



**OFFICIAL REPORT**  
AITHISG OIFIGEIL

# Finance and Public Administration Committee

**Tuesday 21 June 2022**

**Session 6**



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**FINANCE AND PUBLIC ADMINISTRATION COMMITTEE  
20<sup>th</sup> Meeting 2022, Session 6**

**CONVENER**

\*Kenneth Gibson (Cunninghame North) (SNP)

**DEPUTY CONVENER**

\*Daniel Johnson (Edinburgh Southern) (Lab)

**COMMITTEE MEMBERS**

\*Ross Greer (West Scotland) (Green)

\*Douglas Lumsden (North East Scotland) (Con)

\*John Mason (Glasgow Shettleston) (SNP)

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

\*Michelle Thomson (Falkirk East) (SNP)

\*attended

**THE FOLLOWING ALSO PARTICIPATED:**

Jonathan Broadbery (National Day Nurseries Association)

Jane Brumpton (Early Years Scotland)

Graeme McAlister (Scottish Childminding Association)

David Robertson (Scottish Borders Council)

Matthew Sweeney (Convention of Scottish Local Authorities)

Sarah Watters (Convention of Scottish Local Authorities)

**CLERK TO THE COMMITTEE**

Joanne McNaughton

**LOCATION**

The Robert Burns Room (CR1)



# Scottish Parliament

## Finance and Public Administration Committee

Tuesday 21 June 2022

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

### Financial Memorandum for the Children and Young People (Scotland) Bill (Post-legislative Scrutiny)

**The Convener (Kenneth Gibson):** Good morning, and welcome to the 20th meeting in 2022 of the Finance and Public Administration Committee. Before we move to our first agenda item, I put on the record my thanks to members of the Senedd Finance Committee for attending the first interparliamentary finance committee forum here at Holyrood last Thursday. I also thank committee members for their contributions to that meeting. I look forward to continuing to share experiences and co-operate on common issues as the forum develops in the months and years to come.

Under agenda item 1, we will take evidence from two panels of witnesses as part of our post-legislative scrutiny of aspects of the financial memorandum for the Children and Young People (Scotland) Bill. I welcome our first panel. Sarah Watters and Matthew Sweeney—Matthew is attending virtually—are from the Convention of Scottish Local Authorities, and David Robertson is chief financial officer at Scottish Borders Council. Good morning to you all. We will move straight to questions.

One of the interesting things in the vast number of documents that we were provided with for this meeting is the statement that

“On 25 June 2021 COSLA Leaders agreed that from 2022-23 a single standard formula should be used to distribute funding”

between local authorities. I am quite astonished that that has not happened before now. Is it going to happen in the current financial year?

**Sarah Watters (Convention of Scottish Local Authorities):** I am happy to answer that, Mr Gibson. We got to a place in 2018 where we had a multiyear funding agreement. The history is probably well known. The officer recommendation at that time was a needs-based formula for the early learning and childcare funding, but COSLA leaders took the decision to distribute based on the returns that had been made.

At that time, there were discussions on a multiyear funding agreement. That is extremely important because it gave three years of stability for the expansion of ELC. As David Robertson will testify, having that stability is extremely useful when you are planning service expansion on this scale. That is the decision that leaders took at the time. It was a political decision.

We have sought to work through the ELC finance working group, which is a joint working group between local government and the Scottish Government, to look at the scale of the funding. We are talking about a significant sum. The expansion funding was just over £0.5 billion and the ELC funding in totality is almost £1 billion. We want it to be moved to needs-based funding distribution because, overall, it allows councils to respond to the needs in their areas based on the formula.

However, that has to be done on a transitional basis, because service structures have been set up that cannot be unpicked easily. A service delivery infrastructure has been set up in each local area, and we need to make sure that there is a smooth transition to the formula. To be honest, it would always be COSLA’s view that we should distribute based on a needs-based formula.

That is on the revenue side. The capital for expansion was different because there are a number of local factors that play into the needs of a local area in relation to its capital expansion programme for ELC.

**The Convener:** From my perspective as, if you like, a layperson who is looking in on this, it is difficult to see how the spend can be monitored effectively if everyone has different methods of assessing how the funding is calculated. That is why I asked the question. I am sure that colleagues will want to explore that further.

I was on the Finance Committee from 2011 to 2016, and when we deliberated on the financial memorandum, the significant things included not only the difficulty in obtaining best estimates, but the tension that existed—as it often does—between the Scottish Government and COSLA as to how much should be allocated. It is interesting that, over the three years 2014-15 to 2016-2017, councils received £329 million of additional revenue to provide early learning and childcare, but they increased their spending on it by only £189 million. COSLA said that that did not account for the need for council efficiencies and so on, but that is a huge difference.

In 2018, a report highlighted inconsistencies in how councils compiled local financial return information. In the current financial year—I may as well include this in the question—more than £1 billion has been allocated, yet it looks as if

expenditure is going to be £935 million. It appears that, throughout the process, the amounts of money that have been set towards the policy have been more than has been required. Is that the case or would you dispute that?

**Sarah Watters:** I will let David Robertson comment on that. Local government accounts are large and complex, and ELC sits as a service within a structure of delivery. We have administrative functions, finance functions and human resources functions. There is support for ELC within councils, but there is not a specific ELC line in council accounts. It sits within a much wider range of services, and each council's set-up will be slightly different. Some services sit within social work and some sit within education.

I will let David Robertson comment on the actual structure of the accounts, as that might be more helpful.

**The Convener:** That is clearly an issue that we are trying to highlight. There seem to be different ways of counting this. ELC comes in different budget lines, which makes it difficult to look at how the policy is being implemented from a financial perspective. It is not so much about the policy. It is about how it is being implemented financially given that councils have different methods of counting. How do we know whether the money is being spent effectively, accurately and consistently across Scotland?

**David Robertson (Scottish Borders Council):** We all follow a standard process through the LFR—the local financial return that councils submit each year. That is prescribed in the guidance on how we account for costs, including the costs of early years services. We tend to get an element of variability in the allocation of central support overheads, but the majority of direct costs are accounted for fully and consistently by councils through the LFR, and they are fully auditable and transparent.

The major policy initiative around early years was a large and complicated undertaking. You will be aware that we are now providing services to 111,000 two, three, four and five-year-olds across Scotland, and the planning and implementation of that has been a complicated process. When we start off on these massive initiatives, estimates are put in place for the staffing models that we will have to implement to deliver the services and the capital expenditure that we will have to put in place to expand provision. Those estimates were used to inform the initial costs of the programme.

It is probably fair to say at this juncture that the provision that was made available initially for the 600 hours was adequate to deliver the policy initiative. We have subsequently gone on to deliver successfully the 1,140 hours commitment

through a different funding model, which has been based on specific grant rather than on the grant-aided expenditure mechanism.

**The Convener:** The Scottish Parliament information centre has said:

“It is not clear how any concerns around the accuracy of the financial memorandum estimates were reflected in the initial allocations for the expansion of ELC, or how later allocation methodologies have been developed to reflect variation in models of delivery.”

Is that a fair assessment?

**David Robertson:** The model of funding for ELC provision has changed over time from one where money was put into the financial settlement to deliver a policy commitment of around 600 hours to one that has been based on specific grant. There is direct accounting for that specific grant for the expansion of the policy to 1,140 hours. The change in the way that the policy has been funded probably reflects the concerns that you outlined.

**The Convener:** I go back to my initial question, which I do not think I received an answer to. Do you feel that the policy has been overfunded? The information that we have is that, every time there is an allocation, there always seems to be a surplus at the end of the financial year. That includes the current financial year. However, I note that the money is ring fenced, so it cannot be used for anything else. That seems a bit odd. If there is a £1,006 million allocation and a £935 million projected spend, that tells me that there is £71 million remaining. Can you talk me through those figures?

**David Robertson:** Where we have a specific grant that has been allocated by Government, it has to be applied to the purposes that are set out in the grant letter. If we cannot spend the money on that purpose, it is carried forward in our books. That money is still available to deliver the policy intent and it can be repaid at the request of ministers.

**The Convener:** Yes, but has there been an underspend or not? Has more money been allocated? We do not see anything to say that COSLA looked for X, that it got Y and that it should have had Z, Z being more than Y. In fact, from the figures that we have, it looks as if there have been underspends each year.

There were clearly overestimates of the number of children who would qualify. I find that bizarre given that you know how many three or four-year-olds you will have in the population from when they are born. A few might move around districts or the parents could emigrate, of course, so there will always be an element of flexibility in the figures. However, there seems to be a significant overestimate of the number of children, which has

meant an overallocation of funds and more money being available than has been required. Is that the case?

**David Robertson:** Somewhat strangely, we are still in the early days of the implementation of the policy, given the circumstances that we have been facing with things such as Covid. The implication of the pandemic for early years provision has been that parents have decided not to send to nursery significant numbers of children who have been eligible to take up places. That will have impacted on the costs of the provision. What we are—

**The Convener:** Hold on a second. The figures that we have suggest that 97 to 98 per cent of parents have applied for the provision for three and four-year-olds. Only 50 per cent have applied for eligible two-year-olds, which is of course an issue, but the figures for older children are extremely high.

**David Robertson:** Sorry—I think that you are right. The point that I was making was that the pandemic will have influenced parental decisions about the take-up of places. You are absolutely right in terms of the projections around birth rates and the number of eligible children, but the number of children who actually come through to nursery settings can be entirely different due to a variety of factors.

09:45

**Sarah Watters:** When we put together the multiyear funding settlement, the 2014 population projections were used. That allowed stability in the system. The finance working group has looked at the most up-to-date population information, and we cannot deny that the number of three and four-year-olds in Scotland has gone down. The SPICe briefing says that about 8,500 fewer three and four-year-olds would be eligible.

As David Robertson said, however, we are still in the early days of setting up a service on this scale, and we cannot just shave 4 or 5 per cent off our service delivery model. If we consider the 8,500 fewer three and four-year-olds, that will mean, for David, about 150 or 160 fewer young people across the Scottish Borders Council area. We cannot just take little bits off our service. We have a service delivery model, we have commissioned services, and we have a set-up. We are in year 4 or 5 of that, if we look right back to the introduction of the 600 hours. I do not think that it is as simple as saying that there are fewer young people so we can take funding out. Commitments have been made across the sector and across a range of council settings that cannot be unpicked quickly.

Part of the move to a needs-based funding formula is that we will be looking at distributing

funding predominantly based on things such as population, rurality and deprivation, so the money will work its way to the places that need it. We need to get to a sustainable quantum of funding for delivery of the service going forward, and that is what we have been doing through the finance working group, which has been a really good forum in which to work through the range of complex issues that need addressed if we are to see sustainable services going forward.

**The Convener:** I will let Matthew Sweeney come in soon, because he has not spoken so far.

I appreciate that, if you have staff for 100 children and you get 98 children, you still have the same number of staff. I think that we all appreciate that.

In terms of the ELC finance working group, the new funding distribution formula will be based on the following split: 75 per cent on client numbers; 20 per cent on deprivation; and 5 per cent on rurality. You talked about figures set in 2014, but the figure that we have is that £39 million headroom was identified in the ELC-specific revenue grant, largely as a result of there being fewer children eligible for the entitlement now than was projected in 2018 rather than 2014.

**Sarah Watters:** It is unfortunate that that has been called “headroom”. The finance working group said that, if there was any flexibility in the funding system or the delivery model, there were a couple of very important outcomes that we could focus on together, one of the most important being uptake. You have mentioned the two-year-olds and the fact that uptake for that group is not as we would want it to be because these are the hard-to-reach children and families that sometimes require support. ELC is the hook by which to engage with the family.

There are some councils that have significant pressures and there are others where there may be what has been perceived as headroom, but we said that we could work together jointly to achieve better outcomes, better child health and better parental engagement and employability—all the things that surround ELC. Unfortunately, there was a cut to the ELC-specific grant in 2022-23, so it will be difficult to focus on some of those outcomes. Matthew Sweeney might want to say more about the outcomes that were developed, because that wanders into the policy territory, as opposed to finance.

