



OFFICIAL REPORT  
AITHISG OIFIGEIL

DRAFT

# Education, Children and Young People Committee

Wednesday 1 November 2023

Session 6



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Pàrlamaid na h-Alba

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**Wednesday 1 November 2023**

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**EDUCATION, CHILDREN AND YOUNG PEOPLE COMMITTEE**  
**27<sup>th</sup> Meeting 2023, Session 6**

**CONVENER**

\*Sue Webber (Lothian) (Con)

**DEPUTY CONVENER**

\*Ruth Maguire (Cunninghame South) (SNP)

**COMMITTEE MEMBERS**

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

\*attended

**THE FOLLOWING ALSO PARTICIPATED:**

Natalie Don (Minister for Children, Young People and Keeping the Promise)  
Jack Eykelbosch (Scottish Government)  
Brendan Rooney (Scottish Government)  
Shona Spence (Scottish Government)

**CLERK TO THE COMMITTEE**

Pauline McIntyre

**LOCATION**

The Robert Burns Room (CR1)



## Scottish Parliament

### Education, Children and Young People Committee

Wednesday 1 November 2023

[The Convener opened the meeting at 09:30]

### Subordinate Legislation

#### Nutritional Requirements for Food and Drink in Schools (Scotland) Amendment Regulations 2023 (SSI 2023/267)

**The Convener (Sue Webber):** Good morning, and welcome to the 27th meeting in 2023 of the Education, Children and Young People Committee. We have received apologies from Ben Macpherson and Ross Greer.

The main item on our agenda is an evidence session with the Minister for Children, Young People and Keeping the Promise on the Children (Care and Justice) (Scotland) Bill, but the minister has been delayed. Are members content for us to consider agenda item 2 first?

**Members indicated agreement.**

**The Convener:** Under agenda item 2, we will consider the Nutritional Requirements for Food and Drink in Schools (Scotland) Amendment Regulations 2023, which are being considered under the negative procedure.

The regulations revoke a previous amendment that was made to the Nutritional Requirements for Food and Drink in Schools (Scotland) Regulations 2020 during the pandemic. The amendment allowed, as a temporary measure, education authorities or grant-aided schools to provide food or drink that did not comply with the 2020 regulations when they were unable to procure a product, given the supply issues at the time.

The regulations also correct a calculation formula in the nutritional requirements to ensure that the nutrient requirement for school meals is calculated as intended by the 2020 regulations.

As members have no comments to make on the subordinate legislation, does the committee agree that it does not wish to make any recommendations in relation to the instrument?

**Members indicated agreement.**

**The Convener:** I suspend the meeting while we wait for the minister to arrive.

09:32

*Meeting suspended.*

09:53

*On resuming—*

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

**The Convener:** Good morning, and welcome to the 27th meeting in 2023 of the Education, Children and Young People Committee.

I am sorry—I am getting confused. I am going back in my notes.

The second item on our agenda is an evidence session with the Minister for Children, Young People and Keeping the Promise on the Children (Care and Justice) (Scotland) Bill. Alongside the minister are Scottish Government officials, whom I ask to introduce themselves.

**Brendan Rooney (Scottish Government):** Good morning. I am the bill manager.

**Shona Spence (Scottish Government):** I am a professional adviser to the bill team.

**Jack Eykelbosch (Scottish Government):** I am an economist for the Scottish Government's children and families directorate.

**The Convener:** I welcome you to the meeting and invite the minister to make an opening statement.

**The Minister for Children, Young People and Keeping the Promise (Natalie Don):** Thank you very much, convener. The bill takes forward key measures to help Scotland to improve the rights of children and their life outcomes. It is firmly embedded in our obligations under the United Nations Convention on the Rights of the Child and our commitment to keep the Promise. Such aims come with cross-party endorsement from the Parliament.

Following stage 1 of the bill, the committee asked for updated resourcing forecasts, which I agreed to provide. A number of factors, such as the financial memorandum utilising pre-pandemic data out of necessity, further annual 2022-23 data sets being published in the period after stage 1 and United Kingdom inflation rising sharply since the financial memorandum was compiled last year, all meant that matters, and projected costs, had moved on. Those factors are reflected in the updated information that is provided to the committee.

The information was prepared by working with key bodies such as the Convention of Scottish Local Authorities, Social Work Scotland, the Scottish Children's Reporter Administration and Children's Hearings Scotland. I am aware that all those organisation appeared before the committee last week.

The projected maximum costs have risen for four key reasons. First, we have moved from projections that are based on the maximum age of 17 and a half for real-world practical illustrative purposes on some matters to projections based on all children up to 18 years of age. That approach acts on a committee stage 1 recommendation.

Secondly, new 2022-23 annual data sets have become available that are less tainted by Covid pandemic impacts.

Thirdly, we are using the higher window of estimates, even with the acknowledged levels of uncertainty and the likelihood that those will not be reached in full.

Fourthly, the information has been updated to include the significant increases in inflation, partly reflecting inflation increasing across the years since the referral levels captured in pre-pandemic data but also reflecting how it has been affected by UK fiscal policy and Brexit.

Our multidisciplinary resource and implementation group has allowed us to address those matters and met three times over the summer. Those discussions will continue and will deepen in tandem with Parliamentary scrutiny.

I know that the committee took evidence from victim support organisations last week. We have been working closely with them following stage 1, and I met Kate Wallace recently. We have worked closely with those colleagues on the development of positive proposals, and we are considering those as part of our 2024-25 budget processes. We will be able to give more detail of that at stage 2. Therefore, today, it would not be appropriate for me to get into too much detailed discussion of our post-stage 1 policy development work or to enter into provision-by-provision commentary. Both of those aspects are for future bill stages.

We will work with partners to consider plans for the commencement and sequencing of any future act. We will do so in a way that acknowledges the capacity of core agencies, that assists them to prepare and that works sensibly in the context of other change programmes that are at various stages of maturity. That is in keeping with our approach to any legislation.

I look forward to your questions and our discussion today.

**The Convener:** Thank you for that, minister. We will move to questions from members. I will start.

The Scottish Government's updated finances for the bill provide more money for local authorities specifically for social work. However, last week, we heard from Social Work Scotland that many social work posts are vacant and that there is no "systematic plan in place" to tackle recruitment and retention. I am also aware that, in the social

work pool, when someone talented is promoted there is quite a gap in relation to those coming in and the experience of those in leadership posts in terms of the skills on the ground. What is the minister doing to tackle recruitment and retention and the skills gap between people moving through the profession?

**Natalie Don:** Obviously, recruitment and retention are a matter for social work, and that stretches across different policy areas. A host of work is under way to help with the recruitment and retention issues across social work. We are in the process of making a workforce improvement plan, which is being developed to address the acute recruitment and retention challenges that social work faces. That includes workforce planning and workforce vacancy data, and it should help to address the immediate and longer-term recruitment challenges. It will include initiatives such as international recruitment, which would also help with the skills base, and improving access to social work education, which touches on the issues around skills and progression that you mentioned.

That document is live but is not yet in the public domain. However, as I said, that work is progressing.

**The Convener:** You say that it is not in the public domain. When can the committee expect to have sight of that document, given that it is a really important document and given the evidence that we heard last week about the lag that is required between commencement and sequencing of the legislation?

You referred to "a host of work", and what you mentioned related to international recruitment. "A host of work" suggests that there are many threads of work under way. What else are you doing to tackle the issue?

10:00

**Natalie Don:** On your first point, matters relating to the timing do not sit directly under my portfolio, so I could perhaps come back to the committee on that question. I do not have information on the timeline to hand.

In relation to other work that is going on, there is a review of pay in the advanced practice framework, which remunerates qualifications and experience. It also provides a defined career pathway for social workers, supporting work to address the retention challenges that the convener mentioned. *[Interruption.]* I have just noticed that the framework will be published next year. I apologise—as I said, I am not directly involved in that work.

To ensure that we have adequate data to inform workforce planning and resources allocation at a national level, we have assembled a short-life working group to provide strategic leadership and oversee the delivery of a Scottish Government data project that is seeking to establish and document a baseline for the demand for services and to monitor workforce figures and trends—as I alluded to in my previous answer—as well as the project demand and the resources that are needed to meet it.

As I said, the Government is very switched on to recruitment and retention issues, and we are taking measures to try to improve that landscape.

