



OFFICIAL REPORT
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Finance and Public Administration Committee

Tuesday 28 June 2022

Session 6



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**FINANCE AND PUBLIC ADMINISTRATION COMMITTEE
21st Meeting 2022, Session 6**

CONVENER

*Kenneth Gibson (Cunninghame North) (SNP)

DEPUTY CONVENER

*Daniel Johnson (Edinburgh Southern) (Lab)

COMMITTEE MEMBERS

*Ross Greer (West Scotland) (Green)

*Douglas Lumsden (North East Scotland) (Con)

*John Mason (Glasgow Shettleston) (SNP)

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

*Michelle Thomson (Falkirk East) (SNP)

*attended

THE FOLLOWING ALSO PARTICIPATED:

Alison Cumming (Scottish Government)

CLERK TO THE COMMITTEE

Joanne McNaughton

LOCATION

The Robert Burns Room (CR1)

Scottish Parliament

Finance and Public Administration Committee

Tuesday 28 June 2022

[The Convener opened the meeting at 09:30]

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

The Convener (Kenneth Gibson): Good morning and welcome to the 21st meeting in 2022 of the Finance and Public Administration Committee—our final meeting before recess.

Our first agenda item is a final evidence session on post-legislative scrutiny of the financial memorandum for the Children and Young People (Scotland) Bill—now the Children and Young People (Scotland) Act 2014—with a specific focus on the early learning and childcare provisions.

Following our meeting last week, we asked the minister to attend, but, due to the short notice, she was unable to do so. However, I am delighted to welcome Alison Cumming, director of early learning and childcare at the Scottish Government. I understand that you would like to make a short opening statement, Alison.

Alison Cumming (Scottish Government): I welcome the opportunity to provide evidence on behalf of the Scottish Government, which I hope will assist the committee in its post-legislative scrutiny of the financial memorandum for the Children and Young People (Scotland) Bill in relation to the expansion of early learning and childcare.

I became programme director for the 1,140 hours expansion programme in November 2016, and I then became senior responsible owner for the programme in March 2020. My evidence will highlight the learning that the Scottish Government took from the 2014 act—that is, how we reflected on that learning, took lessons from it and sought to make improvements for the expansion to 1,140 hours. I will highlight three points of learning. I am sure that the committee will wish to touch on those and others.

My first point relates to the steps that we took so that the Scottish Government and local government could reach a shared understanding of the estimated costs of the expansion to 1,140 hours. In 2017, we established the early learning

and childcare finance working group, which is jointly chaired by the Scottish Government and the Convention of Scottish Local Authorities, and includes representatives of the Scottish Government and local government. The group led the development and assurance of the analysis of estimated costs that underpinned the multiyear financial agreement. That meant that funding discussions between Scottish ministers and COSLA leaders were based on jointly agreed cost estimates.

My second point relates to transparency in recognition of the fact that the expansion to 1,140 hours was underpinned by secondary legislation and so no financial memorandum was required. In April 2018, Scottish ministers and COSLA leaders reached agreement on a multiyear revenue and capital funding package for the expansion. That joint agreement set out clearly the way in which estimates had been revised as a result of dialogue between Scottish Government and local government colleagues, and the basis for agreement. The agreement was lodged in the Scottish Parliament information centre, to support full parliamentary transparency and accountability.

My third point relates to clarity of outcomes. The Audit Scotland report in 2018 on early learning and childcare highlighted that there was not sufficient clarity on what outcomes we were looking for local authorities to deliver through the funding for 600 hours. For the 1,140 hours expansion programme, we have established a clear set of outcomes and benefits, which focus on outcomes for children's development, improving family wellbeing and increasing opportunities for parents to work, train or study.

Those outcomes underpin our monitoring and evaluation strategy, which includes significant investment in the Scottish study of early learning and childcare and other forms of analysis. That has helped us to shape the design of the expansion programme and provides a sound basis for evaluating its impact in the years ahead.

I am happy to answer the committee's questions.

The Convener: Thank you very much for that opening statement. I will start with some questions, most of which will be based, as you would expect, on the evidence that we received last week.

One of the issues that I raised is the absence of a single standard funding formula, which will be brought in this financial year, apparently. Why has it taken so long to develop that? I ask that question because an issue that was raised is that funding for ELC is in different budget lines. You have talked about transparency but, clearly, that is an issue. That aspect seems to have developed

further—that is more the case since the 1,140 hours provision came forward than it was with the 600 hours provision. Will you touch on that first, please?

Alison Cumming: When we reached the multiyear agreement for the 1,140 hours funding in 2018, the recommendations that went to COSLA leaders for consideration included recommendations on the quantum and on the means of distributing the funding. As is normal in the process for agreeing the distribution of local government funding, a set of options had been considered by the settlement and distribution group, which is led by Scottish Government and local government officers. It recommended the use of a needs-based formula for distributing the funding among local authorities.

When that recommendation reached the meeting of COSLA leaders, they took a decision, as is their prerogative, that, instead of distributing the funding on the basis of the formula, they would distribute it on the basis of estimates that individual local authorities had submitted to the finance working group as part of its consideration, with some adjustments for items such as inflation and population. That is a very different means of allocating revenue funding than would normally be the case, and it has meant that there have been challenges, in that it is not as responsive to changes in things such as population movements and deprivation characteristics within different areas.

However, when they reached their decision in April 2018, COSLA leaders also agreed that the distribution basis would hold until the end of the 2021-22 financial year and that they would consider a change in methodology thereafter. Consequently, the settlement and distribution group, with advice from the finance working group, reconsidered the issues and options, and made the recommendation to move to a formula-based approach, which was then agreed by COSLA leaders.

In effect, it was a political decision not to go with the recommendation of officers and officials about using a formula during the initial three years.

The Convener: One of the issues about ensuring that the funding is transparent and easy to audit is the fact that some of it sits in education and some of it sits in social work, so there is an issue about how the funding is traced. I realise that there is a local financial return in which the direct costs are accounted for; however, that is not always specific or easy to follow, given that different councils have different methodologies. What improvement will be made to that situation?

