting Convener: Under the current funding model, do any councils get a bonus, in the sense that they get more than the revenue cost?

Paul Johnston: I can see why you would ask that question. Would any of my COSLA colleagues like to comment on that point?

Eddie Follan: The distribution will be the distribution. Sarah Watters probably has more expertise on that area than I do, so I will let her answer.

Sarah Watters: The template exercise was done to define costs over a three-year period. It was done in good faith and for a particular purpose. It was then used as the basis for distribution. Each council submitted the expenditure that it felt was necessary to deliver the service in its area. That was dependent on geography, rurality, socioeconomics and demography—all those factors came into it.

The Acting Convener: Do any councils get a bonus from the model?

Sarah Watters: Councils got what they submitted, based on the costings that they put in

as part of the template exercise. They are delivering—

The Acting Convener: But Midlothian Council did not get that amount.

Sarah Watters: They are delivering the service that was planned—

The Acting Convener: We cannot say that councils got what they wanted; Midlothian did not.

Some councils did not get what they said they needed. A funding model was used whereby some councils got significantly less than they needed—Midlothian got 24 per cent less. Does that mean that no council got more than it needed based on what it had submitted, or did some councils get more than they needed? Could you not have done a corrective exercise by diverting some of the money where councils got more to those councils that did not get what they thought that they needed? It is wrong to say that every council got what it needed.

Paul Johnston: My understanding is that, given the use of the 2014 NRS population estimate that we have referred to, if an area has fewer children than in that estimate, it should be more comfortable for that area to deliver the provision, potentially offering a greater variety of choice and flexibility.

I see the committee's line of argument and I think that it points to what we are saying about the need for these issues to be addressed. We can provide the committee with further details on the breakdown by authority.

The Acting Convener: If you can, please provide the breakdown of what councils think they need, based on the current situation, and what they got, based on the model that was agreed as a political decision. Please show the range of what councils got. Midlothian is the worst hit, with minus 24 per cent, but which councils got plus whatever percentage? I am surprised that you do not know the answer to that offhand, but please share that information with the committee, because surely some corrective exercise could have been done. If one council had plus 6 per cent, for example, it would have been helpful to redistribute that plus 6 per cent to poor Midlothian, at minus 24 per cent, so I think that we need some more detailed information on that.

Sarah Watters: I think that when the COSLA leaders took their decision, a factual statement was prepared for them and for ministers. That factual statement went into detail about what was being done in terms of the population adjustment. Other small adjustments for capital in relation to Scottish Futures Trust rates were factored in. That factual statement was part of the decision-making tools that led the leaders to take the decision that

they did, and they were aware of the population adjustment.

We are talking about projections and estimates—they are not absolutes. We always need to be clear about that. If we moved to a distribution model, we would be using the mid-year estimates, which are more about what has happened as opposed to projecting what will happen over the next five, 10 or 25 years, which is what NRS does.

Colin Beattie: I want to ask for a fairly obvious clarification. No council received more than it asked for but some perhaps received a larger portion of the pot that was available than councils such as Midlothian—is that correct?

Sarah Watters: I think that the population adjustment was the factor that might have made it more “comfortable”, as Paul Johnston said, for some councils; it was not that they got more than they asked for. The population adjustment was put in the factual statement for ministers and COSLA leaders as part of their decision-making tools.

The Acting Convener: Sorry—I think that Mr Beattie's point is this: if you take the measure against which Midlothian is minus 24 per cent, are there any against that same measure that are plus a percentage? You might not have that answer offhand but, if you could come back to us with that answer, that would be helpful.

Bill Bowman (North East Scotland) (Con): I would like to move on from the execution to the governance aspects of the programme. When the committee took evidence from the former Auditor General, we discussed exhibit 2 on page 11 of the report, which you may be familiar with. The report suggests that the governance arrangements for delivery are quite complex. Where do an audit committee and internal audit fit into those arrangements?

Paul Johnston: I was pleased to read what Audit Scotland had to say about the arrangements. I agree that there is complexity to them, but I think that they are robust. I know that, when the former Auditor General gave evidence to the committee in June, she said a bit more about the governance arrangements and I am happy to expand on those arrangements.

11:15

Exhibit 2 shows the governance arrangements for the programme. The programme maintains a risk register. In overall terms, the programme fits within the education portfolio in the Scottish Government—the expenditure sits within that portfolio, and I am the accountable officer for that portfolio. I have regular meetings on assurance and risk management, and Alison Cumming, as

the director for the area, participates actively in those meetings. The meetings are also attended by internal audit and by Audit Scotland.

At those meetings, we look at the risk registers. Recently, in the Covid context, we have been looking at the most pressing risks in each of the portfolio areas. We scrutinise the risks with input from internal audit, external audit and non-executive directors—

Bill Bowman: Excuse me, but is that an audit committee meeting?