**The Convener:** If the framework will be published next year and is not under your remit, that indicates the cross-portfolio nature of the bill and that there will be impacts elsewhere, with the complexities that come with that. Social work services are under pressure right now, and we have been told that, as a result of the current demands that are being faced, many people are leaving the profession. It has been identified, from people's experiences of the children's hearings system, that one reason why people are leaving is the complexity and size of the workload that they have to deal with. Are we doing anything to address that?

**Natalie Don:** The voices of those involved will be key as we move forward. You picked up on a couple of points.

This work stretches across various portfolios, and there are a range of matters. Much of the work that I am involved in in relation to keeping the Promise is not limited to one portfolio; it stretches across a range of Government areas. Across the Government, we are working well together on that.

As I said, the voices of those who are involved will be key as we move forward. We are working collaboratively with stakeholders—including COSLA, Social Work Scotland, Unison and the Scottish Social Services Council—to ensure that the improvement plan will be influenced and informed by the voices of social workers and other key stakeholders.

**The Convener:** The voices are being quite specific in saying that social workers are overstretched and that there are serious issues with recruitment. A short-life working group will not help them right now.

**Natalie Don:** I was referring to the improvement plan, which will feed in to—

**The Convener:** That plan will be published next year, so it will not help them right now. What are we doing to recruit and retain staff right now? We cannot afford to be bleeding social workers when

the bill will require those individuals to carry out more quality work to support our young people.

**Natalie Don:** I am sorry, convener—I thought that I was here to answer questions on the issues with the bill as it progresses, and those relate to the longer term. As I said, I completely appreciate the recruitment and retention issues with social work, and my colleagues are working through those. I have laid out steps that should help in both the short term and the long term, and I have been clear that we are listening to the voices of social workers and other key stakeholders in order to try to improve matters.

**Pam Duncan-Glancy (Glasgow) (Lab):** Do you consider support for social workers and the social work profession to be key to the bill's implementation?

**Natalie Don:** Absolutely.

**Pam Duncan-Glancy:** In that case, the answers that you have just given about that issue not directly relating to the passage of the bill do not seem to be very adequate.

**Natalie Don:** Sorry?

**Pam Duncan-Glancy:** In that case, it feels as though the answers that you have just given on the record about the importance of ensuring that there are enough social workers in place and that they get the support that they need to do their job do not seem to be very adequate.

**Natalie Don:** I have laid out the range of steps that we are taking to help with recruitment and retention issues. Across the Government, we are taking steps to address those issues.

We are currently between stages 1 and 2 of the bill, so there is still time. I believe that there is time to get to where we need to be to allow the bill to be successful. You are asking me about issues that are happening right now, but we are talking about a bill that has not finished its passage through Parliament.

**Pam Duncan-Glancy:** Surely, minister, you cannot expect members across the Parliament to vote for a bill that relies so heavily on social work without any reassurance from you that support will be in place for social work to meet the demands of the bill?

**Natalie Don:** I do not believe that I have not given any reassurances. I said that work is under way in the group and on the improvement plan. As I said, we are listening to the voices of people in the profession and taking steps on that basis. The plan will be published next year, and I believe that that will go a long way to helping to solve those problems.

I would not say that we are not ready for it. We are taking action and we will get there.

**Pam Duncan-Glancy:** Social Work Scotland and Children's Hearings Scotland last week suggested that a 12 to 18-month timescale between the bill receiving royal assent and commencement could help with workforce planning issues, and other stakeholders support that view. What consideration are you giving to that call?

**Natalie Don:** That is still being considered. It will be wholly dependent on the future progress of the bill and what happens at stage 2 and, ultimately, at stage 3.

**Pam Duncan-Glancy:** Is it your intention at stage 2 or stage 3 to commence the parts of the bill that are relevant to those points within that timescale? Will the Government lodge any amendments to that effect?

**Natalie Don:** I cannot get into stage 2 amendments at this stage; that would be for stage 2.

**The Convener:** Liam Kerr has a quick supplementary question on this theme.

**Liam Kerr (North East Scotland) (Con):** I declare my interest as a practising solicitor. Concerns have been raised that the already under-resourced legal profession may be required to provide even more with less if and when the bill comes in. What have you done as minister to research the extra requirements that may be put on the legal profession, the impacts of that and the profession's ability to meet those requirements?

**Natalie Don:** As I alluded, a host of work has been going on over the summer. We have been working with the key agencies and stakeholders who will be involved in the implementation of the bill and how it transpires. That issue is under consideration, and, if further support is required, it will be given once the bill commences.

I am not sure whether Brendan Rooney has anything to add.

**Liam Kerr:** Before Mr Rooney comes in on the work that has been going on over the summer with the agencies, could you confirm, minister, that those are agencies in the legal profession, such as the Law Society of Scotland and the Faculty of Advocates? Have the conclusions of that work been factored in to the financial memorandum that is before the committee? If not, I presume that the minister is asking the committee to approve certain things that we do not have the data on.

**Natalie Don:** No. There is a specific section on legal aid in the updated financial memorandum. The figures were supplied by the Scottish Legal Aid Board, whose officials we have been in contact with. We have had discussions on the matter since the beginning of the bill process. The figures have been updated on the basis of the

updated financial costs that the committee sought, and they have been laid out in the financial memorandum. We have considered the matter and the figures have been updated. I hope that that suffices.

**The Convener:** That section is about legal aid, not the availability of lawyers. We are trying to find out whether that issue has been considered.

**Natalie Don:** All concerns that have been raised with officials or with me by stakeholders and those we have engaged with are being considered. If it looks as though that issue will be a problem in relation to commencing the bill, that will absolutely be addressed.

**The Convener:** Before we move on to questions from Michelle Thomson, I will quickly go back to the social work element. The bill is dependent on social work, and the questions about the future are key to that. An additional 215,931 hours of social work will be expected for the bill to be successful. I am not getting a sense of the gravitas or the size of that, and I am not hearing much confidence today that that will be possible. I am concerned. Is there any more reassurance that you can give us, minister?

**Natalie Don:** I am sorry to hear your concerns, convener. The Scottish Government is absolutely committed to improving the experience of social work and the workforce and to ensuring that social work is more sustainable in the long term.

I have already laid out some of the measures that we have introduced to address the acute recruitment and retention issues that the profession is facing. The workforce improvement plan is being developed in conjunction with stakeholders and it will be published next year. It will go a long way in helping to set the bar and to set out progress on the numbers that you alluded to. With the advanced practice framework, we are reviewing pay disparities and looking at progression to try to make the profession more attractive. We are, therefore, taking very good steps in the interim. However, because it is such a valued and much-needed profession that impacts on numerous different issues over and above the bill, it will be monitored going forward across the period.

**The Convener:** Michelle Thomson is next. Thank you for your patience, Michelle.

**Michelle Thomson (Falkirk East) (SNP):** First, I have to put on the record that I made an error in last week's evidence session. I stated that there had been a 42 per cent uplift in the financial projection figures. I want to correct the record and note that it was marginally more than a 50 per cent uplift.



I thank the minister for her statement. I note her explainer of the new numbers but, fundamentally, does she consider it acceptable that it is this committee rather than the Finance and Public Administration Committee that now has to scrutinise those numbers?

**Natalie Don:** As I said, this is the lead committee for scrutiny. You requested another session for scrutiny, and I have been happy to come to that. It is really a matter for the committee.

When I spoke at the committee during stage 1, I was very clear that the figures that we provided in the original financial memorandum were based on decisions that were taken and figures that were available at the time. I appreciate that the update contains a large increase, much of which is based on some of the committee's recommendations. I believe that that is why I am here this morning—to assist with your scrutiny of that.

**Michelle Thomson:** COSLA told the committee that costs for

“family support, secure transport costs, and the additional administration and managerial time ... required to support”—[*Official Report, Education, Children and Young People Committee*, 25 October 2023; c 18.]

the children's hearings process were all excluded from the financial memorandum. Can you update us today with estimated costings for those?

**Natalie Don:** Again, the figures were produced in line with different stakeholders, including COSLA. I will hand over to Jack Eykelbosch to go through some of the finances in a little more detail.

**Michelle Thomson:** I am making the point that they have been excluded from the financial memorandum. Can you give us the estimated figures today, which will be in addition to those that are included in the financial memorandum?