**Matthew Sweeney (Convention of Scottish Local Authorities):** I am happy to pick up on that. David Robertson talked about the impact of the pandemic on uptake and usage, quite rightly. Around 97 per cent of the 111,000 children are taking more than 600 hours, but it is around 88 per cent who are taking the full 1,140 complement.

There is a question there for all of us: is that an impact of the continued effect of the pandemic? Is that about new ways of working and the fact that there is still more flexibility about working from home in a lot of areas? We are not quite sure what the figures will look like six months or a year down the line, with offices returning more and more all the time. There is a question there and we are not quite sure about how long some of that will continue to go on for longer term.

On the points that Sarah Watters was talking about, if there was space within local authority budgets, there are some key areas that we think need to be worked on. That was also developed on the understanding that that would not look the same in every single local authority, as some local authorities might have more space within their budget than others. If there was that space, we would absolutely be looking at things around uptake and we would be looking at some of the stuff around Covid recovery and what the impact has been on children and young people. On speech and language, we are seeing quite a lot coming through from recent public health statistics. Is there a way that the money can be used to support that? Finally, how do we continue our support for the sustainability of our private and third sector partners?

**The Convener:** I have one more question and then I will open up to colleagues around the table. The issue of partner provision is interesting. A lot of partner providers have raised concerns about the roll-out of the policy because they feel that, in some areas, they have been squeezed by local authorities. For example, in Aberdeenshire, the amount of spending on partner providers increased from 20 per cent in 2018-19 to 36 per cent in 2021, whereas, in Moray, which you would have thought would not be that different in terms of rurality and so on—it neighbours Aberdeenshire—that spending went from 55 per cent to 43 per cent over the same time period.

Sarah Watters, can you talk a bit about the relationship with partner providers? I can see also that there is a differential between Orkney paying only £5 an hour for partner providers and West Lothian paying £6. Can you also talk about the impact on that sector and on childminding, which has declined by more than a quarter since this policy came in?

**Sarah Watters:** The relationship with partner providers is absolutely critical to the delivery of the policy. In most areas, more than 25 per cent of delivery is through the private, voluntary and independent sector, so it is absolutely critical that those local relationships are strong. However, they will not look the same in every area. As you have cited, even in two neighbouring authorities, the pattern of commuting, the settlement structure and

so on can be significantly different. That is clearly the case in the neighbouring areas of Scottish Borders and East Lothian.

The important thing about the ELC delivery is that there is a legal duty to consult every two years on a local delivery plan. That local delivery plan is the opportunity for all partners to feed into what the plans are for the next two years, which will then affect the commissioning. It looks at what the situation is in each local area and what is required for that service going forward. That is helpful within that structure, because it keeps the relationship reasonably fresh and it means that you have to consider what the most appropriate provision is for the next two-year period. That is a positive part of the structure. Matthew Sweeney or David Robertson might want to say more on that.

**The Convener:** I see that Matthew Sweeney wants to come in. My point is that, in the space of two years, some of the shifts have been dramatic—I mentioned the shifts from 20 per cent to 36 per cent and from 55 per cent to 43 per cent. Could you also touch on childminding, Matthew?

**Matthew Sweeney:** Absolutely. The first thing to say is that, across Scotland, the number of partner providers delivering funded provision is higher than was initially envisaged during the initial planning of the expansion. I think that, originally, we were looking at that being somewhere in the region of 25 per cent, and we are now in the region of around 31 per cent in the most recent figures. There is not a squeeze at a Scotland level.

It goes back to what Sarah Watters was saying. This is a parent-led model. What we are trying to create here is based on what parents are asking for. That comes through the consultation process and is in keeping with the funding-follows-the-child model, which says that any setting that is able to provide a place that is in line with the local delivery plan and that is willing to enter a contract with the local authority is able to provide the funded entitlement, provided that it meets the quality standards that are set out in the national standard, which was agreed jointly by Scottish Government and COSLA.

That—[*Inaudible.*]

**The Convener:** This is why we prefer people in the room.

**Matthew Sweeney:** Sorry, can you still hear me?

**The Convener:** Yes.

**Matthew Sweeney:** As I was saying, some of that will be driven by parental demand and, fundamentally, what they are looking for.

**David Robertson:** The partner providers are absolutely crucial to the delivery of the policy



across Scotland and the situation in my local authority is no different. We could not deliver the commitment to 1,140 hours without the private and voluntary sector delivering a very significant element of childcare provision. In my local authority, that accounts for only 20 per cent of provision, but that just reflects local circumstances and the existence of those businesses.

During the pandemic, we carefully tried to ensure that those businesses survived so that they would still be able to deliver the services that parents will need in a post-pandemic environment. We have also sought to expand the services that we receive from childminders in the Borders, and we have nine more registered childminders than we had before the pandemic operating in the region and supporting the delivery of that policy. We have supported those providers during Covid as if their contracts were being fully fulfilled, even if children were not able to attend nursery, in order to ensure their sustainability, in recognition of the importance of that provision to the overall policy intent.

**The Convener:** That was to be my last question, but I have not really had a good answer to why there is such a variation in the hourly rates across local authorities.

**David Robertson:** We do not have a standard formula and those rates are the subject of negotiation with local providers. In my local authority, the rate for two-year-olds will be £5.65 in 2021-22 and £5.31 for three, four and five-year-olds. That will increase to £6.55 and £6.21 respectively, backdated to August 2021, to ensure the sustainability of our providers. That is a negotiation with individual local providers and their early years teams, but those negotiations go on across Scotland. They are not done on a single consistent basis.

**Sarah Watters:** The issue is the subject of much discussion and the rates are set transparently. Every year, through the auspices of the finance working group, the Scottish Government collects information on the rates in each local authority. It is unfortunate when they are presented as league tables. What we are doing is creating structures that are appropriate locally, and there will be variation. There will always be somebody at the top and bottom of such a scale, but the focus for each council is on fair work across a range of sectors.

Provision costs different amounts in different settings; it is not uniform. It is such a complex policy and, when you throw in parental choice, it gets even more complex. There is, quite rightly, a lot of attention being paid to the issue, but councils are open and transparent about the rates that they set each year.

**Daniel Johnson (Edinburgh Southern) (Lab):** I want to follow straight on from that question about rates and the impact that there has been on partner providers.

There is variation, but, if you look at the rates that are offered by different councils you see one number come up rather a lot, which is £5.31. Given the specificity—if I can say that at this time of the morning—of that number and the number of times you see it, I would be interested to know where it came from. I think that the number was arrived at by COSLA. Could you correct me if I am wrong? Where did that number come from? More importantly, how was that number derived?

**Sarah Watters:** I will bring Matthew Sweeney in at this point, because he was involved in the work around the creation of the figure of £5.31 that sticks in everybody's minds.

**Matthew Sweeney:** Actually, that was slightly before my time. That figure came from the Scottish Government, which, around 2016, had undertaken a national exercise examining some of the costs of provision that exist across Scotland. Its findings were fed into the process and it was something that was discussed, although I am not quite sure that it was discussed universally, in the template exercise that we discussed earlier.

10:00

More broadly, one of the points that we make on rates is around the fact that we cannot look at rates in and of themselves. The document that Sarah Watters mentioned, which contains the information that is collected annually, does not just go through the rates that are paid by each local authority, it also goes through some of the in-kind benefits that exist. There will be stuff that will exist around discounted or free lets, training and development or quality improvement. There are a number of things that local authorities provide that are not financial, but those will be different across different local authorities. We need to be clear that we are not always comparing apples with apples when we are looking at separate rates on just that measure.

We have been quite clear in the past that we have found some of the rate-setting processes quite challenging. Some of that is to do with getting reliable, robust and consistent information from partner providers locally. Local authorities have reported having an issue about how they follow the guidance that was agreed between the Scottish Government and COSLA in 2019 on rate setting, which sets out a number of models for that approach. It also sets out some of the principles that need to be taken into account. Some of that is reliant on getting good quality information across from your providers.

That is why, last year, COSLA agreed to support a national cost-collection exercise—essentially an updated version of what had happened in 2016—to make sure that we are getting good high-quality information from providers across the country to make sure that we are making decisions on rate setting based on the best-quality information. That national data point does not replace the understanding of your local ELC market and relationship with providers, but it is trying to make sure that we are injecting as much good-quality information as we can to those processes to get us to a position where the range is closer than it is just now, when there are some wide variations.

**Daniel Johnson:** There is a flipside to that coin. I totally understand that there is variability, that different geographies have different factors and that there will be different models. However, there are a lot of things that are consistent. For example, if I was to come up with a high-level cost stack for running an early learning setting, every setting will have staff costs. Those staff costs are set out in statute in terms of the minimum staff requirement. I would have a requirement for overlap; I would have buildings costs in terms of rent; I would have utilities bills; and I would have insurance. What I am getting at is that you could have a relatively consistent approach for assessing those things. Does that exist? Has COSLA looked at that and come up with a model costing regime? What I am told by people in the independent sector is that the situation is not quite as straightforward as what you are describing. They are being asked to provide individual accounts, which, given that they are private businesses, I can understand their reluctance to do. I am questioning the transparency of the process by which that £5.31 number—and, indeed, the other ones—was arrived at.

**Matthew Sweeney:** There are a few things to say in response to that. First, there was a clear process in the 2019 guidance on the setting of sustainable rates, which was developed by Scotland Excel on behalf of the Scottish Government and was agreed by the Scottish Government and COSLA, and which sets out those things. That process quite clearly asks for transparency from local authorities and, equally, from private providers in terms of their costs, which is, as you note, an area of tension. That is partly what I am talking about. The national cost collection exercise that we agreed to take part in was conducted by a third party to ensure that local authorities were not given any information on individual businesses, but there was an amalgamation of some of those businesses at the level of detail and the level of consistency in terms of the data so that we were getting reliable information back.

**Daniel Johnson:** Are you saying that every local authority has published how it has arrived at its hourly rate? Is that correct? Would you be able to point us to where those calculations have been published?

**Matthew Sweeney:** I am not able to say that that has been held in one central place. The expectation and what has been agreed through the guidance that COSLA agreed was that there would be transparency between all parties on how those rates were arrived at, which means that local authorities should be transparent about how their rates were calculated. Equally, it requires providers to be transparent about their costs as well, so that that process can be robust.

**Daniel Johnson:** I will ask the same questions of the National Day Nurseries Association later today, so we will see what it says.

What impact has the issue had on the sector? The one fact that we have in front of us this morning is that we have seen a decline of 25 per cent in childminders since the implementation of this policy. In my area, Edinburgh, which has had a relatively high reliance on the PVI sector, what I see is setting after setting selling up to big national chains. I do not have numbers but I can tell you anecdotally that it appears to have had quite a chilling effect on genuinely independent family-run providers and that the rates seem to have driven those people out and increased reliance on big national chains. Is that something that your data bears out?

**David Robertson:** I do not think that the data bears that out in my local authority. The decision over whether to continue to trade as a private providers is one for an individual business, and I do not think that we have any evidence to suggest that the rate that we are paying is driving any businesses under. Our objective here is to sustain provision, to expand provision and to ensure that we have an appropriate balance between public and private provision that meets the needs of parents. We have no interest or desire to see private nurseries going under because we are not paying them a sustainable rate.

**Daniel Johnson:** Can I push back a little bit there? Clearly, there is evidence that childminders are removing themselves from the sector. Could you explain why that has happened? Does COSLA hold that data? Does it know how many PVI providers there are in Scotland today compared with when we embarked on this journey?

**David Robertson:** All I can say is that, in my area, we have seen an increase in the number of childminders. It is a small number, but it is a small area. We have not seen the trend that you describe. The decision to enter into childminding is

a personal matter for individuals, depending on issues such as the employment opportunities that are out there and people's personal circumstances. We are certainly not seeing a decrease in childminding locally. We are seeing an increase, and we want to see that sustained.

**Daniel Johnson:** That is the Borders, but nationally there is a decline in childminders. Matthew Sweeney, do you have any comment on that?

