OFFICIAL REPORT
AITHISG OIFIGEIL

Education, Children and Young People Committee

Wednesday 7 February 2024

Session 6

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EDUCATION, CHILDREN AND YOUNG PEOPLE COMMITTEE

5th Meeting 2024, Session 6

CONVENER

*Sue Webber (Lothian) (Con)

DEPUTY CONVENER

*Ruth Maguire (Cunninghame South) (SNP)

COMMITTEE MEMBERS

*Stephanie Callaghan (Uddingston and Bellshill) (SNP)
*Pam Duncan-Glancy (Glasgow) (Lab)
*Ross Greer (West Scotland) (Green)
*Liam Kerr (North East Scotland) (Con)
*Bill Kidd (Glasgow Anniesland) (SNP)
*Ben Macpherson (Edinburgh Northern and Leith) (SNP)
*Willie Rennie (North East Fife) (LD)
*Michelle Thomson (Falkirk East) (SNP)

*attended

THE FOLLOWING ALSO PARTICIPATED:

Karen Adam (Banffshire and Buchan Coast) (SNP) (Committee Substitute)
Miles Briggs (Lothian) (Con)
Natalie Don (Minister for Children, Young People and Keeping the Promise)
Joanna Mackenzie (Scottish Government)
Michael Marra (North East Scotland) (Lab)
Roz McCall (Mid Scotland and Fife) (Con)
Nico McKenzie-Juetten (Scottish Government)
Martin Whitfield (South Scotland) (Lab)

CLERK TO THE COMMITTEE

Pauline McIntyre

LOCATION

Committee Room 1

Scottish Parliament

Education, Children and Young People Committee

Wednesday 7 February 2024

[The Convener opened the meeting at 09:32]

Children (Care and Justice) (Scotland) Bill: Stage 2

The Convener (Sue Webber): Good morning, and welcome to the fifth meeting in 2024 of the Education, Children and Young People Committee. The first item on our agenda is day 3 of our consideration of the Children (Care and Justice) (Scotland) Bill at stage 2.

In our previous meetings, the committee considered amendments and agreed up to and including section 21 of the bill. We will therefore begin consideration of the amendments to the bill following section 21.

I welcome back the Minister for Children, Young People and Keeping the Promise and her supporting officials. The officials who are seated at the table are here to support the minister, but they are not able to speak in debates on amendments. Members should therefore direct their comments or questions for the Scottish Government to the minister.

Before we begin, I will briefly explain the procedure that we will follow this morning for anyone who is watching for the first time. The amendments that have been lodged on the bill have been grouped together. There will be one debate on each group of amendments. I will call the member who has lodged the first amendment in the group to speak to and move that amendment, and to speak to all the other amendments in the group. I will then call other members who have lodged amendments in that group. Members who have not lodged amendments in the group but who wish to speak should catch my attention. I will then invite the minister to contribute to the debate if she has not already spoken on the group. The debate on the group will be concluded by me inviting the member who moved the first amendment in the group to wind up.

After the debate on each group, I will check whether the member who moved the first amendment in the group wishes to press it to a vote or to seek to withdraw it. If they wish to press the amendment, I will put the question on that amendment. If a member wishes to withdraw their amendment after it has been moved, they must seek the agreement of other members to do so. If any member who is present objects to its withdrawal, the committee immediately moves to a vote on that amendment. If any member does not want to move their amendment when it is called, they should say, "Not moved." Please note that any other member present may move the amendment. If no one moves the amendment, I will immediately call the next amendment on the marshalled list.

I remind everyone that only committee members are allowed to vote and that voting in a division is done by a show of hands. It is important that members keep their hands clearly raised until the clerking team has recorded the vote.

The committee is required to indicate formally that it has considered and agreed to each section of the bill, so I will put a question on each section at the appropriate point.

Now that we have covered housekeeping matters, we can start the substantive business.

After section 21

Amendments 207 to 209 not moved.

Amendment 210 moved—[Pam Duncan-Glancy].

The Convener: The question is, that amendment 210 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Duncan-Glancy, Pam (Glasgow) (Lab)
Kerr, Liam (North East Scotland) (Con)
Rennie, Willie (North East Fife) (LD)
Webber, Sue (Lothian) (Con)

Against

Callaghan, Stephanie (Uddingston and Bellshill) (SNP)
Greer, Ross (West Scotland) (Green)
Kidd, Bill (Glasgow Anniesland) (SNP)
Maguire, Ruth (Cunninghame South) (SNP)
Thomson, Michelle (Falkirk East) (SNP)

The Convener: The result of the division is: For 4, Against 5, Abstentions 0.

Amendment 210 disagreed to.

Amendment 211 moved—[Pam Duncan-Glancy].

The Convener: The question is, that amendment 211 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Duncan-Glancy, Pam (Glasgow) (Lab)
Kerr, Liam (North East Scotland) (Con)

Rennie, Willie (North East Fife) (LD)
Webber, Sue (Lothian) (Con)

Against

Callaghan, Stephanie (Uddingston and Bellshill) (SNP)
Greer, Ross (West Scotland) (Green)
Kidd, Bill (Glasgow Anniesland) (SNP)
Maguire, Ruth (Cunninghame South) (SNP)
Thomson, Michelle (Falkirk East) (SNP)

The Convener: The result of the division is: For 4, Against 5, Abstentions 0.

Amendment 211 disagreed to.

The Convener: The first group of amendments is on secure transportation. Amendment 212, in the name of Ross Greer, is grouped with amendments 162 and 163.

Ross Greer (West Scotland) (Green): I thank the "Hope instead of handcuffs" campaign, the minister and her officials for their help with amendment 212.

It was a bit of a revelation to all committee members when we realised that no standards are currently set for secure transportation in Scotland. There is a black hole in terms of data on what is going on. No one involved in the system, including accommodation providers and councils, is content with the current situation. Everybody believes that we need to develop standards.

We have no shortage of stories from young people about totally inappropriate use of restraint and deception to get them into vehicles, and about what I hope we would consider to be unacceptable behaviour by transport providers. However, they are all anecdotes—there is no systematic reporting of such incidents. Sometimes, accommodation providers are made aware of an incident and sometimes the council is made aware of it, but at other times, nobody is made aware of it.

Amendment 212 would create a new section that addresses standards and reporting requirements concerning secure transport. Proposed new section 90A of the Children and Young People (Scotland) Act 2014 would place a duty on the Scottish ministers to create standards for service providers, and would require that those standards be developed in consultation with appropriate stakeholders.

The same approach is taken with care services, including with secure accommodation, so we will not be creating something new and unique; we will be filling a gap in the system.

Proposed new section 90A includes an initial minimum but non-exhaustive list of what to include in the standards. That is in order to give the greatest flexibility and to ensure that the process is, through consultation, led to the greatest extent possible by those whom it affects, rather than our being unduly restrictive through primary legislation at this point.

I highlight that proposed new section 90A(2)(a)(iv) requires that standards are set in relation to use of restraint. The provisions do not ban restraint—for the obvious reason that everyone in a car should, as a minimum, be restrained by their seat belt. Some restraint during transportation is not only reasonable; it is required by other legislation. Being in a moving vehicle creates obvious risks that might make further restraint necessary. However, committee members and the minister are all aware of evidence of totally unnecessary use of restraint. Therefore, clearly, standards should be set.

The approach of setting standards via secondary legislation also gives the opportunity for further direct parliamentary scrutiny of the standards once they have been developed and have come back to us.

Proposed new section 90B would create a corresponding duty on providers of a secure transportation service to meet the standards and on those who commission their services to ensure that the standards are being met.

Martin Whitfield (South Scotland) (Lab): Is proposed new section 90B expected to extend to transportation of young people by justice services? I am not talking about transportation between secure accommodation or to or from secure accommodation, but about transportation by law enforcement officers during the course of their duties.

Ross Greer: My expectation is that the provision would cover all providers of secure transport for young people. That is a long-winded way of saying yes—I believe that it would apply, regardless of the settings that a young person is being moved between. Therefore, the provision is not just about young people who are in the care of a local authority; it places a duty on Scottish ministers when a young person is in their care, which might be in the justice system.

Proposed new section 90C would establish the reporting requirements. As I said, we currently do not really know what is going on in secure transport—we just have lots of anecdotes. The provision would require reports from local authorities and a consolidated report from ministers. I think that that would surface issues locally and nationally, and it would allow them to be addressed in a systematic manner.

There is a balance for us to strike between the need for reporting and the burden that we place on councils, in particular. Members will all be familiar with the regular concern of councils that reporting requirements are already taking resources away from service delivery, so the provision allows

flexibility in the format of the reports. For example, in some cases, councils will already be producing wider reports and the reporting requirement under the provision could simply mean their making a new section in their current report rather than forcing them to create something brand new.

Miles Briggs's amendments 162 and 163 seek a similar outcome to mine, but in a slightly different way. They seek to set requirements in the bill rather than through regulations. I will allow the member to speak to his reasoning for that.

As I said, my preference is to develop standards through secondary legislation, because that would give us, as Parliament, another opportunity to directly scrutinise them. We need to provide a bit of flexibility in reporting as well, particularly given the small number of young people that we are talking about. It would be quite hard, if not impossible in some instances, to maintain their privacy while producing disaggregated reporting based on characteristics.

I recognise that we are trying to achieve the same goal. Amendment 212 does not formally pre-empt Miles Briggs's amendments 162 and 163, although I think that, if we were to end up in a situation in which all the amendments in this group were agreed to, there would be duplication that we would need to clear up at stage 3. As I said, we are absolutely trying to achieve the same outcome.