**Jack Eykelbosch:** No. I will not be able to give any more information today than was included in the updated financial information—

**Michelle Thomson:** I am sorry to interrupt, but, in other words, we can anticipate further costings in addition to the 50 per cent update. Minister, given that you correctly highlighted the very challenging fiscal environment that we have, how do you know that the money will be available? What meetings have you had thus far with the finance secretary and the Deputy First Minister?

**Natalie Don:** In relation to the bill, I have not had those meetings. However, I am working on some very extensive issues. For example, keeping the Promise is a huge part of my portfolio, and the Government has committed whole-heartedly to that. The bill is in line with keeping the Promise, and, given that we have to see it progress if we want to keep the Promise, I am confident that the

finances that will be required will be there. After all, this is a key issue for the Government.

I cannot comment on this year's or future budget processes—that will be for those who are involved in the decision making at the time. As I have said, though, I am confident that we will have what we need to see the bill through.

10:15

**Michelle Thomson:** Have you had a chance to develop a risk assessment on the probability of the moneys being available, given the very tight fiscal environment that you outlined?

**Natalie Don:** I think that it would be better to do that later in the bill process. We are still prior to stage 2, and amendments and changes could happen at that stage that might impact on the finances. I therefore think that it would be better to carry out such an assessment later in the bill process.

**The Convener:** I call Liam Kerr.

**Liam Kerr:** On a similar note, the updated financial information for the bill estimates that the number of additional hearings will be 42 per cent higher than the figure in the original financial memorandum. Why was the initial estimate so low? Does the Scottish Government expect any issues to arise from the significantly increased figures? Why should the committee have any confidence that the new figures are correct?

**Natalie Don:** I believe that I alluded to this in my opening remarks. As I advised in previous sessions, we had used the lower end of the scale in that respect, and we have now taken the maximum. Also, in the previous financial memorandum, we used the cut-off of 17.5 years, and we have now taken that up to 18 years. We have probably overconsidered, as it were, how many additional hearings there will be. However, we have taken the absolute maximalist approach and, as I said, have taken it up to the full age of 18.

There are, therefore, two reasons for the increase. The first is that, in the first financial memorandum, we took the lower end of the scale, which we are now changing. Equally, we have moved the age up to 18 to address the issue.

**Liam Kerr:** Out of interest, why did you take the lower end of the scale? Why did you not come to the committee with data that would enable us to say, “That's what we're going to need and we can rely on that”? By taking the lower end, have you not instilled a lack of confidence in the committee with regard to its ability to scrutinise?

**Natalie Don:** That was in the previous financial memorandum. We have now changed the

approach and have moved to the higher estimates. I appreciate that the approach was not ideal at the time—the decision was not made by me—and it has now been altered. I hope that it instils confidence in the committee that we are now using the maximalist approach and looking at the maximum.

**Liam Kerr:** Last week, Children’s Hearings Scotland told us that, although it had embarked on a panel recruitment campaign, it did not meet its expectations or what it considers to be its needs with regard to new panel members. Do you have any thoughts on what impact that failure to recruit might have on the bill’s ultimate implementation? What are you going to do about it?

**Natalie Don:** That was really disappointing, but I am still positive. There is more than enough time in hand for the national convener and Children’s Hearings Scotland to act to improve the recruitment and retention picture both in the short term and over the next important period of change. A substantial number of people still came forward although, admittedly, it did not meet the target. I will be working with Children’s Hearings Scotland to see what actions it will be taking and what it will be following that up with to ensure that any solutions are progressed in good time with regard to the bill’s progression.

**Liam Kerr:** The hearings system working group proposed the establishment of salaried chairs and paid volunteers. Last week, Children’s Hearings Scotland told us that there is

“an inherent fragility in ... running a statutory service with the good will of volunteers.”—[*Official Report, Education, Children and Young People Committee, 25 October 2023; c 30.*]

However, there is a counter view that having salaried chairs and paid volunteers could reduce the number of people who come forward. What do you think the impact of that would be? What is your thinking on the proposals?

**Natalie Don:** I cannot give an answer today on what I think the impact would be, because the hearings system redesign report and its recommendations are being considered at the moment. I have said that I will respond to the recommendations by the end of the year.

I appreciate that there are conflicting views on what having salaried chairs and paid volunteers would lead to, so that needs to be considered very carefully. However, I want to be clear that I hold those issues quite independently from the bill. The bill has been in the works for a long time now, and the hearings system redesign and the recommendations—there are nearly 100 of them—also require time and attention. We have to consider both things, as well as how they will impact on each other and on other aspects of

policy. I understand the thinking that the recommendations could help the bill, but I am very careful about conflating the two. I consider them to be two very separate issues.

The hearings system has worked very well for a number of years. It has always risen to challenges in the past and I believe that it can rise to the challenges during the progression of the bill.

**Michelle Thomson:** On that point, what costings are included in the proposal, the letter and the updates to cover salaried chairs and paid volunteers?

**Natalie Don:** Do you mean the costings for salaried chairs?

**Michelle Thomson:** Yes—for salaried chairs and paid volunteers. What estimates are in your updated letter to cover those costs?

**Natalie Don:** I apologise, but I do not have those figures to hand. I believe that the costings were considered along with the recommendations. Brendan, do you want to comment?

**Brendan Rooney:** They are two quite different and distinct programmes. As the minister said, the hearings system redesign report is out, and the Government has said that it will respond to that by the end of the year. All the financial assessments that have been done in the light of the bill, dating back to the financial memorandum that was created last year, are based on the current volunteer model.

**Michelle Thomson:** If I understand correctly, those costings are still to be added; we do not have them yet. Do we have any sense of what further uplift that will create in the costings, or will we not know that until you have done the work on it?

**Natalie Don:** Sorry, but are you again referencing the costs for salaried chairs and paid volunteers?

**Michelle Thomson:** Yes. I am referring to the salaried chairs and paid volunteers that are triggered by the recommendations. Do we not have a cost for those?

**Natalie Don:** We do not have a cost for those just now because, as I said, all the recommendations are being considered and the Government will respond before the end of the year. It is not likely that any actions that are taken based on the recommendations will be implemented straight away. Some of them would require legislation. It is likely that a Promise bill will come to Parliament, and it is very likely that some of the recommendations will need to be encapsulated in that in order to be taken through.

**Michelle Thomson:** Would those changes be implemented under the finances of the Promise bill

rather than through anything that is associated with the bill that we are discussing?

**Natalie Don:** Yes. Although I obviously cannot foresee what will happen with this bill, if it goes through stages 2 and 3, it is likely that the provisions will be commenced before the recommendations can be implemented. They will need to be actioned at a later date.

**Michelle Thomson:** Thank you for that clarification.

**The Convener:** Minister, I thank you for your commitment to keeping the Promise. However, the committee has heard that the reforms that are envisaged for the children's hearings system, alongside other changes that are brought about by the Promise, will take time—most likely years—to fully implement. What challenges does that pose for the children's hearings system now, given that it is already struggling to attract enough volunteers? The reforms are critical to the bill and to the children's hearings system.

**Natalie Don:** As I said to Mr Kerr, I am still positive about the children's hearings system. I think that there is more than enough time in hand, and it has always risen to challenges before. I do not believe that the positive material that I have gone through and that Children's Hearings Scotland gave the committee at and after stage 1 is redundant just because of a single disappointing panel recruitment campaign or the evidence that the committee heard last week. I believe that the system can come back and bolster recruitment.

Short-term actions are already under way. Children's Hearings Scotland is working with the SCRA and partners to minimise the number of abortive or deferred rota hearings, and officials have asked it, in the light of that, to develop a range of interventions to improve matters over the coming months. I hope that those will deliver either a boost to panel intake numbers or better retention rates. I will be keeping a very close eye on that, because I appreciate how important it is to the passage of the bill. I have met Children's Hearings Scotland in the past and I will meet it in the future to discuss the matter. As I said, I will continue to monitor it closely.

**The Convener:** Thank you. The Scottish Government's response to the committee's stage 1 report said that it was considering sequencing the bill and related work such as the recommendations of the hearings system working group. Last week, the committee heard from Ben Farrugia, who said that many of the changes proposed by the bill would be more deliverable if the system proposed by the hearings system working group was in place beforehand. The committee also heard from the other members of the panel that a sequencing change would be vital

for the success of the bill. What can the minister say about that sequencing change to reassure the stakeholders?