While we are talking about that issue, is there space in local authority budgets for some key

areas to be worked on? It has been said that the current allocation of funding is not flexible enough. For example, last week, we were advised by COSLA that a lot of children require speech and language support but that it feels that the money cannot be used for that and that the ELC grants are not flexible enough to take into account the number of children in specific areas who have such issues.

Alison Cumming: On the issues around data collection, the point about the challenges in presentation in the local financial return was illustrated very well in the 2016 financial review that we undertook on the spend on the 600 hours provision against what was allocated in the 2014 act's financial memorandum. Since then, the finance working group has sought to see how we can improve things—initially through bespoke data collection. That involves agreeing a different method of reporting, which captures all those costs but with a long-term view. Certainly, my preference, which would need the agreement of the finance working group, is that, once we have the presentation correct, we would build the learning into the LFR so that we have in one place that clear line of sight on the total costs of delivering early learning and childcare.

I am aware that, last week, my COSLA colleagues raised concerns, as they see them, that there is no headroom in the settlement to deliver on other priorities—I think that they objected to the term “headroom”, but, for ease, I will continue to use it. However, that is just not borne out by the analysis that was undertaken and agreed by the finance working group, which makes it very clear that there is sufficient funding not only to deliver the 1,140 hours offer but to commit to different priorities.

As the committee will be aware, we reduced the money that is going into the specific grant by £15 million in 2022-23 as a result of changes in the eligible population, which, according to the latest National Records of Scotland figures, has fallen by 7.5 per cent—or 8,500 children—from when the projections were made and the agreement was reached.

In the negotiations, we did not take the full amount of headroom out of the funding as a pure calculation might lead you to do on the basis of the 7.5 per cent reduction. Indeed, we did not do so for a whole range of reasons. For a start, we recognise that, because of how staffing ratios work, it will not always be a direct reduction. However, very much in mind was the need to ensure that local authorities had the flexibility to respond to changes in need as a result of the impact of the Covid pandemic—speech and language support is the clearest example of that—and to continue investment in sustainable rates. I

am very clear that that analysis, which has been undertaken in some detail, shows that there is sufficient headroom—whether we call it that or flexibility—in the overall local government allocation for authorities to pursue such priorities.

I would also flag up that, because we are in the early stages of the expansion and because we recognise that there were potentially some differences in uptake of the offer as a result of the Covid pandemic, we have not made any adjustments to funding in relation to the most recent figures on uptake. At present, therefore, we are funding local authorities for a higher rate of uptake than was evident in 2021-22.

The Convener: The figures show that there has been considerable overfunding, but COSLA has pointed out that, if 98 per cent of the anticipated number of children in an area take up the offer, you cannot, for obvious reasons, reduce staffing. You still need the same staff ratios and so on.

In any case, it looks like there has been, right from the start, an overestimation of the number of children requiring 1,140 hours of ELC. I understand that only 85 per cent of the 98 per cent who have taken up the offer of 1,140 hours have done so exclusively; that might be part of the reason, but surely, with nursery provision, you can look a couple of years ahead and see which children will require it, because they will be turning three. There is the exception of the vulnerable two-year-olds, but you will still have two or three years to plan ahead. However, there still seems to have been a significant overestimation of the number of children requiring the provision. Why is that the case?

Alison Cumming: Specifically on the 1,140 hours expansion, the population figures that we used and which underpin the agreement were based on NRS's latest available estimates. In other words, they are the official population estimates for Scotland.

When local authorities were preparing their plans, the only data set that was available was what have been described as the 2014 estimates, which were broken down to local authority level. NRS has since produced refreshed updates at Scotland level that are based on 2016 data. In the multiyear agreement, ministers and COSLA leaders agreed that the data set that we could reasonably expect local authorities to base their plans on was the most recent NRS figures by local authority.

My recollection is that, at the time, the local authority estimates in the original plans were about 6,000 children higher than in the NRS 2014 estimates, so we made an adjustment in 2014 to take account of the local authority estimates being considerably higher than the official population

estimates used to inform public policy and planning.

09:45

Therefore, although there has been a further decrease in the eligible population since then, that has been driven by demographic factors, such as the lower birth rate and changes to net migration. I absolutely accept the point that the eligible population is lower than we had anticipated, but we have, at all times, used the most robust set of population estimates that are available to us.

The Convener: Obviously, you are aware of the evidence that we took from organisations such as the Scottish Childminding Association. Over the past few years, since the policy started to come in, childminding has reduced significantly and there are now 26 per cent fewer childminders in Scotland. Some have obviously decided that they want to work in nurseries, but others have left for other reasons. Last week, the committee was advised that

“the main reason why childminders had been leaving or were planning to leave the workforce in the next five years was the significant increase in bureaucracy and paperwork and the duplicative quality assurance at national and local levels, which has quite simply become unsustainable.”

Graeme McAlister, who gave that evidence, went on to say:

“In my submission, I itemise 10 or 12 different frameworks and standards, each of which comes with different outcomes reporting”

and that, although quality assurance is obviously important,

“it has to be proportionate, joined up and light touch”.

To many people, including me, that duplication seems to be a bit like using a sledgehammer to crack a nut.

Mr McAlister went on to talk about local authorities planning

“twice-yearly inspections and twice-yearly self-evaluations.”—[*Official Report, Finance and Public Administration Committee*, 21 June 2022; c 28, 30.]

That is obviously putting off a lot of childminders; it also has policy implications. In addition, from a financial perspective, all that bureaucracy being imposed on childminders must cost a huge amount of resource. Are there any plans to have a one-stop shop, so that there is not that overlap and duplication of effort?

Alison Cumming: We are working with the Scottish Childminding Association and others, including local government and the Care Inspectorate, to look at how we can reduce the level of administrative burden that childminders face.