Paul Johnston: Yes. It is an audit and assurance meeting, which I chair for the education, communities and justice portfolios, with input from internal audit and external audit. At that, we can agree whether any matters require to be escalated to the overall Scottish Government audit and assurance committee, which is the overarching committee that looks at the totality of Scottish Government spend.

Bill Bowman: So you have an audit committee that is chaired by a civil servant.

Paul Johnston: Yes, with input from internal audit and external audit. I chair the portfolio one with that external input. The Scottish Government's overarching audit and assurance committee is chaired by a non-executive director.

Bill Bowman: Can you show us, either now or later, which individual blocks in exhibit 2 are covered by those audit committees?

Paul Johnston: I am happy to follow up in writing if that is helpful, but the audit committee has looked at the key risks and issues that are associated with the delivery of the 1,140 hours and other issues and risks that are associated with other aspects of the portfolio. It is not a discrete audit committee only for the programme; it looks more widely.

Bill Bowman: But does it cover everything in the programme?

Paul Johnston: Yes, it covers the totality of the programme.

Bill Bowman: Are minutes available for that group?

Paul Johnston: Minutes are available for the portfolio committee and for the Scottish Government's overall audit and assurance committee.

Bill Bowman: When did you last meet to discuss the matter?

Paul Johnston: The last meeting of the audit and assurance committee was in August. I cannot remember the date, but it was in recent weeks. We have been seeking to look proactively at the

key risks that we face, given the implications of Covid.

Bill Bowman: The topics that have been raised this morning include the allocation of funds, a postcode lottery and surpluses and deficits. How do we know that those issues are being given the appropriate independent scrutiny?

Paul Johnston: I point to Audit Scotland's independent scrutiny as one key aspect—

Bill Bowman: I understand that. Maybe I should not have used the word "independent"; I meant independent within the Scottish Government and not outside it. I am talking about a non-executive director or something like that.

Paul Johnston: That is where I would look to the role of internal auditors and non-executive directors in the Scottish Government, with whom we work closely and who are part of the audit and assurance meetings that I referred to.

Bill Bowman: Have the topics that we have heard about come up at that committee?

Paul Johnston: The audit and assurance committee is certainly aware of and has discussed the 1,140 hours ELC programme. Some of the details that we have got into today have not been discussed, but I am happy to take them away and ensure that they are discussed.

Bill Bowman: Would they have been discussed if they had not come up today at the Public Audit and Post-legislative Scrutiny Committee?

Paul Johnston: The Audit Scotland report has highlighted some of those issues, and of course this committee's scrutiny is a hugely valuable way of ensuring that the issues are looked at in more detail.

Bill Bowman: That is not exactly this committee's role—we check up rather than say what should be done. I take it from what you say that the issues that we have discussed this morning have not really been raised internally at the audit committee level.

Paul Johnston: The detailed issues to do with the funding for different local authorities that we have discussed have not been specifically raised at audit committee level. I expect that they have been raised and discussed in detail in the ELC finance working group, which is part of the governance. Maybe Alison Cumming could say a bit more about that.

Alison Cumming: The ELC finance working group is another example of the strong partnership between the Scottish Government and local government. There is a formal forum in the governance structure for looking in depth and candidly at financial issues. The finance working group reports to the joint delivery board. Financial

issues are escalated, as required, to that joint delivery board. We have a non-executive member—a senior civil servant who is not directly involved in the programme—sitting on that board. That person brings challenge and has expertise in the delivery of complex programmes.

We have also undertaken a series of gateway reviews throughout the programme. Those reviews bring in independent scrutiny of the processes and arrangements that we have in place to ensure delivery and they also consider issues such as risk. We have an active risk management strategy in the programme. We have always had that and it is considered all the way up to joint delivery board level.

Audit Scotland concluded that the governance arrangements that were in place were effective.

Bill Bowman: I noted that. My concern is that, although what we might describe as the individual boxes have their own review procedures, we must look at how the important ones are dealt with by somebody who is at the top and can see how important those things are. If something is raised at the finance working group that you mentioned, is there a way for that to find its way to the board that you chair or to the Scottish Government board?

Paul Johnston: We have done a lot of work on our overarching governance to ensure that issues can be escalated swiftly and can flow. I will ensure that the issues that we have discussed today are considered at the assurance meeting for the portfolio areas for which I am responsible and that we take any learning that we can from that.

Bill Bowman: I think that it was you who said that we need to do more to evaluate the project and its outcomes. Why do you need to do more? Do you know what you must do, or do you need to find out what more you must do?

Paul Johnston: We know what we must do and we are doing it. This is a massive programme. We know that we need thorough, robust, short and longer-term evaluation. That is under way. We must do more to get granular data—particularly data on equalities—about those who are accessing early learning and childcare. There is a programme of work under way to ensure that we do that.

