



**OFFICIAL REPORT**  
AITHISG OIFIGEIL

# Education, Children and Young People Committee

**Wednesday 17 April 2024**

**Session 6**



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**EDUCATION, CHILDREN AND YOUNG PEOPLE COMMITTEE**  
**11<sup>th</sup> Meeting 2024, Session 6**

**CONVENER**

\*Sue Webber (Lothian) (Con)

**DEPUTY CONVENER**

\*Ruth Maguire (Cunninghame South) (SNP)

**COMMITTEE MEMBERS**

\*Stephanie Callaghan (Uddingston and Bellshill) (SNP)

\*Pam Duncan-Glancy (Glasgow) (Lab)

Ross Greer (West Scotland) (Green)

\*Liam Kerr (North East Scotland) (Con)

\*Bill Kidd (Glasgow Anniesland) (SNP)

\*Ben Macpherson (Edinburgh Northern and Leith) (SNP)

\*Willie Rennie (North East Fife) (LD)

\*Michelle Thomson (Falkirk East) (SNP)

\*attended

**THE FOLLOWING ALSO PARTICIPATED:**

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

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

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

**CLERK TO THE COMMITTEE**

Pauline McIntyre

**LOCATION**

The Robert Burns Room (CR1)



# Scottish Parliament

## Education, Children and Young People Committee

Wednesday 17 April 2024

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

### Children and Young People's Commissioner Scotland (Strategic Plan 2024-28)

**The Convener (Sue Webber):** Good morning and welcome to the 11th meeting in 2024 of the Education, Children and Young People Committee. We have received apologies this morning from Ross Greer.

The first item on our agenda is an evidence session on the Children and Young People's Commissioner Scotland's strategic plan for 2024 to 2028. I welcome Nicola Killean, who is the Children and Young People's Commissioner Scotland. I also welcome Nick Hobbs, who is the head of advice and investigations, and Gina Wilson, who is the head of strategy, at the office of the Children and Young People's Commissioner Scotland. Good morning.

I invite the commissioner to make a brief opening statement, which I understand will include a video clip highlighting how children and young people helped to develop the strategic plan. Thank you, and welcome.

**Nicola Killean (Children and Young People's Commissioner Scotland):** Good morning. I thank the committee for inviting us here to share with you our strategic plan and to explain how children and young people across Scotland have helped us to shape it.

I feel very fortunate in respect of the timing of my appointment to the role of commissioner, which was just before the United Nations Convention on the Rights of the Child (Incorporation) (Scotland) Act 2024 was passed by the Parliament, and came at a time of major reforms in many areas, which should continue to develop and enhance children's rights in Scotland.

I also feel fortunate to have come into the role six months before the required laying in Parliament of a refreshed strategic plan. That provided a unique opportunity to work with the team and with children and young people to look back at what has been achieved and to look forward at what more requires to be done. As I hope you will see, the plan has the voices of children and young people throughout it and has

been guided and influenced heavily by their priorities. I want to take this opportunity to thank all the children and young people, and the adults who have supported them, for contributing in many ways to the plan.

I look forward, throughout the session this morning, to sharing in more detail how children and young people shared their views and opinions with us in multiple ways, and to saying what key work around those themes we will begin to take forward.

First, we will start by showing you this film, which illustrates how children and young people have been involved.

Thank you. That film shows just a tiny snippet of the many children and young people who contributed in different ways. I look forward to sharing more about that and how their views have shaped our plans. Thank you for listening.

**The Convener:** Thank you very much. We will move straight to members' questions. I bring in Liam Kerr, to start off.

**Liam Kerr (North East Scotland) (Con):** Good morning. You have a very ambitious and comprehensive plan in which you have, understandably, set out a number of outcomes. How will success be measured in relation to achievement of the plan?

**Nicola Killean:** It is absolutely our responsibility to be as ambitious as possible for children and young people. That is a key part of the role; I am glad that you recognise that. Over the next four years we will be extremely ambitious for children and young people, through the plan.

In terms of measuring impact, it could be helpful to reflect on some of the ways that the office has done that over the past few years, and how we will do that, moving forward. I will pass to Gina Wilson to talk briefly about some of the historical ways that we have measured impact, then I will cover how we will do that, moving forward.