We have no evidence of a direct causal link between the trend in childminding numbers and the period of expansion. There have also been some changes in how the Care Inspectorate records and reports the number of childminders over that period. There is undoubtedly a net reduction overall. Throughout the process, we are being very mindful of how we ensure that we have a sustainable childminding sector, so that parents have access to a childminder as one of the options for their child's 1,140 hours entitlement.

On the basis of an SCMA recommendation from 2019, we commissioned and undertook research to understand the reasons for the decline in workforce. The reasons that came out through the research included the process of becoming a childminder, administrative demands and inspections. On the back of that, we are working with a commitment to have a childminding monitor group with stakeholders. That will, in a very specific, task-focused way, look at where we can bring in improvements for childminders. In particular, we are looking at local authorities' processes and requirements for childminders. Local authorities should recognise that childminders are very different from nurseries, in relation to the commissioning and contracting process as well as on-going assurance.

We are also looking at the issues of inspection through the recommendations of a review by Professor Ken Muir on the implementation of a report by the Organisation for Economic Co-operation and Development last year. In a statement to Parliament two weeks ago on 14 June, the Cabinet Secretary for Education and Skills set out that we will shortly be consulting on a shared inspection framework for the early learning and childcare sector as a whole.

In that consultation, we will also look at issues around recognising that it is not only about the burdens that are coming from the inspection bodies. Other issues are the role of local authorities and ensuring that there is streamlining in the system and that we are not imposing duplicative and overly burdensome requirements on childcare providers, including childminders.

The Convener: Is there any idea of what that bureaucracy costs and the impact across Scotland? Is there any measure of that?

Alison Cumming: It is not something that we have measured, but we recognise that there is scope to streamline the processes with regard to the agencies that are involved and at a local government level and a Scottish Government, national level.

There is a distinction, because not all childminders want to be involved in delivering the funded entitlement. We are looking at the different

arrangements and systems for delivering the funded entitlement as well as the burden that is associated with the work and the role of being a childminder, regardless of whether they are involved in the delivery of the 1,140 hours expansion.

The Convener: When you say "streamlining", what does that mean? Is it a 5 per cent or a 50 per cent reduction in bureaucracy? I am trying to get a feel for the impact not only on the childminders but—given that this is the Finance and Public Administration Committee—on the finance and public administration aspects of the system.

Alison Cumming: It is not something that we have quantified or set a target for. The childminding monitor group is doing work to consider how we can reduce the administrative burden. That is certainly something that we can look at working on with local authorities, in particular, in order to understand what the reduction in costs might be for public services as a result of making those changes. However, we are not at that stage of the work at this point such that I can bring you a figure or a target.

The Convener: Okay. I have not mentioned issues such as standard rates, the need to look at both the setting and whether the child has any additional needs, rurality and so on. However, I think that I have asked enough questions for now, so I will give my colleagues an opportunity to ask some of those questions.

Daniel Johnson (Edinburgh Southern) (Lab): I will follow on from the point that the convener just hinted at with regard to how the methodology was arrived at, its impact and, latterly, its impact on the sector more generally.

The 1,140 hours entitlement has been implemented on the basis of 2014 legislation. There was survey work in 2016, which was part of a technical assessment, and we then had methodology in 2020. Given that the expansion to 1,140 hours will cost around £1 billion a year, what are the Government's reflections about how we arrived at that, bit by bit, over a four-year period instead of having it all clearly set out in a financial memorandum? Would it not have been better to have done the 2016 exercise, which gives a relatively clear cost stack—there is a neat pie chart in there—at the beginning, so that we would have had clearer sight of the cost implications?

Alison Cumming: The 2014 act and the work that went into the preparations were, as you said, for the expansion from 475 hours to 600 hours. Undoubtedly, we understand the cost base of providers in the private and voluntary sector much better now than we did at that time. That has allowed us to reflect those costs in the multiyear agreement, which is what we have put in place

and laid before Parliament in the absence of a financial memorandum, because it was secondary legislation that brought the 600 hours up to 1,140 hours.

For the 1,140 hours, we invested very significantly in analysing and challenging both the local authority costs and the estimates of rates that would be payable to private providers. The survey work that we commissioned in 2016 from Ipsos MORI, which you referred to, then informed consideration of the overall costs of the 1,140 hours, and it has informed local authorities and provided support to them in how they set their rates. We have that position for private and voluntary sector funding rates: they are set at a local authority level, and not at a national level. I suspect that we might want to get into that issue this morning.

Local authorities have then been commissioning and undertaking different forms of work in line with the guidance that we commissioned from Scotland Excel. It was co-produced by local government and the sector, which came up with the four different methodologies for estimating, or informing, the setting of rates.

We have significantly improved the process as we have invested in that shared understanding with local government of the cost drivers. We have a much more granular understanding of the drivers of cost, and we have continued to evolve our understanding of the financial health of, and the underlying cost drivers for, private and voluntary providers. We have taken that learning on board, and we have not stopped. We are continuing to refine our approach and to ensure that, as we agree funding for future years, there is a robust evidence base behind those decisions.

Daniel Johnson: I will come on to the 2020 framework and the four methodologies. You have neatly prefigured what I was going to say next.

First, I would like you to clarify one point. It sounds very much as though you are saying that, in the sequence of events, that granular view was arrived at only after the decision to move to 1,140 hours. Would that be a fair reflection?

Alison Cumming: Yes—it would be a fair reflection to say that we significantly refined and developed the cost estimates after the decision was taken to expand provision to 1,140 hours. We recognised that that expansion involved a significant investment of public money and that we needed to dedicate significant amounts of Scottish Government resource and local government resource to working together to ensure that we really understood the level of resource that was required and what was driving those costs.

Daniel Johnson: Last week, we heard from representatives of the private, voluntary and

independent sector, who feel that there is a lack of transparency in how local authorities are arriving at their rates. Looking at the methodology that is set out in the 2020 paper, I am left wondering why that is. I would like clarification on two points.