**Matthew Sweeney:** In the first instance, the Care Inspectorate, which holds the data on the registered numbers of settings that exist across the country, is not seeing a change. I think there has been a very consistent trend in terms of private nurseries. There has been some fall-back, primarily spurred on by the pandemic, around the third sector and voluntary provision. However, I am aware of some of the context that has been supplied by Early Years Scotland, for example, which thinks that some of that involves abilities to retain committees during the pandemic and so on. As you note, there has been this reduction in childminding.

We see that, in some areas, there has been a steady state. In the wider childcare sector, the places that are not funded—out-of-school care, for example—have seen reductions in what they are doing. So, that information would not imply to me that councils are not paying a rate at a sustainable level.

What this comes back to—this reflects some of what David Robertson was saying—is the issue of parental demand and what parents are looking for. There is an interesting question about what could be done to make sure that parents understand that it is an option. That is something that we are continuing to work collectively on.

Similarly, I am aware that the Scottish Childminding Association has some questions not so much about the rate itself being a driver of childminding, but around the administrative burden and some of the work that goes on around that. Through the Scottish Government's commitment to childminding group, we have been looking at some options around how we could potentially reduce that administration burden while noting, however, that we need to look at the on-going reform of the new education inspectorate body, for example. I do not think that it is easy to draw simple conclusions that rates alone are leading to those changes. There is a number of complex factors, many of which we are working on.

**Daniel Johnson:** I would like to make the distinction between settings and providers. I am sure that the number of settings has not fallen, but I would be interested to know if there is data on

the number of providers. I am mindful of other colleagues waiting, so I will hand over at this point.

**Liz Smith (Mid Scotland and Fife) (Con):** Good morning. I will quote from the Audit Scotland report "Early learning and childcare: Follow-up", which was published in 2020. Key message 5 of the report says that a lot of work is being undertaken

"to capture important baseline information. However, challenges to the evaluation process remain."

Could you explain what data local authorities are using, particularly when it comes to assessing uptake? What data are they using to assess the reasons why quite a number of children—particularly two-year-olds—are not taking up the offer of a place?

**Sarah Watters:** I will pass to Matthew Sweeney on the uptake data.

**Matthew Sweeney:** I do not think that there is a single set standard of data that local authorities will be using when they try to engage people on taking up the offer to two-year-olds. With any targeted offer, there will always be a question about how to drive uptake.

I took part in a session a few weeks ago with the Education, Children and Young People Committee, and the view across not just local authorities but some of the witnesses on your next panel is that there is a question about the effect of stigma on any targeted offer and how we should approach it.

The big challenge that we have around data is that the data from Her Majesty's Revenue and Customs and the Department for Work and Pensions do not give us a clear understanding of who is most likely to be eligible for the offer to two-year-olds. We have been speaking to colleagues about that for some time, and we were pleased to see that the United Kingdom Government, working with the Scottish Government, launched a consultation earlier this year to create what I think is called a data gateway. That will ensure that, once the process is fully in place, councils in Scotland will have access to the same information that is available to councils in England and Wales on the social security status of parents. I hope that that will help us to identify more of the people who are eligible for the two-year-old offer and drive uptake, which we are keen to see.

**Liz Smith:** Thank you for that answer. I think that it is important that we have good-quality data, which Audit Scotland was obviously requesting.

You suggested earlier that one reason for changes in uptake might be the pandemic, which is possibly true, and you have just suggested that it could be to do with stigma, although I am not sure that that would follow the logic in relation to

three to five-year-olds; nonetheless, that is possible, too.

Is it not the case, however, that there could be quite a lot of data that suggests that one of the reasons for weaker uptake is the pressure on staffing, which is something else that Audit Scotland flagged up in 2020? There is a lot of anecdotal evidence that staffing is particularly difficult. You know of some reasons, but is it not important that we try to understand all the reasons for there being such pressure?

**Matthew Sweeney:** Absolutely. We are keen to understand all the reasons. Through the Scottish Government's workforce strategy for ELC we are looking to consider the issue in the round. We see the primary driver of uptake being around how councils and their partners work to engage families who are eligible for an offer to two-year-olds that is not open to everyone but is open only to specific people who have specific statuses. Some councils have taken good approaches and they have seen uptake increase. Whether through working with family nurse partnerships or through community engagement, they have managed to increase uptake slightly.

We think that the real challenge for councils is that often they just do not know who those families are and where they are. That is why it is so crucial that we manage to get that flow of data from HMRC and the DWP—which have the information on which families might be eligible—through to councils, which can then go out and engage them in the two-year-old offer.

**Liz Smith:** How far down the road are you in finding the necessary data? From our perspective—from the Parliament's perspective—when we are scrutinising a very important piece of legislation that has cross-party support, it is absolutely essential that the data that underpins that scrutiny is well crafted and very clear. It strikes me that, in this case, there is no clarity over the way in which data is being either collected or assessed. Are you offering the committee the opinion that a lot more has to be done to get accurate data?

10:15

**Matthew Sweeney:** Are you talking about the offer to two-year-olds or more broadly?

**Liz Smith:** I am making a general point because the legislation covers different age groups. However, in relation to the offer to two-year-olds in particular, there is there is more of a problem. Our difficulty as a committee—it was obviously Audit Scotland's problem in 2020, too—is that there is not sufficient good-quality data to assess exactly what is going on here and why there may be a downturn in particular age groups, or why in some

cases parents are not taking up the offer to which they are entitled.

**Matthew Sweeney:** Thank you for that clarification.

As I mentioned, a consultation was launched earlier this year by the UK Government on the creation of a new data gateway. I am not sure, but I believe that that consultation closed around March, and the UK Government is working through the process now. I think that that will require secondary legislation in the UK Parliament, so some of this will be dependent on how quickly that moves. However, that is the timescale that we are working to.

On data and evaluation more generally, a lot of work is going on through the Scottish study of ELC, which is looking at a number of the areas that you are looking at around the basis of some the data. Different work is going on around what data is collected. I believe that a longitudinal study is part of this, too. The work is being led by the Scottish Government in order to make sure that we have the strongest data and evidence base possible in the longer term so that we can look at the benefits as widely as possible. In the interim, we are continuing to support the Improvement Service, which collects data directly from local authorities on uptake, workforce and capacity. That information is continuing to be collected and shared.

**Liz Smith:** In an earlier answer, you made it clear that you thought that each local authority should be able to provide a lot of data on exactly where its information is being drawn from and how well it is achieving its policy. Is it COSLA's understanding that that data will come from 32 different local authorities and that it will be collected and then properly analysed, or are you saying that it is the job of COSLA and some other institutions to collect that data? That is the key point.

**Matthew Sweeney:** Perhaps I misunderstood your previous questions. In my previous answer, I was talking about the data to support the setting of sustainable rates and making sure that there is transparency around that. I think that I have misunderstood your question. I thought that it was about national-level evaluation of the policy as a whole. As such, that information will be collected through the Improvement Service, as opposed to data that is used locally to support the setting of a local sustainable rate.

**Liz Smith:** Sorry, Mr Sweeney, it is about national data, but that national data can only be forthcoming if we are able to assess what each of the 32 local authorities is doing. They are the ones that are delivering the policy, alongside people in the independent sector. Therefore, for us to

analyse what is a national policy, it is essential that that data is both clear and available. With respect, it would be very helpful if you could provide the committee with a little bit more information—if you cannot do it this morning, you could provide it at another time—to allow us to see with considerable clarity where the data on policy delivery is so that we can analyse it better. Thank you for your assistance so far.

Mr Robertson, can I ask one question about the Borders policy? You said in an earlier answer that Scottish Borders Council has been taking time with the policy to ensure that providers are able to survive and therefore deliver it. Could you say a little bit more about what action you have been taking to ensure that they survive?

**David Robertson:** Of course. During the pandemic, my authority—and I am sure a number of other authorities—decided that there were a number of key providers of council services in the private and third sector that we had to absolutely ensure survived the impact of the pandemic. Among those providers were those in our early years settings. Care provision or care homes—21 of them are located in the private sector—were another sector that we supported. We had to ensure that at the end of the pandemic our local transport providers were able to continue to deliver essential local services—they are private businesses and they had to survive. We supported those providers in relation to the Government's pandemic payments, but we also supported them with their cash flow. We ensured that during the pandemic we continued to pay them in line with their contracts so that they would survive the impact of Covid-19 and be available to support local service delivery at the end of the pandemic. We are obviously coming out of the pandemic now, and I think that that policy on the continuation of local suppliers has proved its worth over the period.

**Liz Smith:** Thank you. That is helpful. Finally, was there any discussion about the availability of staff to deliver in the centres?

**David Robertson:** Absolutely. There have been on-going discussions with local providers on the availability of staff. The wider labour market is very challenging for early years providers and for a range of other providers.

**Liz Smith:** Did they flag up problems?

**David Robertson:** Across the economy, people are flagging up issues around staffing, recruitment and retention, and early years settings are no different. That is one of the reasons why we are very keen to ensure that we pay providers a sustainable rate, so that they continue to offer good terms and conditions to their workforce. The rate that we will now provide to our early years

providers will increase 16 per cent for two-year-olds and 17 per cent for three, four and five-year-olds, backdated to August 2021, to ensure that they can continue to offer good terms and conditions to their workforce.

**The Convener:** It is quite interesting that the 15 local authorities that did not provide robust data include some of the larger ones, such as Dundee City Council, Glasgow City Council, North Lanarkshire Council, South Lanarkshire Council and Aberdeen City Council.

**Douglas Lumsden (North East Scotland) (Con):** I will follow on from that line of questioning about the robustness of the data. I was surprised to read in our briefing paper that, after the first financial template went out in June 2019,

“significant data quality issues were identified”.

A revised template then went out, but only 17 returns were deemed sufficiently accurate and robust to include in the analysis. Can we have confidence in the data from the 17 for which we have figures? On the variances between authorities, the 2021 data for Aberdeenshire Council, for example, shows that 54 per cent of its specific revenue grant was spent on ELC, but Argyll and Bute Council spent the whole 100 per cent. There seem to be huge differences between local authorities. Is the data that we have from those 17 robust enough? How can we ensure that we have data from all local authorities going forward?

**Sarah Watters:** In 2019, we realised that there were shortcomings in the data collection. As David Robertson quite rightly said, local authorities do a number of returns, from the local financial return to the POBE—I cannot remember what it stands for; perhaps David Robertson can help me. We realised that the ELC offer required almost a bespoke look and a bespoke dataset.

In 2020, when we went back out with the bespoke data collection exercise, we hit the middle of the pandemic. That is why we got 17 robust returns, which has informed the next round of returns, and we are at almost 100 per cent for the financial returns that are coming in. However, we need to look at those in the context of local government finance more widely and how the ELC service interacts with other service areas. For example, the management of facilities might be accounted for slightly differently in different local authorities.

Each year through the finance working group—which is working well with Scottish Government analysts and our policy colleagues—we ask what we need to do. In fact, we have even had discussions about what, potentially, we need to change in the LFR that would make it more useful

in the medium to longer term in terms of looking at the data longitudinally.

We have some big policy questions to answer. It is a significant sum of money and over the five to 10-year period we need to see alignment of uptake, policy outcomes and finance. The position cannot be changed overnight. It is unfortunate that, in the middle of this incremental change, we had a pandemic that led to resources shifting and to slightly different things being done to support providers. It was not just about how we rolled out the ELC offer; it was about how we could open the centres for critical workers, how we could make them safe and how we could support our partner providers. The money had to be used in flexible ways. Through the finance working group, we are now on a more even keel in relation to getting the returns in so that they provide us with consistency of information from year to year over the medium and longer term.

**Douglas Lumsden:** David Robertson, you went through the process.

**David Robertson:** I think that you can have confidence in the data that is provided. It is fully auditable in terms of the councils' accounts and the source information is there. The data returns that come in from councils are subject to challenge by civil servants. In many instances, the data is also subject to a quality assurance process that is undertaken by COSLA before it is submitted to the Scottish Government. I think that you can have confidence in the reliability of the data. The key thing is that inconsistencies in the returns that councils provide are challenged, queried and understood as we move forward.