Willie Rennie (North East Fife) (LD): I realise that the issue that I am about to raise would probably be for the regulation stage.

Some people argue that restraint should almost be excluded completely, because they see its use as a failure to manage the young person in a more effective way. Do you envisage a minimalist approach? I know that you are not in favour of banning restraint completely, but where would you draw the line? What guidance should we give on that for the next stage?

Ross Greer: I have a lot of sympathy with those who wish restraint to be eliminated from the system completely. I think that we all want a system in which there are no situations in which restraint becomes inevitable or unavoidable. However, I can envisage a challenge based on a hypothetical situation. If an incident were to occur in a vehicle that was moving at speed, it might be necessary for the safety of everybody in the vehicle, including the child, to restrain the young person appropriately for the minimum amount of time and using the minimum amount of force.

09:45

That is deeply uncomfortable but, for people's safety, it might be required. I want a set of standards that focus on making that situation unlikely in the first place and that set out clear expectations on the provider to minimise use of restraint if its use becomes unavoidable.

That said, I am not an expert on the matter and do not have lived experience, which is why I have added the requirements to consult and to come back to the Parliament with regulations.

My very brief final point cannot be covered in primary legislation but is related to it. It was surfaced by scrutiny of this part of the bill at stage 1 and is about service providers in Scotland. Clearly, there has been some kind of failure—of the market or of procurement processes—in that providers drive for nine hours from Portsmouth to Glasgow or Dundee in order to take a young person on a 15-minute journey.

There is a need for the Government and local authorities to identify why that is the case, why we do not have provision in Scotland, and whether it would be appropriate for that service to be provided in-house in the public sector or whether there are private providers who are willing to provide it but face some kind of regulatory or procurement barrier. We need to resolve that issue because, clearly, it is not good value for money for the public and it provides a much poorer quality of service for vulnerable young people than we would all like.

That just about covers it, convener, so I will finish there.

I move amendment 212.

Miles Briggs (Lothian) (Con): Good morning to members, the minister and her officials. I, too, have been working with the "Hope instead of handcuffs" campaign over a number of years on how the issue can be looked at and how the bill could create a framework, such as, I think, we all want.

I very much welcome Ross Greer's amendment 212. I also note that the Children and Young People's Commissioner Scotland commented on amendment 163 in relation to elements of the strengthening of data collection. Amendment 212 would achieve what I wanted, so I am happy not to move amendments 162 and 163, but I hope that the minister might, in summing up, look at comments that organisations have made about strengthening data collection.

The Minister for Children, Young People and Keeping the Promise (Natalie Don): I thank Ross Greer and Miles Briggs for lodging their amendments. Secure transport of children is a very important matter, and a range of work is on-going in that area. As Ross Greer mentioned, the Government has worked with him on amendment

212, which has been carefully framed to take account of wider matters.

It is envisaged that the standards that ministers would be obliged to publish and report on would draw heavily on the service specification that the Scottish Government and the Convention of Scottish Local Authorities have produced. The committee heard about that at stage 1; however, it is not mandatory. Amendment 212 would therefore allow for a set of national standards to which all those who commission secure transport must adhere.

The service specification prohibits use of mechanical restraint, handcuffs or pain-inducing techniques. Careful consideration will be given to the issue before ministers produce the standards. We are aware that, as has been discussed this morning, restraint might be required as an option in a very small number of cases, as a last resort, either to protect a child or to protect those who transport them. The alternative might be the police being called, which would bring a criminal justice response.

On the subject of a national regulator, we have noted the concerns that were raised by the Care Inspectorate in its evidence, regarding its role and remit. However, I assure the committee that discussions on that are on-going. I cannot pre-empt them, but I reassure the committee and other members that existing legislative provision enables the functions of registering, regulating and inspecting secure transport services to be conferred on the Care Inspectorate. Although I am not saying that that is the direction in which things will certainly go, it is useful information in the context of the window of opportunity that is presented by the bill.

In addition, my officials continue to work with relevant agencies on a national contract that would standardise matters related to providers and provide an approach for across Scotland. I commend Miles Briggs for raising those matters in his amendment 162. He has said that he will not move the amendment, so I will not go into detail.

Mr Briggs also referred to data collection. I would be happy to have a discussion with him on any gaps that he feels there are in relation to production of the standards.

In summary, I support amendment 212 and I ask the committee to do likewise.

Ross Greer: I welcome the minister's commitment to Miles Briggs to look more at data collection. Mr Briggs and the Children and Young People's Commissioner Scotland have surfaced some very important points, but apart from that we have covered the issue quite comprehensively, so I will press amendment 212.

Amendment 212 agreed to.

Section 22 agreed to.

Section 23—Secure accommodation services

The Convener: Section 23 is on secure accommodation. Amendment 108, in the name of Roz McCall, is grouped with amendments 109, 221, 155, 156, 110, 111, 213 and 157 to 161.

Roz McCall (Mid Scotland and Fife) (Con): Amendments 108 and 109 are probing amendments, and they follow on from other amendments that have been lodged and discussed. They are on concerns about separation and biological sex in secure accommodation. I have listened to the minister during the past couple of weeks, and I am not sure that there will be much more that she can add on these probing amendments. However, I will, again, put across a scenario, because I am concerned about safeguarding measures and I have concerns over adequate accommodation provision.

We could have a situation in which a biological male who was residing in secure accommodation because of a sexual assault was in the same secure accommodation as a biological female who needed to be removed from a harmful environment. I would appreciate it if the minister would elaborate on that and give more detail on the safeguarding measures to ensure that a scenario of that type will not happen. I will probably not press the amendments, but I would like to hear what the minister has to say.

I move amendment 108.

The Convener: Now, breaking with tradition, I call myself, Sue Webber, to speak to an amendment in my name.

Amendment 221, which I lodged after last week's committee meeting, is very simple. It is there specifically to ensure that a child will not be put in the same secure accommodation as the child who has caused them harm. It is not much more complicated than that. The intention behind the amendment is to ensure that children are safe in secure accommodation. As I said, it is very simple.

Miles Briggs: I start by paying tribute to and thanking a number of people who have helped to shape my amendments: Beth Morrison and her son, Calum, who have been working towards Calum's law; Daniel Johnson, my Lothian colleague, who is working on a bill that is related to the issue; and a number of organisations, very much including those that sent the letter that all committee members received on 23 November. It was from the Promise Scotland, the Scottish Human Rights Commission, the Mental Welfare

Commission for Scotland, the Children and Young People's Commissioner and the Equality and Human Rights Commission, and it was on how we can develop a statutory framework on restraint and seclusion. My amendments in the group look to secure that for secure accommodation.

Amendments 155 and 156 look to ensure that we have consistency in training regulations. It has been noted that the councils that are responsible for delivering training have different systems and that different commissioners are provided for that. That needs to be tightened up.

Amendments 155 to 161 not only provide duties to record and report restraint within secure accommodation, but look towards restraint being used as a last resort.

I hope that the minister considers that the amendments reflect what the Scottish Government and members of the committee want to see at stage 2. If not, I will be happy to work on the amendments at stage 3.

Natalie Don: I understand that some committee members, in their scrutiny of the bill, have highlighted concerns about children who have committed an offence being placed in secure accommodation with other children. That was raised this morning. I also note from last week's committee session that there is a need for further reassurance on the safeguarding measures that are in place in secure accommodation.

All of Scotland's secure accommodation providers offer an integrated model of delivery. There is a long-established understanding that all children who have been placed in secure accommodation have experienced or are experiencing extreme needs, risks and vulnerabilities in their lives.

I appreciate that amendments 108 and 109, in the name of Roz McCall, are probing amendments, but they would go against that approach. Committee members can be confident in the existing experience and expertise of secure accommodation providers in matching children to placements and managing the needs and risk profiles of each child who enters secure accommodation. Individualised risk assessments and plans are made to meet each child's needs, ensuring that the safety and protection of children and staff are at the core of the decision making.

Michelle Thomson (Falkirk East) (SNP): We have had some discussions with the Government around the nature of risk. I made an observation on that when we were going through the Gender Recognition Reform (Scotland) Bill. According to the evidence that I saw, risk assessment concerned the probability of a risk occurring but not the impact, if it occurred. Can you reassure me that the risk assessment has been done with the academic rigour that you would want to see?

I raised with the Government the possibility of the situation that we found ourselves in with Isla Bryson, before it occurred, and I said that, although the probability of such a risk occurring was low, the impact, should such a situation arise, would be extraordinarily high. I cannot say that I was happy to be proven right.

It is a matter of disaggregating probability and impact. Can the minister reassure us that that technical approach is being followed and is embedded among all service providers?

Natalie Don: I certainly can provide those reassurances. I will be getting on to some of those matters, which are covered in my notes. I will get back to those, but I will be happy to take any further questions from the member.

If it is passed, the bill will result in a very small increase in the number of older children in secure care who would otherwise have been placed in a young offenders institution. The latest figures show that there are only two under-18s in a YOI. As things stand, an under-18's placement in a YOI is often due not to the type or severity of the offence that they have committed but to their legal status.

In respect of separating girls from boys, as is proposed by amendment 108, research carried out by Kibble found that, while gender is a consideration in placements, mixed-gender living is normal and beneficial, and it is reflective of the wider community experience. Along with other stakeholders, secure accommodation providers do not support such structured separation of children in secure accommodation. Such a change in practice would not be evidence based, nor would it be consistent with the Kilbrandon ethos. Roz McCall's amendments would be disproportionate and unworkable, and they would further compound capacity challenges.