First, with regard to the four methodologies, my reading of the paper is not that any local authority should necessarily be using one methodology or another exclusively; it appears that a combination of methodologies would be the best way forward. However, that does not seem to be what is happening. Is that a fair assessment of how the framework was intended to be used?

Secondly, how is it being used? The paper that summarises the approaches that are being taken by local authorities shows that a number of local authorities are taking a survey-based approach, but they seem to have done so as a one-off, whereas the guidance says that surveys should be repeated regularly. It says that a survey of costs should be done multiple times a year. I am thinking of local authorities that have done a survey once a year or two years ago.

What work is the Scottish Government undertaking to ensure that those methodologies are being pursued as they ought to be?

Alison Cumming: In the rate-setting guidance to which you referred, Scotland Excel has developed a basket of methodologies that are all in line with local government good practice in procurement, and which can be followed to inform the setting of rates. You are absolutely correct that the vast majority of local authorities are using the survey-based methodology. In their judgment, that may be sufficient.

We are not saying that all local authorities have to go through all four methodologies every time that they set a rate, but we would expect them to keep developing the understanding of the provider cost base and the drivers for setting rates, and they can determine how to do that within the guidance.

What we certainly would not think was in the spirit of the guidance would be a one-off survey every three, four or five years, with no activity in the interim to refresh the approach and check that those assumptions were still correct.

Local government collectively recognised a lot of those issues. We saw some particular issues in the publication that we produced last August alongside the “Financial Sustainability Health Check of the Childcare Sector in Scotland”. The “Overview of local authority funding and support for early learning and childcare providers” showed the rates for local authorities. In particular, it showed that a considerable number of local authorities had not uplifted their rates between 2020-21 and 2021-22.

10:00

Local authorities came to us and said that they believed that there was merit in collectively commissioning a cost collection exercise, and the Scottish Government funded it. The Improvement Service contracted for that on behalf of all local authorities and Ipsos MORI was the successful candidate that undertook the financial review, in 2016. We have recently completed a consistently collected data set across all local authority areas, which local authorities will now be using to inform their rate setting for 2022.

I have a couple of points to make on that. We used the analysis that Ipsos MORI undertook for us in 2016 to help us with reasonableness checking the financial estimates for 1,140 hours to see what a sustainable rate that allowed payment of the real living wage could look like, which resulted in the £5.31 figure, which was clearly based on 2016 costs. That was never intended to be a robust data set for individual local authorities to use in setting rates. The expectation was that authorities would undertake that work collaboratively with their local partners.

I have a final point to make, if I may. Underpinning a lot of this is trust in the relationships. We need a level of transparency between local authorities and providers and an exchange of information that will help to build an understanding of how the rates are being set. That is one of the ways in which we have been supporting improvement. The work that the Improvement Service is doing to support the expansion this year is being done through workshops with local authorities, to help them to make best use of that local cost collection data that they received from Ipsos MORI.

Daniel Johnson: The fact that we still see £5.31 being used by so many local authorities seems to indicate that perhaps there has not been as much updating or reflection of local circumstances as we might have expected.

Alison Cumming *indicated agreement.*

Daniel Johnson: Is that a yes?

Alison Cumming: It is a yes. The other point that I would make is that the £5.31 rate was based on 2016 prices.

Daniel Johnson: Indeed. I heard that loud and clear.

Finally—and again expanding on what the convener was asking about childminders—if we look at the overall number of providers that we have, based on what the Care Inspectorate has said, we see that there has been an increase in the number of places but a net decrease in the number of providers. That is not just the number of childminders; that is across all providers. Given

the fact that the bulk of the expansion has occurred within local authorities, that means that there has been a reduction well in excess of 5 per cent in the number of all types of non-local authority providers.

When the Scottish Government reflected on the impacts of the policy, that is not what was anticipated. What lessons should be drawn about the impact that the policy has had on implementation, both in the diversity of providers and in the flexibility of provision, given that most local authority settings do not provide childcare beyond school hours?

Alison Cumming: The average size of an early learning and childcare provider has increased, partly because of the ways in which local authorities have redeveloped their own services. There is a trend towards having centres that are larger than what you would have seen in a nursery class in a primary school. More children are therefore being accommodated in the same centre or setting, which is also driving some of the trends that you describe.

We look carefully at the Care Inspectorate data on trends in different provider groups, and what we have seen to date is that the natural turnover in the private sector has not been out of line with trends in previous years. We do not have any evidence from the financial sustainability health check that we did last year, or from any of the other ways in which we engage with the sector, to say that there has been a direct relationship between the expansion in hours and any reduction in the number of private providers.

I will make three points in mitigation. First, we have seen the PVI sector deliver a higher proportion of the funded hours than was originally envisaged. The original expansion plans from local authorities suggested that the sector would deliver about 22 per cent of the hours, but that figure is now at around 30 per cent. That shows that parental choice is, in many ways, leading the use of funded hours. Parents may be choosing settings that offer more flexible provision or settings that the children are familiar with because they were there when they were younger.

Secondly, we have also seen the average hourly rate across Scotland increase by 48 per cent in the past four years. I stand by my previous point about the £5.31 rate, but we have seen a very significant increase in the funding that is going to the private sector for the delivery of those funded hours.

Thirdly, the work that we did last summer on the financial sustainability health check showed that between 33 and 45 per cent of the income of private settings comes from delivering the funded hours. So, although the Government funding is a

significant proportion, it would not be the majority of the funding that most settings receive.

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

Liz Smith (Mid Scotland and Fife) (Con): Good morning. You mentioned in your introduction that the Audit Scotland review showed some concerns about a lack of transparency, particularly regarding outcomes, and that the Scottish Government had worked hard to address that issue. Please expand a little on what you did to measure those outcomes. Did you take evidence from international situations? What did you do to address Audit Scotland's concerns?

Alison Cumming: When Audit Scotland reported in 2018, it was reporting on the situation arising from the passing of the 2014 act and the expansion to 600 hours. Even before that report, we had begun investing in a different type of approach for evaluating the 1,140 hours policy. Throughout that work, we benefited from a mix of academic and sectoral expertise in an external reference group that supported the development of the monitoring and evaluation strategy and from analysis that was undertaken by analysts in the Scottish Government and by colleagues who are now in Public Health Scotland and who, at the time, were in Health Scotland. They collated the international literature and evidence on outcomes.