We gather data and we have an annual census that looks at attendance and at disability. We want to ensure that we are looking at a wider range of equalities data, so that we can be clear about the impact of the programme.

Bill Bowman: You said that you have a risk register for the programme. Who keeps that register?

Alison Cumming: I have a professional programme management office that supports the running of the programme. That office maintains the housekeeping of the risk register. We have risk registers at various levels of the programme. We capture individual, project-level, risks, which are considered at the project steering group. There are also programme-level risks, which are considered at the joint delivery board. We have a professional programme manager who oversees that and ensures that we are following best practice in risk management.

Bill Bowman: What is the number 2 risk, assuming that Covid is the number 1 risk?

Alison Cumming: Covid is indeed identified as a significant risk, and the other risks that we have identified relate to many of the issues that we have discussed today. Completing the infrastructure projects and getting the workforce in place are the two elements that have tended to account for the highest-scoring risks throughout the programme, and they have received the greatest focus through the joint delivery board and the other governance arrangements. In some cases, they are unpacked into individual elements of risk.

The Acting Convener: We will now have questions from Neil Bibby, who is participating in the meeting remotely.

Neil Bibby (West Scotland) (Lab): Good morning, everybody. First, I want to follow up on some questions that other members have raised, and I will start with the issue of take-up. Mr Johnston said that take-up is almost universal for three and four-year-olds. The issue of two-year-olds has been raised, too, and an indication was given that further work will be done and a breakdown provided on that. Can you give us an indication of the current uptake by parents of eligible two-year-olds, as a percentage? If not, what is the latest position?

Also, given that the impact of Covid and the possibility of a fall in employment have been mentioned, has a specific projection been done on the possible increase in the number of applications for childcare for eligible two-year-olds? If so, can you provide it to the committee?

Paul Johnston: I will hand over to Alison Cumming in a moment, as she can give you some of the most up-to-date figures.

The answer to your last question is yes. We recognise that an increased number of parents are likely to be eligible for the provision for two-year-olds, and we are working to quantify the likely numbers. In particular, we are looking at data on increased unemployment and entitlement to benefits, which will serve as the passport to the provision for two-year-olds. We do not have definite numbers today, given how current all of

this is, but we are seeing growth in the uptake of the provision for two-year-olds, and we expect it to grow significantly.

Alison Cumming: The latest published figures for the ELC entitlement and uptake for two-year-olds are as follows. At the September 2019 census, 5,990 two-year-olds were accessing funded ELC, which was 11 per cent of the two-year-old population. We have challenges in obtaining Scotland-level data for the eligible population of two-year-olds, which is why we publish the percentage relative to the total number of two-year-olds, rather than to eligibility.

As Paul Johnston said, we are monitoring, evaluating and analysing the data that is coming through about what appears to be happening with the number of people who are in receipt of qualifying benefits. As I think I mentioned earlier, we are building that into a series of more detailed stock-take conversations with local authorities in the coming weeks so as to inform the readiness for the 1,140 hours provision. In those conversations, we will have specific discussions about what authorities are doing locally to monitor the changes in their eligible two-year-old populations.

For a number of years, we have been working in partnership in seeking to improve the take-up of the offer for two-year-olds and ensure that the parents of those who are eligible are aware that the offer exists. A number of ways of doing that have been considered through an improvement practicum. We are also taking advantage of opportunities to reach eligible families that arise from some of the communications around the best start foods scheme.

We have consistently found, including through the nine authorities that participated in the improvement practicum last year, that existing trusted relationships with professionals provide a key way for families to understand their eligibility and what making use of it could offer both the children and the parents. We are seeking to build on that where we can, and local authorities have been undertaking extensive work in that area, too.

11:30

Neil Bibby: Eleven per cent is a concerningly low figure and I agree that much more needs to be done on that.

I also want to follow up on the current workforce gap. It was mentioned—by Alison Cumming, I think—that a review was due to be carried out in April but it could not be done, which is understandable, given the circumstances. A September date was also mentioned for the review. Is it happening or has it happened? When can we expect to get an update?

Alison Cumming: I have a point to clarify what I said earlier. Our best estimate—I stress that it is an estimate—is that, before Covid, around 25 per cent of the two-year-old population was eligible. The 11 per cent should be compared with 25 per cent, rather than 100 per cent.

We have a workforce data collection exercise under way with local authorities. The majority of them have returned that data, which we are analysing, and we are working with the remaining authorities to collect their data, which will inform a progress report for the joint delivery board. As we have done with all our progress reports up to now, we will publish it when the joint delivery board meeting takes place. We do not have a confirmed date at present, but it is likely to be October when we have received, quality assured and published the information from all authorities.

Neil Bibby: Thank you for the further information that 25 per cent of two-year-olds were eligible. However, only 11 per cent are accessing the free childcare to which they are entitled, and it is concerning that there is such a low uptake.