Amendment 221, in the name of the convener, relates to the ministerial approval process for a secure accommodation service. I understand that the intention is that, if a child has been harmed by another child or is the victim of an offence, they should not be accommodated alongside the child who has caused the harm or who has committed the offence. However, there are issues with the wording of the amendment, particularly in relation to not describing the "behaviour" that it references. That creates ambiguity around the intention of the provision and would make it impossible to implement in practice.

I agree with Sue Webber, in any case, that children should be safeguarded and protected, but amendment 221 does not seem necessary. As I have outlined, there are existing, vigorous

processes in place for the admission of children into secure accommodation, and each case is considered individually. A robust matching process is undertaken before a child is placed in a particular secure accommodation setting, as underpinned by contractual requirements and underlined in recently published Care Inspectorate guidance.

Pam Duncan-Glancy (Glasgow) (Lab): My understanding is that the Care Inspectorate guidelines would prevent the sharing of spaces in the way that the minister has described.

To build on Michelle Thomson's point about the balance of probability and impact, can the minister say something about whether she has had conversations with the Care Inspectorate about the impact? Although they are very unlikely circumstances, what sort of conversations has the minister had with the Care Inspectorate to discuss the impact if such situations were to happen?

Natalie Don: I have not personally discussed the issue with the Care Inspectorate, but those conversations have taken place at official level. In the light of committee concerns about gaps in what is being considered, I would certainly be happy to take that idea away. However, I will go through some assurances about providing those safeguards.

The Care Inspectorate guidance considers the impact of the proposed placement on other children who are living in the secure accommodation and any reasons why that placement should not be approved. The particular circumstances or needs of other children in that setting will all be considered.

10:00

The Convener: I am curious to know what is in the wording of my amendment that would preclude your supporting it when you have said at length that a ministerial process is taking place. I am a bit bemused about what is in there that is making it so difficult.

Natalie Don: The wording does not necessarily describe the behaviour.

The Convener: The behaviour is rather irrelevant when I say that it is about a child who has caused harm and a child who has been harmed. Making a descriptor of behaviour in that regard would muddy the waters a little bit.

Natalie Don: Our issue is about the definition of the offence. Behaviour is not necessarily negative. The amendment would not be workable in law, essentially. I am happy to have further meetings with the member on the wording. Discussions would need to take place on whether it could be workable, but that is the situation at the moment.

The Convener: The amendment says that it is about offence or behaviour.

Natalie Don: As I said, it would need to be clearer in terms of—

The Convener: Okay. Minister, please carry on.

Natalie Don: Again, although I agree with the sentiments in amendments 155 and 156, they do not seem to be necessary. The secure care workforce is already, as it should be, highly trained to meet the needs of children and to appropriately support children who are in its care. The Care Inspectorate, the Scottish Social Services Council and Scotland Excel set and monitor the training requirements for secure accommodation staff, which include meeting the needs of children who have a wide range of complex and challenging requirements. Those include the need for evidence of implementation of restraint policy and the training of staff in such approaches and in de-escalation practices.

It is also mandatory that each secure accommodation service provider has a clear child protection policy that ensures that safeguards are in place for those using the service. Secure accommodation managers, in consultation with the head of unit, are under a legal obligation to ensure that, when a child is in secure accommodation, their welfare is safeguarded and promoted. Accommodating children together when there are clear welfare or safeguarding risks would run contrary to that.

In summary, as I understand it, the intention behind the convener's amendment is already achieved through existing law and practice.

There are also technical issues with amendments 155 and 156. In particular, they are not clear about what is meant by "restrictive practice", "de-escalation techniques" and "learning disabilities". The amendments are less effective than current requirements, as they would simply require proposed service providers to make a commitment to train staff at an unspecified point in the future.

However, I appreciate where Mr Briggs is coming from with his amendments. I am not sure whether they were intended as probing amendments, but I would be more than happy to meet him ahead of stage 3 to discuss them. I therefore ask him not to move them at this stage.

Government amendments 110 and 111 relate to the definition of a "secure accommodation service" and address the concerns that some stakeholders, including service providers, raised at stage 1. Recognising those legitimate concerns, the Government committed to working with them to ensure that the definition aligns with the Promise recommendation on being clear

"that the underlying principle of Secure Care is the provision of therapeutic, trauma informed support."

Amendments 110 and 111 do that by emphasising that the care, education and support that are provided to children in secure accommodation take account of the effects of trauma that they might have experienced.

Secure accommodation service providers are well versed in recognising and understanding the impact of trauma that individual children in their care may have experienced, and they work with children in a way that demonstrates that understanding. Amendments 110 and 111 therefore build on existing practice and ensure that trauma is given the prominence that it warrants in the "secure accommodation service" definition and that further context is provided on a service's overall purpose.

Regarding amendment 213, the definition of a "secure accommodation service" already includes much of what is listed in the amendment as part of the service's core purpose. All children's health, education and other needs are individual, therefore they cannot be prescribed in legislation. Although secure accommodation providers must ensure that the welfare of all children is safeguarded and promoted, in practice that will be done in collaboration with other relevant authorities and in accordance with contractual arrangements.

I appreciate that the amendment is well intended, but it could cause confusion as to where responsibilities lie and compel secure accommodation services to ensure that support is provided even when a child is no longer accommodated by them. For example, local authorities already have after-care duties towards looked-after children under the Children (Scotland) Act 1995. It is not clear what a secure accommodation service could add to that, particularly as it will not maintain a relationship with a child once they leave secure care.

On amendments 157 and 158, I again do not consider that they are appropriate.

In relation to amendment 157, secure accommodation is a highly regulated and monitored sector, with a number of existing safeguards in place to ensure the safety of children being cared for and members of staff. Restraint is a very complex issue that applies to various settings. The national "Holding Safely" guidance is already in place and applies to all residential childcare settings, including secure accommodation. Although that guidance is specifically about physical restraint, the Scottish Government is clear that the wellbeing and safety of children is always paramount and that restraint should be used only as a last resort and in exceptional circumstances. The publication "Secure Care Pathway and Standards Scotland" also makes it clear that restraint should be used only "as a last resort" in cases where

"a child's behaviour is considered to be a significant risk to themselves or others".

Secure accommodation service providers have their own techniques, methodologies and training for staff on approaches to physical restraint and restrictive practice, based on that guidance. In my view, there is no need to supplement that with further guidance.

On amendment 158, data on specific uses of restraint in secure accommodation is not publicly available, as is appropriate to protect the rights and privacy of children in that setting. However, clear regulatory frameworks are in place to ensure that secure accommodation services report incidents of restraint to the Care Inspectorate. Therefore, the information-gathering and publication duty in the amendment appears to be unnecessary and would impose a disproportionate and misplaced burden on local authorities, which would not have ready access to the information specified. Local authorities are not subject to such duties in relation to any other care setting. In addition, as with some other amendments that I will come to, I have concerns about the data protection and rights implications of what amendment 158 proposes.

Lastly, in relation to amendments 159, 160 and 161, I completely understand the reasoning behind them. However, in addition to the fact that they raise some technical drafting issues in relation to definitions and data protection, I feel that the obligations that they propose could be problematic in practice.

Miles Briggs: I note that, at stage 1, the minister commented that it would make sense to look at ensuring consistency in the reporting of incidents of restraint. I also note the calls from a number of organisations for the Government to develop statutory guidance and for there to be reporting specifically in relation to persons with disabilities. Does the minister feel that that information is being properly reported by anyone other than the Care Inspectorate?

Natalie Don: I feel that it is being reported, and, in fact, I have had conversations with officials this morning about whether improvements can be made in relation to that. However, the amendments that have been lodged raise a couple of problems in terms of overlap. There needs to be either more refinement of them or more work in relation to that issue.

Willie Rennie: The minister set out concerns about Miles Briggs's amendments, but is she opposed in principle to putting that guidance on a

statutory footing, which is what many campaigners are calling for? If not, will she consider lodging an amendment at stage 3 to do exactly that?

Natalie Don: I am not necessarily opposed to that in principle. However, there are issues with data and what I have discussed around data protection. I am not opposed in principle, but the issue would need further consideration ahead of stage 3.

Willie Rennie: Will the minister give that consideration and lodge an amendment?

Natalie Don: I cannot commit to lodging an amendment, but I can commit to considering the matter further.

To follow on from that, the information-gathering and publication duty in amendment 158 could impose a disproportionate and misplaced burden on local authorities. As I said, I am happy to consider that further.

On amendments 159 to 161, as I said, in addition to their raising technical drafting issues, they could be problematic. I understand that the intention of amendment 159 is to ensure that needs assessments are undertaken for children entering secure accommodation. However, that already happens, and regular reviews are carried out, as required by the legislation.

Pam Duncan-Glancy: Will the minister take an intervention?

Natalie Don: If Pam Duncan-Glancy does not mind, I will make some progress. I am happy to take the intervention prior to moving on to the next amendment.

Amendment 159 would make assessments mandatory in all circumstances, but we must recognise that they may not always be necessary and could lead to duplication. If, for example, a child was already being assessed and supported by child and adolescent mental health services at the point of admission to secure accommodation, a further mental health assessment would not need to be undertaken.

In any case, the responsibility for managing a child's placement rests with the relevant local authority or, for some sentenced children, with the Scottish ministers. Therefore, it is unclear why or how the Scottish ministers could be responsible for meeting the duties under the amendment for all children in secure accommodation. However, as I have said, I am happy to consider that further.

I am now happy to take an intervention from Ms Duncan-Glancy.