**Douglas Lumsden:** I guess that we do not have the full picture. As the convener pointed out, there are big local authorities, such as Glasgow City Council and Aberdeen City Council, that we are not seeing data for. There are huge gaps in the data that we have.

**Sarah Watters:** For the 2021 returns I think that we are waiting for one council, which is not one of the ones that you have mentioned, and then we will have 100 per cent in the most recent round of data returns. As David Robertson said, the returns are challenged by colleagues on the finance working group. Our Scottish Government colleagues want to understand why there are differences: for example, are they a result of how catering, facilities management, overheads and support costs are apportioned? They are getting a much better sense of that.

**Douglas Lumsden:** I notice there are huge differences. Catering is mentioned in our report, with some authorities saying spend took up 6 per cent of the grant, whereas others said that it was

zero. I cannot quite understand that from the papers.

**Sarah Watters:** I do not understand how it can be zero because children get fed in ELC settings as part of the deal. I will have to take that specific example away to look at.

**Douglas Lumsden:** You mentioned that the specific grant has been cut going forward. From the Government's point of view, is that not justified given that, up until now, local authorities have not spent the grant that they have been given?

**Sarah Watters:** Through the finance working group and our Scottish Government civil servant colleagues, we had hoped that we could get one year of steady-state business as usual under our belt before any decisions were taken about funding, because we had not had that—we were not at roll-out when the pandemic hit. The legislation was delayed. All we wanted was one year to see how things would pan out with normal service delivery. It is unfortunate that we did not get that, but we will continue to work through the finance working group to make sure that we collect as much business-as-usual information as we can.

What we in local government absolutely want is sustainable funding to make sure that the service can be delivered for the next 10, 15 and 20 years. We do not want it to fail—we have put far too much work and effort in. However, nor do we want to have to rob our core services to prop up increasing costs in the sector, be that for workforce, food or facilities, given that we are seeing pressures in other areas of local government funding.

**Douglas Lumsden:** David Robertson might have a view on this. Some of the underspends have been because of Covid, with people not taking up their full entitlement and so on over the past couple of years. Could that change?

**David Robertson:** I think so, yes. It is a massively complicated policy to implement logistically. Things such as recruiting staff, expanding buildings and changing catering provision in schools and other settings take time. We have probably seen a bit of a lag, which has been driven partly by complexity and partly by the Covid-19 pandemic, in terms of the application of specific grant. As Sarah Watters says, the key thing as we move forward is that we have sustainability in the finance. At the end of the day, any underspend in the specific grant is fully accounted for by local councils and is still available to support the policy.

10:30

**Douglas Lumsden:** My final question is about the two-year review that Sarah Watters

mentioned. Will there be opportunities for local authorities to bid back in for capital funding—for example, for new facilities that they want to build for the service?

**Sarah Watters:** The capital funding for the policy is finished—the capital settlement for it finished in 2021. We probably need to look at any requirements through the local delivery plan process for the wider learning estate, because there will be no additional capital grant specifically for ELC unless we look across the piece in local government and say, “We need to make a case for that through processes.”

Capital funding for local government is extremely tight. Through the capital spending review, we can see that there will be a flatlining. Any additional capacity that local government identifies as being required will have to be the subject of discussion with the Scottish Government.

**David Robertson:** On capital, I reassure the committee that councils are absolutely committed to the policy. We have spent more than our specific capital grant on expanding early years provision. For the committee’s interest, the capital grant that we received was £7.7 million. That will be fully deployed on new nursery provision and refurbishing existing nursery provision. We have spent £9.5 million in our authority alone—in other words, the council has contributed capital to enhance the grant in order to deliver the facilities that are required to deliver the provision. The commitment on the provision of early years services is very much a shared commitment.

**Douglas Lumsden:** I guess that, in capital terms, any extra money that local authorities spend will have to be taken from somewhere else.

**David Robertson:** Yes, it will have to come from council resources—borrowing or general capital grant.

**Douglas Lumsden:** That will have an impact on future maintenance of the buildings in question and everything else.

**David Robertson:** Absolutely. There are priorities that will require to be addressed, but my authority has enhanced the level of grant that we received in order to ensure that high-quality provision is available for two, three, four and five-year-olds.

**John Mason (Glasgow Shettleston) (SNP):** I want to take a step back. One of the reasons for the committee’s scrutiny is to see whether we can improve our system for dealing with a financial memorandum when we look at a bill. There was a particular challenge with the financial memorandum for the Children and Young People (Scotland) Bill because the costs were quite large.

What tends to happen is that, when COSLA or the local authorities implement something like this, they suggest that it will cost a lot more and the Government suggests that it will cost a lot less, and we are left somewhere in the middle.

As a former councillor, when the smoking ban came in, I thought that considerable costs would be incurred, because council staff would have to go round all the pubs and restaurants, whereas, in fact, the ban turned out to be quite self-policing, which was good.

We originally thought that the number of kids in this age group would be 225,000, but the projection reduced to 206,000 and then to 184,000. That is quite a dramatic fall of some 40,000 children. Can we do things better at the financial memorandum stage or do we just have to accept that it will always be a rough guess?

**David Robertson:** What it will cost to implement a policy will always be an estimate. We should try to ensure that we have the best possible data to inform the policy, and therefore the financial consequences of that policy, before it is implemented.

**John Mason:** On this particular one, do you think that we—or someone—could have done it better?

**David Robertson:** The reality is that we have probably done the best that we could have done on the implementation of the policy. The proof is in the pudding—the policy has been implemented. We have implemented it in quite a short timescale, given the scale of what was required, the backdrop of the Covid pandemic and the wider economy, and the wider pressures on local authorities to deliver a range of different policy priorities. Under the circumstances, I think that we have done a reasonable job of implementing the policy against a pretty difficult backdrop.

**Sarah Watters:** It was extremely helpful that there was recognition during the passage of the Children and Young People (Scotland) Bill of the additional requirements that the two-year-old offer and the addition of children who are subject to kinship care would bring, and of the fact that such things do not come for free and need to be costed. In relation to the costing of the original offer, as David Robertson said, you have to go with the best information that you have. That is what we do every year when we come to distribute the funding—we use the best possible data. I think that that was useful.

In some other areas, we perhaps need a different level of discussion about what the additional burdens will be. We would always say that new burdens should be funded, but sometimes—because of the speed at which bills are developed and the fact that there is late

engagement—we do not always get to go through that process. In this particular instance, you can see that the cost per hour has come down slightly from what it was in 2014 for the expansion as part of a quid pro quo between the two policy areas. I think that that is because of the scale. The further expansion offered economies of scale. Councils had started a journey of provision, which they were able to build on. All things considered, I think that that seems reasonable.

The issues for local government lay out with the bill, in the other areas of settlement where there were pressures. I think that the costings for the bill were reasonable at the time, given the data that was there.

**John Mason:** One of the points that Audit Scotland made was about how the outcome of family wellbeing would be measured. In the questioning so far, the committee has largely focused on the costs, the inputs and some of the outputs, but we are also meant to be looking at the bigger outcomes. Do you have any thoughts on that? Is family wellbeing measured? Can it be measured?

**Sarah Watters:** I think that it should be measured. At the moment, the Scottish Government is doing a review of its national performance framework. COSLA is a co-signatory to that. When you go through the resource spending review that has just been published, you find that there is very scant mention—in fact, there is no mention—of the NPF. It is a concern that we are not necessarily focusing on measuring the important things.

Family wellbeing is one area that COSLA is keen to focus on and it is very difficult to measure. Inverclyde Council, for example, has started to do some great outreach work in terms of its ELC offer, which Matthew Sweeney might be able to say more about. It is looking at the child and the family and what has happened to their circumstances as a result of engagement with that policy area.

**Matthew Sweeney:** I will be brief, because Sarah Watters's answer was comprehensive.

First, you are absolutely right. As I mentioned in an earlier answer, the data that we are now collecting is primarily output data from the Improvement Service, which comes from all 32 local authorities through their delivery assurance reports. So far, those have been coming out on a quarterly basis. That has captured some of the outputs. The challenge—work on this is being done through the Scottish study of early learning and childcare, which is a Government initiative to look at the issue in the round—is how we measure some of the less tangible benefits and, in particular, that of family wellbeing. I think that

there are still open questions about how we do some of that; the issue is one that we need to think about.

To pick up on the specific point that Sarah Watters made, we know that councils are doing a lot of good work on the integration of ELC with wider services to support families. That includes financial inclusion, social work support, general family learning, connection, community learning and development and so on. There are many examples of such services, such as Inverclyde Council's rainbow room and Fife Council's nurture centres. There are good examples of practice out there. How we capture those outcomes nationally is a challenge that needs to be picked up through the work that is being done through the Scottish Government's study of early learning and childcare.

**John Mason:** I want to move on to childminding. We will hear from the Scottish Childminding Association later on, but its written submission gives the impression that it feels that councils have a conflict of interests, that they are biased towards their own services and that childminders get the bits around the edges. Is that a fair claim?

**Sarah Watters:** I will start. No, I do not think that that is a fair claim. Councils recognise that we absolutely have to have a mixed economy in this space. Councils are the provider of last resort across a range of services. We need the agility and the responsiveness of other sectors to come into this space. It will be a fluid space. Parental choice introduces an element of complexity that we might not see in other policy areas. Issues such as cross-border commuting—people living in one area and travelling to another for work—all add complexity.

I think that councils would be foolish to suggest that they want to do all the provision themselves. It would not be physically possible for councils to do that. We need to have a mixed economy.

**John Mason:** It is sometimes thought that we are not comparing like with like when it comes to the costs because, to a large extent, private or third sector providers and childminders have to meet their capital costs themselves, whereas councils can hide the capital costs. We get that with care homes and all sorts of things. Again, is that a bit unfair?

**Sarah Watters:** I think that it is unfair, because councils provide a level of support to the whole sector in an area. As Matthew Sweeney said, they will provide quality assurance support and support with training and development. In every council area, there will be a locus for early learning and childcare. There are a lot of hidden costs associated with the support that councils provide



to the sector. If we took that away, it would be felt and would be noticeable. There are different cost bases for very good and justifiable reasons.

**The Convener:** Matthew Sweeney wants to come in.

**Matthew Sweeney:** I wanted to come in before Sarah Watters answered the question; I think that she has answered it very comprehensively. A key issue here is what parental interest and parental demand is. Fundamentally, that drives where provision is set up to a significant extent.

**John Mason:** Maybe I can ask Mr Sweeney my final question. On the whole, is childminding a more expensive thing to do? I am assuming that there are more adults per child or fewer children per adult. Is that how it works?

**Matthew Sweeney:** I am afraid that I am slightly at a loss there. I would not be wholly confident in telling you about the ratios for each type of provision off the top of my head, but we could find out that information and share it with you.

**John Mason:** I will try the other two witnesses. Is childminding inherently more expensive?

**David Robertson:** I am not sure why it should be, from the point of view of the provision that is made available.

**John Mason:** The adult to child ratio is much the same, is it?

**David Robertson:** I think that the adult to child ratios would be consistent with the supervisory and care ratios that we have in place. I do not believe that childminding is a more inherently expensive form of provision than provision in other settings.

**John Mason:** I will leave it there, convener. *[Interruption.]*

**The Convener:** I am sorry—Daniel Johnson and I were briefly discussing our own childminding experiences.

Michelle Thomson is next.

**Michelle Thomson (Falkirk East) (SNP):** A lot of the areas that I might have covered have already been asked about. I have a final question that extends across the whole gamut of areas that we have discussed. Knowing what we know now, with the benefit of hindsight, what would you do differently next time to implement this national policy?

We have covered a lot of the issues around data collection. Nobody knew that the pandemic was coming, but we have touched on other issues as well. It is not just about implementation of the policy; it is also about outcomes, and we have to

look at financial effectiveness. What would you do differently next time, Sarah?

**Sarah Watters:** Not have a pandemic, first and foremost, would probably be my answer. However, if you are getting at the way that we worked through this, I think that it is possibly one of the best examples of our working constructively with our Scottish Government, private sector and third sector colleagues for the greater good and the greater policy goal.