**Natalie Don:** I know the evidence that was heard last week from one individual, but the membership of the redesign group that produced the report did not include the full spectrum of statutory delivery partners, nor did its far-reaching proposals or the around 100 recommendations go through any form of public consultation. Therefore, although I appreciate that some might think that aspects of those recommendations could help with the bill, it is, as I have said, important to keep the two things separate.

I do not want to go through those recommendations and pick and choose, and I know that that is not what stakeholders want either. I want to keep those things separate. I want to give the recommendations the attention and consideration that they deserve, and any final decision that the Government comes to on them will be put forward in a Promise bill or, if they do not require to be in statute, they will be put forward at a later date.

As I say, I am keen on keeping the bill and the working group's recommendations separate because they were not started in tandem.

**The Convener:** I understand your comments, but we also have to remember our on-going secure care redesign project. Managing change is always a big issue and a concern to those who are working in the services. This is not about reducing the change; it is about two big changes happening at the same time. I am asking about the sequencing of that, not about putting stuff aside and it not happening. That is where my question lies in terms of that element.

**Natalie Don:** In terms of what element? I am sorry—I believe that I have answered your question about sequencing. The two issues should be quite separate.

**The Convener:** I understand that they are separate, but what I am saying is that the people on the ground are managing the two. If you have the changes coming in from the hearings working group, the secure care redesign and this bill, and then you are talking about a Promise bill, that is a lot of change and it could all be happening at the same time.

Surely, when we have a stretched workforce that is under pressure in terms of delivery and numbers, we should be doing everything that we can to consider the whole picture. We hear a lot about holistic change from this Government. Let us take the opportunity to do that now and make sure that we are not putting undue pressure on those who are delivering vital services.

**Natalie Don:** I appreciate what you are saying, and I certainly would not want to put any unnecessary pressure on those services. There is regularly a lot of change. I do not think that that is unique in relation to the bill, the Promise and the other things that I have mentioned. In terms of this bill, my priority is that we are getting it right for the children who will be involved. We want to ensure that 16 and 17-year-olds are no longer placed in young offenders institutions. That is in line with the UNCRC and the Promise.

On the sequencing, I am still keen to ensure that the bill is progressed at pace and that the other important matters that you refer to are considered in due course. As I have said throughout the process, we continue to work with the key stakeholders and organisations that are involved, to address any issues that they might face.

10:30

**The Convener:** Surely, you will get it right for those young people only if we have the 215,931 hours of social work capacity, the numbers of volunteers in the children's hearing system, and a secure care service that is fit for purpose and designed around the outcome of the bill. I am concerned that everything is out of sequence—we will go back to that point. I am not getting the reassurance from you today that that is not the case. Change happens across society and in lots of organisations. It is in the gift of the Scottish Government to decide how and when all those elements of change take place.

**Natalie Don:** I am sorry that you are not getting that reassurance from me, but I am confident that the actions that the Government and the key organisations are taking and the work that is being done on Children's Hearings Scotland will bolster panel members. I am confident that we will get there.

**The Convener:** What commitment can you give today to the committee and to the children and young people that improvements will continue to be made in the children's hearings system in the interim?

**Natalie Don:** I have already alluded to the work that is under way. I have given you two points on the range of interventions that we have asked Children's Hearings Scotland to develop in order to improve matters. As I have said, I will work closely with Children's Hearings Scotland and I will monitor what those actions will be. Children's Hearings Scotland is working with its partners to minimise the number of abortive or deferred rota hearings. I am giving you answers on the action that will be taken by Children's Hearings Scotland and the action that is being taken by the

Government on other matters, and I can only report back on those over time.

**Ruth Maguire (Cunninghame South) (SNP):** I would like to ask you about victims. I am sure that the committee agrees that it is important that we get it right for all the children involved, which includes the children who are harmed. Last week, we heard from Advocacy Support Safety Information Services Together, which shared a case study, which I think is always helpful in bringing us back to whom we are trying to help and what we are trying to do.

We heard about Chloe, who was 14 years old. The perpetrator, or the child who harmed her, was 16. Her case met the threshold for criminal court conditions. Chloe experienced strangulation, physical abuse and constant emotional abuse. Her partner had threatened to kill himself, had sent photos and videos of himself self-harming and had threatened to share intimate images of her. Because the case met the threshold for special bail conditions, ASSIST was able to do extensive safety planning with Chloe around her social media and her routines. It did a lot of advocacy with her school and it continues to work with her. In doing that work, it is having to manage the persistence of her ex-partner and his friends—I think that we all understand the nature of domestic abuse and that persistence. Even with all that support, Chloe spoke about feeling isolated and degraded all the way through the experience.

In contrast, we were told about the case of another young woman who was 14 years old in which the boy who caused her harm was going through the Scottish Children's Reporter Administration. No protective measures are in place for that victim. They receive no information about what is going to happen next or what is being done to address the harm that has been caused by that young man. The woman in question feels that the abuse that she has been subjected to is being minimised and not taken seriously. If we do not get the bill right for victims, who are often children themselves, is there not a real danger that the message that we will send is that the abuse that they face at the hands of young men who perpetrate domestic abuse or sexual crimes is not being taken seriously?

**Natalie Don:** First, I am so sorry to hear that account.

As I have said, I have met a number of committee members individually, and I appreciate the strength of feeling and the fact that we need to get it right. I have been clear that we need to strike a fine balance in how we do it. However, I have carefully considered all the information that I received at stage 1 and in my individual meetings with many committee members, and I continue to work with a range of victim support organisations

to explore the balance that is currently being struck. For example, I want to ensure that information can be shared with victims when that is needed for their safety, but it is important to make sure that we take the best approach to that.

**Ruth Maguire:** I think that a colleague is going to ask specifically about information sharing.

**Natalie Don:** That is fine. I was just going to say another couple of words to re-emphasise the fact that, during the summer, there was extensive engagement between officials, groups such as Victim Support Scotland, Scottish Women's Aid and Rape Crisis Scotland, and me. I assure members of the committee that active consideration is on-going. We had eight meetings over the summer with those agencies. I met with Victim Support Scotland, and I appreciate that support for victims is absolutely key. Again, I probably cannot go into too much detail at this stage, but I assure members that I continue to take great consideration of the matter.

**Ruth Maguire:** I appreciate that answer, minister. We have shared our report and had the response. I acknowledge that you and your officials have met the organisations that are also raising those concerns and do not feel that enough progress is being made. Some of those organisations were with us last week.

It might be helpful for the committee to hear from you. You said that there is a fine balance to be struck. We have to hear that all children are important and that the safety of all children is important.

I said that a colleague will come in to talk about information. However, the right to privacy is not absolute. A person who is going to harm another does not have a right to privacy. We need to be clear in the language that we use, and I need the young women and their families who might be watching to know that our Government understands domestic abuse, the harm that it causes and how it is perpetrated, and that we will absolutely take action to make sure that those young women are safe as well as making sure that the other children who are involved—the children who are causing harm—are assisted with their behaviour.

**Natalie Don:** Of course. I assure Ms Maguire that I take the issue with the seriousness and gravity that it requires and that I understand domestic abuse and its impact on the victim. As I have said, support for victims is absolutely key. Again, I do not know whether I can go into too much detail around what is being considered for stage 2, because that will happen at stage 2, but one aspect to which I am giving careful consideration is whether a single point of contact to help victims to navigate systems and

organisations would assist matters. That would not necessarily require to be in statute. I am aware that the area has attracted a lot of committee attention and will likely continue to do so at stage 2. I am minded more to follow that through at stage 2. I am just trying to give a little reassurance that—

**Ruth Maguire:** I accept that you do not want to talk about specific measures. It is challenging for us not to hear about them, but the committee can take that away and act as we might.

I will ask about funding for multidisciplinary training under the bill. Anyone who understands violence against women and domestic abuse will understand the absolute necessity for a victim to be given information and assisted with safety planning. In the examples that we have been given, that has not happened through the hearings system. What multidisciplinary training will the Scottish Government implement?

**Natalie Don:** A range of training practices are already under way. I am not sure whether that came up at last week's committee meeting. The SCRA confirmed that all children's reporters receive mandatory training on domestic abuse from Scottish Women's Aid. There is also trauma-informed training for children's panel members of Children's Hearings Scotland. That training is one of three mandatory training practices that include training on coercive control and domestic abuse. A training programme is being developed for the Children and Young People's Centre for Justice, and it will become mandatory after the bill receives royal assent. That programme is being worked on and developed directly in relation to the bill. I am trying to cover the bases—I have touched on Children's Hearings Scotland and the SCRA. In addition, there is training in place for social workers who are engaging with the organisations that I have just mentioned.