Pam Duncan-Glancy: I have a couple of points and then a question. Far from duplicating assessment, the reality for the people whom amendment 159 is trying to support is that they are not getting any assessments, because the CAMHS waiting times are really high and local authorities are struggling to provide support, particularly in education. We know that co-ordinated support plans are not being used to nearly the extent that they should be. There is significant evidence to suggest that the amendment would not introduce duplication but might be a safety net to catch young people who desperately need it.

The minister has said that there are technical drafting issues with amendment 159, but would she be prepared to look at the issue and develop an amendment with the member who lodged it, and with others who are interested, at stage 3?

Natalie Don: Under the Looked After Children (Scotland) Regulations 2009, there is an obligation on local authorities to assess children's needs and prepare a child's plan to meet them. I hear concerns from the committee that that is not always happening, and I have already made a commitment to investigate or consider that further. I am sure that members will understand that I cannot commit to lodging an amendment at this time, but I am happy to consider that further.

On amendment 160, steps may be taken by a variety of people to reduce the need for and the duration of a child's placement in secure accommodation. In line with obligations under the European convention on human rights and the United Nations Convention on the Rights of the Child, that will be the case for all children, not just those with learning difficulties or disabilities and complex needs.

Local authorities are not always responsible for the decision to place a child in secure accommodation. They will be involved in the child's case but, for children who are placed in secure accommodation through the courts, they will have a limited role in the decision making or the duration of the placement. Imposing a duty on them to explain how they have tried to avoid or minimise the use of secure accommodation, therefore, does not necessarily seem appropriate.

10:15

I agree with the need to collect data, as is outlined in amendment 161, but I do not think that it is necessary to go as far as the amendment proposes. All local authorities currently collect data on the number of children who are in secure accommodation; that is published annually as part of the children's social work statistics. As there are only four secure accommodation centres in Scotland, with a relatively small number of children in them, the more specific that published data becomes, the higher the likelihood is that individual children could be identified. Publishing

information at the level of specificity that is outlined in Mr Briggs's amendment could lead us into that territory, which would not necessarily be lawful under the general data protection regulation and would breach the child's right to private life under article 8 of the ECHR. However, I appreciate the thinking behind the amendment, and, if there are areas that could be progressed without leading to a breach of data protection or the identification of a child, I would be happy to consider that further.

In summary, I invite members to support amendments 110 and 111, and I urge Roz McCall, Sue Webber, Miles Briggs and Martin Whitfield not to press or move their amendments in the group. If they do so, I urge the committee to reject those amendments.

The Convener: I call Martin Whitfield to speak to amendment 213 and other amendments in the group.

Martin Whitfield: Good morning to the committee and to those attending. Amendment 213 relates specifically to the provision of services that need to be made available to children in secure accommodation. I thank the minister for dealing with the context in her comments, which allows me to address some of the issues that appear to be of concern to the Government.

It is absolutely right that secure accommodation provides an integrated delivery model whereby individual assessments are made for each child, because those are unique individuals who are presenting in the system. Of course, secure accommodation has child protection policies in place. It is also true to say that some of the children who present have some of the most complex needs of any individual who comes into contact with the state.

With respect, however, I disagree with the Government's assertion that amendment 213 is too open and could require the secure accommodation providers to have an on-going obligation to individual children. The reference in the amendment to "secure accommodation" is drawn from the Children's Hearings (Scotland) Act 2011, which defines secure accommodation only as far as it extends to those providers accommodating young people. The 2011 act specifically says:

"for the purpose of restricting the liberty of children".

The secure accommodation provider cannot, therefore, be held responsible beyond that obligation to secure the restriction of children's liberty.

I respectfully disagree with the minister, therefore, that that would open an on-going obligation. If that was the argument, there would be an on-going obligation on primary schools, nurseries and local authorities, ad infinitum. There is a period of time in which an emanation of the state ceases to be the responsible party for a young person. That is defined and understood in almost all interactions between young people and emanations of the state.

Amendment 213 seeks to provide a baseline to provide an opportunity to achieve the intended outcomes, which we have discussed over the past three weeks and at stage 1. It would allow us to stand a chance of achieving a better outcome, because it would place on the secure accommodation provider a specific obligation in respect of those young people who come within that provider's area of influence to take responsibility to ensure, where appropriate, the provision of

"advocacy services … education … emotional and mental health support … health care … support to maintain contact with the child's family"

and

"transition and aftercare support."

The minister confirmed in her submission that only some of those elements already sit within the secure accommodation provider's responsibilities. The purpose of amendment 213 is to bring together a holistic overview to ensure that there is a baseline for every young person who comes within secure accommodation that will be looked at by the person who is engaged in the most important of tasks: restricting the liberty of the child. It should surely be for that secure accommodation provider to undertake that responsibility.

The Convener: I call Roz McCall to wind up and to press or withdraw amendment 108.

Roz McCall: I will not spend a long time winding up. I thought that that was very interesting, and I will not press amendment 108.

Amendment 108, by agreement, withdrawn.

Amendment 109 not moved.

The Convener: Given the conversation with the minister, I will take amendment 221 away and bring it back at stage 3 with amended wording, so that it does not cause a conflict.

Amendment 221 not moved.

The Convener: I call Miles Briggs to move or not move amendment 155.

Miles Briggs: I listened to what the minister had to say about this group of amendments. I am keen for the bill not to be a missed opportunity for us to strengthen a statutory framework. Last week demonstrated the need for some of that, with the Care Inspectorate raising serious and significant

concerns about the safety of students at Hillside school in Aberdour, in Fife.

Those issues need to be addressed, but I am happy to work with the minister at stage 3 to see whether the Government can accept that a stronger framework is needed, not just for this bill but for other bills that the Government is committed to bringing forward for people with disabilities.

I am happy not to move the amendments if the minister is willing to take that work forward.

Amendments 155 and 156 not moved.

Amendment 110 moved—[Natalie Don].

The Convener: The question is, that amendment 110 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Callaghan, Stephanie (Uddingston and Bellshill) (SNP)
Duncan-Glancy, Pam (Glasgow) (Lab)
Greer, Ross (West Scotland) (Green)
Kidd, Bill (Glasgow Anniesland) (SNP)
Maguire, Ruth (Cunninghame South) (SNP)
Rennie, Willie (North East Fife) (LD)
Thomson, Michelle (Falkirk East) (SNP)

Against

Kerr, Liam (North East Scotland) (Con)
Webber, Sue (Lothian) (Con)

The Convener: The result of the division is: For 7, Against 2, Abstentions 0.

Amendment 110 agreed to.

Amendment 111 moved—[Natalie Don]—and agreed to.

Section 23, as amended, agreed to.

After section 23

Amendment 213 moved—[Martin Whitfield].

The Convener: The question is, that amendment 213 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Duncan-Glancy, Pam (Glasgow) (Lab)
Kerr, Liam (North East Scotland) (Con)
Rennie, Willie (North East Fife) (LD)
Webber, Sue (Lothian) (Con)

Against

Callaghan, Stephanie (Uddingston and Bellshill) (SNP)
Greer, Ross (West Scotland) (Green)
Kidd, Bill (Glasgow Anniesland) (SNP)
Maguire, Ruth (Cunninghame South) (SNP)
Thomson, Michelle (Falkirk East) (SNP)

The Convener: The result of the division is: For 4, Against 5, Abstentions 0.

Amendment 213 disagreed to.

Amendments 157 to 161 not moved.

Section 24 agreed to.

Section 25—Cross-border placements: effect of orders made outwith Scotland

The Convener: The next group is on cross-border placements. Amendment 112, in the name of the minister, is grouped with amendments 214, 113 and 215 to 217. I point out that, if amendment 112 is agreed to, I cannot call amendment 214 because of pre-emption.

Natalie Don: The bill enables the Scottish ministers to further regulate cross-border placements in Scotland of children and young people from other parts of the United Kingdom in a way that reflects our key policy principle, which is that such placements should occur only in exceptional circumstances and that, when they do, the child's safety and wellbeing and the upholding of their rights must be paramount.

My amendments 112 and 113 will ensure that ministers have the powers that they need to robustly regulate cross-border placements when they need to occur. We know from recent evidence gathering that cross-border placements are being made in Scotland from other UK jurisdictions and that they are legally underpinned by a variety of court orders. We also know from our evidence gathering that, at present, about a quarter of all cross-border placements in Scotland are done through a route where there are legislative provisions to allow them to happen, but they are not underpinned by a court order from the relevant jurisdiction—for example, in a case of a child being placed in the care of a relevant local authority and accommodated through a voluntary arrangement.

The powers that are available to ministers in the bill as drafted extend only to regulating cross-border placements that are underpinned by a non-Scottish court order, but, given the proportion of placements that occur through alternative routes, it is vital that we recognise all cross-border placements in Scotland, whether they are made via a court order or other legislative provisions.

Amendments 112 and 113 will ensure that all cross-border placements with a legal basis in the home jurisdiction can be effectively regulated here. In particular, they will allow ministers to impose appropriate conditions on the placing of children in Scotland, to establish a process for monitoring adherence to those conditions, and to set out consequences in law if they are not adhered to. That will help to safeguard the

wellbeing of placed children and to uphold their rights throughout the duration of their placement. I consider the amendments to be essential in building a regulatory framework that is fit for purpose and that will enable ministers to proactively manage known and emerging or evolving risks regarding cross-border placements.

It is clear that, without the additional powers to legally recognise and properly regulate such placements, the best interests of placed children would be at risk of becoming secondary to financial and capacity challenges being managed by placing authorities, which we know have been a cause for concern, particularly in England. That would inevitably have a detrimental impact on the rights and welfare of children and young people and on the quality of care that they receive while on placement.

