



OFFICIAL REPORT
AITHISG OIFIGEIL

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Education, Children and Young People Committee

Wednesday 2 April 2025

Session 6



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EDUCATION, CHILDREN AND YOUNG PEOPLE COMMITTEE
12th Meeting 2025, Session 6

CONVENER

*Douglas Ross (Highlands and Islands) (Con)

DEPUTY CONVENER

*Jackie Dunbar (Aberdeen Donside) (SNP)

COMMITTEE MEMBERS

*George Adam (Paisley) (SNP)

*Miles Briggs (Lothian) (Con)

Keith Brown (Clackmannanshire and Dunblane) (SNP)

*Pam Duncan-Glancy (Glasgow) (Lab)

Ross Greer (West Scotland) (Green)

*Bill Kidd (Glasgow Anniesland) (SNP)

*John Mason (Glasgow Shettleston) (Ind)

*Willie Rennie (North East Fife) (LD)

*attended

THE FOLLOWING ALSO PARTICIPATED:

Jenny Gilruth (Cabinet Secretary for Education and Skills)

Clare Haughey (Rutherglen) (SNP) (Committee Substitute)

Nick Hobbs (Children and Young People’s Commissioner Scotland)

Nicola Killean (Children and Young People’s Commissioner Scotland)

Nico McKenzie-Juetten (Scottish Government)

Laura Meikle (Scottish Government)

Gina Wilson (Children and Young People’s Commissioner Scotland)

CLERK TO THE COMMITTEE

Pauline McIntyre

LOCATION

The Robert Burns Room (CR1)

Scottish Parliament

Education, Children and Young People Committee

Wednesday 2 April 2025

[The Convener opened the meeting at 09:30]

Subordinate Legislation

Recognition of Overseas Qualifications (Charges) (Scotland) Regulations 2025 (SSI 2025/67)

The Convener (Douglas Ross): Good morning, and welcome to the 12th meeting in 2025 of the Education, Children and Young People Committee. We have received apologies from Ross Greer, and Clare Haughey is attending as a substitute member.

The first item on the agenda is consideration of a piece of subordinate legislation under the negative procedure. If members have no comments to make on the instrument, I will just highlight yesterday's note by the Delegated Powers and Law Reform Committee, which, as members will have seen, alerts this committee to a particular item.

Do members agree that this committee does not wish to make any recommendation in relation to the instrument, other than that noted by the DPLR Committee?

Members indicated agreement.

Social Security Information-sharing (Scotland) Amendment Regulations 2025 [Draft]

The Convener: The next item on our agenda is consideration of a piece of subordinate legislation subject to the affirmative procedure. The committee will take evidence on the instrument from the Cabinet Secretary for Education and Skills and her officials, and the cabinet secretary will then move the motion to approve it.

I welcome to the meeting Jenny Gilruth, the Cabinet Secretary for Education and Skills; Alison Taylor, deputy director for improvement, attainment and wellbeing; Laura Meikle, head of the support and wellbeing unit; and Nico McKenzie-Juetten, a lawyer at the Scottish Government legal directorate.

I invite the cabinet secretary to speak to the draft instrument.

The Cabinet Secretary for Education and Skills (Jenny Gilruth): Good morning, and thank you for inviting me to discuss the draft Social Security Information-sharing (Scotland) Amendment Regulations 2025.

The regulations will, if approved, establish a legal gateway for the sharing of certain data between Social Security Scotland and Scottish local authorities, for the purposes of providing free school meals to pupils in primary 6 and 7 whose families are in receipt of the Scottish child payment and of providing certain data to support the test of change in secondary 1 to secondary 3 on the basis of being in receipt of Scottish child payment. That step is essential in supporting local authorities to maximise uptake in the next phase of delivery of the free school meals programme to those in receipt of SCP in primaries 6 and 7.

For members' clarity, the information that would be shared will be: the child's name; the dates of birth of the child and of their parents or carers; the names of parents or carers; their contact details, including their address; and their national insurance numbers. Those details are to be shared only in order to confirm, within each local authority area, which pupils are entitled to free school meals as a result of their parents and carers being in receipt of the Scottish child payment.

We know that the current practice and legal framework are acting as barriers to some families obtaining free school meals, hence the legal change we seek to make. For example, we are aware that the City of Edinburgh Council has written to more than 7,000 parents whose children may be eligible for free school meals but, to date, has received only 401 applications.

Therefore, if approved, the regulations will enable local authorities to proactively offer free school meals and thereby maximise the number of children who are able to access nutritious meals. As a result of that new legal gateway, there would be a significant improvement, which we estimate will benefit up to 25,000 children and their families across Scotland.

The regulations also allow for the same data to be shared for pupils in S1 to S3. Members will be aware that we have agreed to a further phase of the programme as part of the budget process, and this test of change phase will support those whose families are in receipt of Scottish child payment in S1 to S3 in eight local authority areas. The inclusion of those year groups in the regulations, if passed, will ensure that the participating local authorities can access the data that they need to allow eligible pupils to access free meals from August.

Social Security Scotland and my officials have liaised with the office of the Scottish Information Commissioner to ensure that the proposed data-sharing arrangement complies with data protection law, including in relation to data minimisation and proportionality. We have also completed equality and child's rights impact assessments and the necessary operational data protection impact assessment is under way. The assessments found that there would be positive impacts on the rights and wellbeing of children, through the provision of support for healthy eating habits and potential improvements in educational attainment.

I thank members for their consideration of this important legislation and my officials and I will be happy to answer any questions.

The Convener: We have a number of questions on the issue, and I will start. Can you tell me why 53(7) of the Education (Scotland) Act 1980 does not need to be amended?

Jenny Gilruth: I might defer to my officials on the question about the 1980 act, but, as I understand it, the regulations are required today because, at the current time, and as I outlined in my opening remarks, different local authorities across the country are using different ways of gathering data. The legislation will allow a new approach to data sharing. We have worked with Social Security Scotland over the past year to allow that to happen.

The Convener: I understand all that and you explained it well in your opening statement, but the second page of your own policy note says:

"It is not intended that section 53(7) is amended at this time. However, this may be revisited in due course."

I am just wondering why it will not be amended at this time, how that would be revisited and what the trigger for a revisit in due course would be.

Jenny Gilruth: Laura, do you want to come in here?

Laura Meikle (Scottish Government): Section 53(7) of the 1980 act provides the requirements for providing free school meals. That approach is delivered through an agreement between Scottish ministers and the Convention of Scottish Local Authorities. The trigger for consideration of any amendment to the 1980 act would be if there were concerns about implementation of the expansion to primary 6 and 7 on the basis of the Scottish child payment, but because the implementation is being worked through by agreement, there is no need for us to consider amending the act at this point. However, we might consider it if there were concerns down the line.

The Convener: Do you mean concerns that local authorities were not delivering the policy?

Laura Meikle: Yes, anything around implementation. We do not have any concerns at the moment. We are working through the process of delivery just now.

Jenny Gilruth: It is a joint, shared arrangement.

The Convener: Tell me about the reason why there has been no islands community impact assessment.

Laura Meikle: We considered all the impact assessments, as we are required to do. There is a pre-process that we are required to undertake, which is to consider whether there should be an impact assessment. We evaluated the system that will be introduced as a result of the regulations to establish whether islands would have to do a different or additional set of work that other local authority areas would not have to do. In that process, we established that there was nothing additional for islands to do.

The Convener: Capacity is an issue that you have raised, cabinet secretary. Are there no issues with smaller local authorities and schools in the islands meeting the extra demand?

Laura Meikle: The impact assessment relates to the regulations.

The Convener: Surely we have to consider whether the regulations can be implemented.

Laura Meikle: Yes, absolutely. We did that. The impact assessment is about whether the impact on islands is different from that on any other authority, and it was established that that was not to be the case. To confirm our position, we engaged with island authorities to ensure that it was not just officials' view that that was the case, and they, too, confirmed it.

The Convener: Cabinet secretary, can I ask you about the data protection impact assessment?

Jenny Gilruth: What would you like to ask about the data protection impact assessment?

The Convener: Tell me about it for the regulations.

Jenny Gilruth: In terms of the data-sharing benefits or the—

The Convener: No, the data protection impact assessment.

Jenny Gilruth: Are you asking about the practical impacts of the impact assessment?

The Convener: Why has it just been developed and not been done yet?

Jenny Gilruth: My understanding is that it will be engaged in with local authorities. As I understand it, if the regulations are passed, they will allow us to move at pace with local authorities

on that data-sharing arrangement, but some of the timescales associated with that need the Scottish statutory instrument to be passed to allow that work to be undertaken.

I see Laura Meikle nodding at that.

The Convener: You wrote to us a couple of weeks ago about data sharing, because you know that the committee has considerable concern about the issue, and said:

“For any new or proposed data sharing arrangement, each organisation must complete a data protection impact assessment”.

For the negative instrument that we just considered, the data protection impact assessment had been done, because the instrument is now in place. Why are these regulations coming before the committee when the assessment for them has not been done? Why is it still being developed? If issues arise, how will they be brought to the committee or to Parliament as a whole?

Jenny Gilruth: My understanding is that the committee needs to take a decision on that before we can process the assessment.

Laura Meikle: I can answer the question specifically. The data impact assessment that has been undertaken is for the operational aspects after the—

The Convener: So it has been undertaken.

Laura Meikle: It is in development at the moment. Social Security Scotland is working with the Scottish local authorities to complete that process as we go.

The Convener: So, it has not been done.

Laura Meikle: It is being done now.

The Convener: It is being done but it has not been done.

Laura Meikle: It is currently in development. There is a draft. We were advised that we did not require to do a data protection impact assessment in advance of the regulations.

Jenny Gilruth: Because the regs need to be passed.

Laura Meikle: Yes, but we are required to do it for the operation of the SSI once it is in force.

Jenny Gilruth: And it will not come into force until 19 May.

The Convener: Is it that you cannot do it, or that you do not have to?

Laura Meikle: We do not have to.

Jenny Gilruth: We do not have to at this stage, but it will have to be in place by 19 May when the data-sharing agreement is in place.

The Convener: Given that it was quite a significant part of your letter to the committee, what happens if issues arise from that? The letter says:

“A DPIA will typically identify both the lawful basis and legal gateway for processing any personal information.”

If issues are raised as a result, how will they come back to this committee or to Parliament? Are you saying, “Do not worry about this—we think that everything will be fine”?

Jenny Gilruth: I have not been advised that that would be the case, because the DPIA is already being developed by Social Security Scotland. It is planned to be completed by 19 May, but I take your point, convener, and I am more than happy to write to the committee on that point.

The Convener: I am just wondering what the point of it is. If issues were to be raised, how would we then be able to scrutinise them? That is what I am trying to get at.

Jenny Gilruth: Indeed. No issues have thus far been raised with me or been presented to me by officials, but I would be more than happy to engage with the committee on that. As I understand it, there was no requirement to have that process completed by the laying of the SSI today, but there will be for it to come into force on 19 May.

The Convener: I want to check that point, because it is slightly different. You suggested that you could not do it until the SSI had passed, but, Ms Meikle, you were saying—

Jenny Gilruth: It is partly under way, but it has not yet been completed.

The Convener: Could it have been done before today?

Laura Meikle: Not for the SSI. We are not required to do a DPIA for the laying of the SSI.

The Convener: Not required to.

Laura Meikle: The DPIA is not required for the legislative part. For the practice that then occurs as a result of the SSI being passed, should the committee do so, we are required to prepare one, and that is why it is in preparation now.

The Convener: But there was nothing to stop you doing it, and perhaps it would be good practice going forward. Could it have been done to allow this discussion to take place with all the available information before members voted? That is all I am asking. Could it have been done?

Laura Meikle: I am not clear what the effect of that would have been. We would have impact assessed the regulation, but as a result of the DPIA, we would establish data-sharing agreements, which is what we have done. Therefore, I find it difficult to see—

The Convener: Going back to the cabinet secretary's letter, I note that it says that those assessments are

“to systematically analyse, identify and minimise the data protection risks of a project or policy.”

I can speak only for myself, but as a member of this committee, I would like to know whether any data protection risks of a project or policy have been identified in order to allow us to systematically analyse that. That is what it is for, and that is the reassurance that I took from your letter from last month, cabinet secretary.

Jenny Gilruth: I agree with what you have said, convener. All that I can update the committee on today is the advice that I have been given thus far, which is that the DPIA is under way. It is being developed by Social Security Scotland, and it is planned for completion by 19 May. If it is helpful, I can write to the committee with a further update. Work is taking place with local authorities, and stakeholders have raised no issues on the implementation thus far. It is a requirement that the DPIA be confirmed and completed by 19 May, when the SSI comes into effect.

Your question, convener, as I understand it, is whether we could have done that in advance of today. We need to take that away and reflect on it. It is a fair ask from the committee.

The Convener: Thank you. This is my final question, cabinet secretary. Is there a risk? I ask you to take off your Government hat, go back to the days when you were a member of this committee—although in the governing party—and consider the regulation that we are discussing. Do you accept that people could be concerned that, if we pass the SSI, we will give the Government a get-out clause from the vote on 10 September last year, when the Parliament defeated the Scottish National Party Government on a vote on enacting a policy of universal free school meals for primary 1 to primary 7 pupils? The Parliament agreed to that motion by 64 votes to 60, with two abstentions. Despite the Government lodging an amendment that said that it was still your aspiration to deliver free school meals but that you did not have the funding to do so, it is clear that you were defeated. Therefore, the will of Parliament is for there to be universal free school meals for all primary pupils.

According to your policy note, by passing the SSI, we will

“increase the eligibility for free school meals but which are not as expansive as universal provision”.

By including that line in your policy note, are you giving yourself a get-out clause so that you can ignore the will of Parliament on 10 September last year if the SSI is passed today?

09:45

Jenny Gilruth: I do not think that you will be surprised to hear that I do not accept that. The Government's aspiration for universal free school meals in primary schools remains; I stand by that commitment.

You will have heard extensively, in last year's debate and in other exchanges in the Parliament, about the unaffordability of delivering such provision during this parliamentary term. Last year's debate was informed by analysis from the Scottish Futures Trust, which suggested that universality would cost in the region of £256 million. Officials reminded me this morning that that figure is now two years out of date, so we can expect the cost to now be far in excess of £256 million. In the budget and in budget negotiations, we committed to a broader expansion that is focused on those receiving the SCP. If anything, I would argue that the regulations commit us to going more quickly than we otherwise would, because we would give the example—

The Convener: They do not.

Jenny Gilruth: Yes, I saw you shaking your head.

The Convener: I was—very much so. On page 1 of your policy note, it says that the regulations will

“increase the eligibility for free school meals but which are not as expansive as universal provision.”

Those of us on the committee who, only a few months ago, voted for universal provision, which was agreed to by the Parliament, will find it difficult to agree to the regulations because of the inclusion of that line in your policy note.

Jenny Gilruth: The Parliament also voted for a budget that committed the Government to expanding free school meals to those in receipt of the Scottish child payment. The regulations will allow us to move at pace on that commitment, which was set out in the budget. I recognise that your party did not vote for the budget—

The Convener: But you are not delivering on your commitment to provide universal free school meals.

Jenny Gilruth: Mr Ross—

The Convener: Sorry, but you made that pledge in the 2021 election and were then

defeated in the Parliament on 10 September last year. Now, you are asking the committee—and, when the regulations go to the chamber, the Parliament—to agree to something that will allow you to deliver less.

The Children and Young People's Commissioner Scotland, who is sitting behind you, is giving evidence after you. At the time, she said that the rollback on universal free school meals was a "broken promise to children". She said that children going to school hungry could

"severely impact development in childhood and into adulthood".

She also said:

"One of the greatest barriers to the take up of school meals are feelings of shame and stigma, and only providing meals to Primary 6 and 7 in receipt of the Scottish Child Payment just exacerbates that stigma."

Do you agree with that? Do you agree that it sounds like the children's commissioner does not support the regulations?

Jenny Gilruth: It is not my job, as cabinet secretary, to comment on the views of the children's commissioner. The committee will hear from her shortly. However, the Parliament voted for a budget that commits the Government to expanding free school meals to those in receipt of the Scottish child payment. You and your party voted against the budget, but the SSI—

The Convener: You and your party voted against a motion—

Jenny Gilruth: Sorry, Mr Ross, but you completed your question and now you are talking across me.

The Convener: Cabinet secretary, that is because you are repeating a point that you have already—

Jenny Gilruth: Have you completed your question?

The Convener: You are repeating a point that you have already made.

Do you respect the will of Parliament, on 10 September last year, to provide universal free school meals? Regardless of what was in the budget earlier this year, there was a vote in the Parliament to provide universal free school meals, and the regulations will allow you not to implement that, despite all the concerns from political parties and, as I have just articulated, the children's commissioner.

Jenny Gilruth: I do not agree with that assertion. Targeting the expansion of free school meals at those receiving the Scottish child payment was agreed to in advance of the next stage of the universal roll-out. Therefore, the SSI

does not preclude the Government from meeting its ultimate aspiration, which is to deliver universality. If anything, it compels the Government to deliver on—

The Convener: If it compels you, when will you deliver it?

Jenny Gilruth: Excuse me?

The Convener: You just said that the regulations compel you to deliver universal free school meals, so when will you deliver that? I am just using your words. That has now convinced me, so well done. If the regulations compel you to deliver universal free school meals, as you said, when will you do that?