We also sought to do something for the 1,140 hours policy that was different from the 600 hours policy, which was to be very clear about what we were seeking to deliver with the investment. The financial policy memorandum for what is now the 2014 act looks at children's and parental outcomes alongside each other. In the case of the 1,140 hours policy, we recognised that there was stronger evidence for that being an investment in children's outcomes, although there are also important benefits for parents in their being enabled to undertake work, training and study.

The weight of the evidence is about the short-term benefit to children's development and about the long-term effects that early years, preventative investment can have. That evidence, along with evidence of family wellbeing, gave us a clear benefits framework for the programme and allowed our analytical colleagues, with input from academics and from the review of international examples, to develop measures and to develop the methodology for the Scottish study of early learning and childcare.

Liz Smith: Is that evidence borne out in the quality gradings that have been returned in the inspection reports on early years institutions? Do the reports show an improvement?

Alison Cumming: I think that it is too early for us to say, because of the disruption to inspection

activity during the Covid pandemic, which means that we have not had a normal cycle of inspections during the past two years. The policy framework sets a national standard that all providers are required to meet, whether they are in the public sector or the private and voluntary sector. That includes a requirement in respect of Care Inspectorate grades, to which you referred, in that we expect all settings to achieve a "good" grading or above.

The slight difficulty for us with the longitudinal analysis is that we are only just getting into the more routine inspection cycle again, to generate the data. We are examining other indicators to help us to monitor and understand quality, and, within the next few months, we will publish a refreshed monitoring and evaluation strategy that takes account of the impact of Covid.

Liz Smith: I will pursue the issue of inspections. They are obviously important, and parents find them particularly important when they are making a choice. Will they be back in a routine cycle shortly, or will we have to wait? Will there be a prolonged period in which some settings might not have an inspection?

Alison Cumming: The Care Inspectorate is pretty much back to its normal level of inspection activity. It resumed inspections earlier this year, so, within the next 12 months, we will have the more normal—if anything is normal any more—cycle of inspections data on which to draw.

Liz Smith: The data that comes back is important in determining the success of the policy. Will that be analysed?

Alison Cumming: Yes. As well as looking at setting-level data, the Scottish study of early learning and child care considers data at the level of the individual child. In the study, we have measures, using the strengths and difficulties questionnaire, that will help us to understand particular impacts on children's development as well as quality at the setting level.

Liz Smith: Good.

Last week, we heard extensive evidence that there are serious concerns about the amount of bureaucracy and the time that it takes to complete it. It is not just about the filling in of bits of paper, but the fact that the people who do that are taken away from some of the other jobs that they would like to be doing in caring for children. Are there sufficient staff within the whole system to address the issue of quality that you want to drive at? Do we have enough staff, or do we need to recruit more?

Alison Cumming: We believe that the overall workforce is sufficient to deliver a high-quality expansion. We also recognise that the quality of

the workforce will be the single most important determinant of children's outcomes. Therefore, we continue to consider how we can invest in that workforce at a Scottish Government level and across the whole system. For me, it is not a question of our needing more people in the workforce to deliver the required level of quality; it is about our ensuring that the system as a whole—the Scottish Government, local authorities, the employers and the various bodies that are involved in supporting the sector at a national level, including the inspectorates—supports the workforce and provides it with the resources and opportunities to continue to develop.

Liz Smith: Are you implying that some qualitative changes are needed within the workforce so that it can deal with some of the issues on the front line? Is the issue that it needs to be looking after children rather than doing other things?

Alison Cumming: We would always strive for improvements. I do not have any particular concerns about the balance of the time that staff are spending with children, but we are considering ways—for example, through the shared inspection framework—to reduce any duplication or bureaucracy and administrative requirements. I have no evidence to suggest that that is taking anything away from the quality of the experience that is offered to children.

Ross Greer (West Scotland) (Green): I am interested in the capital costs. There is a wee bit of a muddle. When I use that word, I do not mean to project any negative connotations on to the situation, but I am trying to get a little bit of clarity about how the capital costs worked out. Audit Scotland's report points out that some local authorities ended up receiving less than what they had estimated the capital costs would be. That is not surprising, because it happens across a range of areas in which local authorities are funded by Government for a specific project. However, in other cases, local authorities ended up getting more than what they estimated the cost would be. Did the Government or the Scottish Futures Trust look into why there was such a disconnect between the local authority estimates and allocations?

Alison Cumming: Yes. In the interests of fairness and consistency, the allocations were based on metrics that the Scottish Futures Trust developed for cost per square metre and square metre per child. The Scottish Futures Trust undertook detailed work with each local authority to understand its plans and the reasons for the differences. The factors involved may have included the difference between a local specification and the standard specification of a nursery building, differences between local

markets, and the fact that authorities had not previously commissioned this type of nursery project. Through a little input, the experts at the SFT were able to support them in refining their estimates.

10:15

Ross Greer: When it came to the eventual actual cost, which set of numbers ended up being more accurate: the allocations or the local authority estimates?

Alison Cumming: I do not have data on that with me today, but we can certainly look into it. Some authorities took local decisions to invest more than the Scottish Government's level of funding; the committee may have heard examples from Scottish Borders Council last week. In some cases, that was because of the impact of local procurement approaches and construction policies in the authority. In others, it was just about the authority looking to deliver something a little different from what was envisaged in the metrics that the SFT provided.

Ross Greer: Thanks. That information would be interesting for the committee, if you can provide it.

The supplementary financial memorandum did not include any additional capital costs for the expansion to include eligible two-year-olds. Has there been any effort to look back by disaggregating the costs in order to allocate an estimated cost for the capital impact of the expansion to include two-year-olds?