I recognise that there is a degree of overlap between the amended power under section 190 of the Children's Hearings (Scotland) Act 2011 and the power in proposed new section 33A of the Children (Scotland) Act 1995. However, that is appropriate given the complexity involved in cross-border placements and the number of different legal routes by which a child may be placed here. Having tailor-made powers on the statute book will provide the flexibility that is needed to regulate all lawful placements in Scotland effectively and to safeguard and promote the welfare of all placed children.

Before I address Mr Marra's amendments, I highlight that I am very conscious that I have not had a discussion with Mr Marra on some of the issues. I am aware that Mr Marra raised some concerns at stage 1, and I would very much like to meet him to discuss whether he feels that any areas still need to be addressed following the Government's amendments.

I also highlight to the committee that, in December, I had a very productive meeting with David Johnston MP, the Minister for Children, Families and Wellbeing, at which we committed to collaborative working on cross-border placements.

10:30

I turn to Mr Marra's amendments. Amendment 214 would enable ministers to provide in regulations that a non-Scottish order underpinning a cross-border placement may have effect only if it is in the best interests of the child. I think that we would all agree that the placing of a child or young person in Scotland on a cross-border placement should be done with their best interests at heart. However, the Scottish ministers have no locus to interfere with the decision-making process of a court in another jurisdiction. The making of a court order in England, Wales or Northern Ireland will include due consideration of whether that placement is in the child's best interests. That is appropriately a matter for, and a decision to be made by, the relevant court.

The key to securing the best interests of the child in such a placement is to ensure that any such decision is made only following an appropriate planning and assessment process. Of course, the child or young person should be fully involved in that process. I understand that that is already provided for through existing care planning legislation elsewhere in the UK, and Scottish Government officials are working with their counterparts in other Administrations to explore ways of bolstering those processes before, during and after placements in an effort to best support children.

Although the Scottish ministers cannot interfere with courts determining that a cross-border placement in Scotland is in the best interests of a child or young person, they can look to robustly regulate those placements where they occur. That is the purpose of the bill's cross-border provisions and the Government amendments in this group, which I urge the committee to support. I am unable to support amendment 214.

Amendment 215 seeks to strengthen the rights of children from other UK jurisdictions to access the services that best meet their needs and to ensure that they are appropriately supported. Although I appreciate the sentiment here, the amendment is not clear on a number of fronts. First, it is unclear how ministers should ensure that a child receives "appropriate support", and it is unclear what that support should entail for a child.

In addition, the amendment does not define what is meant by "a non-Scottish order". That term is defined in section 190 of the Children's Hearings (Scotland) Act 2011, but, even if we assume that that is what is meant, the amendment is still unworkable. It would appear to mean that the Scottish ministers would have a duty to ensure that any child who was subject to an order made by a court in England and Wales or Northern Ireland had access to appropriate support on the range of matters mentioned, regardless of whether they were on a cross-border placement in Scotland. As the committee will be aware, the competence of this Parliament extends only to the conferring of functions that are exercisable in or as regards Scotland, and amendment 215 would appear to go further than that.

Legislation already exists whereby, in certain circumstances and with the agreement of the receiving local authority, children and young people from England, Wales and Northern Ireland can be placed in Scotland on a permanent basis. In such instances, the child will be—in layperson's terms—"brought into the Scottish system" and a

Scottish local authority will assume the responsibility for that child's needs in relation to matters such as education and health. Amendment 215 would risk interfering with the local authority's role in that regard.

However, the Government is clear on roles and responsibilities relating to cross-border placements that are intended to be temporary and that arise due to issues with capacity in the care system elsewhere in the UK, such as issues relating to deprivation of liberty orders, which have caused us all a great deal of concern in recent times. I am strongly of the view that, in such cases, the provision of services to the child ought to sit with, and best sits with, the placing authority, which knows the child, is responsible for their care planning and will, ultimately, maintain a relationship with the child when they cease their placement in Scotland.

I think that we would all agree that we would not wish to take any action that could have the unintended effect of incentivising cross-border placements, given our position that such a placement should only ever be made in exceptional circumstances and when it is in the best interests of the child. For those reasons, I am unable to support amendment 215.

In relation to amendment 216, it is unclear what the proposed cross-border placement plan should cover, beyond the illustrations that the amendment provides, which relate to information sharing about children's needs and measures that secure accommodation providers would take to support them.

Cross-border placements into secure accommodation are primarily a matter for the placing local authority and the independent secure accommodation provider. There are already clear expectations and frameworks for such placements, and, as I have mentioned, the Scottish Government is working with other UK Administrations to consider how existing regulation and practice can be optimised to improve experiences for children.

Regarding the enhanced powers conferred by the bill, if passed, to better regulate and manage cross-border placements, I anticipate that arrangements for information sharing will be set out in those regulations, so requiring that to be set out in a report could result in unnecessary duplication.

Further, the amendment proceeds on the basis that ministers should report on the measures that secure accommodation services are taking to support the specific needs of children on cross-border placements there. Although I agree that those needs should be met, the role of meeting a child's needs should, in most cases, remain with the local authority that has placed the child into Scotland.

It would also seem inappropriate for ministers to report on practices within secure accommodation provision when there is an established approval, registration and inspection regime in operation. Such existing oversight ensures that secure accommodation services operate effectively in a way that upholds children's rights and respects their needs.

Secure accommodation services in Scotland are approved by Scottish ministers and are then regulated and inspected by Social Care and Social Work Improvement Scotland—known as the Care Inspectorate—under the Public Services Reform (Scotland) Act 2010. The inspection process does not differentiate between the care of those children who are placed in secure accommodation in Scotland from outside of Scotland and the care of the other children who are placed there. Therefore, cross-border placements into secure accommodation are covered by the inspection process.

As I have mentioned, secure care pathways and standards were published in 2020 to set out what all children in, or on the edge of, secure care in Scotland should expect across the continuum of intensive supports and services. That includes children placed in Scotland from elsewhere.

It is also worth highlighting that section 24 of the bill further provides for additional standards and registration and regulatory requirements to be put in place specifically for those care services that accommodate cross-border placements, including secure accommodation services.

For the reasons outlined, I cannot support amendment 216.

On amendment 217, although I recognise the sentiment behind it, it would be rare for a child who is subject to a secure accommodation authorisation in a compulsory supervision order to be placed into secure accommodation outwith Scotland. Where a child is subject to a secure accommodation authorisation in a compulsory supervision order, it would be the decision of the chief social work officer of the child's home local authority, in consultation with the head of the secure unit, whether that authorisation should be implemented.

The duties here are enshrined in regulations and supported by good practice guidance. Those include requirements that any placement must be appropriate to the child's needs and that the child's views must be taken into account. The Scottish ministers have no role in those placements. That is because the duties lie with the local authority that is responsible for the implementation of the relevant CSO. Therefore, I

would not be able to support amendment 217. It would make Scottish ministers responsible for operational matters, where responsibilities of local authorities in relation to looked-after children are well established. It could interfere with those responsibilities and create confusion and unnecessary duplication, which could be to the detriment of the welfare of children who require secure care.

In summary, I ask members to support the Government amendments. I have made clear an offer to have further discussions with Mr Marra. I ask Mr Marra not to move amendments 214, 215, 216 and 217. If they are moved, I would ask the committee to reject them.

I move amendment 112.

Michael Marra (North East Scotland) (Lab): I thank the minister for her comments on the amendments that are in my name and for setting out her thinking, which I hope to probe a bit further.

My interest was first prompted by the evidence that the committee took when I was a member of it, at the start of last year. There was, in some regards, a rather unfortunate distinction in relation to the level of responsibility that we might take as a Parliament to ensure the best outcomes for some of the most vulnerable young people not just in Scotland but across these islands.

The reality of our secure accommodation system is that many young people from England, in particular, who are in such facilities are at significant risk of harm or of loss of life—either at other people's or their own hands. Affording those young people opportunities for secure accommodation is an important part of the system that protects life across the UK.

In those respects, as a matter of principle, where those young people were born does not matter to me. I understand that legal restrictions and responsibilities have to be taken on board in the operation of secure care. Some of my amendments address and support that. To be frank, although some of those children live a little further away, the circumstances that they face are equally horrendous.

I start from there—from why we have cross-border placements. It is clear from the evidence that the Parliament has received that the scale is principally a function—a dysfunction—of the English system. England lacks capacity.

The Parliament has heard considerable evidence on that. Katy Nisbet from Clan Childlaw told the Parliament that there is a

"huge underprovision of secure accommodation in England."—[*Official Report, Education, Children and Young People Committee,* 22 March 2023; c 44.]

Kevin Northcott of Rossie Young People's Trust spoke of

"the demand that exists in the English system."

The Good Shepherd Centre's Alison Gough said:

"there has been a dramatic and sustained rise in the number and frequency of referrals from England."—[*Official Report, Education, Children and Young People Committee,* 29 March 2023; c 12, 11.]

Back in May last year, the minister told the committee that England simply does not have enough capacity. The issue is recognised in England. The Office for Standards in Education, Children's Services and Skills reported that there were 50 children waiting for every secure bed in England. The issue is really significant. A clear problem of capacity in England has to be addressed.

As a result, I see a significant problem, particularly given the evidence from Megan Farr of the office of the Children and Young People's Commissioner Scotland, who expressed the idea that,

"By making it harder for local authorities to place children in Scotland, our hope would be that that would somewhat force the issue of providing more appropriate places in England."