Jenny Gilruth: The budget, as negotiated, commits the Government to the delivery of free school meals for primary 6 and 7 children in receipt of the Scottish child payment. It also commits us to further work on the test of change projects for secondary 1 to 3 pupils. You and your party voted against the budget. Today's regulations will allow us to deliver on the budget that was passed by the Parliament. You are suggesting that the Government is not listening to the will of Parliament, but I am advancing the will of Parliament in that regard.

However, I accept the point about universal free school meals. The financial challenge that the Government faces is well known to the committee. I have talked about the budget gap in relation to the £256 million of investment that is required for universality. That budget line has not been updated for two years, so I am unable to give you a firm date today regarding universality, but I will continue to work across the chamber on the delivery of universality, because it is so important.

We talk about child poverty and about some of the impacts that have been borne by children in our schools. I hope that Mr Ross will also reflect on the impact that austerity has had on our children and their educational attainment in recent years. Some of the impacts on the Scottish Government's budget have been caused by decisions that have been made by Governments elsewhere, including those made by his party.

I do not think that there is disagreement today—

The Convener: There is big disagreement, cabinet secretary. I have let you make your points, but there is big disagreement.

Jenny Gilruth: You have repeatedly interrupted me, convener.

The Convener: I did not interrupt you there. You got—

Jenny Gilruth: You did.

The Convener: —to make all the points that you wanted to make.

Can you not just tell us when you will deliver universal free school meals? If you are saying that the regulations will take you forward towards that aim, tell us when that will happen.

Jenny Gilruth: Convener, as I have set out, the modelling that the Government last undertook on that is two years old—

The Convener: That is on the Government. You could have done that in the past couple of years, could you not?

Jenny Gilruth: Convener, are you going to allow me to answer your question?

The Convener: Yes. Could you have done new modelling in the past couple of years on the cost of the universal provision of free school meals?

Jenny Gilruth: The modelling that I have is two years old and puts the estimated cost at £256 million. I am more than happy to engage with political parties on how we deliver universality, but members well know, as we have discussed and debated at length, that that will not be during this session of Parliament because of the costs associated with the roll-out. However, the Government has taken the decision to work on a cross-party basis on the deliverability of the roll-out for children in receipt of the Scottish child payment. Today's SSI will allow us to move forward at pace on that and will allow more families to obtain access to free school meals provision, which I think is a good thing for families and children in Scotland.

The Convener: You have said that the Government has not looked at that figure for two years, so it is two years out of date. Are you saying, while pretending that you respect the will of Parliament, that, after the vote on 10 September last year, when your Government was defeated and the Parliament agreed to introduce universal free school meals, you did no work at all on how much that would cost?

Jenny Gilruth: Of course we constantly consider those costs. Following that debate, I engaged directly with the Scottish Futures Trust, particularly on the figure of £256 million that was put to us by the trust and was independently analysed.

Mr Ross's colleague Liam Kerr, who was the education spokesperson at the time, put forward—he might have included it in your party's motion—a different figure, which we differed on because, as I understand it, it did not include capital costs. I am in constant contact with the SFT about driving down those costs, and I am more than happy to consider other suggestions. Mr Kerr came forward with a suggestion, although I do not think that it

was borne out by the facts, because the Government, with its expansive provision and the funding associated with that, has had to spend millions of pounds of capital on building kitchens, which has increased costs, but those costs were not accounted for in the Conservatives' figure.

Let us go back to the budget negotiations. If the provision of universal free school meals is such a pressing issue for Mr Ross and his party, why was it not part of their budget negotiations?

The Convener: It is very easy—

Jenny Gilruth: I do not recall it being—

The Convener: Sorry, cabinet secretary, but it is very easy to answer that.

Jenny Gilruth: Convener, you have spoken over me today at length—

The Convener: You have asked me a question—

Jenny Gilruth: —but you are not allowing me to answer the questions that you have put to me.

The Convener: You have just put a question to me and I am happy to answer it. There is no need—

Jenny Gilruth: I will sit very quietly and allow you to interrupt and interject consistently. It is not particularly pleasant, but I will allow you to continue, Mr Ross.

The Convener: That is very magnanimous of you—thank you, cabinet secretary.

You asked why the issue was not included in our budget negotiations. That was potentially because the Parliament had already agreed—the will of Parliament was clear on 10 September 2024, when your Government was defeated.

Jenny Gilruth: The Parliament also backed a budget to deliver on provision of the Scottish child payment, and that is what I am here to do today. You cannot pick and choose. We remain committed to the roll-out of universal free school meals.

The Convener: It sounds as though you are picking and choosing. You have given a number of different timeframes. Can you clarify whether it has been two years since you have looked at the figures, which is why you cannot give us more accurate information, or whether you got figures just before or just after the debate on 10 September last year? You have given two answers on that.

Jenny Gilruth: The analysis that the SFT provided was from 18 months ago, and I have met the SFT and engaged further with it since that time. I am not aware that the SFT has given us a further update, because we will not be able to

deliver universality during this session of Parliament. However, through the budget negotiations, we have been able to identify the additional funding required to deliver for P6 and P7 pupils receiving the SCP and to deliver on the asks by other parties regarding the roll-out of free school meals for S1 to S3 pupils. That is really important.

The Convener: When your Government was defeated on 10 September, you did not go away and ask for updated figures.

Jenny Gilruth: I engaged with the SFT on that.

The Convener: Are the figures that you are using from two years ago or from September last year? That is all that I am trying to get from you.

Jenny Gilruth: The £256 million figure was presented to us by the SFT 18 months ago.

The Convener: What did you get in September last year, when you asked?

Jenny Gilruth: Alison, do you want to come in?

The Convener: Can you not tell us, cabinet secretary?

Jenny Gilruth: We engaged with the SFT directly on those points and asked it to consider the figure again. My expectation, given my engagement with the SFT last year, is that, if anything, the figure will have increased from £256 million because of inflationary pressures. That was the discussion that I had with the SFT at that time.

The Convener: Do you have a more recent figure than the one from two years ago?

Jenny Gilruth: The SFT has not carried out further modelling work on that, because it will not be possible to deliver universal free school meals during this parliamentary session.

The Convener: Even though the Parliament agreed to that last year.

Jenny Gilruth: The Parliament agreed to that, but it also agreed to the budget. Universal free school meals will not be deliverable by the end of this parliamentary session, Mr Ross. I think that you know that.

The Convener: We do not know, because you do not have up-to-date costs.

Pam Duncan-Glancy (Glasgow) (Lab): Good morning, cabinet secretary and officials. Thank you for joining us.

There is no doubt that people watching today will be disappointed that, although the Government came into office in 2021 having promised in its manifesto to provide free school meals for children in primaries 1 to 7, the committee is being asked to accept the fact that

the Government has failed to meet that commitment and to accept, instead, a second-best option. Does the cabinet secretary agree?

Jenny Gilruth: Yes. I share that disappointment.

Pam Duncan-Glancy: Does the cabinet secretary think that free school meals for children in primaries 1 to 7 will be delivered in this parliamentary session?

Jenny Gilruth: It is my expectation that, through work with local authorities, that will be delivered during this parliamentary session. That is my expectation and my understanding.

Based on my discussions with officials, we expect the vast majority of those projects to be delivered by the end of this calendar year. Some of them are more complex because—I was trying to make this point to Mr Ross—they require more extensive building works than others do. In the budget last year, we made provision for capital spending; this year, we have made provision available for resource spending. The funding has been made available. We have also provided the regulatory updates, which is what today's SSI is about, and we are enabling local authorities to get on and deliver on the Parliament's expectations, particularly in relation to the budget agreement.

Pam Duncan-Glancy: But not on universal free school meals for children in primaries 1 to 7.

Jenny Gilruth: The budget agreement does not provide for that.

Pam Duncan-Glancy: Does the cabinet secretary think that the budget agreement will provide for, at some point in this parliamentary session, the delivery of free school meals for children in primaries 1 to 7?

Jenny Gilruth: Are you talking about universality?

Pam Duncan-Glancy: Yes.

Jenny Gilruth: No, because that is not the budget requirement. The budget will deliver the roll-out for P6 and P7 pupils who receive the SCP and the test of change project for pupils in S1 to S3.

Pam Duncan-Glancy: The Government will not deliver free school meals to all pupils in primaries 1 to 7 in this parliamentary session.

Jenny Gilruth: That was confirmed in the parliamentary chamber many months ago.

Pam Duncan-Glancy: That is the case despite manifesto commitments, expectations and the parliamentary vote.

Jenny Gilruth: The budget that the Parliament voted for commits us to the roll-out for primary 6

and 7 pupils who receive the Scottish child payment and for those in S1 to S3 through the test of change programme. It does not commit to universality. Ms Duncan-Glancy knows that, because we have discussed it at length in the chamber.

Pam Duncan-Glancy: I accept that, but, with respect, cabinet secretary, it was the Government that proposed that budget.

Jenny Gilruth: Yes, it tends to be the Government that proposes the budget.

Pam Duncan-Glancy: That budget did not propose funding to do what the Government said that it would do.

Jenny Gilruth: The budget proposes funding for roll-out that is targeted at those receiving the Scottish child payment. That was also in the programme for government last September. The Government has been pretty clear about its commitment, and the issue has been discussed at length in the chamber.

Pam Duncan-Glancy: Why has the Government decided not to continue with its original aim of providing free school meals for all children in primaries 1 to 7?

Jenny Gilruth: Again, I have discussed that at length in the chamber. It is unaffordable. In relation to the budget gap, the Scottish Futures Trust last assessed the figure 18 months ago. The figure was assessed internally by the SFT, and we have pushed the SFT further in relation to that figure. Such provision is unaffordable in the remainder of this parliamentary session.

Pam Duncan-Glancy: Does the cabinet secretary accept that the United Kingdom budget provided the largest budget settlement for the Scottish Government since devolution? People watching will be wondering: if not now, in these circumstances, when?

10:00

Jenny Gilruth: If the budget settlement from the UK Government was so generous, I am at a bit of a loss to understand why Ms Duncan-Glancy and her party abstained on the Scottish budget, which commits the Scottish Government—as does the SSI—to moving forward and doing more. I gave the example of the City of Edinburgh Council. In that local authority area alone, we expect thousands of families to benefit from the SSI. The instrument commits the Government to moving on the budget that was negotiated with and voted for by the Parliament—in other words, it commits us to progress.

I could sit back and allow local authorities to use the data-sharing measures that they currently use,

but we know that those do not capture most families who receive the Scottish child payment. The SSI will ensure that local authorities have the data that they need to deliver on the funding that we have provided through the budget in relation to the Scottish child payment.

I agree with Ms Duncan-Glancy's overall point about universality. She well knows the inflationary pressures that the Government was forced to contend with in 2021, which have made everything much more expensive. Building kitchens, for example, is now much more expensive than it was three years ago. There have been other costs that we have had to meet, not least in relation to pay deals, which has affected the budget that I have had to manage and what we have been able to pay for.

From a personal perspective as cabinet secretary, I deeply regret the fact that we have not been able to deliver universality. It remains an aspiration and a commitment of the Government. I am pleased that we are making progress in relation to the roll-out of the Scottish child payment. The SSI is the next step in our commitment to universal roll-out, and the Government stands by that.

Pam Duncan-Glancy: Thank you for those responses. I have probably exhausted that line of questioning, so I will move on to data sharing.

The cabinet secretary will be aware that, in some situations, including in the pilot in the north-east on widening access to universities, data sharing has been an issue. Some witnesses have said in evidence to the committee that the pilot would not be scalable because of some of the data-sharing concerns. Does the cabinet secretary think that a unique learner number could be part of the solution to that?

Jenny Gilruth: It could, but there are differences when it comes to some of the widening access work that Mr Dey gave evidence on recently. I see the SSI as being part of the solution in the longer term for the exact same reason, because it will allow for a national approach to data sharing, which we do not currently have. In this instance, it will help local authorities to identify those who are in receipt of the Scottish child payment—I acknowledge that Mr Dey was giving evidence in relation to free school meals. More broadly, the instrument gives us an opportunity to learn how we might be able to better provide for data sharing between national Government, via—in this case—the auspices of Social Security Scotland, and local authorities.

I know that there have been significant challenges with the north-east pilot, which Mr Dey has written to the committee about, but I am keen that the approach that we are using in relation to

the Scottish child payment, which compels the Government and local authorities to act, is one that we might be able to learn from in relation to widening access and to use in that space in the future.

Pam Duncan-Glancy: A number of health organisations have recognised that a national approach could be useful. I do not disagree with what the cabinet secretary has said, but it could be quite cumbersome to have agreements in every case, which is why the idea of a unique learner number has been suggested. Is the Government exploring that?

Jenny Gilruth: We are considering such options. Ms Duncan-Glancy is absolutely correct to say that, if we have 32 different councils doing 32 different things, the process will take a lot longer. The SSI will allow our councils to move at pace.

Deliverability is key. It is our expectation that the measure will be delivered. I have spoken about the funding that has been made available in last year's budget and this year's budget, but the SSI enables the data to be shared and allows councils to get on with it. If we allowed local authorities to do their own thing, it would be much more challenging for them to obtain that data and to work with families. As I understand it, Social Security Scotland will provide the information directly to education authorities as soon as the SSI comes into force on 19 May. That will allow them to move at pace and to contact the families in question directly.

I think that there is learning that could be taken from what we are doing here, and I accept the point about a unique learner number.

Pam Duncan-Glancy: We received a letter from the Information Commissioner's Office, which said:

"The committee should note that we have not, to date, had any discussions with the Scottish Government, local authorities or institutions on how data can be shared fairly and proportionately to support widening access to university ... Nor have we had any engagement with the Scottish Government on the Data Protection considerations associated with establishing an identifier like the ULN."

I was surprised to read that, given the undertakings that we have had about the Government's willingness to consider a unique learner number. Will you now engage with an open mind with a view to progressing that?

Jenny Gilruth: The committee will be well aware that the Information Commissioner takes a keen interest in all these data sharing issues, and for good reason. His office has raised no concerns with us about the SSI—I want to be very clear on that point. However, there are things that we can learn from the SSI that can be taken to a widening

access space in relation to the points that Pam Duncan-Glancy raises. I would want to talk to the Information Commissioner's office directly about how we might be able to use the SSI in a widening access context, because, thus far, the approaches have been quite different. I do not want to conflate the approach that has been taken in that regard. However, I will take away the point that Ms Duncan-Glancy has raised, because it is an important one.

Pam Duncan-Glancy: The minister and others gave the impression that the unique learner number is something that the Government has explored but, for various reasons, could not take forward. However, given that the Government has not had those conversations, it appears strange that it has already come to such a conclusion.

Jenny Gilruth: I do not want to speak on behalf of Mr Dey. I reassure Ms Duncan-Glancy that I will take that point away from today's evidence session and seek to engage directly with the Information Commissioner, particularly on this SSI and how it might be used as a learning point for us in relation to widening access.

As the member knows well, there have been real challenges in that regard. Mr Dey and I met Universities Scotland—I think at the start of this year—to talk about some of those challenges, because we want to have better data sharing. The Information Commissioner's office has a direct role when there are challenges, and we need to be assured of all that we are doing. That assurance has been given in relation to this SSI. It may be that there is an opportunity to dovetail the approach that we have taken with this SSI in relation to Social Security Scotland and a national approach to widening access. I would be keen to pursue that with his office.

Pam Duncan-Glancy: Thank you.

The Convener: On that point, do you understand, that there will be some frustration today that the proposal has not been pursued? The unique learner number is not a new thing; it is something that the commissioner for fair access has referred to in the past. I do not know whether Mr Dey would accept this comment, but there was disappointment when he was at the committee that he was not able to tell us whether the unique learner number would need legislation, what it would cost or details about some of those data-sharing issues.

Several weeks have now passed and you have only today given a commitment to speak to the Information Commissioner. Many people will have hoped that the Government would have done that before now. If this is something that you are treating seriously, why have you not done that?

Jenny Gilruth: It would be remiss of me to speak on behalf of Mr Dey. The approach that has been used in relation to widening access has been quite different to the one that we have undertaken with the Scottish child payment more broadly. However, I take the point that the convener has made. As I mentioned, we discussed the issue with Universities Scotland very recently. The approach in this SSI has been in the making with Social Security Scotland for many months, if not longer. It has taken longer than it should have taken to get the data share with Social Security Scotland. We want to learn from that experience and see whether the proposal is possible.

I have not been presented with advice on this, so I do not want to speak out of turn. However, I want to discuss with officials whether we could lift the approach that has been used in relation to the SCP and apply it to widening access. As I said, thus far, I have not had advice on that. There is a slight difference with the unique learning number that you spoke about. I see that Ms Meikle is nodding—she may want to come in on that point.

Laura Meikle: I understand that Social Security Scotland is currently considering whether the approach could have wider applicability. It would be for Social Security Scotland to provide an update on that, if that would be helpful.

Jenny Gilruth: We will ask Social Security Scotland to provide a written update to the committee. We want more young people to have access to university and higher education, but we also want them to have access to free school meals, which is the purpose of the SSI that is before us today. We will take that point away and provide the committee with a further update on the points that Ms Duncan-Glancy has raised, which are very fair.