**Ruth Maguire:** Finally, convener, I do not want to offer more of a comment than a question, but I ask to be indulged. The hearings system is there to support a child who has caused harm. It is absolutely right that that child's family circumstances are taken into account. However, I want it to be on record that we also need an understanding of what the victim is going through. At the moment, that is not there.

**The Convener:** Pam Duncan-Glancy and Michelle Thomson have supplementary questions on the lack of protection for victims.

**Pam Duncan-Glancy:** My question is about ASSIST. Through the hearings system, is the Government considering any clear pathway for support from organisations such as ASSIST for people who are experiencing, or who have been victims of, domestic violence?

**Natalie Don:** I am not entirely sure of the details around that. I have been looking more at the overall picture for victims and witnesses. I will pass the question about the specific organisation to Brendan Rooney.

**Brendan Rooney:** As Ms Don said, a lot of engagement took place during the summer and a lot of consideration has been on-going. We have met more victim support organisations than those in any other key area during our engagement on the bill. As Ms Don alluded, some of what was discussed has been non-statutory. Things such as the proposal for a single point of contact have been put to the Government. That proposal is undergoing careful consideration. I suppose that there is always a consideration about what the bill will look like after stage 2 and how the non-statutory support network would interact with what the statutory provision says. Those things have been taken together and considered as a package.

**Pam Duncan-Glancy:** Part of the concern is that there are statutory routes within the criminal justice system, including provisions such as special bail and non-harassment orders, that would trigger pathways to organisations such as ASSIST when domestic violence or violence against women and girls is a factor. Will the minister consider that at stages 2 and 3?

**Natalie Don:** I am currently exploring how the courts will be able to protect a victim of domestic abuse by way of a non-harassment order and referral to a children's hearing, which would be the disposal if an accused child would benefit from the compulsory measures in the hearings system. That is under live consideration.

**Michelle Thomson:** I have a quick follow-up question. The minister mentioned the potential for having a single point of contact, and I note the comment that she just made. Has she been able to consider the financial costing of developing and delivering the processes that she is suggesting—because they would bring a cost—or will we see additional financial figures coming through in due course?

**Natalie Don:** Those would be additional financial figures that would come through in due course. As they are not directly associated with the bill at this stage, they are not included in our projections.

10:45

**Michelle Thomson:** Okay. I have one further comment. I noted what the minister said about her engagement thus far and during the summer recess, but I feel that it was significant that, after the committee's evidence session last week, Victim Support Scotland tweeted to say:

“Rather than having a transformational impact on children's experiences of the criminal justice system, the Bill as it currently stands could potentially fail both children who harm and children who have been harmed.”

I draw your attention to that tweet because it suggests that there is further work to be done to put Victim Support Scotland at ease.

**The Convener:** Do you wish to respond to that, minister?

**Natalie Don:** Yes. I appreciate that. As I have said, that issue was raised with me when I met many of you individually. There are real concerns about it, and I am switched on to that. I hope that what I have said today makes it clear that aspects of the issue are still under consideration to ensure that we get the balance right both for a child who might have offended and, equally, for a victim. I am committed to ensuring that we get that balance right.

**The Convener:** Thank you, minister. I will bring in Willie Rennie.

**Willie Rennie (North East Fife) (LD):** Victim Support Scotland made it quite clear last week that it does not think that its discussions with you have been particularly fruitful or that its arguments have gained much traction so far. I hope that what the minister has just said is reflected going forward, so that Victim Support Scotland's concerns are addressed at the heart of the bill, because that is a fundamental concern.

I think that the whole committee was pretty shaken by the really strong evidence that was provided last week. Witnesses did not quite say, “Stop the bill,” but they were not far away from it. That is a big concern for us, which is why we are being particularly difficult with you this morning. We just do not think that you have really got a grasp of the severity of the situation. This is a really important bill and we want to deliver on the Promise, but I have to say that, so far, we have not been convinced by what you have told us and there is an awful lot of work to be done.

Movement restriction conditions encapsulate all the problems that we have covered this morning. From finances to staffing capacity and the rights of victims, it is all wrapped up in that one area. One issue is how victims get information about movement restriction conditions to allow them to plan for their own safety. How can we make sure that that information is shared with victims?

**Natalie Don:** Again, Mr Rennie, that is being considered as part of the stage 2 deliberations. I have alluded to the fact that I want to see information shared with victims—striking the right balance—when it relates to their safety. If the sharing of information could help victims' situations or improve their safety, I would absolutely want to see that. I do not think that I

can go into more detail about the whos and the whats, because we have not reached the point of stage 2 amendments. These are still live discussions and considerations.

**Willie Rennie:** I am not asking you to go into huge detail; I am just asking you to deal with the point that my colleagues have raised, which is that the rights of victims in the system must be fully respected in the same way as the rights of those who are at the heart of the children's hearings system. You have not really given us an indication that you are going to shift, and I think that you need to shift.

**Natalie Don:** I think that I have given an indication that there could be a shift—

**Willie Rennie:** You said "could be", not "will be".

**Natalie Don:** —because I have already said that I am considering a single point of contact, and—

**Willie Rennie:** The single point of contact is not—

**Natalie Don:** No, I know that that is not in relation to that issue. I am just saying that, in relation to victims and the issues around victims that you have raised with me, there is definitely room for manoeuvre.

On the sharing of information, I have made it very clear that I would like to do that. However, a balance needs to be struck to ensure that we protect all the children involved, to ensure that we are doing what is right for the victim and, in essence, to ensure that we get it right.

I will bring in Shona Spence to follow up on that a bit.

**Willie Rennie:** Before you do that, I just want to say that, although there was broad agreement about the need for a single point of contact, if that single point of contact cannot share the information that is necessary, it is pointless. The principle of sharing information and respecting the victim's rights needs to be at the heart of this, or all the apparatus means nothing. I do not know whether Shona Spence can tell us more, but that is the fundamental point.

**Natalie Don:** It is not necessarily about telling you more. I would like Shona to elaborate on some of the points that I have made.

I completely appreciate what you are saying about sharing information with victims, but we need to make sure that it is right for the victim. Every situation is different, and I want the issues to be considered on a case-by-case basis. As I said, when it would be helpful to share information with a victim or when the information related to safety, I would like that to happen. However, it is

about how we build the system and ensure that we get it right.

I will bring in Shona Spence to follow up on that.

**Shona Spence:** You have put that really well, minister. It will be judged on a case-by-case basis. We have had discussions with a number of agencies, including Victim Support Scotland, Scottish Women's Aid and Rape Crisis, and we are continuing to have those discussions. We have been clear that we are looking at scenarios in relation to which information situations need more support, whether that is through practice, communication or legislation. That is all being actively considered, as the minister was trying to explain. There is definitely consideration of that.

Where we have been in disagreement so far is that we cannot say necessarily that every single case will be the same, as in the criminal justice system, because we are looking at a child welfare system. We want to understand completely where the gaps are and what we can do to resolve them. We are having an active discussion about that with a number of partners, but we are sympathetic to movement in the area, as the minister said.

**Willie Rennie:** Movement restriction conditions are not enforceable, are they? Why can we not make them enforceable?

**Natalie Don:** Do you mean in terms of people breaking the conditions that are set for them?

**Willie Rennie:** Yes.

**Natalie Don:** It is a measure for child welfare; it is not as restrictive as secure care. The issue will be for the children's hearings system to look into—again, on a case-by-case basis—in considering what is right for the child. If a movement restriction condition has been placed on a child and the child does not follow that or if there are issues with that, it will be for the children's hearings system to review the matter and see what can be put in place for the child.

**Willie Rennie:** COSLA told the committee that the costs of MRCs are unknown because of their bespoke nature, which speaks to the point about the finances for the bill. Social Work Scotland said that the intensive support that is needed is not available in some parts of the country and anticipated that, over time, panels will lean towards not setting MRCs due to a lack of confidence that the support will be there.

We cannot estimate how much this will cost. Even if the money is available, the capacity does not seem to be there, according to Social Work Scotland. Again, that speaks to the issue of staffing.

What will we do about both of those areas to give us a better handle on the issue? Otherwise,

MRCs will just not be used in large parts of the country. How will we address that?