Alison Cumming: No, we have not done that, because of the integrated way in which services tend to be delivered. We tend not to have separate capital projects just for two-year-olds. Things have tended to be about investing to deliver the capacity overall in the move from 600 hours to 1,140. Again, however, I can take that back to my colleagues in the SFT, who have been doing the detailed analysis and monitoring for us, to see whether we can usefully draw anything out.

Ross Greer: Again, that would be interesting because, as much as I accept absolutely the difficulty in trying to disaggregate that data, we can all agree that there is probably going to be some additional cost in expansion to any additional group.

The absence of any additional capital allocation in that financial memorandum therefore raises a point of process that the committee is interested in when it comes to the effectiveness of such memorandums. Putting aside the actual numbers, has there been any review of the process to consider whether it was correct or whether it would have been more appropriate to allocate some

additional capital funding in the second memorandum?

Alison Cumming: Unless something was done before I came into post in 2016, we have not, to my knowledge, done anything to review that process. As part of the 1,140 hours expansion, we learned the overall lessons on how to work with authorities to plan for capital requirements and how to make sure that that planning is an integrated process, so that local authorities develop an expansion plan with a capital component to it. I do not suggest that there was some sort of separate planning process; it has been more through the learning and the approach that we have taken. In particular, my understanding is that there has been a greater involvement from Scottish Futures Trust colleagues in the work on the provision of 1,140 hours than perhaps there had been on the provision of 600 hours.

John Mason (Glasgow Shettleston) (SNP): To follow on from Ross Greer on capital costs, there seems to be some uncertainty as to whether the original plans for capital meant that some of the money would go to local authorities and some would be passed on to the partner providers, who have suggested that very little went to them. Will you clarify what the intention was and whether that happened?

Alison Cumming: The intention for the 1,140 hours expansion as set out in the planning guidance that we published in 2017 was for local authorities to use the assets that they have and consider where they could buy in capacity or—if they could not meet need—build new capacity. We wanted local authorities to consider the system in their local area, and look at what was currently there in the PVI sector and what potential there was for its growth.

There are accounting and legal restrictions in place for how public capital funding is used to create private assets. We wrote to local authorities to provide clarification that we were content for capital funding to be used to provide capital grants, if they could deliver a capital grant scheme that met those legal and accounting requirements. We know that several authorities did that, providing grants that allowed investment in developing outdoor space, for example, or in extensions or modifications to buildings.

Another model that is increasingly being used by local authorities, including Glasgow City Council, Aberdeen City Council and Moray Council, is one whereby the local authority invests in a building and then seeks a private operator to deliver a service in that setting. It is still early days for those services being in place, but that appears to be a successful model that has overcome challenges about us creating and building assets

that remain in the public sector and about issues of best value for local authorities.

John Mason: Some of the external providers felt that they had capacity or could produce a little bit more capacity at a lower cost than the council could. There was a general comment that councils have a conflict of interest, because they are both providers—in one sense, they compete with the other sectors—and funders. Is there a conflict of interest?

Alison Cumming: I do not think that there has to be a conflict of interest. It is correct that the policy framework that we have developed for funding follows the child, along with its accompanying national standard, means that local authorities are the

“guarantors of quality”

and

“enablers of flexibility and choice”,

which is how we described them originally. In statute, local authorities have the legal duty to ensure that children can access their entitlement, which is an important underpinning of the whole system. The national standard that we have introduced was intended to bring a level of consistency, and funding follows the child drives a lot more parental choice, so parents have the ability to access a place for their child in any setting that meets the national standard. Local authorities should be developing their local delivery plan in a way that makes assumptions about the existing capacity and the likelihood that parents will want to take up places in those settings.

John Mason: The suggestion was that at least some local authorities were almost requiring parents to take up hours in council facilities, if those were available, and to get the extras around the edges.

Alison Cumming: If that were to be the case, that would be contrary to the funding follows the child policy. If any specific examples of that were brought to our attention, we would follow them up with COSLA and the local authority involved.

John Mason: That is great—thank you.

On a wider issue, one of the things that we are trying to look at—this bill provides one example of it—is how financial memorandums work overall. I do not know how many financial memorandums you have been involved in. I think that you said that you came into this area in 2016, so you were not there when the financial memorandum for this act was produced. If you are able to comment, will you tell us how easy it is to produce a financial memorandum? Are we expecting more accuracy than is possible?

You mentioned that the number of eligible kids had dropped by 7.5 per cent but, when we looked at the whole picture, we saw that it had dropped from 225,000 to 206,000 to 184,000. There has been a dramatic drop in what everybody expected, probably, so I do not think that anybody is criticising the original forecast. With that kind of change, is it impossible to get a financial memorandum that is accurate?

Alison Cumming: Without trying to sound unhelpful, I think that it depends on the nature of the policy or legislative change that is being delivered. As civil servants, we should all look to prepare financial memoranda using the most robust information that is available to us at the time. We should also be prepared to highlight where we have made assumptions, what they are and where it may turn out that those assumptions change over time. Hopefully, those changes would be as a result of things that are outside of our control, but it may also be that some of the underpinning assumptions turn out not to be correct. It is very difficult to say that we can estimate costs to the nearest pound or even the nearest £1,000—particularly for something as complex as the expansion of early learning and childcare. However, we need to ensure that the methodology is as robust and transparent as possible to support parliamentary scrutiny. We might have more certainty about costs on other types of financial memoranda, so how we arrive at our estimates should be noted in the detail that we provide to Parliament.

John Mason: That is a fair answer. Speaking specifically about two-year-olds, I see that the uptake has not been as great as had been hoped or planned. If I wrote it down correctly, the uptake has been between 41 and 45 per cent, but the hope is to get up to 75 per cent. Is that realistic?

Alison Cumming: We want to drive the maximum uptake that parents are looking for. The other important thing to recognise is that, throughout all early learning and childcare, it is an entitlement and parents are not obligated to take it up. We would have liked greater levels of uptake than we currently have for two-year-olds. We were pleased to see the 25 per cent year-on-year increase that was reported in the ELC census, from figures taken in September 2021, but there is significant room for improvement, so we are looking at developing another programme to support local authorities in improving uptake.