The Convener: I am just trying to understand this. Clearly, you and your officials thought that we need to get agreement and have conversations with the ICO on the proposal. The minister accepted that. The unique learner number has been discussed for years and has been recommended by the commissioner for fair access and others. Given those points, why have officials not said to Mr Dey or others in Government, “We are having a discussion with the ICO on this SSI; we also need to have a discussion if we are going to make progress with the unique learner number”? Has no one raised that with you or the minister?

Jenny Gilruth: I have not been given advice on that issue. This SSI relates to the Scottish child payment. However, I take your point, convener. The point that Ms Duncan-Glancy raises about engagement with the Information Commissioner’s Office is a fair one. As I understand it, higher education officials regularly engage with the

office—I see officials nodding. I want to take this away to be absolutely assured of that point with them.

The Convener: On 28 March, the Information Commissioner’s Office wrote to the committee, and I will quote from its letter:

“The committee should note that we have not, to date, had any discussions with the Scottish Government, local authorities or institutions on how data can be shared fairly and proportionately to support widening access to university or any engagement on the North East Scotland pilot. Nor have we had any engagement with the Scottish Government on the Data Protection considerations associated with establishing an identifier like the ULN.”

That is very clear to us.

Jenny Gilruth: Part of the challenge here is that the north-east pilot is a locally owned project, which is why the data sharing at local level, as I understand it—having discussed it with Universities Scotland—is being carried out between Aberdeen City Council, Aberdeenshire Council and Robert Gordon University. They are all currently finalising data-sharing arrangements. I would expect that, through the finalisation of those data-sharing arrangements, there will be engagement with the Information Commissioner and his office.

The Convener: But the minister was specifically asked about rolling that out. It would not just be between local areas; it would involve making that a national issue, in the same way that the unique learner number would be nationwide.

Jenny Gilruth: The north-east project is a pilot and, as I understand it, the view was that a pilot would be undertaken in one part of the country and learning would be taken from that. In order for us to go to the Information Commissioner’s Office and take that learning, we first need to have a pilot to evaluate.

That data sharing is due to take place in the spring, and evaluation of that work is planned for later this year. At that point, I would fully expect engagement with the Information Commissioner’s Office to be undertaken to ensure a robust approach to national roll-out. Further, if there is applicable learning from this SSI, across the board, we can use that at a national level.

The Convener: But that would not be the case with the unique learner number.

Jenny Gilruth: Why so?

The Convener: Because there is not a pilot for that.

Jenny Gilruth: The pilot that has been identified in the north-east does not use that approach, but—

The Convener: So, the unique learner number is something that has just been—are you shaking your head?

Nico McKenzie-Juetten (Scottish Government): Sorry?

The Convener: Are you shaking your head?

Nico McKenzie-Juetten: I don't think so—no.

The Convener: You were shaking your head and I thought you wanted to come in, but you do not want to come in.

Nico McKenzie-Juetten: Apologies—no, I do not.

The Convener: So, cabinet secretary, the unique learner number is not subject to a pilot.

Jenny Gilruth: As I understand it, no. However, we will learn from the pilot, so I am not discounting it. A pilot is something that we have to learn from at national level. In rolling it out with the individual local authorities that I named and with Robert Gordon University, we will seek to learn from the process, and we will engage the Information Commissioner's Office on the best way to do that at national level. That does not preclude your suggestions in relation to the unique learner number, which I know has been discussed at length at the committee previously.

Pam Duncan-Glancy: The issue is not so much about the pilot and its scalability at this point, as the pilot is still on-going. The point is that, during the process, organisations said that one of the issues that would always make the work difficult to do, even if the pilot was found to be good and useful, was that there is not an ease of data sharing.

We are trying to get a commitment from the cabinet secretary. We have previously been under the impression that the Government was considering the idea of a unique learner number. That was for a number of reasons, not least in the light of the Hayward review and in relation to the issue that we are discussing today. That is why I have raised the matter today, when we are talking about data sharing.

To be really clear, can the cabinet secretary confirm that the Government will now engage the Information Commissioner in considering whether a unique learner number would potentially be something that it could bring in, for data sharing and for other purposes?

Jenny Gilruth: There has been continuous engagement with the Information Commissioner's Office in relation to data sharing across the board. The point that I was trying to make is that we have a local pilot happening in the north-east. On the chronology of what needs to happen next—this has been going on for some time now—the data-

sharing arrangement is currently being finalised. The data sharing is due to take place in the spring, and the evaluation work is planned for later this year, at which point I would expect engagement to be undertaken with local partners and the Information Commissioner's Office.

From that pilot we will learn how best to approach a national roll-out. Of course we will have to engage with the Information Commissioner's Office on that, and on the learning from the pilot, but the pilot and the data-sharing arrangement have not yet been completed. The chronology of that is important in relation to the engagement with the Information Commissioner's Office, the learning from the pilot and how we can upscale it and potentially roll it out at national level.

10:15

Pam Duncan-Glancy: Sorry, but I am finding this a little bit frustrating. I am not talking about any action that the Government takes on this being contingent on the learning from the pilot. In the discussion that the committee had, it was put to us that the ULN could be one solution not only in relation to the pilot in the north-east but in other areas, including in relation to what Hayward suggested in the review.

The minister said, "We have looked at it, but we cannot do it, but we are not sure why we cannot do it"—I have to say that he was not all that clear—but now, the Information Commissioner's Office has said that the Government has not discussed the matter with it. I am trying to get some recognition of that and to give the Government an opportunity to say that it will now consider the suggestion, given that there was some acceptance from the minister that it might be useful. In fact, the Minister for Children, Young People and The Promise also said that.

This is an opportunity for the Government to say that it will look at the matter and will engage with the Information Commissioner's Office, regardless of what happens with the pilot. The pilot could be helpful in that regard, but pursuing the ULN issue is not necessarily contingent on the pilot.

Jenny Gilruth: I do not think that we are at odds here, Ms Duncan-Glancy. We agree that we want to engage with the Information Commissioner's Office on all this in relation to data sharing, and we have done that extensively in relation to the SSI that I am here to discuss.

In relation to the Aberdeen widening access pilot, we must also be mindful that, although the Government has a role in relation to the budget and our commitment to delivery of the SCP, we are talking about Aberdeen City Council, Aberdeenshire Council, Robert Gordon University

and the University of Aberdeen. The universities are autonomous and independent of Government, and our councils have the statutory responsibility for the delivery of education. What we are able to do in relation to the widening access pilot might not look exactly the same as what we have done to apply the SSI to the SCP roll-out. However, in all of those projects, we must engage with the Information Commissioner's Office.

In today's session, Ms Duncan-Glancy has heard my willingness to pursue the matter further with the Information Commissioner's Office. I also hear the convener's point on that. My view is that we should take learning from the SSI to allow us to move at pace in relation to data sharing. The widening access pilot has had challenges regarding the timescales that are associated with it, which we accept; however, the SSI that we are discussing today commits the Government to move at pace and it will mean that local authorities will have that data in their hands by 19 May, when the SSI comes into effect, and they will be able to share that data with families accordingly.

If any information or learning can be taken from the approach that I am talking about today and applied to the widening access pilot or the broader national approach, I would be keen to do that, with the Information Commissioner's Office.

Miles Briggs (Lothian) (Con): Good morning. I want to clarify some points in your statement and in what you have said this morning. First, am I correct in saying that the figures that were presented to Parliament around extending free school meals are two years out of date?

Jenny Gilruth: Eighteen months.

Miles Briggs: Is it right that the figures that were presented to Parliament in the budget were inflation proofed in order to deliver on the commitments that they support? I think that the Liberal Democrats and the Greens supported that.

Jenny Gilruth: The budget commits us to the roll-out of free school meals to children in primary 6 and 7 who are in receipt of the Scottish child payment, and to children in S1 to S3 who are in receipt of the Scottish child payment in the eight test of change local authorities that I referred to earlier.

Miles Briggs: Can you tell the committee which local authorities those will be?

Jenny Gilruth: I cannot. I wrote to all local authorities two weeks ago. I have yet to be provided with advice from Ms Meikle; we discussed that earlier. I expect to receive that advice in the coming days. I would be happy to share the advice with the committee when I have it, but it has not yet been presented to me.

Miles Briggs: That would be very helpful.

On the issue of children missing out, how many should be receiving free school meals under the Government's manifesto commitment but will not be by the end of this parliamentary session?

Jenny Gilruth: Do you mean in relation to children who are in receipt of the Scottish child payment or universally?

Miles Briggs: Both.

Jenny Gilruth: In terms of universality—

Laura Meikle: The estimated number of children and young people who would benefit from universal free school meals is about 90,000, and the estimated number of children who will benefit as a result of this piece of work is 25,000. That is in addition to the children and young people who are eligible through the criteria in the Education (Scotland) Act 1980.

Jenny Gilruth: The 25,000 are the extra children whom we anticipate will be captured by the SSI. There are thousands of families who are currently missing out on free school meals for their children, which is not good.

We want all families who should be in receipt of free school meals to have that for their child or young person. The SSI will mean that the data sharing is much better and more granular at a local level, and it will allow local authorities to move at pace in implementing the extra funding that we have provided them with to deliver on that commitment.

Miles Briggs: The issue is not new—it has been raised with the Cabinet Secretary for Social Justice, and other committees have raised it, too. The Government has been very slow to make progress on the issue. Am I right in saying that there are 90,000 children who are entitled to free school meals, but there are 25,000 young people who are not receiving free school meals who should be, or is that the number of children who will receive free school meals?

Laura Meikle: Twenty-five thousand extra children and young people will receive free school meals as a result of the SSI, which will take provision to around 84 per cent of all children and young people in primary schools. That would leave around 90,000 children and young people who would have benefited from universal free school meals.

Miles Briggs: Thank you for that clarification.

The Convener: Sorry. I thought that it would leave 65,000 children, but the 25,000—

Laura Meikle: I had not deducted the 25,000 from the 90,000.

The Convener: So, there are still 90,000 children across Scotland who will not get free school meals because the Government has not—

Laura Meikle: No. I am sorry—it is 65,000.

The Convener: It is 65,000—okay.

Laura Meikle: It is 65,000. I did not do the maths.

The Convener: At the moment, the total is 90,000. If the SSI is agreed to, we will decrease the 90,000 by 25,000 to 65,000.

Laura Meikle: Yes. My apologies.

The Convener: I just wanted to check. I am getting nods of agreement—that is good.

Finally, cabinet secretary, I read you a number of quotes from the children's commissioner, and you said that you would not put words in her mouth. I will read one of those quotes again and invite you to respond:

“One of the greatest barriers to the take up of school meals are feelings of shame and stigma, and only providing meals to P6-P7 in receipt of the Scottish Child Payment just exacerbates that stigma.”

Do you accept that the SSI that you are asking us to approve will, according to the children's commissioner, exacerbate the shame and stigma for young people who take up free school meals?

Jenny Gilruth: You and I are probably of similar ages. Certainly, when we were at school, those who were in receipt of free school meals were provided with a certain colour of ticket for the dinner queue, which created stigma. My understanding is that that approach is not used in our schools any more, which has really helped to take away some of the stigma.

I accept the children's commissioner's point and think that it is valid. There are many different ways in which schools deal with reducing stigma, such as their work on the cost of the school day, which we have been able to fund through the pupil equity fund. Schools are adept at managing when children and their families are in need.

Would I like us to get to universality? Yes, and that remains the Government's firm focus. There is no provision in the budget for us to do that, because of the associated costs that we have spoken about, such as inflationary pressure and things being much more expensive. The Government has also had to meet the cost of pay deals. Although we agree with those pay deals, that has ultimately made our original commitment on free school meals unaffordable.

However, the SSI will allow us to make firm progress, and it will expand the number of families who can receive free school meals. I think that that will be a good thing for the children of Scotland.

The Convener: I was in receipt of free school meals for a period when my father lost his job, so I totally understand what you have said. However, I specifically asked you whether you agreed with the children's commissioner's view that the SSI that you have lodged will exacerbate stigma, because it will result in free school meals being provided only to primary 6 and primary 7 children who are in receipt of the Scottish child payment. Do you agree with that view?

Jenny Gilruth: Under the nutritional regulations, local authorities are legally required not to create stigma for young people in their schools. That is really important. Nico McKenzie-Juetten can keep me right on that.

Nico McKenzie-Juetten: Section 53B of the Education (Scotland) Act 1980 provides for the protection of the identity of pupils who receive free school lunches. That is existing law, which would kick in here, too. Reasonable steps must be taken by education authorities to ensure that the identity of those who are receiving free school meals is not revealed, other than to people who need to know in order to provide meals to them.

The Convener: I am going to try again, cabinet secretary. For the third time, do you agree with the children's commissioner that your SSI will, by providing free school meals only to primary 6 and primary 7 students who are in receipt of the Scottish child payment, exacerbate stigma?

Jenny Gilruth: You have just heard from Nico that there is a legal requirement for local authorities not to stigmatise children. In my experience, I do not see evidence of that happening in our schools. I trust Scotland's teachers, who are trained caring professionals, not to stigmatise the young people who are in their care. That is not how members of the teaching profession and those who work in our schools work with our children and young people. When families are in need, they work with them every day. We need to be very careful about suggesting otherwise.

The Convener: So, you disagree with the children's commissioner on that point. We will hear from her next, and I would like to put the point to her.

Jenny Gilruth: I have set out the SSI; we are dancing on the head of a pin.

The Convener: We are not.

Jenny Gilruth: I do not agree.

The Convener: With respect, cabinet secretary, you are not answering the question. Do you agree or disagree with the children's commissioner?

Jenny Gilruth: I agree that our schools work every day not to stigmatise those families who are

most in need. They are compelled by legislation to ensure that they do not stigmatise, and I trust that they work in our schools every day to ensure that they do not do so.

If the children's commissioner or the committee have any examples of children being stigmatised on the issue, I am more than happy to consider those, because that would be a real challenge. I would not want that to be happening in our schools. However, I have not been presented with such evidence in the past two years, and I trust Scotland's teachers and the staff who work in our schools not to stigmatise. They work tirelessly, every day, in a very caring profession, and I do not think that a stigmatising approach is taken in our schools. I have not witnessed such an approach in recent times.

The Convener: Do you accept that there is quite a big difference between the obligation that is put on local authorities by section 53B of the 1980 act and what the children's commissioner is perhaps seeing in our schools?

Jenny Gilruth: We can write to the committee with further examples of how the issue is managed in our schools, to provide you with reassurance on that point, convener.

The Convener: I was hoping to get it ahead of the commissioner's coming in.

Clare Haughey (Rutherglen) (SNP): Cabinet secretary, what are the implications for Scotland's schoolchildren of the SSI not being agreed to?

Jenny Gilruth: The implications are that 25,000 children in Scotland would not receive free school meals—or, at least, that there would be a delay in their receiving access to free school meals.

Clare Haughey: Given your evidence in response to Douglas Ross's questions about the number of families who are not accessing their entitlement, what concerns would you have for those families, should the committee not recommend that the SSI be approved?

Jenny Gilruth: My concern would be that children would not access free school meals that they should have access to. Although we have not really talked about it today, there is academic evidence to suggest that free school meals have a role in attainment, attendance and a young person's wellbeing. I do not think that there will be any political disagreement on the purpose behind the SSI, which is really important. It is about empowering our local authorities to identify those families.

I accept some of the challenge about the length of time that it has taken for Social Security Scotland to progress the issue, but once the SSI has been approved, the process will move at pace, with the instrument coming into force on 19

May. That will empower local authorities to deliver to the families in question, which is imperative for our children and young people.

The Government did not need to introduce an SSI on the issue. We could have sat back and allowed local authorities to do their own thing. However, that would have taken much longer and would have been detrimental to children and families.

Clare Haughey: So, the danger of playing political games on this is that children go hungry.

Jenny Gilruth: Exactly that.

George Adam (Paisley) (SNP): You have already answered this question three or four times, but it seems that it is now our practice to ask the same questions three or four times as we go along. Is the SSI not an example of the Government seeing an issue with the sharing of data and finding a solution? When answering that question, please do not blink or shake your head, or the convener will ask you outside for a square go.

Jenny Gilruth: It is an example of the Government recognising the challenge of the fact that lots of families have missed out over the years, who should—this relates to Ms Haughey's point—have been able to access free school meals.

I broadly agree with the convener's point about the stigma that, historically, has been associated with free school meals. The data-sharing arrangement goes some way to overcoming that, because it empowers local authorities to reach out to families by writing to them directly to make sure that their children are in receipt of free school meals.

Politically, we should be in lockstep on the issue. I accept the challenge in relation to universality. We could have a political debate about why the Government has not been able to afford that during the current parliamentary session. However, fundamentally, the SSI is about data sharing and, as Ms Haughey said, making sure that those children who are hungry receive food in school so that they are able to attend, which there are real challenges with post the pandemic. The SSI is part of our holistic response to that situation in our schools. The Government has come forward with a solution.

I am not here to be given marks out of 10 by committee members. I do not expect praise or feedback to that end, but we need to learn from this. I accept that it has been a challenge for us to move forward at pace, but we must use this as an opportunity to have better data sharing so that we can feed more children in our schools and meet the needs of more learners across Scotland,

including in relation to widening access more broadly.

10:30

George Adam: I find it hugely frustrating that we hear about data issues, the Government does something about that, and then we seem to go down a rabbit hole at committee, instead of talking about the efforts to make sure that 25,000 children are not going hungry. That is part of the issue. Do you not agree that, when we discuss such challenging issues, we need to do so with a level of maturity so that we can talk about the end game and what we are trying to deliver?