What I would perhaps do differently would be to not view the ultimate focus as being on the provision of childcare. I think that we need to look at it across the piece, and to consider how the policy relates to things such as employability, transport and the other areas that sit within the gift of councils. We have perhaps created too many restrictions around the ELC part of it, to the detriment of the services that, ultimately, can improve the experience for the child and—importantly—the family.

10:45

**Michelle Thomson:** Earlier, you mentioned the NPF. If you were reflecting on it again, would you reflect on the need for it to flow through at the start rather than with hindsight?

**Sarah Watters:** Yes. When it comes to measuring outcomes, we would be doing it if it was easy, but we are not. We sometimes get a little bit obsessed with trying to find the national data set that will be the holy grail in telling us whether an outcome has improved. At local level, councils know whether outcomes are improving—they show that through their local outcomes improvement plans and surveys that they do. If we get obsessed with trying to measure the situation nationally, we will miss some of the valuable local information that we have available that should then flow through to the local delivery plans to inform the next phase of development of the policy.

**Michelle Thomson:** David, what is your view, from a council perspective?

**David Robertson:** I have two points to make. Earlier, we touched on the underlying data that is informing the policy. We need to make sure that that is absolutely robust from the off, so that we can measure the baseline and the level of improvement that we have delivered. It would be helpful to have a greater focus at an early stage on the underlying data and the outcomes that we are trying to achieve.

I echo Sarah's comment about the importance of the linkages between specific early years policies and wraparound services, such as wider family support and social work and community

support for families. Sometimes, we tend to pigeonhole the finance on specific issues, but it is important that we look across the piece if we want to improve outcomes for families and children, which, ultimately, is the aim of the policy.

**Michelle Thomson:** Matthew Sweeney, do you have any final comments?

**Matthew Sweeney:** I have nothing further to add. My colleagues have answered that question far better than I could.

**The Convener:** I thank our witnesses. Early learning and childcare is a key policy area for the Scottish Government, and I was pleased with the comments that you made about working together with the Scottish Government on delivery. As Liz Smith pointed out, it is a policy that all parties support.

Without further ado, I suspend the session until 10.55 to allow our witnesses to leave. I again thank you for your participation.

10:47

*Meeting suspended.*

10:53

*On resuming—*

**The Convener:** I welcome our second panel of witnesses, who are Jonathan Broadbery, director of policy and external communications at the National Day Nurseries Association, who will be attending virtually; Graeme McAlister, chief executive of the Scottish Childminding Association, who is attending in person; and Jane Brumpton, chief executive of Early Years Scotland, who is also attending in person.

We will move straight to questions. My first question is to Mr McAlister, who provided an excellent and detailed written submission from which several things jumped straight out. It refers to the early learning and childcare expansion's

"devastating effect on the childminding workforce in Scotland which has declined by 26%".

That is about 1,450 childminders, to put it into a more human context. Can you talk me through that?

We heard from David Robertson from Scottish Borders Council that the number of childminders in that area has increased, so clearly there must be some areas where there are no issues and other areas where there is a really difficult problem. Could you tell us what some of those issues are and where they are?

**Graeme McAlister (Scottish Childminding Association):** I did not hear the earlier evidence session but, if there has been an increase in the

Borders, it has been very recent. According to the data that the Care Inspectorate produces annually, there has been a year-on-year decline over the past five years in all 32 local authority areas in Scotland. The decline has been more pronounced in remote and rural areas.

We are taking action on that just now. In conjunction with Highlands and Islands Enterprise, South of Scotland Enterprise, Skills Development Scotland and the Scottish Government, we have launched a pilot scheme called the Scottish rural childminding partnership. The aim is to recruit 100 new childminders in those areas, because numbers have declined so much.

The reasons for the decline have been multifactorial. When we speak to COSLA or the Scottish Government, colleagues often point to the age profile. We know that we have an ageing workforce but, when you look at the evidence, one thing is very compelling. Two years ago, we conducted a large-scale survey to which almost 1,500 childminders responded. That found that the main reason why childminders had been leaving or were planning to leave the workforce in the next five years was the significant increase in bureaucracy and paperwork and the duplicative quality assurance at national and local levels, which has quite simply become unsustainable.

That has been closely followed by an inability to keep up with the rapid pace and the scale of local authority nursery expansion, with 12,000 new staff being brought into the sector. What was planned or anticipated—or hoped for—was that 12,000 new staff would come in. Unfortunately, one unintended consequence of the ELC expansion is that the national rapid recruitment drive took staff from other providers—private nurseries, childminders and the wider social care sector. That had a destabilising effect on the workforce but, for childminding, one of the biggest challenges has been provider neutrality.

I came into the committee room at the end of the earlier session when you were talking briefly about that. One of the biggest challenges during ELC expansion has been that local authorities have had a conflict of interest. They have been responsible for overseeing local expansion plans, but they are also direct service providers in their own right. To be clear, some local authorities manage that conflict of interest well and have been inclusive. The local authorities that understand that childminding is a different form of childcare have worked to involve childminders, but too few have done that. Over the past five years, too many local authorities have been prioritising their own provision.

It is not just me who is saying that. We are commissioned by the Scottish Government annually to undertake an independent audit of

ELC and the progress of local authorities on involving childminders in ELC delivery. We have done that for the past five years and the findings from our most recent audit, in 2021, were quite damning. It found that only 4 per cent of the childminding workforce are currently involved in delivering funded hours to eligible two-year-olds and only 17 per cent are involved in delivering funded hours to three and four-year-olds. When you break down those numbers, you find that they are even worse. We did a parallel survey of childminders who are involved in ELC to find how meaningfully they are involved, and that found that 75 per cent of childminders who are currently involved in delivering funded ELC are doing so on the basis of blended placements.

To get to the point, many childminders find it very difficult to get involved in funded ELC. They simply were not offered the opportunity for parents to take all their hours for eligible two-year-olds or for three or four-year-olds. The only way to get in was through blended placements but, for too many childminders, that was simply fragments. I will give one very damning example from the audit that we published last year. I will not name the local authority, but I could share the details later. In that case, if somebody wanted a blended placement, they would have to take more than 900 hours with the local authority nursery and would have just half a day a week with the childminder. That is not provider neutral and it is not flexible, the funding does not follow the child and it is certainly not sustainable for childminders.

From our point of view, much of the focus when we talk about cost is on sustainable rates. Sustainable rates are of course important—some childminders tell us that the rates are not enough; some are happier—but it is also about the number of hours. Even if the sustainable rates were higher, if local authorities are not offering childminders enough hours to make their businesses sustainable, there will be a problem. We have been reporting that for five years, unfortunately.

**The Convener:** You said that 75 per cent of placements are blended. The bureaucracy point jumped out at me. You said:

“the level of paperwork and bureaucracy associated with current childminding practice was the main reason that childminders had left the workforce”.

That was in 70 per cent of cases. It must be a tome that people are having to wade through if that is indeed the case. Perhaps you could comment on that.

While I am asking questions on this topic, I will ask about another thing that you have talked about, which is inconsistent local implementation. That is interesting. You said:

“some local authorities who understood the unique benefits of childminding had been supportive and were including childminders, but were in the minority”.

Can you talk to me about the bureaucracy and highlight some of the local authorities that are doing well and that other local authorities could copy in their methodology?

11:00

**Graeme McAlister:** The first thing to explain about the bureaucracy is that childminding businesses are fundamentally different from nurseries or other larger providers in that the vast majority of childminders are sole workers. During the day, their entire focus is on practice delivery, so anything else that they do is done unpaid in the evenings or at weekends. That includes studying, doing continuing professional learning and quality assurance, communicating with parents and doing their business paperwork and finances—it is everything.

The level of that work has been increasing and increasing but, under ELC expansion, there has been what I would describe as a layering effect. In my submission, I itemise 10 or 12 different frameworks and standards, each of which comes with different outcomes reporting. I should make it clear that, as a professional membership organisation, we are absolutely committed to quality assurance, but it has to be proportionate, joined up and light touch, and currently it is none of those three.

Under ELC expansion, we were supposed to have a single or shared inspection for all ELC services. An independent expert group recommended that in 2015 and that recommendation was accepted by the Scottish Government.

**The Convener:** It still has not happened.

**Graeme McAlister:** In 2019, it was abandoned by the Care Inspectorate and Education Scotland. We do not know how that was allowed to happen, but it was mutual and the Scottish Government allowed it. The reality is that, for childminders who are involved in ELC delivery, there is the Care Inspectorate’s quality framework, with inspection and self-evaluation, and Education Scotland has a learning framework entitled, “How good is our early learning and childcare?” We are not currently inspected by Education Scotland but, at a local level, there is another layer of duplication where several local authorities simply do not recognise the role of the Care Inspectorate and see themselves as the guarantors of quality under ELC expansion.

As I speak, some local authorities in Scotland are planning to conduct twice-yearly inspections and twice-yearly self-evaluations. They are doing

a pick and mix, taking bits from the Care Inspectorate and Education Scotland—it is a mess. We were never meant to have that; we were meant to have one system of quality assurance. We have duplicative quality assurance, and that is the single biggest issue. There is a lot of data to show a declining trend in the workforce, but what nobody in Scotland knew was what would be happening in future.

When we conducted a large-scale survey back in 2020, we decided for the first time to capture data on future intentions and to ask childminders where they saw themselves in five years. We found that, on top of the decline that we have experienced, 25 per cent of childminders do not believe they will still be childminding in five years and another 26 per cent are undecided. The main reason for that is the level of duplication in the quality assurance paperwork, which has become completely unsustainable. Some childminders are spending the equivalent of a day a week in the evenings or at weekends simply doing the paperwork to keep up with ELC.

On inconsistency, I am very much a supporter of local democracy but, where you have a national policy that is dependent on local implementation, you get inconsistencies. We currently have contracts with 10 local authorities to support them with ELC expansion. For example, in Aberdeen City Council, Glasgow City Council and Scottish Borders Council, things are going really well. Those local authorities recognise that childminding is a fundamentally different type of childcare and that it is something that parents want. Those authorities recognise the value of that and work with us on how to include childminders meaningfully. However, to go back to the data from our audit, 29 per cent of childminders in Scotland have been approved to deliver funded hours for eligible two-year-olds and for three and four-year-olds, but the numbers of those involved in delivery are much lower. For eligible two-year-olds, it is 4 per cent; for three and four-year-olds, it is 17 per cent.

When you ask parents and childminders what the barriers are and what is not happening, you find that the simple fact is that, in too many areas, local authorities are not promoting childminding equitably as an option for parents for receipt of funded ELC. Parents and childminders are having to ask for it. The COSLA line is that it is down to parental choice but, given that not all forms of childcare are presented equitably to support informed choice, I would disagree with that position.

**The Convener:** Ms Brumpton, do you want to comment on what has been said? I also want to ask you specifically about the hourly rates that are paid to partnership providers. I asked about that—

as did my colleagues—in the previous session. We have found that there is great variance, from £5 in Orkney to £6.40 in West Lothian, and Daniel Johnson talked about the £5.31 standard that seems to have emerged. What is your view? We heard from COSLA that there are different settings and that things are not always comparable geographically and so on. COSLA said that the process is challenging, and I accept that it is, but do you believe, for example, that there should be a standard rate across Scotland?

**Jane Brumpton (Early Years Scotland):** Yes—100 per cent. We argued strongly for that in our manifesto, last year. I agree with Graeme McAlister's comments; it has been extremely challenging. Yes, local government does have the ability to make local decisions, but the PVI sector and childminders are somewhat caught in the middle.

I note from the papers that, originally, there was talk of a national advisory rate. We think that that would have helped matters, because, as you can see from the figures in the committee papers, the rate varies hugely. We understand the necessity for a rural uplift and different figures like that, but, when there is no evidence for a prescribed national benchmark rate, you can see what naturally happens. We have members with settings across a range of local authorities, and they have to try to work with such varying rates, which is really difficult.