The data-sharing gateway that the United Kingdom Government has recently agreed to legislate for will be important in underpinning that. Recently, there was a consultation on allowing data sharing between Her Majesty's Revenue and Customs and the Department for Work and Pensions with Scottish local authorities, which will,

for the first time, give Scottish local authorities data on exactly which families in their area are eligible for the two-year-old offer. It has been challenging for local authorities to identify all those families with certainty and reach out to them with the offer, so it is important that we will have that data-sharing process in place. However, it also means that, when we say that uptake levels are at around 45 per cent at present, it is an estimate, because we do not have data that gives us absolute certainty on the eligible population. Important changes are coming that will help us, but we also need engagement with parents in order to understand what is required and ensure that we remove any barriers to them accessing the offer.

John Mason: Talking about local authorities and data, I was very surprised that we had robust data from only 17 local authorities, and that was after some were questioned and chased. Can you explain why only 17 provided data and whether that was the fault of the local authorities?

Alison Cumming: The timing of the exercise probably did not help, as we were in the midst of the Covid pandemic. We now have a more robust data set for 31 authorities. I suspect that the low response was a product of the timing of the exercise, but also, during the most recent collection exercise, we sought to find out whether there were different ways to collect the data to support a greater number of robust responses that we could use to inform the analysis of future funding.

John Mason: We received data from 31 local authorities; what happened to the other one?

Alison Cumming: We have engaged with it, but it is yet to provide the information we need to include it.

John Mason: Right.

The Convener: Name and shame it!

10:30

Douglas Lumsden (North East Scotland) (Con): You said earlier that local authorities were meant to use existing buildings first and then existing private facilities, and that only if the capacity was not available could they build new facilities. However, a lot of capital work has taken place, which suggests that there were no private facilities that could be used. Was that really the case? Were private nurseries and childminders given the opportunity to flag up what they could do in order to provide the hours?

Alison Cumming: They certainly should have been, and processes should have been undertaken at local level to facilitate that. However, the reality was that we knew that there

needed to be growth overall, so we expected that new facilities would be needed. Some parts of Scotland have a very low level of private sector provision, and established private sector provision itself is very variable across the country, so patterns of new-build activity will be quite different.

Douglas Lumsden: What checks or pushbacks would there have been on local authorities when they put forward their plans for new facilities to find out whether they had gone to private providers to see whether they had capacity that could have been used instead?

Alison Cumming: These are certainly questions that we as the Scottish Government put when we received expansion plans, and the work that the Scottish Futures Trust did alongside us as part of the review of those plans involved some very detailed analysis and interrogation of the assumptions with regard to where new facilities might be required.

Douglas Lumsden: So you are confident that private providers got an opportunity to present what they could provide to local authorities.

Alison Cumming: I am confident that the arrangements that we put in place at national level would have allowed for and facilitated that, but I cannot speak to that having been the case in all 32 authorities.

Douglas Lumsden: Following on from John Mason's question about the flexibility that parents have, I believe that they have the flexibility to use a local authority nursery or a private childminder, but we heard last week that parents themselves might not realise that they have such flexibility. Can the Scottish Government do anything more to make parents more aware that they can mix and match local authority and private childcare?

Alison Cumming: We have made extensive material available through the Parent Club website and its social media. Given the number of funded hours that are currently being delivered by childminders, childminding services are overrepresented in that material, because we recognise that there is a specific gap in parents' understanding of how childminders can be part of the offer.

At the very beginning of 2020, we ran the "this much more" national marketing campaign; I will not imitate it just now, but the campaign featured children stretching out their arms. A lot of the material from it was made available to local authorities to support their local communications with parents. It set out that such flexibility and choice in the range of provision were available. We are looking at how we can continue to develop and invest in that material, but we recognise that a lot of the places that parents go to in order to get their information on the offer will be at local level,

so the question is how we support local authorities in those communications, too.

Douglas Lumsden: Would you say that the feedback from private providers that that awareness is not there is unfair criticism?

Alison Cumming: I would say that we have made significant efforts to ensure that that awareness is there, but we are talking about a significant change in the way that parents can access early learning and childcare. We are still in the early stages of that.

As I have alluded to, over the past couple of years parents have probably been getting their information in ways that might have been different from how they did that before. We will absolutely continue to pursue this and ensure that it happens, because parents can only make these choices if they are well informed.

Douglas Lumsden: Thank you.

Michelle Thomson (Falkirk East) (SNP): Thank you for all the information that you have provided thus far. We have covered a lot, even in this short inquiry. As my colleague John Mason pointed out, the question is: to what extent can a financial memorandum truly be accurate? We all recognise the complexity involved.

I want to give you the opportunity to reflect on the process that you have been through. Knowing what you know now, and with the benefit of hindsight, what would you actively choose to do differently? We all recognise that improvements can be made in developing these things—and, indeed, in our scrutiny of them—and I would appreciate hearing your reflections on that.

Alison Cumming: Sure. My learning and reflections are probably more about the process that we went through for the 1,140 hours than the financial memorandum. Regardless of whether it was for a financial memorandum or secondary legislation, the process that sits behind it should have been equally robust.

I will come on to what we would do differently, but what worked well was investing in that shared understanding with local government. That is important for good-quality financial memoranda, because it does not serve anybody if the Scottish Government and local government come to a committee with different cost estimates. The approach can be more resource intensive, but it was an important investment.

As with anything, it would have been helpful to have had more time to work through that exercise, but we reached agreement more than two years ahead of the date, and that is probably what fed through to the underspends from local authorities in some of the years leading up to the expansion. They had perhaps been a bit overly ambitious

about how much early phasing could be delivered in that period. It is important to ensure that there is sufficient time for the analysis and to allow the policy to be implemented.