Jenny Gilruth: That would certainly be my aspiration. I am old enough to remember when Mr Adam and I took evidence in this room on the Finnish approach to education, which is depoliticised. The approach that is taken by political parties in that country is quite different from the one that is taken in Scotland, which tends to be split along constitutional lines.

When we talk about children in poverty, we should all be on the same page, working towards supporting those who are most in need. The SSI will allow us to make progress on that. I accept that the Government's aspiration in relation to universality will not be met before the next election—that is well known to members; we have debated the issue in the chamber—but the SSI means that the Government will be compelled to make progress. We have put in place the extra funding, and we now expect local authorities to deliver on it. That is exactly why the SSI is so important.

George Adam: Since we are sharing experiences from childhood, back in my day, if you had free school dinners, you would be split up from everyone else, so things have moved on quite a bit since I was a young person who had to deal with that situation.

Jenny Gilruth: Absolutely.

The Convener: I will follow on from Mr Adam's point. You have been very generous in accepting some of the points that have been made—you have not necessarily agreed with them, but you accept that it is right that we look at the issue. However, committees are also here to scrutinise SSIs. If we simply rubber-stamped every SSI, that would not make for good legislation. Do you accept that?

Jenny Gilruth: Mr Ross, I know that you are not here to rubber-stamp all my SSIs. You are here to challenge me. That is your job, and it is your right to do so. I respect that—of course I do.

The Convener: My final point is about the time that this process has taken, which you mentioned

a couple of times to Clare Haughey and George Adam. How long have different Government departments been working on this? What is the total period?

Jenny Gilruth: I heard a sharp intake of breath from my right, Mr Ross, so I will defer to Ms Meikle on that.

Laura Meikle: We have spent more than a year on the preparation of this work. There has been a lot of discussion this morning about the challenges of establishing data-sharing arrangements. That is true. It is absolutely necessary to specifically define the purpose of those arrangements, and it takes time to develop that. We have other data-sharing arrangements in place, which we are working with the UK Government on. They have taken far longer. The process takes more than a year—it takes a lot of time.

The Convener: I am not making a political point here—I apologise if it sounds as though I am—but are you saying, basically, that, had the Government been able to do what it wanted to do on day 1, some 25,000 young people across Scotland would have had an extra year of free school meals?

Laura Meikle: We would not have been able to bring forward the SSI without doing all the preparatory work. It would not have been possible. I understand your point, but I am not able to agree with it.

The Convener: My point is that it should never take a year to do the work on an issue such as free school meals. That point applies to not only the Scottish Government and Scottish bodies but the UK Government and others. If a Government has an aspiration to take action on an issue such as free school meals, on which I do not think that there is political disagreement, there must surely be a way to do so, and it should not take a year. Maybe the SSI will lead to good practice in future.

Laura Meikle: The SSI has taken quite some time to prepare. Given that I am responsible for all of it, I will mention the other part of the challenge that we face, which is the fact that there is not sufficient infrastructure in schools' dining and kitchen facilities, and we require to build that. As much as I would have loved to have been able to have that done very quickly, unfortunately, it takes time and cannot be done quickly. There are other aspects that have also been a challenge for us.

The Convener: We move to agenda item 3. I invite the cabinet secretary to move motion S6M-16753.

Motion moved,

That the Education, Children and Young People Committee recommends that the Social Security

Information-sharing (Scotland) Amendment Regulations 2025 [draft] be approved.—[*Jenny Gilruth*]

The Convener: Do you have anything to add, cabinet secretary?

Jenny Gilruth: No—nothing.

The Convener: Do members have any comments?

John Mason (Glasgow Shettleston) (Ind): Having listened to the evidence, I think that this is definitely a move in the right direction. As I understand it, a further 25,000 children will get free school meals who would not otherwise have done so. It appears to me that that will, in fact, reduce stigma, because those 25,000 children will be taken out of being possibly stigmatised. For example, in Glasgow, every child who gets lunch gets a card. That means that, regardless of whether one is paying for one's lunch, one has the same card. That has been a long-standing thing. It does not completely remove stigma, but it has been a good step in that direction.

We want to do more in this field, and I think that we all agree on that. If, as some parties wanted, we had reduced tax, that would have meant many more children paying for their lunches or just going without lunch altogether, but, thankfully, the Conservatives were defeated on that issue and the budget was agreed to. Obviously, the budget overrides any previous votes that Parliament had, which were non-binding. The SSI is certainly a good move in the right direction, and I am happy to support it.

The Convener: The question is, that motion S6M-16753, in the name of Jenny Gilruth, be agreed to.

Motion agreed to,

That the Education, Children and Young People Committee recommends that the Social Security Information-sharing (Scotland) Amendment Regulations 2025 [draft] be approved.

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

Members indicated agreement.

The Convener: That concludes the consideration of the instrument.

Before I release you, cabinet secretary, there are a couple of quick questions about the University of Dundee. I go to Willie Rennie.

Willie Rennie (North East Fife) (LD): When the announcement about the job losses came out, cabinet secretary, you and Graeme Dey indicated that you would explore all options to protect jobs,

and he said that you would “manage down” the number of job losses, accepting that there would be some. However, this week, we have been told by the university's interim principal that there is no change in the 632 job losses, and that as many as 700 jobs could be affected. Will you update us on what work is being done to manage down that number and do everything possible to protect jobs?

Jenny Gilruth: I am meeting the Scottish Funding Council later today, along with Mr Dey. I was somewhat surprised by the correspondence that the committee received in relation to that number, which had not been shared with ministers in advance. I recognise the concern, and I share that concern very much.

The committee is aware, as we have stated this publicly, that there has been no further financial ask of Government beyond the £22 million of liquidity, which has been met. However, Mr Dey and I have been very clear that we are open to additional asks from the university, under the auspices of the SFC, recognising the legal need for that in this space.

We have also been very clear that, although it is not palatable to ministers, that is the number that we expect. However, the university said in evidence to the committee two or three weeks ago that it was looking at alternatives. We have not yet been presented with those alternatives. I expect them to be presented to the SFC in the coming weeks, and I would be more than happy to, and I expect to, give an update to the committee on that.

Willie Rennie: You were surprised by the letter this week, but you are hopeful of receiving an alternative model in the next few weeks.

Jenny Gilruth: I have had a lot of discussion and engagement with the university—with the senior management, the trade unions and, last week, the student union. The community of Dundee is very concerned about all this. Mr Rennie and I know, because our constituencies border Dundee over the water, how important the university is to Dundee and the wider economy.

We expect the university to consider alternatives. It is a very challenging time for the University of Dundee in relation to its finances. We have made available that liquidity support, and we are looking at what more we might be able to provide to the university. However, we have not yet had a further ask from the university, and we remain open to such asks.

Willie Rennie: [*Inaudible.*]—driving down, or managing down, as Graeme Dey said, the number of job losses.

Jenny Gilruth: Very much so. I need to be mindful of what I say here as cabinet secretary.

Willie Rennie: Of course.

Jenny Gilruth: The committee will understand the role of the Scottish Funding Council in this, and that the Government is unable to direct funding in this space. We have to do that under the auspices of the SFC, as set out in the Further and Higher Education (Scotland) Act 2005.

Willie Rennie: You will have seen in *The Courier* today reports about the finance that the Government was going to make available to the SFC through loans. It is reported that the figure was initially £20 million, and that that was signed off by the First Minister, but it was later reduced to £15 million. However, no explanation was given for that last-minute change. Can you shine some light on why it changed?

Jenny Gilruth: The total ask from the university was £22 million. The Government has made £25 million available, as Mr Rennie knows, which is £15 million through the budget and an additional £10 million of capital that I announced more recently, so that funding gap has been met.

As I understand it, there were negotiations about the amount required as part of the budget process and from financial transactions at that time. I do not think there should be any surprise, because the ask of £22 million has been met by the £15 million in the budget and the additional £10 million that I announced.

Willie Rennie: You are right that the university has got what it has asked for so far, but I am intrigued as to why it went from £20 million in financial transaction support down to £15 million at the last minute, after the First Minister had signed it off. I am puzzled by that.

Jenny Gilruth: I think that Mr Rennie's puzzlement may be informed by the release of emails in response to a freedom of information request. It is quite difficult to understand the full story but, as I understand it, two weeks ago, Richard Maconachie came to the committee and said that the Scottish Funding Council was working with the Scottish Government to identify how the £22 million could be put together. As I understand it from having been on the copy list, there were negotiations at that time between the SFC and the Government to identify how the £22 million could be made available, and that was done through £15 million in the budget and the extra £10 million that I made available, giving a total of £25 million, so the full funding ask was met.

Willie Rennie: I am not going to get any more out of you but I am intrigued as to why all that changed. Perhaps you will tell us at some point. At the end of the day, the university has got the money that it asked for, which is important, but I

always like to find out the full story. Maybe you will feel able to tell us at some point.

Jenny Gilruth: The £22 million has been made available. As I understand it as cabinet secretary, I think that there was a negotiation between the SFC and the Government regarding how funding could be made available through the budget process. It is very clear that we acted at pace to provide that extra funding—we had to act at pace when the full quantum of job losses became known to the Government. That is why that funding was made available through the budget and it is why I announced the extra funding.

There are ways in which funding can be made available. Part of the funding—the £15 million—came through the budget process, but the other part of it came through £10 million in capital that I announced later. The important point is that the £22 million liquidity ask from the University of Dundee has been fully met and that there have been no further asks since.

Willie Rennie: Perhaps the £5 million that is still in the kitty might be used to provide extra support for Dundee.

Jenny Gilruth: I am not necessarily sure that it is “in the kitty” per se. However, I take Mr Rennie's point on the optics of that and go back to the overall quantum that has been met by Government.

The Convener: You said that you acted at pace but the university told us that the request for £22 million went in, I think, a month before the Government received the recovery plan that included the figure of 632 full-time-equivalent job losses. Was there an opportunity to provide that liquidity funding at an earlier stage?

Jenny Gilruth: Not as I understand it. On 19 February, the SFC notified the Government of the university's request for urgent liquidity support, and on 25 February we announced that £15 million of financial transactions would be made available to the Scottish Funding Council to support universities such as Dundee. Those dates—19 and 25 February—show that we acted at a pretty urgent pace.

The Convener: But you knew then that that was not enough.

Jenny Gilruth: We knew that we would have to meet the liquidity request and we worked at pace to provide that additionality.

The Convener: Was that all before you knew that 632 FTE jobs were at risk?

Jenny Gilruth: I would have to go back to the draft financial recovery plan, which I do not have in front of me.

The Convener: I think you became aware of that only on 7 March.

Jenny Gilruth: I think that that is right.

The Convener: You were providing that funding. When the university was telling you what it needed and asking for £22 million, did it make you aware that it was also going to announce hundreds of job losses even if you gave it that money?

Jenny Gilruth: No. The university was engaging with the SFC, because it had to engage directly with the SFC rather than the Government. The engagement was undertaken with the SFC.

On 14 February, the university requested urgent liquidity support from the SFC and on 19 February the SFC notified the Scottish Government. On 25 February, we provided the extra £15 million more broadly and on 6 March the SFC received the draft copy of the FRP, which, on 7 March, was sent to the Scottish Government. That draft included details of the proposed reduction in the number of staff. That is the chronology. The £15 million was made available and, at a later date, we found out the actual number of job losses and met the asks in relation to the £22 million of liquidity support.

The Convener: Were you always aware, when the Scottish Government signed off on the original £15 million and then the additional £10 million, that, although you were meeting the financial request, you were not going to save any jobs with that money? Was that always your understanding?

10:45

Jenny Gilruth: I would need to check back on that, convener. From memory, at that point in February, the total number had not been communicated to us as ministers because the draft FRP had not been shared with us, and it is the draft FRP that sets out the quantum of job losses.

The Convener: That is what I am asking.

Jenny Gilruth: As the committee knows, the liquidity support allows the university to continue, but it does not bring the job loss number down. We need to work with the SFC on next steps in that regard, while remembering and respecting the independence of that institution. I am mindful of Office for National Statistics classification in all of this, and we need to be careful about that.

On Mr Rennie's point, we have met the liquidity request. We are open, as a Government, to working with the SFC on any further requests. None has thus far been made. However, we expect an alteration to be made to the draft FRP, because, as the committee heard two weeks ago from the interim principal, the university is looking

at alternatives. When that alteration comes forward, the Government will consider what further support we can provide under the auspices of the SFC. We will be completely transparent with the committee on how we do that. We need to be really careful about ONS classification in all of this.

This is a challenging time for the University of Dundee and for the city of Dundee. Yesterday's reports will not have helped. It is the Government's job in this situation to help support the university and its staff—all the people who work there—and its students. We are absolutely committed to doing that and will continue to engage with all those people.

The Convener: I agree with the point about yesterday's news. It will be extremely difficult for those who are currently at the university and for those who are looking to go to it in the future, and those people are crucial for the sustainability of the university.

On Mr Rennie's point, who made the suggestion to cut the announced allocation from £20 million to £15 million?

Jenny Gilruth: I do not have the email chain in front of me—I think that Mr Rennie's point was informed by that chain, as well as perhaps the report in *The Courier*. Without seeing that, I am not sure that there was a suggestion in it to cut the figure per se. I think that there was a negotiation between the SFC and the Government—this is just my memory, so I will have to check back, convener—to assess what was required at that moment to assist the university.

I appreciate that some of those emails have been released and that some of them are redacted, which does not help to shed light on the issue—I accept that. However, I can say that there was a communication between the SFC and the Government at that time, during the budget process, to move at pace to provide that extra funding. That was provided, and then there was the £22 million liquidity request. I do not necessarily accept that there was a decision to reduce the amount. From memory, this would have been advice that was given to ministers by the SFC at that time.

The Convener: Given our interest, would you review some of the information that is in the public domain and the discussions, and update the committee?

Jenny Gilruth: I am more than happy to do that. I accept the committee's on-going interest in this issue and I very much share it. I am happy to share as much as I am able to with the committee. We will meet the SFC later today, and if I can shed further light on our engagement with the SFC and the next steps, I will do so. Timescales are important here and we need to move at pace. I am

happy to provide that information in writing to the committee.

The Convener: Finally, you said that the figure of 700 in the SFC's letter took you by surprise. Did you ask what the full figure would be? The reason why the interim principal wrote to the committee was that I asked, if 632 FTE jobs were to be lost, what was the number of people who would lose their jobs. That letter is how we found out.

Jenny Gilruth: Mr Dey and I have interrogated the draft FRP with the principal and the senior management team—

The Convener: Are you saying that you asked but did not receive that?

Jenny Gilruth: We have asked and we have engaged with the interim principal and the senior management team. There was no movement from the 634 figure in that engagement, so we were surprised by yesterday's reports. We will continue to engage with and support the senior management team at the university as best we can via the SFC, but that figure was not shared with ministers in advance of the committee receiving it yesterday, which is concerning. I, along with Mr Dey, will discuss that matter with the SFC later today. I am happy to share further updates with you, convener, and the committee.

Miles Briggs: Willie Rennie pursued some of the questions that I had about the University of Dundee, cabinet secretary. However, because we have you here, I have to ask, as an Edinburgh MSP, about the University of Edinburgh. I have received hundreds of emails from concerned students and staff there because it is proposing to make £140 million in cuts. What engagement and communications have you and other ministers had with the University of Edinburgh specifically to look at the similar pattern that is now unfolding for members of staff at that university?

Jenny Gilruth: The committee knows that there are challenges across the higher education sector. We can go on to talk about what some of those challenges are, if the committee would like, but I am conscious that you are taking evidence from someone else following my session.

There are challenges at the University of Edinburgh. We have been engaging with that university under the auspices of the SFC. Remember that the funding that we provided to the SFC was for institutions—plural—in relation to some of the challenges. We very much recognise that the University of Dundee at the current time has a unique challenge that in no small part relates to its own finances and decisions that it took. The University of Edinburgh is in a separate space, but it still has its own challenges, and its principal has set out some of those. We have been engaged with that institution via the SFC, which

we will continue to engage with on how we can support the institution more broadly.

Miles Briggs: I know that staff are asking for that transparency and are not receiving it. Has there been a financial ask from the University of Edinburgh? If there is only £5 million left in the pot, will that be the total that is available for other institutions? The University of Edinburgh is not the only institution expressing financial concerns, as you have mentioned.

Jenny Gilruth: I am not aware of a financial ask from the University of Edinburgh. However, as I have said, I am meeting the SFC this afternoon, so I can interrogate that matter further with the SFC on Mr Briggs's behalf.

In the update that I provide to the committee in relation to Mr Rennie's line of questioning, I will be more than happy to include details about the University of Edinburgh as well.

Miles Briggs: That is helpful.

The Convener: I thank the cabinet secretary and her officials very much for their evidence this morning.

I suspend the meeting for about 10 minutes before we move on to our next item of business.

10:51

Meeting suspended.

11:01

On resuming—

Children and Young People's Commissioner Scotland

The Convener: The next item on our agenda is to take evidence on the work of the Children and Young People's Commissioner Scotland. I welcome Nicola Killean, the commissioner; Gina Wilson, head of strategy, and Nick Hobbs, head of advice and investigations. I thank you all for joining us, and I apologise for the slight delay in getting started.

Before we move to questions, I understand that the commissioner would like to make an opening statement—over to you.

Nicola Killean (Children and Young People's Commissioner Scotland): I thank the committee for inviting us to give evidence.