Graeme McAlister talked about the challenging staffing issues that result from the varying rates. The PVI sector is consistently required to open its books, so to speak, and has regularly been asked to demonstrate how it comes to its cost base, but there is not the same level of scrutiny for local authorities. There is not the same level of data collection, so we do not have a consistent picture. It is very disheartening for the sector to constantly have to do that and then not necessarily see any change.

As Graeme McAlister said, our members have said that some local authorities work very well with the PVI sector, that there is a lot of engagement and that things are working well. A lot of the time, however, there is not that level of engagement, participation and discussion with the PVI sector about needs, which we appreciate differ locally.

It is very difficult when we are trying to attract and retain high-quality staff in ELC and they are haemorrhaging out of the PVI sector to the local authority sector because the PVI sector and childminders can never compete on wages. The aspiration for a real living wage has been problematic, because that is not very aspirational. Many people in the sector are saying they could leave the sector and earn £10.50 an hour in a role in which they would not have the same level of

bureaucracy, issues around paperwork and all the scrutiny involved in that.

Like the Scottish Childminding Association, Early Years Scotland adheres to ensuring that we have high-quality settings, but that is also causing problems. Where we have varying rates and varying payments to staff, we do not have the ability to attract more staff. Some of our members are saying that they have lost up to 80 per cent of their staff to local authority settings or other career paths because those are seen as a more attractive offer. It is very difficult. Staffing issues are hugely challenging, but how do we address them? As you will have read in the committee papers, some local authorities gave a national uplift, but others did not. Some authorities recognise additional support needs payments or additional payments for eligible two-year-olds. The picture varies widely across Scotland, and that is very challenging for the sector.

**The Convener:** You mentioned a rural uplift, but, if Orkney pays the lowest rate, the uplift cannot be very significant.

While I was looking at the figures from the 17 local authorities that we have robust data from, I was struck by the figures from two neighbouring authorities, Aberdeenshire Council and Moray Council. In Aberdeenshire, private provision increased from 20 to 36 per cent between 2018-19 and 2020-21, yet, over the same period, in the neighbouring authority of Moray, it declined from 55 to 43 per cent, which seems quite significant. I am not comparing Moray with Glasgow or Edinburgh with Aberdeenshire. In my mind, the two authorities are quite similar in many respects. Is there a specific reason why the sector in some areas appears to be growing significantly while other areas are taking the opposite path? Is it because of the issues that you have mentioned, or are there other factors at play?

**Jane Brumpton:** I am sure that there is a range of factors, but updates from our members nationally indicate that certain authorities engage and work well, so some members feel that they have support and that partnership working works well. However, other members say that trying to get a seat at the table and have their voices heard is just inherently difficult and too problematic, which sadly results in settings closing or choosing not to continue with the partnership approach—although, as Graeme McAlister said, some authorities do it well. Those are the main things that our members have stated.

**Jonathan Broadbery (National Day Nurseries Association):** I want to pick up on a couple of points. You have highlighted that you have robust data from 17 local authorities, but one of our challenges is that that is only 17 out of 32 local authorities. Getting a clear picture of what is

happening is quite problematic. Our members tell us that it is problematic at a national level, but, even at a local level, wading through papers to find out how decisions were made and what has been considered in setting the rates is not something that they necessarily have the time or expertise to do. What is being considered and how that is done is not clear and transparent.

As Jane Brumpton said, we gathered data—which was subsequently published by the Scottish Government as well—that showed that nine local authorities, I think, did not increase their rate from last year to this year, so they are effectively imposing a real-terms cut on providers who have seen the real living wage costs and other wage costs across the business go up, plus inflationary costs. So, there is a problem there. Even where there might be a good, practical day-to-day working relationship between the local authority and partner providers, there is no recognition of the fact that the rates need to keep pace with the delivery costs of providers, whether they are nurseries, childminders or whatever.

**The Convener:** I will ask a final question before I open it up to colleagues around the table. I ask you each to answer quite briefly. I asked Jane Brumpton whether she believed that there should be a standard rate across the country, and she said yes. Earlier, we heard that COSLA believes in local contracts, local decision making, flexibility and so on. We understand that, as several former councillors, including me, are members of this committee. Do you feel that the sector is in a more vulnerable position because of that, or do you think that local flexibility is right? If you feel that local flexibility is not right, what role—if any—do you feel that the Scottish Government should play?

11:15

**Jonathan Broadbery:** The setting of a national rate is tricky, because there are some big differences between local authorities and it would take more work from the Scottish Government to set a rate. Ultimately, the method does not matter. Whether local authorities make the decision locally or whether the Scottish Government sets the boundaries in which to set the rates and the areas of flexibility, what matters is the consideration of where families are, where settings are and what children are entitled to. We talk about funding following the child. Therefore, in saying that a nursery in Perth should get £5.50 an hour and a nursery in Edinburgh should get £6.80 an hour because of certain factors, the rate should consider not just the setting but whether the child has any additional needs, whether rurality is involved and that sort of thing.

I think that the question of who should set the rates is not pertinent. The question is how we make sure that the funding follows the child and that, whether parents choose to take up places with childminders, blended places, nurseries, council nurseries or whatever, we are facilitating that.

**Jane Brumpton:** I agree. As Jonathan says, the key issue is that there is no consistency of application, so it is very difficult for our members to find out how the rate is being set locally. If we had the aspiration of a national advisory rate—an agreed benchmark—there could be a consideration for local agreements and rural uplifts. However, the key issues are the lack of transparency in application, the lack of involvement of the PVI sector within that, and the on-going issue that there will continue to be a gap between even a national rate and what is paid to local authorities. All staff who work in ELC should be paid equitably—there should be parity. There are a number of factors at play; there is no straightforward answer.

**The Convener:** That was an excellent answer, to be honest.

**Graeme McAlister:** We, too, would support a national rate in principle, but the key is that it would be advisory and sufficiently flexible to take account of the differentials that Jonathan Broadbery mentioned.

I mentioned earlier that, after five years, provider neutrality is not working. There is now a case for the Scottish Government to establish and recommend a national minimum mix of providers in each area, to stop providers being squeezed out, as has happened over the past five years. Clearly, that needs to take urban/rural differences into account.

Could I offer you some parallels? I used to work in health, and health is quite different in that there is a national clinical guideline and it is very much expected that it will be implemented locally by national health service boards. If they want to depart from it, they have to evidence their reasons. Childcare feels quite different. It feels as though local authorities have almost too much flexibility around implementation, and I think that you will struggle to get consistent implementation without more of a steer from the centre.

**The Convener:** Thank you very much. The first of my colleagues to ask questions will be Liz Smith.

**Liz Smith:** Thank you all very much for your evidence, both oral and written. Some of your comments are quite concerning, and they tie in exactly with some of the anecdotal evidence I am receiving in my constituency region of Mid Scotland and Fife.

I am interested in what Ms Brumpton and Mr McAlister said about some local authorities understanding the problems that you have cited and working better with your sectors. Why do you think that those local authorities are better able to understand the issues that you are raising? Perhaps conversely, what is it about other local authorities that means they are not engaging so well and do not feel able to give you the benefit of being able to sort the policy?

**Graeme McAlister:** From our point of view, the difference is quite simple: some local authorities understand what childminding is and that all forms of childcare are not the same. Childminding is a unique form of childcare: it is delivered in a family setting and it is very nurturing, with small numbers and low adult-child ratios. A childminder generally can provide childcare for no more than six children at a time and for no more than one child under a year old and no more than three children under school age. However, there is almost unparalleled continuity of care. It is really common for children to be with childminders from birth through to 12 years or even 16 in the case of those with additional support needs. Also, there is now evidence to show a range of developmental benefits to having children of different ages playing and learning together. So, some parents who understand childminders make an informed choice that it is what they want.

Some parents like the best of both—they want their child to experience both nursery and childminding. A lot of parents feel uncomfortable at the thought of a young child—particularly a one or two-year-old—being in a nursery for 10 hours a day, and some local authorities recognise that childminding offers additionality and is a high-quality form of childcare. It is not commonly known that childminders consistently achieve higher ratings than day care or children's services—including local authority nurseries and private nurseries—across all quality criteria in the Care Inspectorate inspections every year.

**Liz Smith:** I am very interested in that point, because I would have thought that the guidance from the inspectorate would flag up to the other local authorities that are not doing so well that that is a key point. In your opinion, are some local authorities not taking on board that advice from the inspectorate?

**Graeme McAlister:** No. I can offer a bit of externality. I have been in post for three years. I came in in April 2019 as chief executive, new to childcare and new to childminding, and that was mid-implementation, when we were ramping up towards 1,140 hours of ELC provision. Without being critical—we work very closely with colleagues in the Scottish Government and are part funded by it—I would say that doubling the

statutory entitlement was such an ambitious policy that the main focus was on making the numbers happen and getting to 1,140. Local authorities were under tremendous pressure as well on how to reach 1,140 hours. They could either go with a nursery with 100 children or recruit 17 childminders to get to the 100 children. For a lot of local authorities, in order to hit that target and make the numbers happen it was all about local authority and private nurseries. Childminders were simply squeezed out, because it became a numbers game during expansion.

**Liz Smith:** Is it about the level of understanding that is so critical to making the policy work effectively, collaboratively and obviously gain good inspection results? Is it the case that some local authorities feel unable to promote that partnership in the same way? Is there a little bit of an ignorance factor? What is stopping all local authorities from appreciating what the good local authorities are delivering very satisfactorily?

**Graeme McAlister:** What came through in our audit returns from some local authorities was that, when they are looking at their businesses, they are thinking first about the sustainability of their own nursery services. They prioritise their own provision and then base other decisions beyond that. That is where the problem has come in for some of them.

**Liz Smith:** Is that a staffing issue or a resource issue in terms of capital provision?

**Graeme McAlister:** I think that it is a resource issue. Local authorities are ensuring that their own nurseries are sustainable, which we fully understand, but ELC was meant to be about choice for parents. If you take out 1,457 childminding businesses, that is not increasing choice; it is decreasing choice. In most local authority areas around the country, we have people crying out for childminders. There simply are not enough of them. That is not what ELC was supposed to deliver.

**Jane Brumpton:** In the authorities that are doing this well—there might be some aspirational comments in here as well—the key thing is active engagement with the sector to ensure that they are setting appropriate rates for the settings in their area, adhering to the agreed COSLA principles, valuing the input from the sector in their areas and realising the added impact that the local PVI sector can bring. Also important is access to professional learning—whether that is part of the funded partnership support is very patchy—and access to local authority support for additional support needs is increasing exponentially nationally. Local authorities should ensure that they do not open settings in areas where they have not consulted the PVI sector to see whether there is availability to meet the need there. Local

authorities should support and share access to capital costs. Those are the key areas.

**Liz Smith:** You are saying that, in theory, it should all work well and that COSLA has statements and commitments that everybody should be abiding by. If it is not working well, are there some local authorities that are not adhering to those basic principles? Is that the problem?

**Jane Brumpton:** According to what our members are telling us, yes. It is very difficult for some members to speak to the right person or to have their voices heard and be able to jointly discuss what the local needs are and what their cost basis is. Some members are saying that they feel as if the process is done to them and that they do not necessarily have a voice in it.

**Liz Smith:** In other words, there is a problem with engagement with some local authorities whereas other local authorities are much better at engaging with the sector—is that correct?

**Jane Brumpton:** Correct, according to what our members are telling us.

**Liz Smith:** Could you evidence that?

**Jane Brumpton:** Yes, we could do that after today, but it is very much anecdotal. We have a national steering group and that is what members are telling us.

**Liz Smith:** That would be very helpful, convener. We want to know what is working well and, if there are examples where it is not working well, that evidence would help us in our general scrutiny.

**Daniel Johnson:** I want to follow up on what you said about the lack of transparency in the process of arriving at the rate. That contrasts with what we just heard from COSLA, which is that every local authority is transparent and publishes—or should be publishing—how it has arrived at its rate. Is that your experience? What is your members' experience of how the rate is arrived at and the level of explanation that is provided?

**Jane Brumpton:** It is a mixed picture. It is not consistently all good or all bad. Some members tell us that some authorities engage well with the process and are open and transparent. Others say that they find it difficult to actively engage and do not feel that they have a voice at the table. It is a mixed picture.