Overall, it would have been particularly helpful for us—this is where some of the learning is—to have had the same level of shared understanding between the private and voluntary sectors and local authorities about rate setting that we had with local government about overall costs. We need to keep supporting and building trust in that area through transparency and openness.

Michelle Thomson: In general terms, the tension between effective accounting and scrutiny of spend—you allude to that in relation to needing more time—will never go away, because the only accurate estimates are at the end of a project, as we all know. Have you any reflections on finding the right balance on that healthy tension? That is a common problem with such things.

Alison Cumming: Certainly in relation to the 1,140 hours, we recognise that we ended up with a two-stage process. We gathered initial financial estimates from local authorities in 2017, as part of their expansion plans, and we hoped that we would be able to use those as a basis, but when the finance working group got into it, we still had too many questions, so we took the decision to do another round of cost collection with local authorities, which took us into 2018.

In order to ensure delivery, there has to be, as you say, a cut-off point, and for us that point was in 2018. We got to a level where we had a shared understanding, but it would have been highly detrimental to the overall delivery of the programme had we taken an extra six months after that to continue to refine those costs before agreeing funding. Last week, COSLA reflected that the multiyear element of the funding package was particularly important to support that planning. The ultimate successful delivery of the expansion would have originally been in August 2020, but the timescale was revised as a result of the Covid pandemic. There was definitely a judgment call there.

Michelle Thomson: My final question is about capacity, because that also flows into the time element. Have any areas lacked the capacity to do what needed to be done? Has that been an underlying issue, or has it just been the standard issue that there is always too much to be done?

Alison Cumming: We made particular efforts to support local authorities in investing in that capacity. There was a lot of fresh learning in local authorities from the expansion to 600 hours, and we invested in a delivery assurance team at Scottish Government level. We convened that team, but it was certainly not a team of civil

servants; it was made up of people who had expertise in supporting change and developments. The Improvement Service brought important business analysis skills into that team, and the Scottish Future Trust, for example, was an important partner in relation to infrastructure.

We looked at ways that we could provide that support to local authorities to ensure that the capacity was in place to deliver the change. Local authorities will also have invested in that capacity through the funding that they received, and that is a highly legitimate use of that funding during the expansion period.

Michelle Thomson: This is my final final question. One of the challenges that any organisation faces is silo working. Are you able to ensure that the learning from the process is cascaded throughout all departments of the Scottish Government? I am willing to bet that we will be in a similar position at some point with a similar project, so is that routinely done?

Alison Cumming: Yes. Mechanisms are in place for us to share our experiences in and across our portfolios about lessons learned from delivery and from various other elements. The executive team in the Scottish Government has an increasing focus on delivery and learning from successful programmes to help us with future programmes, so I am confident about that. Both the Scottish Government and local government frequently refer to the 1,140 hours expansion as an example of effective partnership working between the two parts of government to deliver some pretty significant change.

The Convener: The Scottish Private Nursery Association made a significant submission when the committee asked for evidence, on which I want to touch briefly. It gave us a series of recommendations. One of them is that the Scottish Government should either

“Directly set the rate which all children will receive for their 1,140 hours”,

or

“Provide funding ... direct to parents through either a voucher scheme or ... an online portal which allows nurseries to be funded directly.”

Could you comment on that?

There have been a number of comments about whether there should be a standard rate, which, as I said at the start of the meeting, would have to take into account things such as rurality, additional needs and so on. I raise that point because we got a table that shows what local authority spending on early learning and childcare would be if all children were funded at the private, voluntary and independent sector rate, and the picture is quite stark.

The SPNA compared how much local authorities would spend in their area if everyone were funded at the same rate as the PVI sector in that area. The result is astonishing. I will give you two examples of the variance. Both East Renfrewshire Council and Comhairle Nan Eilean Siar give £5.31 an hour to the private sector, but if they both gave the same amount of money to the public sector—that is, the local authority—that would cost 45 per cent less in Eilean Siar and 22.5 per cent more in East Renfrewshire. Basically, that shows that East Renfrewshire appears to get more for the private sector per child than for the public sector, but the Western Isles appears to get significantly less. Do those colossal variances—more than 20 per cent higher in one local authority and minus 40 per cent in another—not show that more work has to be done on rates, as you suggested earlier? How do we go about ensuring that we do not have such huge disparities between the sectors?

Alison Cumming: There are significant methodological challenges and reasons why it is not appropriate to come up with an average cost per hour in local authorities—

The Convener: Sorry, just to interject that no one considers that the Western Isles, with far-flung island communities, can possibly be the same as East Renfrewshire, which is a suburban authority. However, they both pay £5.31 an hour.

Alison Cumming: Yes. We have had a number of discussions with representative bodies of private providers over the years about why we do not think that that approach is valid. Comparisons are sometimes attempted by looking at the total amount of funding that a local authority gets, dividing it by the number of hours and saying that that should be the hourly rate. For a host of reasons that we do not have time to get into, that would not be an appropriate comparison, because of the other duties that local authorities are seeking to discharge with that money.

10:45

There is absolutely a need to keep investing in more robust and transparent rate-setting processes, but such a set of processes is not easy for local authorities—particularly for those that have not had a long history of private provision in their area. Through the Improvement Service and others, and the work that Scotland Excel did for us previously, we need to look at how we can make sure that local authorities are well supported in developing their approaches to rate setting, and—importantly—that those approaches are locally transparent and that providers understand the basis on which rates are arrived at. The reason for there not being a national rate is the need for

scope for local variation and for taking account of local cost drivers.

The Convener: Okay. I hope that evolution will continue in that area in the months and years ahead.

I thank Alison Cumming for attending. That concludes the evidence gathering in our post-legislative scrutiny of the early learning and childcare aspects of the financial memorandum for the Children and Young People (Scotland) Bill. We will consider a draft letter or a report on our findings after the summer recess.

That concludes the public part of today's meeting. Members will not be able to escape for some considerable time yet, as the next item, which will be discussed in private, is consideration of a proposed contingent liability. However, the public and our witness can leave.

10:46

Meeting continued in private until 11:42.

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