It has been a busy year since we laid our strategic plan in Parliament, which was based on the priorities of thousands of children and young people from across Scotland. Children and young people have been clear with me about which areas need more change to enable them to enjoy all their rights in Scotland. I am grateful to be able to raise those issues, and what we have learned across the year, with the committee.

I will start with education. Our report on education that was launched this week is grounded in the experiences of children and young people and makes significant calls for greater progress in education reform. I am very concerned about the range of vulnerabilities that children are facing and how those are not yet being systematically understood, planned for, supported or resourced across education settings. I have called for a commitment from the Scottish Government and education authorities to redesigning a truly inclusive system with children and young people at the centre.

As the committee will know, my office has also raised concerns across the years on the use of restraint and seclusion. Over the past year, we have continued to hear from young people and families about the extensive use of restraint and the harm that it does to children and young people. I am grateful that the committee will soon be considering Daniel Johnson's Restraint and Seclusion in Schools (Scotland) Bill. I am asking the Scottish Government and Parliament to consider all forthcoming legislative opportunities—such as the proposed Promise bill, the Education (Scotland) Bill and Daniel Johnson's member's bill—to bring greater legal protections for children and young people across all settings.

The committee will be aware that, with the incorporation of the United Nations Convention on the Rights of the Child, my office has been granted

new legal powers. That is the biggest change to my office's role and powers since it was created, and we have been making good use of those powers since they came into force in July last year. I would love to share with the committee the learnings so far, along with plans for the future.

We have also been undertaking extensive work to ensure that we are hearing and acting on the views and voices of children across Scotland, including those whose rights are most at risk, such as children in insecure care, children distanced from mainstream education and children with long-term health conditions. I am keen to share what we have learned from this work, how we have approached it, and where we continue to see the need for more systematic approaches to embedding participation into institutions and systems. We have also been developing work with my young advisers to develop an impact framework model that allows children and young people to determine whether we are delivering our work well, and that of course allows MSPs to appropriately scrutinise our work and impact.

UNCRC incorporation was a landmark moment for children's rights in Scotland, but there is much more to be done. The other priorities that children have asked me to focus on are poverty, mental health, climate change and discrimination, which are all very broad areas. I have shared with the committee in a written submission some information about what we have focused on within those themes so far.

Throughout all the work that we do, we continue to promote children's rights and to push leaders and duty bearers to go further in their proactive and positive duties to children and young people.

Thank you again for inviting us. I look forward to sharing our work with you and exploring the issues in more detail.

The Convener: Thank you for that opening statement and for your written evidence, which was very helpful, and the report that was published at the beginning of this week. What were the main findings of that report? Will you outline some of the top issues that you think that we should be looking at?

Nicola Killean: Absolutely. The report that was published this week, which is based on the views of children and young people, shows clearly that the current education system is not working for all children. The most important thing that I was keen to draw out in the report is how it feels to be a young person, and to be impacted by a lack of support and the pressure and stress that the current system places on children and young people.

As you all know, all children have a right to an education that develops their full mental and

physical abilities, personality and talents, but many children and young people are not currently experiencing such an education. The report calls for change across the areas of culture, curriculum, personalisation and support, exams and qualifications, and purpose. Fundamentally, one of the primary recommendations calls on the Scottish Government to lead a full redesign of what support for children and young people across our education system should look like, to work with education authorities and to put children and young people at the core of that work.

We recognise the work that has been done to date, but that work has not looked at resource. The report says that that work needs to start now. Right now, children and young people across our system are not able to access the full support that they need. That they should be able to do so is a fundamental recommendation.

We have also made recommendations about the fact that children are still not able to access their choices when it comes to what they want to study. In relation to the curriculum, we are seeking increased participation so that those voices can be heard. We also want a full audit to be conducted so that there is a good understanding across Scotland of where and how children and young people can access choices. There is also a need for investment in digital opportunities to enhance that provision, when it is not possible to access it on site.

The exams and qualifications system needs to change. Members of the committee are all well aware of and sighted on Professor Hayward's report. Reform has not taken place at sufficient pace and the Scottish Government has not been fully committed to implementation. In our report, we make a clear call for full implementation of that and a clear implementation plan.

On culture, we come back to the issue of support needs. As well as calling for greater participation for children and young people, we call for more work to be done to support a wider culture of understanding needs and the breadth of vulnerabilities. That links back to the need for a redesign of support. We need to ask, "What is the profile of our children and young people? How is that fully understood?", and to start the work to consider what the system needs to look like in the future.

The Convener: You have brought some new issues to the fore, but a lot of what you speak about has been raised in the past. How frustrated are you that, in 2025, we are still discussing and debating barriers that children and young people face in education and wider society?

Nicola Killean: It is very worrying that there are children and young people in our education

system who cannot access the support that they need, who feel misunderstood and who feel very vulnerable in that system. The report says that we need to move on, because that has to change.

There are recommendations that were made in Professor Hayward's review that can be fully implemented. UNCRC incorporation gives the Government a legitimate opportunity to recentre the purpose. Good work is being done as part of the curriculum improvement cycle, which can be built on. However, work needs to be done to consider what the footprint and the resource should look like and how we ensure that the supports and the infrastructure are in place not only for children and young people but for the professionals who work in the sector.

The Convener: On schools and the exam system, what is your view on the Education (Scotland) Bill as it stands? We will consider amendments to the bill when we come back from the Easter recess. Does the bill offer you any reassurance that things will progress, or do you think that the bill needs to do more?

Nicola Killean: As the committee will be aware, we supported the bill at stage 1. We believe that there needs to be a much broader focus on the priority of education reform, but we recognise that some legislative changes are necessary to remove His Majesty's Inspectorate of Education from Education Scotland. However, our report is about bringing everything back to the table and saying that we cannot ignore the fact that there are opportunities to create a new way of resourcing and putting in the supports that children and young people actually need. We recognise that legislative changes might be required; we will be looking at the proposed amendments and, once we have had the opportunity to review those, we will provide the committee and MSPs with a full briefing on them from our office.

Ultimately, we are calling for much more pace in educational reform, with a focus on who our children and young people are. What is the profile of our young people now, across all our settings? What infrastructure is currently in place? What is the gap between what children need and what we are delivering, and how do we get to a better place in the future in that regard? That will need to be accompanied by an investment plan in the future. We are not shying away from that—that is the work that I believe has to be done.

The Convener: You mentioned the Scottish Government and local government. I do not want to put words in your mouth, but do you think that the lack of progress and the fact that we have not done as much as we could in this area is down to financial resources, or is it because councils have fewer employees to develop and enact some of the policies? Where is the barrier to progressing

some of the aims that you set out your report, which your predecessors also highlighted?

Nicola Killean: There are many different recommendations in our report. We have directed some of them specifically at the Scottish Government and some specifically at education authorities and other key duty bearers, while others need collective action; I do not underestimate the complexity of that.

I believe that a full analysis of the resourcing and financial planning around that has not yet been done. We currently have professionals who are working very hard within a system and trying to deliver for children and young people, but we still have not looked at that picture.

We hear a lot of anecdotal responses about the profile of children having changed over time. My team and I have been spending a lot of time in mainstream schools over the past year, working with children and young people. We are beginning to visit additional support needs bases and connecting with children and young people in alternative education.

There are many complications in the world in which children and young people are living now, but the main action that has not yet happened is the work to ask, “What should this look like?” Rather than trying to solve all the issues with the current system, we should consider what it is that we need to have. We need to do that collectively.

Another big priority for me concerns the fact that children and young people have been further and further away from education reform decisions over the past few years. When the reports were commissioned from Ken Muir, Angela Morgan and Professor Hayward, I believe that those authors worked hard to engage with children and young people to build communities around the reviews and build consensus for the recommendations. As things have moved on, however, children and young people have become further away from the changes, so we need to put them at the centre—as Ken Muir said—and ask what infrastructure we need now and what it needs to look like for the future, for all our children and young people.

The Convener: Why have children become further away from those debates and deliberations? Is it because they are engaged when the reports are written but not in how the reports are then enacted?

Nicola Killean: Again, I have made a number of recommendations on how children and young people can be meaningfully and systematically embedded through a participation element in our institutions and systems. When we worked with children and young people, one of our findings was that participation, as a method of listening to children, engaging them and enacting their right to

have a say in decisions that are made about them, is still not fundamentally embedded throughout our systems across education.

That is another key priority. From the bottom up and the top down, we have made specific recommendations for the Scottish Government, the Scottish Qualifications Authority, as it moves to qualifications Scotland, Education Scotland, local authorities and schools. They all need to act on those recommendations and, wherever possible, utilise the excellent expertise and knowledge that exists in our third sector and youth work sector, which are very good at that and understand it well and meaningfully. Children and young people have very mixed experiences of participation but, to date, it has not been completely embedded institutionally and systematically through education as a system.

The Convener: You listened to the deliberations that we had earlier on an SSI, which the committee has now passed and which will now go to the Parliament. Do you stand by your words in September last year, when you said that agreeing those regulations, rather than having a universal approach to free school meals, will increase stigma for children in P6 and P7 whose families are in receipt of the Scottish child payment?

11:15

Nicola Killean: I had the benefit of listening to some of that conversation.

The Convener: Your ears would have been burning during part of it.

Nicola Killean: I need to be clear that, from a pragmatic point of view, if there is an opportunity for 25,000 more children to receive free school meals, that is a good thing. My position and that of the office is still that we should move towards free school meals for all children and young people. From what I heard this morning, the Scottish Government must seek continued reassurance that mitigations are in place to ensure that any stigma is minimised.

The Convener: That is where the committee got to with our deliberations. However, the cabinet secretary and one of the Government’s legal advisers were clear that there are already protections in place. Section 53B of the 1980 act means that local authorities have to prevent such stigma. Are there still examples of people being stigmatised for receiving free school lunches even with those provisions in place? I think that the cabinet secretary suggested that there should not be, but she could not tell us that there were none.

Nicola Killean: It is interesting for me that there are legal protections in place for children and

young people, but we know that they are still not applied consistently.

It is encouraging to hear about the progress that has been made in relation to free school meals, but more reassurance is required. However, it comes through in our report that, on many occasions, we have heard evidence from children and young people about the lack of consistency in approach across the school estate. You will see that in our section on culture. We share examples in which we know that protections should be in place, that there should be a culture that supports children in certain ways and that there are standards according to which all professionals should act, but children still experience inconsistencies.

That is why we have published the report. It says that we need to be honest and say that more has to be done to ensure that children and young people experience consistent standards and approaches. One of my key recommendations in the report is that children's vulnerabilities be understood in their fullest sense and that we have an infrastructure that is resourced and supported well to enable that to happen.

George Adam: On young people feeding into the process, we took stage 1 evidence on the Education (Scotland) Bill and kept hearing that the landscape is massive. We have parents, teachers and people in higher and further education. They all want some space and to be able to do what they need to do.

Of course, the fact that children and young people are part of that was brought up as well. We were told during the evidence that there was no place for children and young people to engage—no, to be more accurate, we were told that it would be better if we could find a way for them to engage more with the process. How do we improve that?

Nicola Killean: In a second, I will bring in Gina Wilson, who oversees some of our participation work.

Participation must be systematically embedded. There are lots of different models and ways in which children and young people can be engaged. There are good participation models that we can always point to, and we are increasingly being asked to point to them, which is a good sign. However, participation should be continuous and should particularly involve children who are further away from their rights being enabled because, if we are looking at improvements and changes, it is most crucial that we hear the voices of the young people for whom education is not working. However, the approach must be systematic.

George Adam: We used to talk about hard-to-reach parents and children. We do not use that language any more, but those are the ones who

are not engaging. Mums and dads are not joining the parent council and are not engaged with the school. I agree that those are the people we need to get to. How do we get to them? How do we get to the young person who might be bright and gifted but is from one of the poorer areas in Scotland? We are not even getting the chance to give them the opportunity of a university place because, even from primary school, it becomes challenging and difficult for them.

Nicola Killean: I will bring Gina Wilson in, in a second, but I point to some of the work that we have done during the past year to ensure that we hear from children and young people from a variety of backgrounds.

You mentioned the pupil council model. Historically, that has been a go-to in the education system, but it is actually quite an adult focused model that has been taken and implemented into a children's structure. We have to look at where children and young people are and go to them, and we have to consider models that are child friendly and age and stage and developmentally appropriate.

I will bring Gina in, because she leads on our participation work and I know that she would love to respond to that question.

Gina Wilson (Children and Young People's Commissioner Scotland): I will answer the question in two parts. The first part relates to the Education (Scotland) Bill and how we can improve participation, and the second part is about how we engage with those young people who are never going to join learner interest committees or governance groups because they will not engage in that way.

Throughout stage 1, we have been working with committee members on ensuring that children are better represented through the governance structures of the agencies that are included in the Education (Scotland) Bill. We have now started the analysis of some of the stage 2 amendments, and we can see different ideas that members have as to how children can be embedded into the governance structures of each of the agencies. We will provide a briefing to help members in their deliberations on that. We can definitely see progress in the ways in which those agencies are being designed to ensure that children have a meaningful voice in their governance structures.

On engaging with children and young people who are further from their rights and who will never be involved in the groups that I mentioned, each of the agencies will have to be resourced to do outreach work with those children and young people. We cannot expect them to come to the agencies. However, I note that some of the most important places for that to happen are not the

agencies that are included in the bill; they are the education authorities who are responsible for delivering education. That is where we need to see a significant change in the way that children and young people are involved.

To give you an idea of the resources required to do work of that kind, I will use an example from our work with six young people who have long-term health conditions. The course of that work was six months. Three months of that involved planning to engage with them, and during the next three months we visited those children and young people five times. We worked with them in the ways that they wanted to work with us, which were often quite different to what we anticipated. We sat alongside them and did crafting activities and we had elbow conversations with them to understand what their priorities are. Since we finished the five formal visits, we have stayed in touch with the children to ensure that they understand what we have done with the views that they gave us, and we invite them to keep talking to us about the things that matter to them.

An investment of time and resource is needed to ensure that the views of children and young people who are furthest from having their rights met are heard by organisations. We want to see that work take place.

George Adam: Work of that kind has happened all over the country, but St Mirren is the local football team in my constituency, and the local authority there has worked with it and with football camps and street football. I have been regularly to one of the meetings in a particular area of my constituency, and—for want of a better phrase—some of the young men turn up in all kinds of states, but they engage with the coaches because they want to. A former chairman said to me, “When are you going to second some educators and social workers to the football club?” That is not such a crazy idea as it was when he initially said it, because it goes back to your argument that that is where young people are.

It is about schemes such as that, which are more focused on the education side of things, and on getting young men—that is mainly who that work reached—away from being drunk on a Monday night, and about looking at education and at trying to engage with them.

Nicola Killean: To build on the point about going to where young people are, Gina mentioned some of the work that we have been doing with young people who are in alternative forms of education. We continue to progress that work to ensure that their views and experiences are captured and that we can use that information to ask for more change. One of the angles that we have looked at is connecting through youth clubs. If we go into a community and be with the young

people where they are, we can have conversations about their education in places where they are comfortable, where they feel relaxed and where the conversation is on their terms. As Gina mentioned, it is all about our going back, and going back again, because some young people might not feel comfortable and confident about sharing on the first or second occasion. It is also partly about our saying, “This is why we’re here, and this is what we would like to do with this information.” That sort of thing takes time.

As a result, our recommendations on participation go absolutely across the board for each layer of education. One of our strong recommendations is, as I mentioned earlier, for education to connect with youth work services and the third sector to gain from their learning, where that is helpful. However, as Gina said, resourcing will need to be looked at to ensure that investment is made and the infrastructure built.

That is also one of our recommendations to the Scottish Government. We are looking for a much stronger, on-going and long-term commitment from the Scottish Government’s education department to working with children and young people, with on-going participation and consultation work when it creates action plans and make policy decisions in future, to see how it is acting on recommendations and feeding back to young people.

George Adam: Programmes are already happening with third-party stakeholders, one of which is the work with young women that the SFA and the Union of European Football Associations are doing with Disney. Football is not part of that; I think that it is called “Disney Princesses”, or something like that, but it is about the whole experience and getting young girls into a room to talk and do things generally.

All those schemes are happening, but as far as I am concerned, the issue is very similar to what we were talking about in our previous conversation; it is all about getting the data and information together so that we can get to and engage with these young people and move on such ideas, so that we will not be sitting here in for four or five years’ time, saying, “We can’t reach these young people.”

Nicola Killean: Absolutely. I come back to one of my first comments on the key recommendations in the report. Obviously, we have focused on participation, but another key recommendation is about discussing who these young people are, what their needs are and what the infrastructure needs to look like in the long term. That is why, when I am asked about who should be involved in that discussion, my answer is “children and young people”. Of course, it will also involve our educationalists, as we understand them, within the

main infrastructure, but we are saying that we should also be involving our allied health professionals, our youth work leads and our third sector organisations in the conversation because we need to capture the expertise that is out there, as well as the ambition that exists for children and young people, and design an infrastructure that benefits from all of that.

George Adam: Thank you.

Jackie Dunbar (Aberdeen Donside) (SNP): Good morning. Following on from George Adam's questions about hard-to-reach children, I heard you say earlier that you were engaging in mainstream schools. Have you done any engagement with our non-attending children? Before I came to the committee today, I did a little bit of digging and saw that the Children's Commissioner for England has recently done a report on England's missing children. I thought that it was really good. Are you thinking of doing a piece of work like that, too?