**Daniel Johnson:** Before I bring Jonathan Broadbery in, I note that he plucked a number of £6.80 for providers in Edinburgh, but I think that his members would be delighted if they were offered £6.80 in Edinburgh. I think that the rate that they were offered is considerably less than that, but it would be interesting to hear his views

about the level of transparency that is provided by local authorities.

**Jonathan Broadbery:** I heard the talk about transparency in the previous session. I am reminded of the Douglas Adams quote about how easy planning decisions are to find. Trying to understand how a local authority might have reached a decision or even what the decision is can be quite a mission. We go through a process every year of asking local authorities what their rate will be for the coming August and, even at this time of year, they will come back and say that they have not set it yet. For businesses that are looking at signing up parents now and thinking about what kind of demand they will have in August, it is very difficult to plan, especially if local authorities are talking about setting rates over multiple years but can only give one rate now and say that they will come to it later.

On engagement, there is a piece of work about understanding not only how different it is for childminders but how different it is for private and voluntary providers, who have very different structures depending on the size of their nursery and the number of nurseries they might have in the business or whether they are set up with a committee and run voluntarily.

I want to make another point. COSLA referred earlier to the difficulty of getting information on providers. We sometimes see an all-or-nothing approach, where a local authority will want to see a completely open-book approach and know all the details of a business, even outside the funded ELC offer, but the flipside is that it will not share data about how it funds its own provision and what is being paid at that level.

I come back to the point of funding following the child. In a previous session with the Education, Children and Young People Committee, we talked about how to make sure that staff are paid equitably across the sector and it was made quite clear that partner providers were funded to pay the real living wage and that is that, whereas there are higher costs in the public sector and higher wage expectations. We know that people doing the same job can be paid up to £10,000 more in a public setting compared with a partner provider. That is a big discrepancy and there is no transparency or easy explanation about how that has happened.

11:30

**Daniel Johnson:** I am going to come on to the impact of that but, before I do, can I follow on from those points? Essentially COSLA's contention in this morning's session was that it is difficult to get data from the PVI sector and that is what blocks it

from doing as thorough a job as it might. What is your response to that?

**Jonathan Broadbery:** It is difficult. We are talking here about the difficulties that the committee and the Scottish Government have with getting data out of 32 local authorities, and you are talking about local authorities that can be working with hundreds of private businesses, each of which is set up and run very differently, whether it is a nursery, a childminder or a voluntary setting. We acknowledge that it is difficult but, at the same time, having those providers just hand over all their data for a local authority to wade through will not be helpful and a lot of it will not be related to the funded provision.

We cannot have a double-edged sword whereby providers are told, "You have to pay the real living wage to your staff delivering ELC funded places, but we don't care outside of that and it is your problem how you resolve that in your settings and how parents pay for it," but also, "We want all of your data." We acknowledge that it is difficult, but there are other ways apart from saying, "It is all or nothing. Either give us everything or we cannot get the data out of you."

**Daniel Johnson:** Jane Brumpton, I note that you want to come in, but first I have a nuanced point. The "Overview of local authority funding and support for early learning and childcare providers", which was published in August last year, set out that there are four broad ways to arrive at costs, including surveys of both costs and prices, a working group that agrees costs for particular headings and cost modelling. When you look at how different local authorities approach the task, it looks as if, rather than striking a balance across those methods, they are picking one of them and a lot of them miss out surveying.

That is one observation. Another is that some of the survey data is quite old. It looks as if some local authorities are using data from 2016, but a lot of things have happened between then and now. Am I gleaning the right things from that? Which of those approaches do you find better or worse? Would you like to see a balance of those approaches?

**Jane Brumpton:** I think that you have picked it up correctly and identified the key issues. We have recently seen a sense of apathy and survey fatigue, whereby—as Jonathan Broadbery mentioned—providers are asked continually to open their books. They have done that over the years, for instance in the 2016 exercise that you mentioned but also last year for the financial health check, and recently we have had the cost collection exercise.

It is difficult and I acknowledge what Jonathan Broadbery said about that. I am not saying that we



have a magic bullet in any way, but you can imagine that the sector has a sense of, "Here we go again," when they are consistently having to do that and do not feel that they see action or positive change as a result or that there is any scrutiny around whether a local authority will transparently and openly discuss and engage with the information and make changes. They feel that the local authorities take the information and may or may not act on it. It is a lot of work and a big exercise for providers when they have staffing and recruitment challenges and all the Covid challenges and they also have to do their day jobs.

The key is maybe the breakdown in the relationship between the local authorities and the PVI sector that we have mentioned. Providers could be reticent about engaging if they do not feel that they are being actively engaged with and never know what the local authority cost breakdown looks like. The relationship begins to wear thin.

**Daniel Johnson:** This is my final question. I am afraid that I have been doing research while sitting in committee, because I was slightly surprised by what COSLA was saying about the number of providers. The Care Inspectorate reported in March on the state of the sector. It should be noted that the report relies on data that is about two years old, as most of the data was collected in 2019, but in broad terms it seems to say that, although capacity overall across all providers in the sector has increased, the number of services—that is, the number of providers—has declined. Given that we know what is going on in local authorities, that would seem to be painting a chilling picture for those providers that are outside local authorities. What impact do you feel that it has had? I note that this report is saying that the number of childminders has fallen by 7 per cent, but your up-to-date figures show a reduction of 25 per cent. Is that sort of level of change also reflected in the PVI sector?

**Jane Brumpton:** Very much so. We also support the voluntary sector, which is where I think that most of the impact has been felt by our members. We have lost quite a lot of members who have had to close down and there are on-going issues around the necessity to have a committee to run those settings. They have had the same on-going challenge as the PVI sector in general, but they also have challenges around access to committees to run their settings. Often, their model and the way they are run has made it challenging for them to be sustainable during the past few years, especially when, for example, rates, rents and so on differ so much, so we are seeing a decline in that area of our membership.

**Daniel Johnson:** Jonathan, do you have anything to add about the impact on the sector? Is

it forcing consolidation to large chains? Is that a fair analysis?

**Jonathan Broadbery:** You can see that that would be a logical conclusion of funding challenges. Three quarters of our members tell us that the funding that they receive does not cover the costs of delivering that care. We talked to our members last autumn, before the cost of living started to shoot up, and even at that point 21 per cent believed that they were going to be operating at a loss and 55 per cent believed that they were only going to break even. Admittedly, that is taking the pandemic in, but things have not somehow magically got better overnight.

Jane Brumpton has talked about the staffing challenges and all those other things that are a burden on businesses. That is a drag on their productivity, if you want to talk about it in a purely economic sense. Importantly, we are talking about children's provision and what is best for children, but if you have a high turnover of staff, you have training and retraining to do and you have important leaders leaving your setting, that is a drag. If you have rates that are not covering your costs, if you have children dropping in and out and changing their hours because parents are working more flexibly, that takes management to meet that need.

We have a picture where funding is not keeping pace with what providers need, and that will put financial stress and financial strain on businesses. You asked about consolidation. Providers face going out of business or selling their nursery, and that will be either to another provider locally or to someone who wants to get into the sector; at the moment, it is more likely to be to another provider.

**Daniel Johnson:** Graeme, I apologise that the preponderance of my questions have gone to your colleagues.

**Graeme McAlister:** Not at all. To pick up on your point, yes, the Care Inspectorate official ELC annual statistics are about two years behind in their publication. I think that the figure of 7 per cent that you quoted was for the last recorded year. When we did our ELC audit 2019, just before the pandemic, we looked at the previous five-year period from 2014 to 2019, in which our workforce had declined by 14.5 per cent. At that time, we recommended to the Scottish Government that there was an urgent need to do a childminder recruitment campaign. That recommendation was not accepted. When we did an audit in 2021 to look at the five-year period from 2016 to 2021, we found that the decline was 26 per cent. The decline is accelerating year on year. For childminders it is uncertain what the tolerance level is before we see some action. Do we need to see a 30, 40 or 50 per cent decline? We need some urgent action on this.

**Daniel Johnson:** Thank you. I will leave it there.

**Douglas Lumsden:** On the desire to have a national rate, does there not need to be regional variations? If I compare Edinburgh with Elgin, for example, is it not the case that property, building costs and maybe even staff costs are more expensive in Edinburgh? If there was a national rate, how would we be able to square that off?

**Graeme McAlister:** The key word is “advisory”. For consistency, the Scottish Government would try to engineer that, but it has to take into account regional variation because of, as you mentioned, remote and rural areas. To go back to my point about provider neutrality not working, you need a minimum provider mix, but you must take into account rurality because that could be very difficult to cover. I think that the rate should be advisory and then it should take account of that variation.

**Douglas Lumsden:** Maybe there should be a minimum rate, which might be higher in other areas.

**Graeme McAlister:** Possibly.

**Douglas Lumsden:** It has occurred to me that local authorities do not really have any building or capital costs, so I guess that there is not a level playing field in that regard either. That is probably why they can pay their staff more and, I would imagine, pensions are more generous, too. Therefore, it is even harder for private providers to compete with local authorities when they have all that for free. Would that be correct?

**Jane Brumpton:** Very much so. That is an on-going challenge, and I think that the gap will continue to widen. Earlier, Jonathan Broadbery gave some examples of job adverts demonstrating a difference in pay of up to 10 grand. Potentially, there will be an on-going haemorrhaging of staff moving into the local authority sector. That affects the quality in the settings, because they have to recruit and bring in new staff. Our members are telling us they are losing a lot of their leadership team, which is detrimental to the sector. As Graeme McAlister mentioned earlier, the level of bureaucracy is not the same in ELC as it is in schools—it is not equitable.

Schools have had a break in their inspection regime; we have had on-going inspections throughout this time. We are not saying that we should not be inspected—it is important that children access a high-quality service—but there is continual need to deal with inspections. Now we have the Care Inspectorate’s new framework and, as Graeme McAlister has mentioned, Education Scotland’s framework is coming back in. Therefore, the sector will be subject to that rigorous inspection regime, which we agree with, but there needs to be recognition of what the

sector is going through at the moment and the challenges that you face when trying to run a business while ensuring that you have a high-quality setting. The PVI sector is up against a number of factors and challenges that the local authority sector does not experience.

**Douglas Lumsden:** What would you like to change? If it was up to you, what would you like to see being done differently? Whether that is around paperwork or staffing costs, what would you change?

**Jane Brumpton:** We have advocated for a single inspection body for ELC. That would reduce the on-going level of bureaucracy. At the moment, the aspiration is to consult on a single shared framework, but that will inevitably result in two inspection bodies coming in. Also, I would like to see more active engagement with the PVI sector during the early stages, as opposed to later in discussions when decisions have been made.

We want things to be simpler overall. Also, we should aspire towards parity between the sectors. It does not seem right that, in Scotland, things depend on the local authority staffing structures, the pay scales and so on, and not on the setting that children go to. I ask that we have discussion around national salaries and equitable pay scales to ensure that, no matter which sector you are working in, there is parity across the whole ELC sector. We need to ensure that the sector is not given a rate that just enables it to be sustainable. Providers need to thrive, so they need to have a rate that helps them to reinvest in their business. I also think that more active and effective communication with the PVI sector overall would help.

**The Convener:** Before I bring in Graeme McAlister, I will let Jonathan Broadbery come in.

11:45

**Jonathan Broadbery:** The table on page 4 of the SPICe briefing has a breakdown of local authority spend with partner providers. We know that, nationally, 31 per cent of the 1,140 hours delivery takes place with partner providers. I can count only three local authorities that spend more than 31 per cent of their budget on partner providers. I know that we are talking in averages, but it is quite clear—Jane Brumpton has alluded to this—that the amount of funding is disproportionate when you look at delivery.

Although local authorities deliver more, proportionately, a lot more budget is being spent on what they delivery compared with what partner providers deliver. We have talked about local authorities being a provider of last resort. If we see people leaving the sector because the level of funding does not allow them to be sustainable or

to thrive, more provision will fall back on local authorities. It is quite clear that that will cost more and cause a bigger budgetary headache for local authorities.