The Acting Convener: I apologise, Mr Bibby, but I think that Alison Cumming was suggesting that 25 per cent of the two-year-old population are eligible and that 11 per cent of that population are taking up the provision, rather than it being 11 per cent of the 25 per cent.

Neil Bibby: I understand that point. The 25 per cent represents children who are living in poverty in Scotland. As the uptake is only 11 per cent of the 25 per cent, more than half of two-year-old children who are living in poverty are not accessing the childcare that they are entitled to. As I said, that is a concerning figure.

The living wage was mentioned, and Alison Cumming said that the issue is not straightforward. I am concerned, because it is deeply unfair that the expectations of low-paid workers have been raised in that regard. I do not see why a commitment to a living wage was made when it is now regarded as not enforceable or not necessarily affordable. Were ministers informed about it not being enforceable or affordable when the announcement was made?

Alison Cumming: I challenge that point. In my earlier answer, I made it clear that the living wage is affordable. The funding is there in the multiyear funding settlement to set sustainable rates that will enable all childcare workers who deliver the funded entitlement to be paid at least the real living wage.

On enforceability, we are talking in a strict legal sense, because there is a strong commitment across the sector to move to paying the real living wage. The policy commitment is there, as is the commitment of the sector, as I said. If the

committee would like, we can provide further detail on the mechanisms that we have put in place—to the best of our ability and within the powers of the Scottish Parliament—to ensure that the real living wage can be secured through contractual arrangements.

Neil Bibby: Thank you for those answers.

The Acting Convener: To clarify, when you say that paying the living wage is affordable, is it affordable for those who are getting revenue-negative funding? It is a bold assertion to make for those who are not getting adequate funding.

Alison Cumming: It is affordable in terms of the funding settlement. We also know that all authorities are increasing the rates and paying sustainable rates. I do not have any evidence that it is not affordable at either an individual local authority level or a Scotland-wide level.

The Acting Convener: We will now be joined remotely by Beatrice Wishart.

Beatrice Wishart (Shetland Islands) (LD): Thank you for allowing me to participate this morning, convener. A lot of issues have been raised and the meeting has been hugely informative, not least on data collection and gathering.

Before Covid, there were issues throughout the roll-out to do with knowing where individual local authorities were with the policy. We struggled to get information about that. That information would have been very useful to parents and families, who need to plan and budget accordingly. I am therefore pleased to hear that there will be much more data gathering and much more information coming out in the coming months. Paul Johnston mentioned high-quality data, and we look forward to receiving that.

I echo what Neil Bibby said about eligible two-year-olds—the 11 per cent figure seems extremely low when we look at those who are most in need.

On the same theme, I want to ask you about the monitoring of another vulnerable group. We know that the lack of access to childcare during the crisis has left women particularly vulnerable to losing work. Is the Government monitoring that situation? Do you have an understanding of whether more women have become unemployed during the pandemic because they have been unable to access childcare, or 1,140 hours of childcare? Will that be monitored?

Paul Johnston: I agree that we need to ensure that we have a real understanding of the implications of rising unemployment on women—and, of course, on men.

The policy has a significant gender dimension to it. The 1,140 hours policy has been recognised as

one that will be hugely supportive in pursuing gender equality.

I come to the second of the three long-term objectives that I set out at the start of the meeting, namely that of supporting parents to access jobs, training and education. It will be critical that we work with providers to ensure that we put that support in place. I confirm that, through our current focus on child poverty, we are investing quite significant sums to support parental employment initiatives. It is clear that Covid will make that all the more necessary, given that we are looking at rising unemployment.

I do not know whether we have specific figures at this stage on the differential impact of unemployment on women and men. Perhaps Alison Cumming can confirm whether we have that information.

Alison Cumming: I cannot comment in relation to that specific information. However, in May, we published an initial impact assessment on childcare closures and the provision of critical childcare, and we are going through the final clearance stages before we publish a full equality impact assessment on the recovery arrangements.

I think that it has been evident throughout the Scottish Government's route map that priority has been given to reopening childcare as soon as it has been safe to do so. That has been informed by many factors, including an acute awareness of how the burden of childcare has impacted on parents, and particularly women, during this period. We saw a phased reopening of the childcare sector, with childminders and outdoor nurseries able to open from 3 June and the remainder of the sector able to open from 15 July, albeit with public health measures and guidance in place.

We will certainly be happy to provide the committee with information and a link to the updated equality impact assessment when it is published.

The Acting Convener: There are no further questions from committee members. We have given the issue a good hearing this morning. I thank our witnesses: Alison Cumming, Paul Johnston, Sarah Watters and Eddie Follan, and Matthew Sweeney, who joined us remotely.

11:40

Meeting continued in private until 12:07.

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