Nicola Killean: We have first of all been looking at children and young people in mainstream and additional support needs settings and children in alternative forms of education. As I said, we are starting to go out into youth groups and communities, too. In those areas, we are starting to talk to and pick up those children and young people who might not be attending school at the time and trying to understand why that is.

With regard to the work of the Children's Commissioner for England and our work, each of the commissioners has different powers. As for the nature of that work, the data that the English Children's Commissioner was looking at is already held in Scotland and can be analysed at Government level, so it would not be necessary or appropriate for us to pick up on that. I also know that the English Children's Commissioner is starting to do some more of the qualitative work that we have been focusing on.

The main question for me is: if children are not attending, why are they not attending and what do we have to learn from that? I have had some conversations with Education Scotland, because I understand that this is a priority area that the Scottish Government has asked that organisation to look at. Again, I am waiting to hear back from it; I have asked whether children and young people are involved in the work that has been asked of local authorities, because we have to understand from the children and young people who are not attending, why that is the case.

Jackie Dunbar: Are you saying that you have not managed to involve them directly in this piece of work? I am sorry—I am not trying to put words in your mouth.

Nicola Killean: No—that is okay. We have involved some children and young people; however, we were looking at children who were potentially not attending but who might be beginning to re-engage in terms of their attendance.

I will bring in Gina Wilson, as I think that she wants to talk about this, too.

Gina Wilson: We have engaged with some groups, and specifically non-attenders, as it was important for us to hear about their experiences. We have clearly heard from them that their support needs are not being met in school, which is a large driver as to why they are not attending.

11:30

One of the recommendations in our report is that we would like the Scottish Government to invest in meaningful research to understand all the reasons why there has been such a drop-off in attendance among children and young people. We can highlight some of the areas, but a systemic understanding of why children are not attending and what we can do to address that is needed.

Jackie Dunbar: You have said that you are talking to groups, but there are a lot of non-attending children who are like I was, I must admit, in third year: I did not go to any groups, stayed at home and did not connect with anybody. How are you reaching those children? They tend to be the most vulnerable. They might have issues at home, or they might just come from disadvantaged backgrounds. They are the folk who are hardest to reach. As Willie Rennie always says, how do we get the voice of that little boy in the classroom heard—even if he is in the classroom?

Nicola Killean: Ultimately, we will get those children's voices heard through systematic participation and engagement at every level. We have been doing some work in this area, as Gina Wilson mentioned; we need that work to be embedded at education authority level and school level, and at the Scottish Government and Education Scotland as well.

We will continue to connect with children and young people. I met a young person yesterday, and they shared with me their story of how they are now connecting with a group, with engagement around education, although they had not attended school for three years before that. The support that they had been offered by their education authority for those three years consisted of being sent assessments for them to complete.

We continue to gather stories about such issues, but that work has to be done systematically.

Gina Wilson: We hear from individual children, too. We do not want to claim that we are hearing from all children who are not attending. That would not be accurate. Even in the past few weeks, however, there have been instances of individual children contacting our office, often supported by advocacy workers, because they want to share with us their story of why they are not able to attend school.

The commissioner had a very powerful meeting with one of those young people recently, in which we heard some alarming things about what had happened to her. Without wanting to pip the report before it is out, we are working on something with Who Cares? Scotland and its advocacy workers, who are supporting care-experienced young people, some of whom are not attending school. We are trying to reach individual young people who are experiencing all sorts of issues and not attending, so as to understand the causes.

Jackie Dunbar: If I can go to—

The Convener: Before that, Clare Haughey wishes to come in on this point.

Clare Haughey: I am a bit concerned about what I am hearing about your not seeing this matter as a priority, given that education is one of your strategic priorities in your plan for 2024 to 2028. Do you not see yourselves as having a role in looking at school attendance in more depth, in the way that the Children's Commissioner for England has done?

Nicola Killean: My concern is about why children's needs are not being met. Children not attending school is a symptom of that. My recommendation, first, is that part of ensuring that education, as a whole system across Scotland, is able to understand why those children's needs are not being met is to engage with them and talk to them. As part of the first year of—

Clare Haughey: An advocacy role, speaking up on behalf of those children? Am I wrong in that?

Nicola Killean: The role of the Children and Young People's Commissioner is to promote and protect children's rights. We have been taking a systematic look at children's experiences across Scotland. Our recently published report is the first report and, as Gina Wilson mentioned, we are about to publish another report very soon on care-experienced children and young people.

My message is clear: children's needs are not being met within the system right now. That includes children who are currently attending, children who are attending and have been put on part-time timetables and children who do not feel able to attend school.

Clare Haughey: I am sorry to interrupt you. I will come back in with other questions later, but

my supplementary question was specifically about school attendance, which the committee has voiced its concerns about. I am concerned that you do not see that as an area that you should be looking at in depth. However, I will leave it there, convener.

The Convener: We go back to Jackie Dunbar.

Jackie Dunbar: My next question is about military children; you touched on them. We have two different kinds of military children. First, we have our serving military families who move every couple of years and the children have to move schools. What could be done to ensure that their education continues and does not go all over the place? Secondly, we have our veterans' children, who are used to moving every couple of years but are suddenly put into a school permanently when mum or dad leaves the military. That is a huge change for them. What needs to be put in place to ensure that their needs are met?

We also have—I apologise for going off on a bit of a rant—children who have serving parents who might be away for months at a time. What can be put in place to ensure that they are emotionally supported?

Nicola Killean: I am asking the Government to tackle all those points. We have so many different groups of children and young people who have particular experiences, and many of them are saying that the current system is unable to meet all their needs. I have met children and young people who have talked about the experiences that you describe and have mentioned anxiety and mental health concerns relating to parents who are deployed. They have also expressed worries about changes, records not being maintained, transition planning not going particularly well, and being unable to get continuity of understanding about diagnoses. For some children, a move might mean that they go back to the beginning of a waiting list to get a diagnosis.

I am fundamentally concerned about all those issues for children and young people, and I am concerned that there is not widespread understanding of them across the board. That is why we are saying that we need to address the issue now for all children and young people. We need there to be an understanding of the profile across the board and what a long-term plan looks like, and we need to have an infrastructure, a system and a workforce that understands that and can put those supports in place.

Jackie Dunbar: As yet, there are no recommendations on how that could be done. You are just asking the Scottish Government to deal with it. Is that correct?

Nicola Killean: The Scottish Government is the key duty bearer in relation to the delivery of

children's human rights, so we are asking it to act now on the numerous concerns that have been raised—which I can see are also held by members of this committee—about the unmet need in our education system. Our recommendation is that the Scottish Government takes leadership and drives forward action to address the gap between children and young people's experiences and the infrastructure that is required.

Jackie Dunbar: Okay. I will move on to my final question. What challenges have you faced in tracking actions and outcomes following Government or public body commitments? Why do you believe that the process is more complex than it should be?

Nicola Killean: I will comment on that in relation to our priority area of children's and young people's mental health. Many of you will be aware that, in 2023, the young advisers to the Children and Young People's Commissioner Scotland carried out an investigation—we believe that it was the first time in the world that young people were able to use a commissioner's investigation powers—into the counselling support that is available to children and young people in schools. Based on that work, they made some recommendations, a number of which were directed at the Scottish Government. However, we were disappointed by the response.

We have also been looking at why, when recommendations are made, not just by us but by external organisations or commissions, and particularly when children and young people have invested a lot of time, energy and passion in sharing their experiences, there is a lack of clarity about commitments. That led us to the piece of work that we have commissioned with Young Scot and Scottish Action for Mental Health to take the youth commission on mental health's recommendations and to make a tracker for them. I will bring in Gina Wilson to speak about that.

Gina Wilson: As the commissioner said, our initial focus is on mental health and tracking what actions have been taken when recommendations have been made. One of the immediate challenges that we have faced is that, often, when recommendations are made, another committee is set up to look at the issue or another review group is created to progress what has happened, which makes it very difficult to map a single recommendation's path over several years to see who did anything with it, whether any budget was assigned to it or whether there was any outcome from it.

Having spent several months trying to track those outcomes for mental health matters, we have taken the step—which the commissioner described—of commissioning a deep dive to look at nine specific recommendations around mental

health. Then, we will make some recommendations for the Government and other bodies about how to increase transparency about the actions taken on recommendations so that children, young people and others can meaningfully track whether they have been delivered.

Jackie Dunbar: You have said that you are looking at the recommendations. If you are not making recommendations yourself, how can you be part of the process and say whether bodies have gone and done each recommendation? I am confused, to be honest with you.

Gina Wilson: I did not describe that very clearly—I apologise. I am talking about recommendations that have been either made or accepted by the Scottish Government, the Scottish Parliament or local government. They are not our recommendations per se—although some of them will have been—but are recommendations that have been accepted by the Government.

Jackie Dunbar: The commissioner said that the recommendation was that the Scottish Government should basically just get on with it. I took that to mean that you had no recommendations moving forward.

Gina Wilson: No—that was in reference to the armed forces families that you were asking about.

Nicola Killean: That was in reference to the questions about armed forces families and the challenges in the education system. We published a report on Monday that—

Jackie Dunbar: I want to ask you about the attendance part of it as well.

Nicola Killean: Yes. My view on the responsibility of the Scottish Government is that it needs to provide the leadership, have the accountability and consider what an education system needs to look like to meet the needs of all the different groups of children and young people within it.

My colleague Gina Wilson was answering a question that is more related to tracking accountability and how, once recommendations are made and are in the system, the progress on them can be more easily understood.

Jackie Dunbar: I will leave it there, convener.

Miles Briggs: Good morning. I have a related question about the trends that you have identified in relation to barriers and gaps in knowledge in Scottish public services, specifically ones that affect the realisation of children's rights and outcomes. I will put two issues on the table: first, violence in schools, and, secondly, mainstreaming and the failure to meet children's needs. What

have you gathered from your work on that so far and from the work that you intend to do?

Nicola Killean: On distressed behaviour, I am clear that we need to address the fact that many children and young people are in a system that has not been designed to meet their needs and does not have the support in place to do it. Addressing that should be the priority. Those children and young people are being failed in the system, and other children and young people who may be exposed to that are bearing the brunt of the consequences. That is leading to a huge amount of pressure on professionals who are trying to meet the young people's needs in that system.

I know that we have touched on this a few times, but that is why one of our key recommendations is that there is a need for a fundamental redesign. That should not hold up the other recommendations about embedding participation and taking forward the recommendations of the Hayward review. However, there is a fundamental need to grasp the fact that the problem is about unmet need in the system.

Miles Briggs: Have you undertaken a piece of work specifically on mainstreaming? The subject of mainstreaming and the different needs of children was raised yesterday in Parliament. You have touched on additional support for learning—Audit Scotland's recent report on that was pretty damning. Are you likely to do a piece of work to look at the different models of different councils and how they are providing different outcomes?

11:45

Nicola Killean: Again, we will continue to visit and work with children and young people to look for good examples. We know that there is good practice, and there are very good examples. We will continue to look for those and draw them out.

In essence, the Auditor General has made a very similar recommendation to the one that I make today: there needs to be a new model, which needs to be looked at alongside the infrastructure and resource that are needed for it. Ultimately, the Scottish Government needs to lead on that and take it forward.

Miles Briggs: Ahead of your coming to the committee, I looked back at the November 2023 report that you commissioned into children in Scotland who are homeless—specifically, at some of the recommendations. Do you think that the Scottish Government has taken any of those forward?

Nicola Killean: I will pass to Nick Hobbs, who led on that work.

Nick Hobbs (Children and Young People's Commissioner Scotland): Are you referring to the human rights analysis report that we did on children in hotel accommodation?

Miles Briggs: Yes.

Nick Hobbs: We made a number of recommendations about the way in which duty bearers—principally local authorities but also the Scottish Government—should ensure that decisions about placement in temporary accommodation are made in ways that respect children's rights.

A few weeks ago, I was at an event at which Shelter Scotland presented its own research on temporary accommodation—which, unfortunately, suggests that not enough has changed in that regard: children are still being placed in hotel-type accommodation, or other unsuitable forms of temporary accommodation, in ways that violate their rights.

Miles Briggs: I was at that event, as were other MSPs. A record number of children—upwards of 10,360—are now in temporary accommodation in Scotland. Thirty-five per cent of those—more than 3,600—are in the City of Edinburgh Council area. The negative educational impacts are clear, but we have not seen policy in that area—for example, on children moving between schools. Has there been any engagement between you and the Government on the clear recommendation that that should not be happening?

Nick Hobbs: We have had no direct engagement with the Scottish Government on the broad issue of temporary accommodation. We have had some conversations with various parts of the Scottish Government specifically on unaccompanied asylum-seeking children. There has been positive discussion in that area, although, it is fair to say, significant challenges remain—not least, the availability of suitable accommodation, to begin with, before you even get into the decision-making process.

Miles Briggs: That may be something to return to, specifically in relation to educational outcomes. Given the direction of travel of those numbers and the Scottish Government's lack of progress, there should be standards for what those children should be able to realise, especially when it comes to education.

As you touched on in your opening statement, the commissioner has called for

“a coherent statutory framework on restraint and seclusion across all settings in which children are under the care and/or supervision of the State”.

What is the commissioner's view on the Restraint and Seclusion in Schools (Scotland) Bill? You pointed to support for that; however, it covers

practice only in schools. This question returns to my previous one, about considering the other areas and environments in which children are, in Scotland.

Nicola Killean: I am very supportive of the bill that has been introduced. We will continue to review it as it progresses, and provide MSPs with briefings. However, we retain the call for a statutory legal framework that covers all settings in which there are children and young people. Until we can see a future in which all that is in place, we will continue to have major concerns from a child protection and safeguarding point of view.

Nick Hobbs might wish to add something.

Nick Hobbs: I certainly would not want to be critical of Daniel Johnson for the scope of his bill. When you do something as an individual member, as opposed to having Government resources behind you, you need to be targeted in your approach. I entirely understand and support the position that he has taken on the scope of his bill.

In partnership with the Equality and Human Rights Commission, the Scottish Human Rights Commission and The Promise Scotland, we have asked the Scottish Government to look at legislative opportunities over the next wee while. That includes the Education (Scotland) Bill and the promise bill. In addition, the Government has made commitments—albeit that, to go back to the previous question, they are difficult to track—on the Scottish mental health law review, which also made recommendations about legislation in this area.

There is an opportunity to do a bit of joined-up government in order to align the on-going work and make sure that the definitions, legal tests and legal protections are consistent across all the pieces of legislation so that children get a consistent experience and consistent levels of protection. That requires the Government to join up the work, and we are not yet convinced that it has moved far enough away from what has historically been a fairly siloed approach to law and policy making in that area. We are continuing to push the Scottish Government on that.

Miles Briggs: That is helpful, thank you.

John Mason: To start with a fairly general issue, you probably know that the Finance and Public Administration Committee, of which I am a member, has been looking at commissioners as a whole—I think that you as safe, because the United Nations require you to be in place.

If we had not had a commissioner for the past 20 years, what would be different in Scotland today, or the other way round? What would you say if someone asked you what are three main achievements of the successive commissioners?

Nicola Killean: We have been engaging well with the Finance and Public Administration Committee throughout that process. The creation of the office of the Children and Young People's Commissioner's was a proactive decision by the Parliament to recognise that children and young people do not have economic or political power. The Parliament recognised that—you made the decision to put the role in place in order to promote and protect children's rights in the long term.

The incorporation of UNCRC into Scots law has to be one of the most important elements that has moved us forward. Over a number of years, the office has also been significantly involved, alongside civil society and children and young people, in laws and legislation that have been put in place. We have an improving culture in which children's rights are being recognised and understood. We continue to see that: people are no longer just talking about whether children should be involved in law making, policy decisions and practice decisions. Even today, I have been asked questions about how children can be involved.

Progress is being made on that, but many more rights violations are happening, therefore a lot more work is to be done.

John Mason: Would you argue that, if the commissioner had not been in place, children's rights would be further back and not improving as much as they have been, if at all?

Nicola Killean: Yes. The office has played a significant part in advancing children's rights in Scotland, but, moving forward, we still have a significant role to play.

John Mason: However, you would not say that there are specific things that have been done, such as there being a lot more schools, because you have been in place. It is more general and vague.

Nicola Killean: The commissioner's role is to promote and protect. Over the years, the commissioner's office has been very involved in pieces of legislation. We have already talked about how we provide MSPs with additional analysis from a children's rights perspective. We have new powers now, so we are able to bring proceedings to court on rights violations and give children more power.

Do you have anything to add on the historic impact, Gina?

Gina Wilson: Yes. I have a slightly dry but really important point. The tools of the UNCRC sit right at the heart of the Scottish Government in a way that they simply would not have done without our office. In 2006, we created the children's rights

impact model. The then Minister for Education and Young People asked the Scottish Government to look at how the Scottish Government could adopt a model around children's rights impact assessments. It took until 2015 for the Government to introduce the model, which shows the length of time that it takes for such things to happen.

However, we have now just had our first budget that had a children's rights impact assessment attached to it. Every single piece of legislation, strategic decision and Scottish statutory instrument has to have a children's rights impact assessment attached to it, so our office has made children's rights prominent and put them at the very heart of how the Government works, which would not have happened otherwise.