On what policy proposals could help, we have advocated for a system—we call it the childcare passport, but it could be called something else—in which funding truly follows a child. The funding rate would almost be passed to a parent—not in cash terms, but in an account that they can use with a registered provider, and they would be able to blend their places. They would take the passport, which would set out their budget based on where they live, what their child's needs are and what they are entitled to, to a local authority setting, a nursery, a childminder or wherever they want. That would apply to eligible two-year-olds as well. The parent would have the choice to say which nursery or childminder—or whatever works for them—should provide the service.

That is a way of ensuring that funding follows that child and of reinforcing parental choice. In addition, as Jane Brumpton has alluded to, that would reduce the amount of burden that providers face in administering the funding. The same would apply to local authorities as well. For example, rather than the local authority in Edinburgh being told what rate it is due nationally, what the range is and things like that, it would be a case of it working out what the entitlements are for the child and setting up a system that follows the child, rather than shoehorning the child into existing budget and administrative structures.

**Graeme McAlister:** In response to Douglas Lumsden's question about what is required, I would say that the change must be multifactorial. I absolutely agree with Jane Brumpton that we need a single shared inspection, but that is only part of the equation; that is just at the national level. We need to remove duplication with local quality assurance. Also, to go back to the earlier point about the layering on of all the frameworks and standards that are coming through, we need to rationalise reporting on outcomes. Therefore, we need to maintain the quality assurance but simplify it and make it more clear cut.

You are probably all familiar with the diagram or the illustration of equality against equity in which children of three different heights are trying to look over a fence. If you give them all the same-sized box, not everybody can see over the fence. Equity looks quite different.

With childminding, the vast majority of businesses are sole workers. It is not a high-income profession and people come into it as a vocation to make a difference. A lot of childminders cannot pay themselves a real living wage. It was never credible to expect a childminder to be able to compete equitably in the

market against the local authority and private nurseries. Childminders need some form of affirmative action to enable them to compete; they need some additionality. We have made that point. We advocated for and secured the action plan in childminding, but that stalled and we have not seen meaningful additionality coming through.

My final point goes back to provider neutrality. From our point of view, after five years, provider neutrality is not working and we need to replace it with something else. If the Scottish Government is wedded to that approach, it needs to be enforced. The reality is that, with the Scottish Government and COSLA standing off, you have a vacuum, which enables the problems to continue, as has been the case for the past five years.

We keep reporting on the problems in our audit but nothing is changing. We get a policy rebuttal response. The Scottish Government's response is to say that it is doing A, B, C, D and E. We do not disagree with that. However, if A, B, C, D and E are not directed at the big problems, those problems continue. It is a case of going for the low-hanging fruit and avoiding dealing with the big issues. That might be because it is challenging when you have a national policy that depends on local implementation. We cannot solve that big issue in the room here today, but the reality is that our workforce is declining and it cannot be sustained.

**John Mason:** I realise that it is nine years since the legislation was put in place. Mr McAlister has already told us he has been in post for only two years; I am not sure how long the other witnesses have been in post. Is it your understanding that your organisation, or at least the sector, was well consulted when the legislation went through? The committee is looking at how the finances were worked out at the time and whether we could do that better. Were you folk involved? I put that to Mr McAlister.

**Graeme McAlister:** I think that it would be fair to say that—this relates to before I took up post three years ago, but this reflects my understanding of my organisation—yes, the Scottish Government did consult. However, the extent to which our views were taken into account might be quite a different matter.

**John Mason:** That would have been my next question.

**Graeme McAlister:** Again, historically, childminding has felt as though it is fighting a losing struggle. When you look at the latest Improvement Service report, you simply need look at the number of children who are receiving funded ELC: 70 per cent receive it at local authority nurseries, 28 per cent from the PVI sector and only 2 per cent through childminding.

**John Mason:** Yes, I saw your comment in your written paper that you do not think that 2 per cent is a good enough figure.

**Graeme McAlister:** Not at all.

**John Mason:** Do you have a figure of where it should be?

**Graeme McAlister:** It should be far higher. When you look at the fact that 1,140 hours must be delivered as Government policy, you can see where the big numbers are: local authority nurseries and private nurseries. Childminding has always been struggling to have its voice heard in that much wider arena.

**John Mason:** Ms Brumpton, was your sector consulted in 2013?

**Jane Brumpton:** That was before I came into the sector—I was in schools at that time—so I would not like to comment on that.

One of the key issues to think about is the difficulties that we have alluded to today that are to do with local authorities making the decisions about rates, given that they set those for themselves while also being, in some ways, in competition with others. Would it not be aspirational to consider looking at that approach in a totally different way and having a separate independent body that makes those decisions? That is a slightly unrelated point, but I just thought that I would mention that.

**John Mason:** You are not sure whether that point was raised in 2013.

**Jane Brumpton:** I am not sure, but I know that members have been speaking about the on-going tension between the role of the local authority as the guarantor of quality and being in competition with others. That tension is very difficult to address. Our members have recently raised that issue recently, but I would not be able to comment on what happened before my time in the sector.

**John Mason:** Mr Broadbery, I assume that you were not around in 2013.

**Jonathan Broadbery:** I was, but not at the NDNA. I know that there was a lot of consultation activity, but certain elements were outside of that. For example, the decision on funding, including capital expenditure, prior to implementation was reached through the agreement between COSLA and the Scottish Government; there was a less consultative approach.

Our members consistently raised funding concerns about the policy's implementation. At that time, funding rates were chronically low, although we recognise that rates have increased by, I think, 26 per cent since the pre-policy days—or the 600 hours days. There was consultation, and our organisation and our members were

involved in that, but when we provided our evidence, as Graeme McAlister suggested, it was not always taken on board.

I highlight that, at the time, there was a big focus on this being a big infrastructure project, with lots of money and effort being put into expanding local authority nurseries. We raised concerns about that precisely because—I think that this point was made briefly in the previous session—although new infrastructure is funded from capital budgets, it becomes a revenue issue in future years. That is the situation that we see now. Some nurseries were built or expanded near to existing high-quality provision, and that was not always done in consultation and following engagement—people would just see building sites start to appear. There were elements of consultation, but some things were done to the sector, as Jane Brumpton said, and were not done consultatively.

**John Mason:** You mentioned capital funding. Did your sector get a share of the capital funding that was available?

**Jonathan Broadbery:** Some funding was available via local authorities, but it was nowhere near the same levels. I am working off the top of my head and from memory, but I think that grants of up to £10,000 were available, although there were a lot of hoops to jump through. That was understandable, to an extent, but people were seeing millions of pounds being spent on other projects, and it felt as though there was capacity in private and voluntary settings to expand and meet that need. Money was available for that, but it was nowhere near on the same scale, and it was not available in every area. However, as I said, I am working from memory.

**Graeme McAlister:** I will pick up on Jonathan Broadbery's point. On the experience of childminding, we absolutely agree that some local authorities went down the route of their own capital build projects without looking at existing capacity. Ahead of the meeting, I submitted a detailed briefing paper with lots of data in it. If you take away only one statistic from today, please let it be this one: in our 2021 audit and in previous audits, we asked how many local authorities had undertaken impact assessments of their childminding expansion plans, and only four out of 32 had done so.

**John Mason:** I might come back to that in a minute.

I am interested in the point that I raised with the previous witnesses about the cost of different models. I stand to be corrected, but I assume that there is not a lot of difference in costs between the private, voluntary and independent sector and councils that provide nurseries. You have already said that the ratios for childminding are different.

The ratios are lower—in other words, there are fewer kids per adult—in childminding settings than they are in nursery settings, but you would not have the same building and you would not have a manager, an office worker and so on. How do you see the actual costs panning out?

**Graeme McAlister:** The costs are different. We need to capture more information about that to inform our understanding. COSLA and the Improvement Service undertook a cost collections exercise for ELC settings back in May, and they are only now doing such an exercise for childminding. We have realised that we need to look at childminding differently in order to have a meaningful understanding of the costs. The previous exercise that they did on childminding was back in 2015 or 2016.

So far, we have been able to support COSLA through contributing to the development of the latest cost exercise, but, from our point of view, it will still not be meaningful, because it will not capture information that will allow us to understand the hidden costs of delivering childminding. As I mentioned, so much unpaid work needs to be done in the evenings and at weekends, and we need to understand that that is not costed. Similarly, it is not just about sustainable rates, it is about the number of hours. We need to understand how sustainable that is, but COSLA does not want to get into that space.

We are keen to capture up-to-date data. To answer your question simply, I do not believe that childminding is more expensive. Anecdotal feedback from parents shows that they find it a very cost-effective—indeed, a low-cost—form of childcare, but not enough is understood about it. There are also additional pressures. The national standard for ELC includes a requirement that all providers pay staff the real living wage, but many childminders rely on unpaid assistants, who might be family members, to help with drop-offs and pick-ups. If they were to start to apply costs to those assistants, that might impact on their business. We need to capture more data. With more data, we could have an informed discussion with COSLA and the Improvement Service on whether the childminding rates are sustainable or need to be altered.

12:00

**John Mason:** There could be a 5 per cent administration or management charge for all the extra work in the evenings. Would you be looking for that kind of thing?

**Graeme McAlister:** It would be useful to include something. The nursery model includes managers, practitioners, administrators and finance staff, but childminders do everything themselves. Most of

that work is unpaid in the evenings and at weekends, and it is not costed as a form of childcare.

What came through in the Scottish Government's financial health check from last year was that the majority of childminders were holding their costs. Childminders were affected adversely by the pandemic, because there was a sustained period when parents were required to work from home, and there was a furlough, so there was a sustained reduction in demand for childcare. Following the pandemic, the two most vulnerable forms of childcare are childminding and childcare for school-age children. For that reason, childminders do not want to put their costs up. If anything, they are holding their costs and absorbing them. Fuel costs, as well as everything else, are going up just now, and childminders are heavily involved in driving children around, dropping them off and picking them up. That is different from the nursery model.

We are asking COSLA and the Improvement Service to, please, not just continue to apply the nursery model to childminding, which is what has been done historically. We need to understand childminding, because each form of childcare is different.

**John Mason:** Ms Brumpton, from your perspective, are the costs in the different parts of the sector similar?

**Jane Brumpton:** I agree with what Graeme McAlister has said. A blanket approach is applied to things without that recognition. That is a key issue. I am labouring the point, but I go back to the fact that local authorities are not demonstrating their cost basis, so it is very difficult for those in the PVI sector to hear decisions being made about their costs when there is not active engagement. That is an on-going tension.

I note that the committee's papers say that, when agreeing financial mandates, it is key to consider

"what arrangements are put in place at the outset to monitor expenditure to ensure that new policy initiatives are being appropriately funded",

and to look at a consistent formula

"as opposed to basing allocations of cost estimates from the bodies themselves."

We should take a consistent approach so that the PVI sector does not constantly feel that it has to justify costs. Of course, the sector's costs have increased exponentially in the past two years, and, as I mentioned earlier, some authorities have not given an annual uplift. There is a tension between what local authorities are allocating and what is then allocated to the PVI sector.

The sector is looking at under-threes and thinking about how it can recoup costs through non-funded hours, but the sector recognises the tension for parents and the difficulties that parents are experiencing at the moment. We were heartened to hear what the programme for government said about expansion, and we are working with the Scottish Government on what the extension of the programme will look like. It is important that we learn from what has happened over the years and that we do not just replicate what has been done.

In the earlier session, there was a discussion about family engagement and family wellbeing. It is critical that we understand that the same model will not necessarily be relevant for two-year-olds and one-year-olds.

**John Mason:** Thank you.

**The Convener:** That concludes questions from the committee. I thank the witnesses for their evidence. We will continue our evidence taking on post-legislative scrutiny of aspects of the financial memorandum next week, when we will hear from the Scottish Government. That concludes the public part of today's meeting.

The next item on our agenda, which will be discussed in private, is consideration of our work programme. We now move into private session.

12:04

*Meeting continued in private until 12:20.*

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