Minister, I know that that quotation is not from you or another minister but from the children's commissioner's office, but the idea is fanciful that, by making it more difficult to protect the lives of young children who come into Scotland, we will force the Tory Government in England to fix the secure accommodation system in England. I do not see any evidence that that would be the case. Megan Farr went on to say:

"it is not something that Scotland can fix for England's sake."—[*Official Report, Education, Children and Young People Committee,* 22 March 2023; c 46.]

At the heart of the issue is the fact that those young people are at significant risk today. Our facilities and workers in Scotland are protecting their lives, and we should make that happen. I want to explore that and hear more justification from the minister for her statement that such placements should only ever occur in exceptional circumstances. I am happy to hear that now.

Natalie Don: I mentioned that I had met David Johnston MP. When I raised the issues with him, there was certainly an understanding of the capacity issues. I have said that I want to work alongside his Government, rather than forcing its hand. For the benefit of all children and young people, this is about working together to get an appropriate solution.

We are talking about exceptional circumstances, but I have said at every point that this is about what is best for the child. If a child in England

needs to be deprived of their liberty and placed in a secure care setting but there is no capacity in England and it would be best for them to be placed in Scotland, that is absolutely what must happen. I have been clear at every point that that applies as long as it is best for the child.

As for the larger capacity issues, I had a helpful meeting with David Johnston, as I said. Officials have continued the conversations, and I look forward to having a plan in place for how we will work together to tackle the issue in the long run.

10:45

Michael Marra: I appreciate those points. Working together as two Governments, having a proper collaboration and trying to solve the situation in the round is certainly desirable. If I can, I will come back a little to the rationale for that.

First, I take issue with the assumption about proximity. Part of the prevailing policy discourse is that children should always be placed as close as possible to their local authority area and their local community. We hear that underlying assumption in the discourse from the minister and the children's commissioner. However, the committee heard evidence in March last year from Claire Lunday of St Mary's Kenmure secure care centre, for instance, about the need for and desirability of a lack of proximity for

"A number of young people ... from London boroughs ... who have been involved in child criminal exploitation".—[*Official Report, Education, Children and Young People Committee*, 29 March 2023; c 25.]

In other words, greater distance would help young people.

Ruth Maguire (Cunninghame South) (SNP): I ask for clarity—my question might be about my memory of the evidence. I am not entirely clear that we took substantial evidence that there is a prevailing policy to place children in proximity to their local authority area. Will you expand on that? I do not quite recall that being the case.

Michael Marra: That is part of what I am trying to probe with the minister—her understanding that a child should be placed outside their local authority only in exceptional circumstances and the reasoning for that. If I can, I am certainly happy to have that conversation.

The committee heard evidence from the children's commissioner about the lack of compatibility in the legal situation, which perhaps involves a further barrier around deprivation of liberty orders, and we have heard issues around that.

I am probing whether that is part of the issue. In conversations with people who work in the policy area, I have certainly heard the idea that, the closer someone is placed to the community that they are from, the more desirable that is. The committee heard fairly significant evidence on that basis.

Perhaps we might draw the line about what any exceptional circumstances might be. The ability to cut ties from criminal exploitation is really important when that would benefit the young person.

On the cross-border issue, as we call it, in some circumstances and given certain geographies, there is more secure accommodation available on the Scottish side of the border that is in greater proximity to communities in the north of England than there are similar facilities elsewhere in England. The idea that proximity should be judged on the basis of the legal artifice of the division of a non-existent hard border is nonsense to me. For someone who is in Carlisle or Newcastle, for example, a facility in Glasgow is more available than a facility in the south of England is. That talks to the idea of proximity and the ability to return to a community and have links to family and others in the area. That is as good a reason to have young people in those facilities in Scotland as there could be.

I would appreciate any reflections on those issues, including the minister's approach to the underlying discourse about proximity, its desirability and the idea that a child should be placed outside their local authority only in exceptional circumstances.

Natalie Don: I do not believe that I referred specifically to a preference to have all children as close to their local authority as possible. I re-emphasise my words about doing what is best for the child and taking that into account in every circumstance. We might prefer children to be placed outside their local authority only in exceptional circumstances, if that is best for the child, but that will be considered. The circumstances must be considered case by case. All children's cases are individual. There could be reasons why a child would have to be placed away from their local authority. I really re-emphasise that the decision would come down to what was best for the child. However, in the Promise, there was a move towards fewer children moving outwith their local authority.

Michael Marra: The Promise, as part of what is established in Scotland, is certainly part of the prevailing policy discourse that I am describing.

I move on to finances, which are closely attached to the cross-border issue. In the Finance and Public Administration Committee and this committee, the Parliament has heard evidence that our secure accommodation services are incredibly dependent on cross-border placements

to keep the lights on. It is placements from England that allow those services to continue to operate. The Good Shepherd Centre said that Scotland has been turning to England "to ensure sustainability". St Mary's Kenmure said:

"Without that income subsidy, no service for Scottish children would exist."—[*Official Report*, *Education, Children and Young People Committee*, 29 March 2023; c12.]

Michelle Thomson: My ears pricked up when you mentioned the Finance and Public Administration Committee, which I am a fellow member of. I do not recall evidence being brought to bear that backs up your assertion, although I do not doubt what you said. Will you help me to recall that?

Michael Marra: Certainly—I have just given you two quotes from different areas. Both the Finance and Public Administration Committee and this committee have taken such evidence—whether it was in relation to the financial memorandum or this committee's side of the question. Those things have been raised and I am happy to provide the member with—

The Convener: I clarify that the comments that you referenced were made in this committee and not in the Finance and Public Administration Committee.

Michael Marra: Yes—absolutely. Wherever the evidence was given to Parliament, the issues about financial sustainability are still very relevant. The final example is that Kevin Northcott from Rossie Young People's Trust said:

"Approximately 50 per cent of our current cohort of young people ... are cross-border placements."—[*Official Report*, *Education, Children and Young People Committee*, 29 March 2023; c 11.]

Minister, in your wish to reduce the number of cross-border placements, the prevailing trend seems to be to do so to as close to zero as possible. That adds significant questions about the financial sustainability of that incredibly important sector.

I presume that, in the circumstances, our concern is not about the provision of the service for children in Scotland and from Scotland. The policy trajectory of removing—as much as possible—English young people from the system will result in institutions not being able to continue to operate. That should be a significant concern in relation to the policy direction that we are taking. I would appreciate any clarification from the minister on what she is going to do about the sector's financial sustainability if her policy trajectory is to be adopted.

Natalie Don: Mr Marra will remember discussions about the Scottish Government's policy to fund beds in secure care. The number of children who are being placed in cross-border secure care has reduced from 30 last year to 12. The payment for secure care beds has helped to support that, and it is reducing dependency on cross-border placements.

The whole way along, I have been clear that decisions in relation to the bill will be monitored. Officials are in regular discussions with secure care providers. If sustainability is becoming a concern, the policy will certainly be considered. However, as I said, the policy to support beds in secure care centres has massively reduced that dependency.

Michael Marra: I am happy to look further at the figures and discussions.

In closing, I turn to the amendments. I have listened to the minister's case and I assume that she will press her amendment 112, which pre-empts my amendment 214 on the broader direction of travel. I am happy to meet her to discuss my other amendments. In that light, I do not intend to move my amendments.

I had hoped that the amendments would improve the clarity and operation of the system, which tends to be chaotic. The lack of capacity in the English system is part of a function of the chaos that I described at the start of the discussion.

Liam Kerr (North East Scotland) (Con): I am not sure whether Mr Marra will talk specifically about taking forward his amendment 217 with the minister. For when the bill comes to stage 3, what reassurance has he had about the competency and workability of that amendment? Earlier, the minister made reasonable comments about whether there is a risk of imposing a duty that cannot be fulfilled, particularly given what was said about provision elsewhere. Has the member got that reassurance? If not, will he seek it in his further conversations with the minister?

Michael Marra: I have had reassurances about the competence of amendment 217, but I take seriously the comments from the minister and her officials. It is partly on that basis that I will not seek to move the amendment at the moment. I will explore the issue in the conversations that have been offered with the minister.

Essentially, the amendment is about the two-way operation of the process and ensuring that the rights and the responsibilities that we afford young people are best supported in both directions. It is absolutely right that we have those conversations to see how we can best provide that support. The suite of amendments after the pre-emption seeks to add provisions to achieve the best operation of the system.

I will now come to my example, which refers to amendment 216. Last week, the minister talked

about leaning on the local placing authority in England to ensure that it had a principal responsibility. A member of staff from a secure accommodation centre told me that, on the day of departure of a young person who is leaving their term of care at a secure centre, the staff are frequently in negotiation with the local authority about where that person will go. It could be a "Can you drop him off in Leeds?" type of situation.

There is a huge capacity issue, and it is only right and proper, when we take young people into our care in Scotland, that we put in place as comprehensive a structure as possible, in agreement with the placing authority, to determine how the young person's needs can best be met. If we can put in place some form of framework to support that from the outset, when the placements are contracted with the placing authority, that can only be to the young person's benefit, and it would avoid some chaotic situations, particularly at the termination of the placement.

That is the spirit of my proposals. I am happy to investigate the issue further in discussion with the minister and officials. I wish to be as supportive as I can be in an attempt to add capacity on the basis of my original intent. I note that cross-border placements will be part of the system for a long time to come and that they continue to be necessary at the moment to keep the lights on in Scotland. To be frank, they are necessary for young people across the UK, to ensure their safety and to protect their lives.

Natalie Don: I have no further comments to make. I press amendment 112.