An important point to make is that we need to be clear about what the role of our office is in outcomes for children and young people. We cannot enforce decisions, do not direct services and are not responsible for population-level outcomes that are related to children's services, as is the case in health or mental health. The ultimate measure of a children's commissioner's value is their impact on the culture of respect for children's rights in society. If you look at where we are now compared with where we were 20 years ago, we can all agree that there is a marked difference.

John Mason: To give you your due, I think that it is partly because of the existence of your office that everybody is looking for a commissioner; they want to do what you do from their own angle.

You talk about listening to children. I was interested to read page 7 of the report, which says:

"In our strategic plan process, children and young people directed my office to make education reform a priority".

Is that how it works: you listen to a group of children, they tell you what to do and then you do it?

Nicola Killean: For our strategic priorities, we invested a lot of time and used different ways of working to ensure that we could engage a wide variety of children and young people. We reviewed 135 consultations that had taken place in Scotland in the past five years with children and young people. We created a new data-gathering tool and gathered responses digitally from around 5,000 children and young people. We created targeted engagements and conversations with children and young people who were more at risk of their rights not being enjoyed; we had about 20 of those online and in places where children and young people were.

I do not recognise the way in which you described groups of children and young people, because we undertook extensive consultation with thousands of children and young people. However, yes, this office is primarily here to work on children's priorities. Therefore, we try to look for data analysis and engagement with children and young people in a variety of different ways.

John Mason: I understand the engagement and the listening—there is a lot of that through the report. It was just that the word "directed" jumped out at me, because that is a slightly different emphasis. Rather than you listening and engaging, then assessing and going forward, "direction" suggests that they give you an instruction and you just follow it.

Nicola Killean: It is about prioritisation. We analyse what children and young people are saying and then we prioritise. That shapes our priorities and the choices that we make. However, there might be specific examples of a young person asking us to act on something. Again, that is why we have invested in our strategic priority work, so that we can consider whether something sits within the priorities that we have engaged with, or whether it is a rights violation that, if we can work on it, would make a strategic difference to more children and young people in the long term. I could bring in Nick Hobbs to talk about and explain some of our legal work, if that would be appropriate.

John Mason: I have one or two other issues to cover, if you do not mind moving on.

Every year, you meet the Scottish Parliamentary Corporate Body, which questions your budget and so on. We have noticed that your costs are up 20 per cent over three years and that your staffing costs are up 30 per cent over three years. Can you explain why that has happened?

Nicola Killean: I am absolutely committed, as accountable officer, to delivering our functions and our statutory remit as efficiently as possible. On staffing costs in particular, I note that, when I came into post, we added one additional role to the office, and we accounted for that by the fact that we were preparing for our new powers. We tried to offset that as much as possible with our running costs, in which you will notice a slight reduction.

The other increases relate to cost of living and national insurance increases. There was a pay re-evaluation, and a pay deal that was negotiated between the unions and the SPCB in 2023 has kicked in. Those increases were predominantly outwith my control.

If you do not mind, Mr Mason, I want to put this into a historical context. When our office was set up, the financial memorandum projected costs of

£1.21 million. Given where we sit now, if we had had only inflationary increases, our budget would be more than £2 million. In the context of the office having existed for more than 20 years, I believe that I and the previous commissioners have worked hard to keep the costs as minimal as possible.

John Mason: I am sure that everybody is very pleased with that—I certainly am. Dare I ask whether your resources are sufficient for what you feel you should be doing? I accept that everybody would like to do more and have more resources, but are you broadly in the right place at the moment?

Nicola Killean: We have more work than we are able to do with the capacity that we have—I have been consistently clear about that with the committee. That is why we need to prioritise, and why we have invested so much time in creating our strategic plan and being clear about what we would prioritise.

In addition, we are not even a year into having our new powers. As an organisation, we have committed to dealing with those powers as efficiently as possible, so we have been investing in staff training to build capacity in the existing team. We have also said to other committees, as well as to this one, that as we understand the new powers more and are able to utilise them, and as we get a sense of the possible volume of work, we might, in the future, return to ask for additional resource via the Scottish Parliamentary Corporate Body. However, we will build the evidence base to accompany that ask.

12:00

John Mason: You have mentioned resources generally, and have said that some of your asks—not for yourselves, but for schools, in ASN and other areas—would require more money. Linked to that, there have been a few comments about young people being more involved in budget processes, by which I think you probably mean at local authority level. What do you mean by that? If more resources are required for schools, do you think that there is currently a bit too much for universities? Do you have any ideas about where that money would come from?

Nicola Killean: If you do not mind, I will answer that and then pass to Gina Wilson to chat a little bit about children's rights-based budgeting to give you a methodology and a process for that.

With regard to investment in additional support needs and the education infrastructure that is needed for the future, we first have to understand what that needs to look like. What is the profile of our young people, what resource is required and

what is the gap between what we have right now and what we need?

I recognise that we will need an investment plan, but we cannot overestimate the cost of failure right now. A number of weeks ago, I met another young person who had been attending primary school part time; the family had removed them from secondary school, because that school was not able to meet their needs, and their experiences had been horrendous in that space. That family was now considering whether a parent would have to give up work to be able to support the child. I am hearing more and more of that sort of thing happening across the country.

My main message is that we need to start the work on understanding the gap between the money that is there and the money that needs to be there for education as a whole, but we cannot overestimate the hidden costs across the system, both in families and in the many ways by which other services are trying to pick up and support children and young people who are not having their needs met in education. I appreciate that—

John Mason: I will not ask if you think that we should raise taxes in order to get more money, because I suspect that you will not answer that question.

Nicola Killean: If you do not mind, I will bring in Gina Wilson at this point. We recognise that we will always be pitched against other services—services will always be struggling in terms of which one should get the money over another. There is, therefore, some work happening on children's rights-based budgeting, where we believe that there is important learning to be had.

Gina Wilson: I have mentioned that the Scottish Government has produced the first child rights impact assessment for the budget that we have just had. It is the first of its kind. There is a lot of learning still to be had from that with regard to how to make the most of the children's rights budgeting approach, but it is a first step.

We would really like to see that process drop down into local government, too, which is where so many of the spending decisions around children's services are made. One of the things that we have been looking at is the extent to which local government feels that that it has the skills, knowledge and understanding to be able to apply a children's rights budgeting lens to the decisions that it needs to make, because that can help it to prioritise spend.

I completely recognise the issue that you raise: there is not a limitless amount of money, so how do those who make the budget decisions decide on how to prioritise the allocation? Some of the children's rights budgeting tools—and human rights budgeting in its entirety—can help with

some of those decisions. We are keen, alongside others such as the Improvement Service, to see what support we can give to local government and others who are faced with those really difficult decisions to enable them to use some of those tools to help them assess where investment needs to be prioritised.

John Mason: That was helpful, and it ties in with our recent online session with care-experienced young people. They said that they quite often came up against the “not enough money” thing.

The Convener: I call Clare Haughey.

Clare Haughey: I think that it was Gina Wilson—or it might have been you, commissioner—who said that children’s rights have been put at the heart of Government. You have also talked about children’s rights-based budgets. As it stands, the budget for 2025-26 is £1.78 million, which has increased by 20 per cent since 2022-23.

If you have achieved all that, why do we still need a children’s commissioner? You will be aware that another committee in Parliament—the SPCB Supported Bodies Landscape Review Committee—is scrutinising all the commissioners in Scotland, of which we have many more compared with countries with a similar population. I am keen to learn why we still need you, if you have achieved so much.

Nicola Killean: We are pleased with the progress that has been made in how children’s rights are recognised and discussed. As Gina Wilson has mentioned, we are pleased, too, that child rights impact assessments are now being utilised across Government.

However, UNCRC incorporation was only the beginning of the process; there is much more to be done in the long term to work towards our country being one in which all children are able to enjoy all their rights.

Clare Haughey: So, in practical terms, why can you not do that?

Nicola Killean: The Children and Young People’s Commissioner office has been given specific functions that are different from parliamentary functions. We have been given the functions to enable us both to promote children’s rights and to protect them. For example, our new powers include using strategic litigation to challenge situations in which systemic issues have not been addressed.

We should celebrate the progress that has been made, but we absolutely cannot shy away from the fact that the rights of many children and young people across Scotland are being breached and violated every day. We need to have better

services and infrastructure to address that situation, so there is a long way to go.

Clare Haughey: I am looking for practical examples of what you will do, as commissioner.

Nicola Killean: First, we will continue to raise the issues that children and young people experience. Part of our role is to work alongside them, gather research, make recommendations and bring them to Parliament so that it can consider change. At this point, I would like to bring in Nick Hobbs to say a little about how we have started to use our strategic litigation powers.

Clare Haughey: I am just looking for specific examples. You say that you are starting to use those powers, too, so that is fine.

When I use the term “commission”, I am not targeting you personally. Do you think that the commission itself represents value for money? Can you justify your existence to the Scottish taxpayer?

Nicola Killean: Yes. I believe that the office provides a good, efficient public service. When I recently spoke to another of the Parliament’s committees about those issues, I mentioned our work in going to places where children and young people are having difficult and challenging experiences.

As I touched on in my opening statement today, we have been out to meet all the children who are currently in our secure care estates, and we are also going out to communities to gather evidence from children and young people. I do not think that we can overvalue how children and young people feel, knowing that the Parliament has allocated a children and young people’s commissioner for them—that is, someone who will capture their testimony and ensure that it is brought back to you as members so that you can hear this difficult evidence about the changes that still need to be made. It is important that young people know that they will be listened to about their experiences, some of which have been very difficult and should not have happened, and that their views will inform and shape change.

As I have already mentioned, the commissioner’s office has worked on laws that aim to better protect children’s rights, which are now in place. We now see various tools in place that are being used by the Parliament and local government. As Nick Hobbs will say in a second, we now have new powers that we can use to bring strategic litigation cases in the courts.

Clare Haughey: You have given concrete examples of things that the children’s commissioner will do that will verify and justify its continuance.

I will leave it there for the moment, convener, but I might come back in later.

George Adam: You will be aware of Mr Mason's and Ms Haughey's observations on commissioners in general and the amount of them that we have. Currently, Scotland has the equivalent of a rather large MGM musical chorus line of commissioners, while comparable nations—I am thinking of Ireland—have centralised the many commissioners' offices into, say, four main ones. New Zealand, which has a population of 5.2 million, has a children's commissioner, but it is proposing to merge its office with one of its three other bodies, and Denmark has done the same and consolidated them.

I am just saying that we do things differently. Could your office make an argument for working within a consolidated grouping, which would keep the parliamentary authorities happy in their ongoing look? That might take you away from political questions about the office costing quite a bit of money and people asking whether there might be other ways of managing things. Could such reform be considered? I know that I am almost asking for turkeys to vote for Christmas here, but could that be a way forward?

Nicola Killean: As I expressed to the other committee that is looking at the landscape in detail, we are committed and will continue to be committed to exploring the sharing of services and how we can do that with other office-holders. We will continue to look at how we ensure that we provide best value for money.

However, children and young people should not have to navigate through other organisations and systems that are created predominantly for adults. This is the only office-holder that is there just for children. The Parliament recognised the need for that when it created the office, and the need for that has not changed. I would therefore be opposed to any suggestion of a merger. However, we would certainly work co-operatively and look for any opportunities to have shared services.

George Adam: One of the examples that I gave was the children's commissioner in New Zealand, which exists separately but will be merging with others. Other countries that have similar values and ideals to ours are clearly having these conversations. You will understand why the public will be asking some of the same questions that Ms Haughey has asked about what you are delivering. I am all for delivery, and if I can find a better way to get you to do the work that you need to do, I would be all for having that conversation.

Nicola Killean: On the point about international models, our model in Scotland is held up as exemplary, so any change involving a merger would be a regressive step for Scotland. However,

I have to stress, as I have to the other committee, that the important question is not whether it could be possible but whether it should be done. Is it in the best interests of children to consider absorbing their organisation into a bigger one? That would put more barriers in place for them in accessing their commissioner and being able to navigate that system.

George Adam: Thank you.

Pam Duncan-Glancy: Good afternoon to the commissioner and the others who have joined us. Thank you for all the work that you do. It is of huge value to children and young people across Scotland, and I appreciate it.

The report that you published at the beginning of the week is particularly instructive, and some of my questions will relate to it. I specifically want to ask about ASN. In the report, you say that you have intervened in some ASN tribunals. Will you tell us a bit more about the cases where you have intervened?

Nicola Killean: I will bring in Nick Hobbs to talk about our strategic litigation.

Nick Hobbs: It took a little while for cases to start coming through after the provisions in the United Nations Convention on the Rights of the Child (Incorporation) (Scotland) Act 2024 were brought into force in July. That is as we would expect, as is the fact that a significant number of the cases that have come to us have been in the additional support needs tribunal—that is not a surprise. At the last count, there have been eight cases that we have been notified of. We are required to be notified about every UNCRC issue that is raised in a court or tribunal in Scotland. In four of those cases, we have intervened on things such as part-time timetables and access to remedies.

The challenge that we have had is that, in each of those four cases, the local authority settled the case very shortly after we intervened. We have not yet been able to get to the point of receiving a judgment. Again, that is not a huge surprise. I suspect that very few local authorities are keen to be the first to be subject to an ASN judgment in which the commissioner intervenes. However, that has prompted us to think about how we can make the legal arguments that we have developed for some of the cases more widely available to children and families and to solicitors who are working on those cases. That would allow people to get an individual outcome in those cases—if not the strategic outcome of a decision—without us needing to intervene in every single case that comes before the tribunal.

Pam Duncan-Glancy: That is helpful—thank you. You mentioned that a couple of the cases that you have looked at were settled so they did

not necessarily change policy or strategically change the picture. Will you tell us a bit on the record about what you were concerned about and what you saw happening?

12:15

Nick Hobbs: I can talk broadly about the issues. Obviously, I have to be careful about privacy rights and going too far into the detail involving individual children, but there are issues that the committee has picked up on in the past. A couple of weeks ago, you were talking to the minister with responsibility for the Promise about part-time timetables. An issue that came up was the educational provision that was being provided to children on such timetables and whether it was delivering on the child's right to education—

Pam Duncan-Glancy: On that, in the report that was published earlier in the week, the commissioner mentions concerns about informal exclusions. Would you consider that to be an informal exclusion?

Nick Hobbs: Yes. There was another case that touched on that issue, too. I am trying to be careful about the details, but the nature and extent of the educational provision that was being provided to the child in question—that is, whether they were engaging in education in the company of other children or whether they were effectively receiving entirely separate provision, albeit within the school estate—was, in effect, an exclusion given the way in which the child was experiencing it. That is very much a concern for us in the cases that come before the tribunal.

Pam Duncan-Glancy: I am sorry, but I think that I stopped you as you were discussing some of the cases. Are there any other examples that you can put on the record?

Nick Hobbs: Those are probably the two in which the committee has taken the most interest in the past and, indeed, the two that are easier to discuss, in that they represent a broader and easier-to-articulate issue and do not require having to go into details, which might risk violating the child's privacy.

Pam Duncan-Glancy: Thank you. For the record, will you also set out how you choose the cases that you intervene in?

Nick Hobbs: We have two decision-making processes, one of which was developed with experts in children's rights litigation at the University of Nottingham. They were drawing on global experience of child rights litigation, and we developed a decision-making toolkit with them and with the involvement of some of our young advisers. That toolkit not only sets out the way in which we make decisions about the cases that we

take, but holds us to a commitment to litigate in a child rights-friendly manner.

More recently, we have developed a sifting tool. When a case comes in, it goes through a very quick sift process to see whether it falls within the scope of the legislation, whether it is an issue on which we can apply our legal powers and so on. There is a whole set of criteria that allows us to make quite quick decisions as to whether we can intervene in the case, and then we move on to questions such as whether we should intervene, whether the case raises a strategic issue and what kind of outcome we might seek to achieve.

Pam Duncan-Glancy: Are you able to share that sifting tool with the committee, or would that be difficult?

Nick Hobbs: I can go back and check, but my gut reaction is that we could certainly share elements of the toolkit.

Pam Duncan-Glancy: Thank you.

The Convener: Just before we move on, is it not a good thing that some of these cases get settled before families and young people get taken through a court process? After all, if local authorities are willing to settle, they are accepting that there are issues in some cases.

Nick Hobbs: It is certainly good for the individual child, but the problem is that we tend to see the same issue come up over and over again. What it does not allow is—

The Convener: But it should not be impossible to learn from such cases just because they have been settled. I understand that you will not have the full extent of, say, a debate and a determination, but surely there will still be learning to take from those cases that can be passed on to other authorities—or is that not happening?

Nick Hobbs: It is not happening. If we do not have a formal decision by the tribunal, we do not have something that can be disseminated. Instead, we have an agreement between the local authority and the individual child and family. We are looking at whether we can take the legal arguments that we have put together with regard to the principles that apply to these kinds of cases and make them more widely available. That might help to do what you are asking about, which is to try to ensure that we do not see an endless cycle of cases that get to the door of the tribunal and then just get settled.

The Convener: I am sorry, Pam. Back to you.

Pam Duncan-Glancy: That is okay, convener. I was about to make a similar point. Nobody really wants to end up at a tribunal. Parents, local authorities, young people and even you, I am sure, do not want to end up there, but the reality is that,

in some cases, that is what needs to happen. That mechanism is there because there must be something that enables people to uphold their rights. Are you considering what you can do to bring some systemic policy change to light, in the absence of what might otherwise be a relatively valuable legal ruling?