**Natalie Don:** For a start, I would want all decisions to be made on the basis of what is right for the child, not what resources people think are available. That should not come into consideration when we are looking at what is right for a child in a children's hearing.

On movement restriction conditions, I understand that there are some issues around the finances and the detail of the projections for those going forward, especially given the changes that are taking place. To try to reassure the committee, I can say that I am happy to commit to rigorous monitoring and evaluation of the decision-making process around MRCs to ensure that we have a handle on the number that are being used, the cost involved and the support that is in place to go with them.

**The Convener:** Ruth Maguire has a question about something that was said earlier.

**Ruth Maguire:** Shona Spence said that there is clarity that the measures cannot be the same as those in the criminal justice system in terms of victims. Can I get some clarity that, whatever the specific measures are—I appreciate that you do not want to go into that—a child victim will have the same rights whether they are harmed by a 16-year-old or by a 21-year-old?

**Natalie Don:** The child's rights should be the same regardless. Obviously, every case is different and the process would depend on whether a case was handled by the criminal courts or dealt with in another way.

I will bring in Shona Spence to follow up on your exact point.

**Shona Spence:** I did not intend to suggest that children's rights would be breached in any way. I was saying that, along with Victim Support Scotland and other agencies, we are thinking about what measures are required in that regard. The proposal does not necessarily involve a straight swap from criminal justice to child welfare.

**Ruth Maguire:** I understand that quite clearly. In the bill that is in front of us, there is a diminishment of children's rights if the child is a victim, but you are working to ensure that that will not be the case.

**Shona Spence:** Yes.

**The Convener:** We come to questions from Stephanie Callaghan. I know that some of the topics that you want to address might have been covered already, Stephanie, so please take some time to develop your line of questioning if you need to.

**Stephanie Callaghan (Uddingston and Bellshill) (SNP):** Yes, convener. There has been some overlap.

Minister, it is good to know that you have met Victim Support Scotland. We have heard a bit about the restrictions surrounding the information that can be given to the person who has been harmed, who may also be a child, and the significant obstacle to victims being able to access adequate information relating to their case. Can you share any thoughts on the three-tier information-sharing system that has been suggested? There was a comment earlier about the fact that information would not always be shared.

**Natalie Don:** On the issue that information would not always be shared, I emphasise that that is not something that would be laid out in statute; it would be addressed on a case-by-case basis. I imagine that information would not be shared if that would impact on the victim.

**Stephanie Callaghan:** That suggests that the three-tier system has been ruled out, because the first tier of that would involve sharing with all victims information on the children's hearings process and decision making.

**Natalie Don:** I certainly would not say that anything has been ruled out. I am aware of that proposal from Victim Support Scotland, which has been raised and discussed in the meetings and the engagement over the past couple of months. What I am saying is that I want to ensure that any decisions are taken with regard to what is right for the victim. There is very much the possibility of retraumatisation around certain experiences that people have had. Everybody is different and every situation is different. I emphasise that I want to ensure that the system works for the victims regardless of what their requirements are.

Nothing has been ruled out yet. We are looking at a range of measures and different issues for stage 2, but that is something that I would have to go into at stage 2.

**Stephanie Callaghan:** As we heard last week, different countries have different systems. Some of those systems are very good at, for example, balancing the rights of children in cases that involve a child victim and another child—our witnesses mentioned such a system in Croatia. What exploration has there been of different systems in different places with regard to what is effective, what works well and what would work in Scotland?

**Natalie Don:** I might bring officials in on that, because a lot of that work probably predates my time in post. I look very favourably on the idea of considering international examples. We do that across a range of policy areas, as there are things



that other countries get very right. If there are aspects of what they do that we could follow, I would certainly be open to considering that.

I will pass over to Brendan Rooney to talk about the work that has been done in that regard.

11:00

**Brendan Rooney:** Obviously, the children's hearings system, as it stands, is unique to Scotland, which means that some international examples might not be directly transferable to the Scottish system.

The consultation on raising the age of referral goes back to 2020. There has been very wide consultation. A range of options and evidence has been looked at, assessed and discussed with stakeholders.

**Stephanie Callaghan:** I appreciate that the children's hearings system is unique to Scotland, but I do not think that that means that we cannot look at how, internationally, people are getting the balance right and how we can apply that.

**Brendan Rooney:** I completely accept that. One of the other elements of the bill that tries to strike that balance is the remittal framework. There will still be children who will go down the criminal justice system route. I know that the committee has heard about the Lord Advocate's guidelines, the decision-making framework that will support whether a child goes through the criminal justice system or to a hearing and the different levers that are available to the justice system and to the hearings system.

In some instances where the justice route would be more appropriate, we have tried to maximise the intersection between the justice system and the hearings system. The considerations that Ms Don is talking about around non-harassment orders represent another furtherance of that approach, whereby the court measure can still be imposed by the court but the support and expertise of the panel could also come in.

**Natalie Don:** I want to follow up on that and reiterate my point. If there are approaches that are being taken in other countries that the committee thinks are examples of good practice—you have raised one such example with me this morning—I am more than open to suggestions or to your pointing that out to me in order that we can look into it, because I am always open to considering anything that might improve things.

**Stephanie Callaghan:** I really appreciate that, because I think that it is important that we look at that.

In making this point, I will go over what has been said already. As a committee, we are looking

for a concrete reassurance that a child victim's right to their physical and psychological recovery under article 39 of the UNCRC will be a key priority for you. We also want you to acknowledge that information sharing can be critical to the victim's ability to recover following a crime and that it can help to alleviate the significant anxieties around their being involved with the justice system. In addition, we want you to fully accept that information can be a really powerful enabler for victim safety planning and for victims' mental health and wellbeing.

We want to know that all of the above will be key priorities for you and that you will continue to work with all the relevant organisations, including those that we have mentioned today—Victim Support Scotland, Women's Aid Scotland and Rape Crisis Scotland.

**Natalie Don:** Absolutely. Given what I have already laid out, I hope that I have reassured the committee that I think that that is an extremely important aspect of the bill. I appreciate the feeling from a range—if not all—of the committee members on the subject.

I am absolutely committed to our taking a person-centred, trauma-informed approach to the matter, and I share the committee's and witnesses' desire to ensure that a consistent, quality approach is taken to providing the right information and support from the early stages and throughout the process. As I have said, matters are being considered in terms of both statute and legislative measures going forward for stage 2.

I should have mentioned the fact that there is already an offer to victims regarding information but that it has quite a low take-up rate. I believe that the committee has heard about that in evidence. I have asked about that, and I believe that the SCRA is now looking into the reasons for the low uptake rate. That work is going on at the moment, but I reassure the committee that we are looking to strike the right balance and to get this right for all the children involved. I hope that that reassures you.

**Stephanie Callaghan:** Thanks. It is really important to get those strong commitments on the record.

I will pick up on what you said in relation to 13 to 14 per cent of victims taking up the offer of information. We asked about that quite a while ago and, last week, we heard from the SCRA that it expects that looking at the issue will take between 12 and 18 months, because it has lost a third of its researchers. Is it possible to urge it to take a quicker, more focused look at the information and to have a discussion with people who chair panels, to get an initial indication of why that might be the case? The SCRA did not have any understanding

of it at all, so it would be helpful if you could do that.

**Natalie Don:** Okay.

**The Convener:** Pam Duncan-Glancy has a supplementary question on the same theme.

**Pam Duncan-Glancy:** Brendan Rooney mentioned the role of the Lord Advocate. Last week, the SCRA said that, with the rise in age, more serious offences could come to the panels. As my colleague Ruth Maguire has highlighted, victims want to know that justice will be done in those circumstances. Last week, Alistair Hogg said:

“I imagine that there will be consideration of”

the issue and of

“which is the appropriate system to deal with such circumstances.”—[*Official Report, Education, Children and Young People Committee*, 25 October 2023; c 31.]

Is that being given on-going consideration? What conversations are happening in that area?

**Natalie Don:** I am sorry, but I am not quite clear on the question. You asked whether there is on-going consideration of—

**Pam Duncan-Glancy:**—whether something will be dual reported through the children’s hearings and reporting system or whether it will be referred to the criminal justice system, given the increased numbers and the fact that the rise in age could mean that more serious offences might need to be dealt with.

**Natalie Don:** Thank you for repeating the question. I cannot say what would happen, because such decisions would be purely for the Lord Advocate. Obviously, there will be increased numbers as a result of the Government’s bill, but I am not able to foresee or comment on how such decisions would be taken. Such matters would be purely for the Lord Advocate to consider.