The Convener: I remind members that, if amendment 112 is agreed to, I cannot call amendment 214, because of pre-emption.

The question is, that amendment 112 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Callaghan, Stephanie (Uddingston and Bellshill) (SNP)
Greer, Ross (West Scotland) (Green)
Kidd, Bill (Glasgow Anniesland) (SNP)
Maguire, Ruth (Cunninghame South) (SNP)
Rennie, Willie (North East Fife) (LD)
Thomson, Michelle (Falkirk East) (SNP)

Abstentions

Duncan-Glancy, Pam (Glasgow) (Lab)
Kerr, Liam (North East Scotland) (Con)
Webber, Sue (Lothian) (Con)

The Convener: The result of the division is: For 6, Against 0, Abstentions 3.

Amendment 112 agreed to.

Section 25, as amended, agreed to.

After section 25

Amendment 113 moved—[Natalie Don]—and agreed to.

Amendments 215 to 217 not moved.

Amendments 162 and 163 not moved.

Sections 26 and 27 agreed to.

After section 27

11:00

The Convener: The next group is on the impact, operation and commencement of the act. Amendment 218, in the name of Martin Whitfield, is grouped with amendments 219 and 220.

Martin Whitfield: This set of amendments, which relate to data collection and reporting the outcome for children, are all intended to ensure, as we have discussed with a number of amendments, that the recognised outcomes that we seek from the bill are achieved and accounted for. I understand that there are challenges with regard to anonymisation and identifying individual young people. However, if we do not collect and analyse the data or have reports on the outcomes for our young people, there is a real risk of unforeseen consequences.

I am grateful to the Scottish Government, which has indicated a willingness to discuss the matter before stage 3. Therefore, unless other committee members have any questions, I do not intend to take this element of the debate much further forward.

I move amendment 218.

Pam Duncan-Glancy: The committee's report on the bill acknowledges the significant resourcing and training challenges that implementation of the bill will pose, particularly to a number of key agencies, including Children's Hearings Scotland, the Scottish Children's Reporter Administration and local authorities. The report also notes the reassurances that were provided in evidence by Children's Hearings Scotland that the resource would be in place ahead of the bill's implementation. Children's Hearings Scotland expressed confidence that it could successfully recruit additional panel members who will be needed as a result of the bill, but it also said that that is crucial to the successful delivery of the bill.

On that basis, it is important that the bill does not commence until those panel members are in place. If, as organisations have said, the required numbers are put in place, there should be no concern about amendment 220. If that does not happen, the amendment would serve as protection to ensure that there would be no delays for the young people who are in the system, either on

offence or welfare grounds, as a result of our not having recruited enough panel members to deliver the provisions in the bill.

Amendment 220 would be a responsible way to ensure that everything that is required in the children's panel is in place to support the implementation of the bill, should it be passed.

Liam Kerr: It is important that I come in here because this group of amendments concerns the operation and impact of the bill. Significant concerns have been raised by experts that sections 12 and 13, concerning restrictions on reporting, are overbroad, unworkable and a significant restriction on media freedoms. Above all, they may well be non-compliant with articles 10 and 8 of the ECHR, and therefore the bill, when it becomes an act, may be inoperable—hence my intervention here.

The committee must concern itself with assisting the Government to avoid passing any more legislation that is unlawful or inoperable and that might ultimately be subject to costly challenge. Therefore, I will put specific questions and request answers to each one in order to seek reassurance for the committee.

Has legal advice been taken specifically on sections 12 and 13? If so, were experts in media law part of that? If so, can we see that advice to reassure ourselves? If not, what will the Government do prior to stage 3 regarding the legality of sections 12 and 13 to ensure that Parliament does not inadvertently pass legally incompetent provisions?

The Convener: No other member wants to come in, so I will hand over to you, minister, to respond to some of the points that were made from Martin Whitfield onward.

Natalie Don: I will comment on the amendments in relation to Mr Kerr's questions in just a second. I thank him for those.

I assure the committee categorically that legal advice has been sought on all the bill's provisions and the amendments in the normal way, as is the normal bill process. As members will appreciate, the ministerial code requires that I respect the confidentiality of advice that is given, and I am not able to get into the details of that now. Mr Kerr can be assured that legal advice has been sought, and we have proceeded with that in mind.

Liam Kerr: With respect, did the advice on sections 12 and 13 specifically say that they will be legally competent, and was that advice from experts in media law?

Natalie Don: As I have stated, we sought advice on each of the bill's provisions and on the amendments.

Willie Rennie: The minister will have read some of the comments from the Society of Editors. Is she able to give a substantial response to its concerns to explain why she thinks that its issues are not valid?

Natalie Don: I will respond in due course—absolutely—but I am sure that the committee will be aware that my focus has been on the next stage of proceedings. Those matters were discussed at a previous session of the stage 2 proceedings. I am happy to consider that response at a later date, but, at the moment, I am looking at the issues in hand and the amendments in front of me.

Pam Duncan-Glancy: I take the minister's point on that, and those matters were considered previously. However, now that that information has come to the Government and the committee, it is quite important that the Government responds to it so that we can understand the context in which we will vote on the bill at stage 3.

Natalie Don: Absolutely. As I have said, I am more than happy to consider and comment on that in due course.

The Convener: As the minister says, we need to consider the sections of the bill that we are looking at today. She has already said that she will address the concerns that members have brought up in due course. We will follow up on that, and I will let the minister carry on now.

Liam Kerr: Of course, but with respect, I ask the minister to take another intervention. Willie Rennie raised a very important point. In the next 15 minutes, we will be asked to agree this section, presumably—

The Convener: Sections 12 and 13 have already been agreed. I understand what you are seeking to draw attention to today—it has not escaped me—but we have a process and a protocol to follow for stage 2 proceedings. As challenging as it may be, that is what we are obligated to do.

Liam Kerr: May I respond, convener?

The Convener: Yes.

Liam Kerr: We are not being asked to agree sections 12 and 13; we are being asked to agree section 27 or 28—something like that—on the impact and operation of the bill. In response to what I thought was a very reasonable intervention from Willie Rennie, the minister said, "We will come back to you at stage 3," but in 15 minutes we will be asked to agree the section on the impact and operation of the bill. I am concerned that the answer that the committee has heard from the minister about going away and dealing with the issue at stage 3—I am paraphrasing—is not

sufficient to allow the committee to come to a view. I simply make that point.

The Convener: Minister, carry on.

Natalie Don: I want to be very clear that I have said that I will consider the matter. We have sought appropriate legal advice and have proceeded on that basis. Mr Kerr made reference to media law experts. It is the role of the Lord Advocate to satisfy herself on legality, not media law experts. I will make no further comment on the matter at the moment other than to say that I have given assurances to the committee and I am happy to come back to the matter at a later stage.

Amendments 218 and 219, as Martin Whitfield alluded to, cover ground similar to that covered in amendments that were lodged previously. I will not talk about every amendment in the group, as I understand that Mr Whitfield does not intend to press or move his amendments. However, I have already confirmed that I will be discussing the issue further.

I turn to amendment 220. I fully appreciate the challenges that are inherent in the scale and operational needs of the children's hearings system. I have met Children's Hearings Scotland, and further meetings are being scheduled with the organisation to make sure that the previous assurances that it gave me that appropriate plans are in place to ensure capacity in the current tribunal model are maintained.

Placing a duty on ministers to report to Parliament on whether there are sufficient numbers of panel members would present a couple of problems. We would risk interfering with the absolutely vital independence of the national convener of Children's Hearings Scotland. It is for the national convener to determine how to resource children's panels, as enshrined in the Children's Hearings (Scotland) Act 2011.

Beyond that fundamental principle, amendment 220 would have serious practical implications. It would risk removing flexibility now and in the future, given that identifying a pre-determined figure on which to base commencement of the bill would create a number of limitations. We must recognise, for example, that the number of hearings and the number of panel members are not fixed. The number of hearings that are scheduled each year can and does change, as can the number of volunteers who are required on a month-to-month basis. In addition, any one volunteer might have more or less time to give to the system than another. Therefore, we could have thousands of volunteers but, depending on their availability, that would not necessarily mean system readiness or capacity. I do not feel that reading into the numbers specifically in that way is necessarily helpful.

Pam Duncan-Glancy: I take the minister's point. However, there must be a calculation of how many panel members are required for the system as it stands—or at least I hope that there is. My suggestion is that that calculation should be used as the basis for your consideration of the right number of panel members in the future, given that that number is likely to increase, partly as a result of the substance of the issues that they will be dealing with. The difficulty is surely not insurmountable, and you can use that calculation to consider what that number should look like.

Would the minister be willing to work with me at stage 3 to look at another form of words that recognises the intent behind the amendment, which is to ensure that the hearings system has the resources to deliver the changes without there being significant delays for Scotland's young people?

Natalie Don: A projected number of panel members is hoped to be in place, just as there is a projected number of hearings that could take place. However, I do not feel that it is necessary to prescribe those matters on a fixed basis. Tying the commencement of the bill to that is not necessary, given the on-going engagement with the relevant bodies such as Children's Hearings Scotland and its efforts to increase the numbers of panel members. Equally, other issues are being considered in relation to the redesign of the children's hearings system, including in relation to the panel and panel members.

There are changes that could take place and other things to be considered, so I would not want to tie the bill's commencement to reaching specific numbers of panel members. However, to give assurance to the committee, my officials and I will keep up regular meetings with Children's Hearings Scotland. I would not agree to commencement if I felt that the system was essentially not ready.