Nick Hobbs: In the past, we have produced what we call legal briefs, which are an articulation of the commissioner's legal position on a particular issue based on our analysis of the law and sometimes, where the matter is particularly complex or difficult, the opinion of counsel. One option that is under consideration is whether we can take some of the positions that we have developed and turn them into public-facing legal briefs that can be provided to solicitors—or even to children and families—who can then take them into the discussions that they have with local authorities before they get to the tribunal. They would be able to say, "Here's the commissioner's position on this, here's what the commissioner says the law is and here's what's going to be brought up if we get to tribunal, so maybe we could try to avoid getting to that point in the first place."

Pam Duncan-Glancy: I think that that would be really useful. Any update that the commission can provide to the committee in that respect would be helpful.

Members in the room and across the Parliament recognise that parents are genuinely struggling and that, much of the time, they just do not know where to turn. Parents will say, "This is what I want" or "This is what I think we need" and there is a discussion with the local authority, but the next step is them saying, "I'm going to a tribunal because I can't get anything in between." What is the commission's view on how much support parents get from local authorities to enable them to understand what their options are, what the pathways are and whether they are available, and what other options exist, short of a tribunal, to try to come to a solution that meets the young person's needs and ultimately gets them into school?

Nick Hobbs: There is some information out there. There are civil society and third sector organisations that provide good advice and support for parents and families who find themselves in that situation.

We do see cases in which families feel that they have no alternative but to turn to the tribunal. They are not able to agree with the local authority, for whatever reason, the level of support that needs to be provided. We also know—I know that the committee has looked at this in various iterations in the past—that there is underuse of co-ordinated support plans, which are the legal mechanism for

ensuring that children get the support that they need. I think that that is sometimes a cause of families needing, or feeling that they need, to go to the tribunal system—

Pam Duncan-Glancy: On co-ordinated support plans, do you have any understanding of why there is such underuse? What is your understanding of that?

Nick Hobbs: I would be speculating, but there may be a lack of understanding of what the plans are for. There is also sometimes resistance or reluctance from local authorities to put them in place because they are legally enforceable. I think that there is an element of that.

With regard to barriers for children and families, there is a dearth of solicitors who work in the area. I could probably count on the fingers of one hand the ones whom we would signpost people to. Again, that creates issues around access to justice.

The president of the additional support needs tribunal has done an enormous amount of work in trying to ensure that the tribunal system is as accessible as it can possibly be to children and families without their requiring legal advice, but sometimes, in order for families to know whether they have a case and to understand how best to present it, they need to have access to a solicitor, and there is a challenge there.

Pam Duncan-Glancy: Forgive me for interrupting you previously, but I wanted to ask about co-ordinated support plans. Going back to the point about parents having information on options short of ending up at the tribunal, what would be the most useful thing that the Government and local authorities could do for parents to help them to navigate the system?

Nick Hobbs: Some additional clarity around the requirements on local authorities to carry out assessments, and how that assessment then leads through into the legal process, would be helpful. How does that lead through to entitlement to a co-ordinated support plan? What does the plan need to include and what rights come along with that?

You will appreciate that my focus is generally on the legal part of that, so that is what I think would be of most use. In the past, we have tended to focus on looking at the awareness of children and families, but I think that it is much more about being clear with professionals about what they need to do so that children and families do not need to be the ones who are identifying and asking for their rights.

Pam Duncan-Glancy: Does anyone else on the panel have anything to add on that before I ask my final question?

Gina Wilson: I have a short point on what the most useful thing would be for parents. I think that we are all of the same view that the help needs to come as soon as children, families and parents need it. They should be able to get access immediately, at the first place that they go to, whether it is the school or elsewhere, to the support that they want for their child.

Nobody wants to get to a point where they have to try to understand the law and look at what their entitlements are, but we hear that support of that kind is missing. There is not sufficient resource for it. I am talking not about the diagnostic stage, but about very early support for people to understand their child's needs and about what we can do, collectively, to better meet children's needs in education, a placement or wherever else they need support. We think that support at the preventative stage would be most useful for everyone.

Pam Duncan-Glancy: We have often heard in the chamber and other places—and parents have been told this as well—that a diagnosis is not needed for young people to get support, but in reality parents do need that. What is your opinion on that?

Gina Wilson: We would probably need a whole other meeting to discuss the issue of waiting lists, but we have concerns not only about mental health and neurodevelopmental diagnosis waiting times—which are wholly inadequate across the country—but about the waiting times that families face across all paediatric services before they can get access to professional support for their child's needs. We are very concerned about waiting times.

John Mason: In your report, you mention religion and belief, and specifically Islamophobia. I understand that the Young Scot "Truth About Youth" survey is due to be published today. Is that correct? You asked Young Scot to ask some questions on that subject in its survey. Will you say a bit about how concerned you are about that and where the concern has come from?

Nicola Killean: That goes back to one of our key priorities on discrimination, which young people asked us to look at. One of our statutory functions is to commission research to understand better how children and young people experience their rights. As you mentioned, we asked Young Scot to add a question about that subject in its survey. I ask Gina Wilson to comment on that, as she has had a look at the raw data.

Gina Wilson: The reason why we focused on that is that, when we were producing our strategic plan, there was an evidence gap in our understanding of children's experiences based on their religion and beliefs. We asked preliminary

questions to get a sense of whether there is an issue and, if so, what its scale is.

In the sample, 17 per cent of the children and young people—about 2,500—said that they experienced discrimination based on belief, but when we dig into that figure, it shows that 53 per cent of those children and young people identify as Muslim. That is by far the category of identity that experiences the most discrimination. Within the 17 per cent, 53 per cent said that they had experienced discrimination at school, college or university. Beyond that, it is online that they experience particular issues with discrimination.

John Mason: Is that discrimination coming exclusively from adults, or is it partly coming from young people?

Gina Wilson: That is a good question. It is a mix, but we will have to do much deeper work to try to understand it. Initially, we wanted to get a sense of whether it is an issue and, if so, what the scale and prevalence are. We now need to look at what is next.

John Mason: In my constituency, there are a large number of Muslim children. The number of Jewish children is smaller, but there is some evidence of Jewish children experiencing some antisemitism.

Gina Wilson: Unfortunately, that is the case.

John Mason: Will you pick that up as well, even though the number is small?

Gina Wilson: Yes. The number is smaller, but that issue is there. I cannot remember what the number is off the top of my head. We hope that that will be a focus of the task force on online harms. There is clearly an issue with discrimination based on religious belief, so we would like it to look at that.

John Mason: There will be a lot of different views among young people. Some are religious and some are not. Some follow different religions, and it can lead to practical issues; some would be more concerned than others about boys using girls' toilets or there being mixed toilets, for example. Are you thinking about going down the route of looking at more practical aspects, or is it just at a high level?

Nicola Killean: It is really too early to say. As was mentioned earlier, we have just received the very raw data and we are just beginning the process in relation to it. It is about looking at next year's plan, now that we have commissioned a number of pieces of research and done action research in different areas this year. Over the next month, we will be regrouping to ask ourselves what we have learned and to make some decisions about where to go next with some of those pieces of work.

12:30

John Mason: My final question is about young people taking part in worship in school settings. You have made some statements on that—will you summarise those? Is it a question of what is age appropriate: for example, if a child is very young, the parents decide, but, if they are 15, they should be deciding or at least having a major input?

Nicola Killean: In our response to the consultation, we said that our view was that the changes that had been made were not UNCRC compliant. That was our biggest concern—that they, in fact, took us further away from the UNCRC. Perhaps Gina would like to add something.

Gina Wilson: I am trying to think about how to answer that one simply. The proposals that have come forward would not give children sufficient decision-making power, which was the recommendation from the United Nations Committee on the Rights of the Child recommendation. We are trying to point out that the current proposal would not make sufficient change to be compliant with the UN committee's recommendations.

John Mason: The counterargument from some schools is that, if a school has a particular religious ethos, the family and the child have the choice as to which school to go to; if they go to a particular school, to some extent, they have to accept the ethos of that school.

Nicola Killean: We would still say that children and young people should have the right to have their view on religious observance heard and to be involved in decision making around that in ways that are relevant to their age, stage and capacity.

John Mason: We will come back to that next year, then.

Bill Kidd (Glasgow Anniesland) (SNP): Thanks for all the information that you have given us, which is very useful. Why are youth work and third sector organisations—which you have mentioned, and which you deal with a great deal—so important in ensuring that children and young people can be involved in decision making and in helping to improve the services that serve them?

Nicola Killean: Ensuring the participation of children and young people is a key part of what youth workers, in particular, are trained to do. In that sector, it is very much about creating an environment in which children and young people are part of a democratic process. That is fundamental in youth work. However, that is not necessarily something that professionals in the education sector are trained in, going right back to initial teacher training and probationary training.

We want the education system to progress towards having a meaningful understanding of what participation looks like, how it can be enabled and how it can be child friendly and age-and-stage appropriate. However, it is a huge workforce that, historically, has not necessarily had the supports put in place to enable that to happen.

We know that youth work is doing a lot of work in schools, as well as providing support in communities for children and young people. We wanted to highlight that and to bring to people's attention the skills and expertise that are there, which could be used to fast-track and support the education system more.

Bill Kidd: Do you believe that that is working? Are most youth work organisations and groups keen that children should be able to develop the policy direction?

Nicola Killean: I believe that the youth work sector is very clear about the ways in which children and young people should be involved and participating, with group work based on an individual level. Our key message is that there are lessons to be taken from that sector.

Bill Kidd: I have another quick question—I say “quick”, because you have covered a degree of it. How do you evaluate early progress in relation to implementation of the UNCRC? You talked a bit about it before, but I want to emphasise the point.

Nicola Killean: In terms of early progress, we see culture change happening, which is a really positive thing.

We have talked a lot about participation and how that can be embedded, and we have had a lot more organisations come to us on that. For example, HMIE is considering how it can undertake inspections in a different way and has been proactively asking to meet our young advisers to learn from them. In relation to embedding the children's right to participation, we know that organisations are talking about that more, and are asking for help and support.

You have heard my colleague Nick Hobbs talk about how, as an office, we were given new powers to bring strategic litigation. We have touched on some of the ASN work. Nick could also speak to the other areas in which we have been using those powers. You heard Gina Wilson talk about how we see child rights impact assessments working at Scottish Government level and through the work that the Improvement Service is doing with local authorities.

Those are the conversations and that is the work that people identify as needing to happen. There is much more to be done, so we are still on a journey towards that. UNCRC incorporation has made a difference, but we all need to work to

ensure that it continues to make a difference until we get to a point at which more children and young people can enjoy and experience their rights.

Perhaps Nick would like to add something about the other strategic litigation work.

Nick Hobbs: There are two different readings of it. On the one hand, it is positive to see children and young people being able to access and make use of the tools that the Parliament has given them to enforce their rights. Another reading would be that it is a little bit disappointing on every occasion that a child has to go to court to do that.

Aside from the additional support needs tribunal cases, we have intervened in two cases. One related to criminal proceedings. That was about whether the Lord Advocate's decision to prosecute children falls within the scope of the United Nations Convention on the Rights of the Child (Incorporation) (Scotland) Act 2024. We are obviously pleased that the court agreed with our arguments that it does. That is important in that those decisions can now be clearly tested against UNCRC criteria.

The other case, which has not concluded yet and is still running in the Court of Session, is about children's rights in eviction proceedings. That is important to us with our strategic focus on poverty. It is a live case, so I am a little bit limited in what I can say about it, but it relates to the discussion that we had about temporary accommodation and housing. It is important that children's rights are covered as part of that.

Bill Kidd: That suits me. Thank you.

Pam Duncan-Glancy: We spoke a moment ago about youth work and participation. One of the things that you said in the report that you published this week was that you think that the inspector should have a role in examining what inspected establishments are doing on participation. How would that work, and how important is it?

Nicola Killean: Again, that is related to the fact that children have a right to be involved in decisions about their lives and services that affect them. Therefore, we should see that happening more and more meaningfully in education settings, whether a school or somewhere else where children and young people are educated. That is why that recommendation is in the report. The inspector, when they carry out their work, should ensure that they consider the quality of that involvement.

I hope that you notice that we particularly highlighted those children and young people who are furthest away from enjoying their rights and for whom school is not happening. That will require a

rethink of the model that is used for inspections. We understand that the chief inspector is considering that and is doing work to develop ideas about it. We brought to the inspectorate's attention, for example, the model that the Care Inspectorate uses. Young people who have experience of care can be embedded into that model.

Real change is needed in thinking about the time that is spent with children and young people on an inspection, with inspectors not just observing but getting to know them and understanding how they experience their school. In addition, HMIE should talk to children and young people about what they want the inspectors to look at and should involve them in pre-inspection processes.

There is a range of means to do that, and we have made some recommendations to HMIE, but we are very much looking for the inspectorate to do that work as well. We have pointed it to third sector organisations that could offer expertise and advice to help to shape that as things develop.

Pam Duncan-Glancy: Was HMIE keen to do it?

Nicola Killean: It was very open to suggestions, but we will continue to monitor what comes next.

Willie Rennie: What precisely should be in the Promise bill?

Nicola Killean: That is the question. I have been asking the minister at the meetings that I have had with her to get a sense of what will be in the bill.

Willie Rennie: What do you think should be in the bill?

Nicola Killean: There has been confusion about what will be in it. In my meetings with the minister, I have focused on asking where we are getting to with what is in the bill and when it can be seen so that it can be transparent. I have been saying that one of the most important things is that the bill is written in a way that ensures that it is UNCRC compliant.

Willie Rennie: You have not made any recommendations to the minister about what should be in it.

Nicola Killean: We have not made any recommendations, because the wider sector and the work of The Promise has been involved in that. When I have spoken to the minister about the Promise, I have raised a number of other issues and focused on when the bill will be available to be scrutinised.

One of those issues that I have raised is the experiences of care-experienced children and young people in secure care. As I mentioned earlier, we have been undertaking a round of

visits, and we still have serious concerns about capacity across the secure care sector. I have also raised concerns that have been raised with me by unaccompanied, asylum-seeking and refugee children and young people, and I have been talking about education reform. As Gina Wilson mentioned earlier, we commissioned a piece of work on care-experienced young people and that will be out soon.

My key questions on the Promise bill are about when it will be available, what the minister can commit to that will be in it, whether it will be introduced with a timeframe that allows for appropriate parliamentary scrutiny and whether the Government will ensure that it is UNCRC compliant.

Willie Rennie: I appreciated your letter about secure accommodation. It was very blunt and to the point, which I thought made a significant difference, because the minister had to recognise that there were major flaws. The reference to “cobbled together” accommodation was particularly powerful. You said that you have done more work on that. Will you give us a bit more detail about what is involved and what you have found?

Nicola Killean: In a minute, I will pass to Nick Hobbs, who has led on some of that. It is important for the committee to understand that I have not yet had a full response from the minister to the letter. I asked how many children have been turned away from secure care. We are still concerned that, if the Scottish Government is not tracking that or does not have that information, we cannot know whether the capacity for provision is enough. We cannot assess that if we do not know whether children are being turned away. I thought that it was important to share the fact that I am still concerned about that. As I said, Nick has been doing some work in that area, too.

Nick Hobbs: We have had a number of discussions with Scottish Government officials, and the commissioner has met the minister and Social Work Scotland. We have another meeting with Social Work Scotland later this week to try to get a better sense of the scale and nature of the problem. As the commissioner said, we need to know how many children cannot access the provision that they need, what the scale of that is and what provision needs to be put in place.

There are concerns about looking forward into the reimagining of secure care work. What is the profile of the children who are coming into secure care now, what kind of response do they require and is our current model of secure care capable of meeting those needs? Are there potential gaps between secure accommodation and mental health detention?

There are some further areas on which we would like a little bit more reassurance from the minister. Is the planning process taking account of not just the number of beds but the nature and level of need and the provisions that are required to meet it?

Willie Rennie: Have you spoken to local authorities and the providers of secure accommodation?

Nick Hobbs: We have had interaction with the secure accommodation providers in meetings and as part of the programme of visits to secure units that the commissioner referred to earlier. We have also been speaking to Social Work Scotland, which is the representative body for chief social work officers and which is well placed to understand what is happening at local authority level.

Willie Rennie: What is your estimate of how often that is happening?

Nick Hobbs: We are not able to make one. That is why we asked the minister the question, because we would expect—

Willie Rennie: Do you know from local authority social work departments and the secure unit providers how many requests have gone in and how many have not been accommodated? What is your estimate?

Nick Hobbs: It is only anecdotal. Six or seven individual cases have been raised with us, but I would not for a moment suggest that that is in any way an accurate estimate of the size and scale of the problem. Those cases were raised with us to illustrate the scale and nature of the problem. That is why we have said to the Scottish Government that it needs to ask that question, because it cannot do its contingency planning without it.

Willie Rennie: From your experience and discussions, you have heard of six or seven cases, but you think that the figure is probably higher.

Nick Hobbs: That is an absolute minimum.

Willie Rennie: It is an absolute minimum. Thank you.

The Convener: Thank you, commissioner, Ms Wilson and Mr Hobbs, for your evidence today, the report that you published earlier this week and your written submission, which were very helpful to us.

I suspend the meeting to allow our witnesses to leave and the committee to move into private session for our remaining agenda items.

12:45

Meeting continued in private until 13:00.

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