**Bill Kidd (Glasgow Anniesland) (SNP):** On the practicalities of local authority partners implementing elements of the bill, one issue relates to supervision or guidance for those over the age of 18 and aftercare for those leaving secure care. As has been mentioned, COSLA gave evidence to the committee last week. Ben Farrugia and Jillian Gibson highlighted the difficulty of costing aftercare support. Ben Farrugia said that local authorities have to find a way to fund aftercare packages, because that is a statutory duty for them, and that that sometimes leads to overspends, which means that savings and cuts have to be made elsewhere. Jillian Gibson, from COSLA, said that the bill will expand aftercare support to more 16 and 17-year-olds but, as has been mentioned, there is no way to know what support needs those young people will have

and, therefore, what the costs will be. Do you have any ideas?

**Natalie Don:** I thank Mr Kidd for that question. I appreciate that those concerns were raised in the evidence session last week.

The bill affords looked-after children status to all children who are sentenced or remanded to secure accommodation if they do not already have such status. As you alluded, those children may choose to take up an offer of aftercare support. However, I am keen to point out that the vast majority of children in such scenarios will already have looked-after children status and entitlements.

The financial information relating to the bill states that the numbers and the costs, which will be individual to each young person’s package of support, cannot necessarily be quantified. However, for illustrative purposes, the document gives figures from Social Work Scotland, estimating that it will cost around £200,000 per year for social workers to support around 30 children per year. However, as I have said, it is difficult to quantify this, because of the numbers and because the children in question would already have that status. That said, as with many other aspects of the bill, I am happy to monitor the cost going forward.

**Bill Kidd:** Thank you. That response was very helpful, as I was also going to ask how the Scottish Government will monitor spending on aftercare costs. Obviously, as you have said, that will be very important, given the effects that this could have on other local authority budget areas. Is the Scottish Government taking that into account?

**Natalie Don:** Absolutely. As Mr Kidd has advised, provision of continuing care is a local authority duty, but I understand that there are concerns about this being absorbed into existing costs. We are all in extremely difficult financial circumstances just now but, as I think that I said in answer to your second question, this will absolutely be something that I am happy to monitor.

**Bill Kidd:** Thank you for that.

**The Convener:** I have a thread in my head that I have not quite formulated yet, but for the moment I will call Ruth Maguire.

**Ruth Maguire:** When we began our scrutiny of the bill, we received a letter on behalf of a mother of a child who had been murdered, asking that we not reference the child by name. We have taken evidence on the impact of reporting on the families of victims, particularly where the victim has lost their life; on how that can be retraumatising; and on the impact, particularly on siblings, when their loved one’s name and the details of what

happened to them get brought up in the press whenever something similar happens.

From evidence that we took last week, I understand that—and I am quoting those witnesses—not

“a huge amount of headway”—[*Official Report, Education, Children and Young People Committee*, 25 October 2023; c 3.]

has been made on addressing the issue. Can you share your reflections on the matter with the committee and perhaps give us a flavour of your thinking on it?

**Natalie Don:** Yes, of course.

This is an extremely sensitive matter. It is also difficult because, when it comes to protecting the identity of deceased victims, there are, I think, competing wishes. There are times when people would want that anonymity, but I also think that there are times when people might want to raise the profile or awareness of certain things. As a result—and I know that I keep coming back to this—I guess that it is about striking a balance.

Considerations of the issue are absolutely live ahead of stage 2, although I would also note that the matter was not consulted on when the bill was introduced. Given the strength of feeling about the issue and given what I have said about the competing thoughts in that respect, this is a little difficult for me but, as I have said, these considerations are live ahead of stage 2 and I will be examining how best to proceed with the matter.

**Ruth Maguire:** I suppose that, in such situations where there are competing wishes and balances to be struck, it might be helpful to go back to the principle of what we can do to ensure that families are not retraumatised. If the Government is not going to consider amendments in this respect, can you tell us whether any additional action can be taken or anything done to reduce retraumatisation as a result of media coverage?

**Natalie Don:** It is certainly something that we will be looking at in advance of stage 2, and it will be dependent on those stage 2 deliberations. I think that Kate Wallace said that she could provide international evidence on how this matter has been handled in other areas, and I would certainly be very interested in taking a further look at that. However, as I have said, considerations on the matter are on-going.

**Ruth Maguire:** Thank you.

**Willie Rennie:** Kate Wallace from Victim Support Scotland, whom we have just been talking about, told us last week that

“a number of children who are in secure accommodation on welfare grounds have expressed real concern about the

proposed change for 16 and 17-year-olds to go into secure accommodation as opposed to a young offenders institution. Their concerns are absolutely about their own safety, and we share those concerns.”

She went on to say that that

“may replicate some of the problems that we have had in young offenders institutions if the situation is not managed well.”—[*Official Report, Education, Children and Young People Committee*, 25 October 2023; c 16.]

What can you tell us to convince us that the situation will be well managed?

11:15

**Natalie Don:** I am disappointed to hear of those young people’s concerns, and I will certainly look into why they have arisen. Such situations are handled by secure care centres currently. Secure care centres already have the ability to deal with children or young people who have committed serious crimes and they know how to manage such situations. They make such decisions on a case-by-case basis, and secure care centres would be expected to manage that appropriately and consider the child or young person’s offence and how it could impact on other children or young people in the secure care centre.

I want to reassure you that we know that this is a serious issue and that we need to get it right. Secure care centres are getting it right at the moment, but, if concerns have been raised by those young people, I will certainly look into them. It is up to the secure care centre to manage the situation appropriately, but perhaps they need more support with that. Equally, it could be something that comes out of the reimagining secure care work in future. As I say, I will certainly ask where those concerns have come from.

**Willie Rennie:** Dr Marsha Scott, from Scottish Women’s Aid, made the important point that an awful lot of the young women who are in secure units are there on welfare grounds. There is a gender issue here, and the vulnerability is even more significant in those cases.

I take the assurances that you have given us this morning, and we will wait to hear more about that at a later stage. Thank you.

**The Convener:** Stephanie Callaghan has a supplementary question on this theme.

**Stephanie Callaghan:** You have recognised the importance in secure care of grouping children together appropriately. There may be children who have committed very serious crimes and have manipulative tendencies alongside children who are very vulnerable. There is a bit of concern about the increasing numbers and the possibility that secure care centres will need infrastructure changes to ensure the safety of all the children

who are in their care. Will you take that into consideration?

**Natalie Don:** As I said, it is for secure care centres to manage that. If there are concerns about children interacting with other children or young people in a negative way, that should be highlighted and managed in that estate. I am absolutely alive to the concerns that have been raised.

As I have said, work is under way on reimagining secure care, so I would wait to see the outcome of that.

**Stephanie Callaghan:** I assume that choosing the most appropriate secure care provider for a particular young person and their circumstances would be part of that.

**Natalie Don:** Absolutely. As I said, it is done on a case-by-case basis. When I say that I want to get it right for all children and young people, that includes those who have committed an offence and those children and young people who are present in the centre. It is about how that is managed in the centre. I am confident that secure care centres have a lot of experience in that regard. I appreciate what you are saying about increased numbers. We are not dealing with a huge number of children, but I appreciate that it is at a higher age. Secure care centres are absolutely equipped to deal with such situations at the moment, so I have confidence in them.

Equally, as I have said numerous times today, I am always happy to listen to concerns and hear about areas where people think we are not getting it right and to look at how we can get it right.

**Ruth Maguire:** I hear what you are saying about behaviours needing to be managed by secure care centres. I would reflect that the committee's concern might be that we do not bake into law a situation that exacerbates harm or inequality. Willie Rennie gave an example of young women being placed in secure care on welfare grounds and then male children being put in there who have caused sexual harm. That is not something that should be managed by a centre. We must be careful that we are not legislating to exacerbate such a scenario.

**The Convener:** I will come in on that issue, too. The evidence that we heard from the secure settings that we visited was that they were not equipped to deal with that right now, which is contrary to your comment in response to Stephanie Callaghan's questioning. I wonder whether you could reflect on my comments as well as those of the deputy convener.

**Natalie Don:** I said in a previous answer that I would look into the concerns of young people that Mr Rennie has raised. I have confidence in our

secure care centres. I cannot comment on those cases specifically, but I will look into them.