Ruth Maguire: I get that there will be fluctuating numbers of hearings and volunteers needed for those hearings. How does the Government reassure itself that things are working as they should be, that hearings are not being delayed and that there is enough capacity? What mechanism is used to do that at the moment?

11:15

Natalie Don: Those are not concerns that are being raised with me now. As I said, when I met Children's Hearings Scotland prior to the summer, it was very enthusiastic and hopeful about the recruitment campaign that it was about to run. I understand that the recruitment campaign did not take in as many volunteers or new panel members as we had hoped, but it is for the national

convener to decide on how best to proceed on attracting panel members.

As I said, a number of matters are being considered in relation to the children's hearings system redesign—not just the role of panel members—which could help with future capacity.

Ruth Maguire: Do you mean that the on-going dialogue with the system is how the Government is reassured?

Natalie Don: Absolutely.

Pam Duncan-Glancy: My intervention was going to be very similar to that of my colleague Ruth Maguire. I am a bit concerned about part of your answer to her question, particularly the bit where you highlighted that Children's Hearings Scotland had a recruitment campaign but did not recruit enough panel members. That is exactly the sort of concern that I want to avoid, because that could introduce delay to what could otherwise be a system that could get children and young people through it at a reasonable rate.

I appeal to the minister to work with me to address the principle of the underlying point. I take her point about the wording of the amendment, but is there a mechanism that she could work with me on to make sure that there is capacity in the system to deal with the increase in cases and substance that will go through it, so that we do not retrospectively create a delay or backlog in the system?

Natalie Don: Thank you for the intervention. I do not feel that it needs to be as prescriptive as that. As I have said, commencement plans will, in practical terms, rely on a positive Children's Hearings Scotland report on the numbers. The bill would not be commenced without an assurance that the numbers are in place to cope with the situation.

On Ruth Maguire's point about discussions, the situation is fluid, which is why those on-going discussions are important. For example, in November, Children's Hearings Scotland planned to run a February recruitment campaign, but now it does not, because, I believe, the situation has improved. It is fluid, it is fluctuating and it needs to be considered on a continual basis, rather than setting in stone what is required for it to go ahead.

I am trying to set out why I do not feel that the amendment is necessary at this stage, and I hope that I have provided reassurances in that respect. I have said everything that I was planning to say in response to those interventions, so I ask the relevant members not to move the amendments in the group, and if they do, I ask the committee to reject them for the reasons that I have outlined.

The Convener: Martin Whitfield, I know that a lot of conversation is going on around you, but I ask you to wind up and to press or withdraw amendment 218, please.

Martin Whitfield: I am grateful for the indication from the Government. Under those circumstances, I seek your leave to withdraw the amendment.

Amendment 218, by agreement, withdrawn.

Amendment 219 not moved.

Sections 28 to 30 agreed to.

Schedule

Amendments 114 to 118 moved—[Natalie Don]—and agreed to.

Schedule, as amended, agreed to.

Section 31—Commencement

Amendment 220 not moved.

Sections 31 and 32 agreed to.

Long title agreed to.

The Convener: I will just take a deep breath. That concludes our consideration of the bill at stage 2. I thank the minister and her supporting officials for their attendance throughout. However, our next agenda item also involves the minister. I will suspend the meeting to allow for a change of officials.

11:21

Meeting suspended.

11:27

On resuming—

Subordinate Legislation

Provision of Early Learning and Childcare (Specified Children) (Scotland) Amendment Order 2024 [Draft]

The Convener: Our next agenda item is an evidence-taking session on the draft Provision of Early Learning and Childcare (Specified Children) (Scotland) Amendment Order 2024. I thank the Minister for Children, Young People and Keeping the Promise for staying with us, and I welcome the Scottish Government officials Joanna Mackenzie, team leader, targeted childcare and family wellbeing, and Nico McKenzie-Juetten, who is a lawyer from the legal directorate.

I invite the minister to speak to the draft instrument for up to three minutes.

Natalie Don: As has happened in previous years, the amending order will increase the maximum income levels for families with a two-year-old who is eligible for funded early learning and childcare because they receive a joint working tax credit and child tax credit award or a universal credit award.

The relevant order currently specifies that a two-year-old is eligible for funded ELC if their parent is in receipt of a joint child tax credit and working tax credit award and has an annual income that does not exceed £8,717, or if their parent is in receipt of a universal credit award and has a monthly income that does not exceed £726 per month. The amending order will increase the maximum income level to £9,552 per year for households that receive a joint child tax credit and working tax credit award. The universal credit maximum income level will increase to £796 per month.

Essentially, we are making the proposed changes to reflect changes that have been made at UK level to the national living wage. I will leave it there.

The Convener: Do members have any questions or comments on the draft instrument?

11:30

Willie Rennie: I have raised previously with your predecessors an issue about the take-up for eligible two-year-olds. We were previously told that the data-sharing arrangement with HM Revenue and Customs and the Department for Work and Pensions would significantly increase the take-up, but the figures from last year showed a decrease in the actual numbers and in the percentage take-up. That is a real concern for me, given that the data-sharing arrangement is in place.

In addition, there seem to have been huge variations from one local authority to another. Has the minister looked at why there has been such variation and why we have not managed to drive up the take-up? Liberal Democrats were strong advocates of provision for that group of two-year-olds, and I am disappointed that we have not been able to give parents of those children the opportunity to take up that early learning and childcare provision when they have been offered it.

Natalie Don: I will bring in officials shortly. I absolutely agree with Willie Rennie's points. I want the offer to be taken up for as many two-year-olds as possible.

Last year was the first year that we could rely on accurate data. As Mr Rennie has pointed out, there was a decline in take-up, which is disappointing. However, a range of work is under way to encourage and increase take-up. A series of webinars have been held with local authorities to support them to access the data and make best use of it. Webinars have been held with the Improvement Service and the Village on access to funded ELC for two-year-olds with a care-experienced parent. In addition, through the Improvement Service, we are offering one-to-one support to local authorities that want to work on maximising the uptake of those funded hours.

I absolutely agree with Mr Rennie's point about the variation. Take-up varies from 30 per cent to up to 90 per cent. I would like to understand that variation a little bit more. Obviously, it is still relatively early days as regards our having that data. I want to look into that more as we move forward, to encourage uptake and ensure that that provision is taken up.

Willie Rennie: I am concerned about the fact that the Government has put its confidence in the data-sharing provision to solve the problem. I have previously raised the fact that the provision for two-year-olds is not available in every community, because there might not always be sufficient numbers to justify full provision. That might mean that families who do not have the wherewithal to travel would have to travel quite significant distances to access a centre.

Could the minister look at that in particular, to make sure that we do not have large areas where there is no provision, with the result that isolated individuals cannot access the provision? I think that that is one reason why we have not had the level of take-up that I would have liked. I could perhaps have understood it if the take-up was static, but the reduction in numbers is a real concern.

Natalie Don: Absolutely. As I said, I will make all efforts that I can to encourage take-up of that provision.

On the issue of rurality and distance, there are a number of reasons why uptake might not be as high for our two-year-olds as it is for our three to five-year-olds. I am certainly looking to understand the reasons for that variation.

The Convener: Do the officials have anything to add?

Joanna Mackenzie (Scottish Government): On the data that local authorities have, it is the first time that they will have known where their eligible population is. As well as enabling them to target that population with information, it aids with planning. We think that that will be beneficial in addressing some of the issues around where services are located.

As the minister said, the first data share was in June. The data on registrations is collected in September, at which point not all local authorities were signed up. We are definitely still at an early stage of the process as regards the potential of the data sharing to support planning, as well as the targeting of information.

We have not put all our eggs in one basket. Work has been continuing, with the Improvement Service in particular, to get underneath some of the local variations and processes that might be a barrier to take-up. In addition, there is the work that we did a while back with the Children and Young People Improvement Collaborative. We now have a published document that we can use that looks at not just the data on eligible families but some of the processes that might be barriers to uptake.

Pam Duncan-Glancy: Thank you, minister, and good morning to your officials.

One Parent Families Scotland and the Joseph Rowntree Foundation did some research recently that found that single parents are struggling with a lack of affordable wraparound childcare and that the issue is particularly acute for under-threes and disabled children. What will the minister do to look at single parent families and, specifically, disabled children to see whether that issue is having any impact on the lower uptake, particularly for two-year-olds but across the piece, in relation to childcare?

Natalie Don: In relation to our further expansion and announcements in the programme for government, the member will be aware that we have early adopter communities under way. Those communities were limited to four, but we added another two in the programme for government. Discussions and plans as to how we roll out in those areas are now under way.

Those early adopter communities are working with families to look at providing childcare from nine months right up to school age. As I said, it is about understanding what is best for families, what is best for the children and what is best for the local areas, which goes back to Willie Rennie's point about locality and rurality. Work is under way to extend our current offer to ensure that it works for parents, children and families. I do not have to tell the member that we are operating under extremely difficult financial circumstances. We are trying to go as fast as we can, but more important is that we get it right for families. Single-parent families will obviously be a consideration in our work.

The Convener: We move to agenda item 3. I invite the minister to move motion S6M-11977.

Motion moved,

That the Education, Children and Young People Committee recommends that the Provision of Early Learning and Childcare (Specified Children) (Scotland) Amendment Order 2024 [draft] be approved.—[*Natalie Don*]

Motion agreed to.

The Convener: The committee must now produce its report on the draft instrument. Is the committee content to delegate responsibility to me, as convener, to agree the report on its behalf?

Members *indicated agreement.*

The Convener: I thank the minister and her officials for their participation.

Meeting closed at 11:37.

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