We need to be clear that secure care is not a prison. When children are being placed in secure care centres because they have come into conflict with the law and are being deprived of their liberty, the bill seeks for that to apply to all children and young people under the age of 18 in an age and stage-appropriate way and in a therapeutic environment where they can benefit from intensive care, support and education. That is in line with trying to ensure that they do not reoffend or repeat the offences.

Although I appreciate that there are concerns about where secure centres would place those children or young people who have committed those offences, as I said, that issue has been managed for a number of years. The only thing that the bill changes is the age limit. It would be for the secure care centre to look, on a case-by-case basis, at how placement would impact on the child who has committed the offence and, equally, at how that would impact the children or young people in and around that secure care centre, and to ensure that that is managed appropriately.

That is something that will be monitored going forward—or I am happy to monitor that. I have met secure care centres in the past to understand how the process works, and I am equally happy to look into concerns that are being raised about the process at this time.

I hope that that provides some reassurance. However, as I said, I will monitor any further concerns and continue to look into them.

**Ruth Maguire:** I apologise, minister, but I will have to come back in on this. I accept everything that you are saying, but can we imagine that a victim of sexual abuse or domestic violence who is in a secure unit on welfare grounds is in a therapeutic environment for recovery if she is in there with perpetrators of those crimes? They are crimes—or harms, if that is what we want to call them.

I gave you the example of Chloe. She was 14 and the boy who harmed her was 16. Is it right that they would be in the same place if she needed to be there on welfare grounds?

**Natalie Don:** As I said, if that is deemed appropriate for both children, that is a decision that has been made. However, I—

**Ruth Maguire:** Forgive me—sorry for interrupting, but can you imagine that being appropriate for a child? We talk at quite a high level a lot of the time, but that is a concrete example of a 14-year-old who has been harmed by a 16-year-old. Can you imagine it ever being therapeutically appropriate for them to be securely

locked up in the same premises? I cannot—forgive me, but that is why I am pressing you on this.

**Natalie Don:** I find it difficult. I have tried to reassure the committee that the matter would be looked at in the best interests of all the children and young people involved. Equally, for those very serious offences, it would be a matter for the Lord Advocate to consider where that should be dealt with and the outcome of that. I hear the concerns that are being raised and I will certainly take them forward in further consideration of the bill.

**The Convener:** Thank you, minister. We are going to start hopping about a bit, because members have some supplementary questions that we can sweep up now that we have a bit more time. Pam Duncan-Glancy has a specific question on legal representation and MRCs.

**Pam Duncan-Glancy:** The minister will be aware that, currently, automatic legal representation is available when the recommendation is that the young person be deprived of their liberty and that legal aid can be sought in those cases. We also know—and Clan Childlaw has provided evidence to the committee on this—that other sanctions can be used on offence grounds that impact hugely on a young person's life and that could appear in disclosures in the future. Does the minister believe that having an automatic right to legal representation for all young people on offence grounds at the panel is important?

**Natalie Don:** I understand the thinking around that. That is being considered.

**Pam Duncan-Glancy:** Thank you, minister. When you say that something is being considered, are you considering potential amendments in that space?

**Natalie Don:** We are considering them.

**Pam Duncan-Glancy:** For some hearings that are held on welfare grounds, some information, which is perhaps considered to be “other relevant information”, to use the legal term, can come to light. That could be conversations with police that did not necessarily lead to arrest or charge but that have come to light and that appear on enhanced disclosures for children and young people. Does the minister think that young people should have access to legal representation by a duty solicitor in those situations, too?

**Natalie Don:** As I have just said, I can see the thinking behind that. Again, I would say that that is part of our live considerations.

**Liam Kerr:** I have a brief question before I ask my substantive one. Based on what Ruth Maguire was saying, regardless of whether such a situation is appropriate, have you checked and had formal

advice on the legal position on the balance of rights and any prejudice to the rights of the victim?

**Natalie Don:** I would have to bring in an official to comment on the legal status, but I would say that, in line with keeping the Promise and the UNCRC, we need to ensure that we are balancing the rights of all children equally. I appreciate from Ruth Maguire's question that it would seem that there are concerns about whether that is happening in relation to victims, but in terms of—

**Liam Kerr:** Have you taken legal advice? Yes or no?

**Natalie Don:** I will pass that question over to Brendan Rooney.

**Brendan Rooney:** All the provisions in the bill have been through legal assessment internally in the Government. I suppose that it is important to say that, at the moment, there are 16 and 17-year-olds who go via the hearings system. The bill is enabling that for all children, but at the moment there are 16 and 17-year-olds who go through the hearings system on offence grounds, if they are already on compulsory measures. Likewise, as we are talking about secure care, there are already children who are 16 and 17 who are in secure care and are being managed. Those risks are being managed. We are talking about enabling that for more children rather than creating a situation that is wholly new.

**Michelle Thomson:** I have a tiny supplementary question on that point. It triggered something in me when you said that the rights would be the same for people going through this process—in other words, children, and we are focusing on victims at the moment—as they would be for people going through the criminal process. Have you tested that legally, and have you taken legal advice on that? I can sense a test case emerging whereby, theoretically, they have the same rights. Have you cross-matched the rights of people going through the criminal justice process with the rights of—specifically—victims going through this process?

11:30

**Natalie Don:** I will bring in Brendan Rooney again for that.

**Brendan Rooney:** I reiterate that all provisions in the bill, as with any legislation, go through legal assessment in the Government as part of the normal process. The full children's rights and wellbeing impact assessment and other impact assessments that were published with the bill give an articulation of the balance of rights around how the bill has been framed.

**Michelle Thomson:** If you have not, I would ask you to look at that from a victim-centred

perspective, comparing and contrasting, if you are going to say that the rights will absolutely be upheld and be exactly the same as they are in the criminal process. I do not know the answer either, but I am asking that question and there may be a slightly different angle. I will leave it there.

**The Convener:** I will bring in Stephanie Callaghan on that question theme.

**Stephanie Callaghan:** I am trying to be helpful here. I think that what we are getting at is that the bill is about those young people who are getting involved with the criminal justice system and involving them with the children's hearings system instead. However, the bill is about those young people who are perpetrating acts. It does not include the victims, and that is why we are asking whether legal advice has been taken about the impact on victims, which is not part of the bill.

I would be quite happy if you wanted to take that away and have a further look at it. I am not trying to put you on the spot and make life difficult.

**Natalie Don:** We can certainly come back with a more detailed answer, if that is something that the committee would like.

**The Convener:** Thank you, minister. We return to Liam Kerr.

**Liam Kerr:** I am very grateful.

There are some cross-border issues with the bill, such as issues around the regulatory regimes pertaining to cross-border placements. There has been increased funding in the new financial memorandum, which should lead to fewer cross-border placements. What impact will that have on the legal aspects of cross-border issues, if any? Before you presented the latest financial memorandum to the committee, what meetings took place between you and your counterpart in the UK Government on that point?

**Natalie Don:** I have been due to meet my counterpart in the UK Government on the bill twice. The first time, the meeting had to be delayed because it fell at the same time as the stage 1 debate for the bill, which could not have been foreseen. The second time, the meeting had to be delayed because there was a reshuffle.

I was at a bilateral conference last week in relation to a different matter—early learning. However, my counterpart was a part of the delegation for that as the minister with control over early learning and childcare. Despite the fact that my meeting with him during that event was not in relation to cross-border placements, I raised the issue with him, because I have been trying to get into a meeting with the UK Government since taking post. I raised the matter with him and our officials are now working together to confirm a

date when we can sit down and discuss the matter.

One of the things that I want to highlight the most is that, although cross-border placements can be essential sometimes for some children, the decisions that are being made about cross-border placements should take into account what is right for the child. Those decisions should be based only on what is right for the child.

**Liam Kerr:** Do you know when that meeting might take place? It seems to me that we will have a potential change to the situation with cross-border placements but, as yet, there has been no meeting. The meeting to discuss the issue did not take place prior to this committee considering the new financial memorandum. Do you know when it will?

**Natalie Don:** No, but I have stressed that I want it to happen as soon as possible. I would have been in a position to meet if there had not been a reshuffle. I am more than open to having the meeting as soon as possible. I reiterated that to my counterpart just last week.

**The Convener:** I thank the minister and her officials for their time this morning. That concludes the public part of our proceedings.

11:34

*Meeting continued in private until 12:09.*

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