**Gina Wilson (Children and Young People's Commissioner Scotland):** Thank you for the question.

There is no single way in which we measure the impact of the work that we do, because we perform so many different functions. In trying to influence law, policy or practice, and in trying to improve children's involvement and participation in decision-making, we use a range of different tools.

I turn first to legislation and policy impact. During the previous commissioner's term, we were very focused on legislative change. The former commissioner had three main priorities: one was incorporation of the United Nations Convention on the Rights of the Child, one related to the age of

criminal responsibility and the other related to equal protection from assault. We measured our success in terms of the degree to which we were able to influence legislative change in those three areas. I think that we can say that in two of them we were quite successful, but are not quite where we want to be with the age of criminal responsibility, although we have certainly made progress.

We also look at how we are viewed internationally. The office works with a lot of United Nations human rights treaty bodies and other international organisations. For example, in our work over the past two years to influence the last UN general comment on the right to a healthy environment, our office was able to bring the voices of very young children on to a global stage. We were recognised for developing an engagement process that was good practice that had not been done elsewhere, in bringing very young voices from Scotland into a global piece of work that now exists to provide advice to everyone on what we should be doing around the right to a healthy environment.

We also work directly with children and young people to ask them for their ongoing and constant feedback about how we work and whether they find it effective. I will start with our standing young advisers group. At the moment we have 25 young advisers whom we ask to reflect constantly on how we are delivering our work. Are we meeting the objectives that we have set? How do they find working with us? We are, based on their feedback, constantly evolving how we work with them. Not everything works, so we respond to that and change our practice.

We also try to reach out much more broadly to other children and young people to ask them whether the work that we have done has actually made a difference to them. I am referring to children and young people who are in secure care and to care-experienced children and young people. Are they aware of our work, and has it made any difference to them? We ask them for feedback on that and we try to reflect it in the work that we do.

We also provide a lot of expert input to professional conferences. We try to influence practice and we are often provided with feedback about the level to which that has been taken on board. Whether on health, education or justice, we provide expert input which is often responded to afterwards with people saying what they have done with what we have told them, so that can see the line from our work to the evidence on its impact.

**Liam Kerr:** Do you want to come back in, Nicola?

**Nicola Killean:** Will it be helpful for me to touch on a couple of the additional ways that we will measure the impact over the coming years?

**Liam Kerr:** I think that the committee would benefit from that.

**Nicola Killean:** As Gina Wilson mentioned, a focus of the office over the past few years has been on legislative change and measuring the impact of how we have contributed to that. Often, we do that alongside many other contributors, but as we move into implementation, quite a lot of our focus over the next few years will be on practice and how our young people in Scotland are experiencing and enjoying all their rights, and how that is impacted on by incorporation of the UNCRC.

You will see within the plan that we focus quite a lot on action research. Over the next few years we will—through action research, commissioned research and continuous feedback from groups of children and young people across Scotland—focus very much on making sure that we gather ongoing real-life insights from young people through asking how they experience their rights in terms of the thematic areas that we have identified. We will publish an annual piece of work that will share those insights from children and young people across Scotland.

You saw in the snippet from the video that was shown earlier the insights that children and young people have shared that have been so useful, meaningful and helpful. A big part of our office's role is to ensure that we have live, truthful data about what is really happening for children and young people in Scotland. We will be doing that through action research across the year and we will publish annually what we have managed to gather and what children and young people have told us, and we will take a long-term view of whether we are seeing progression through that.

**The Convener:** Ruth Maguire would like to come in with a supplementary question on that theme, before we move forward.

**Ruth Maguire (Cunninghame South) (SNP):** Good morning, panel.

Gina Wilson talked about getting feedback from young people. To delve into that, could you talk to some of the things that your office has changed based on feedback from young people, giving some specific examples?

**Gina Wilson:** Specifically on our young advisers group, in the past few years we have had around 40 young advisers. We split them into three different groups doing specific pieces of work. One of the groups was helping us with our internal governance work, another was working on a European project and another was working on

our mental health investigation. Some young people fed back to us that they felt that they were getting much more interesting opportunities than others were, which I think was fair, because—to be quite candid—some of the work is a little bit dry. Some of the work sounds a lot more interesting to young people.

Some also felt that they were not able to bond with all the young people who were part of other groups, and that they might be missing out on some learning from the experiences that they were having. We tried to bring them all together to work collectively, but that did not really work because they had not built relationships together—they had not had enough opportunities to do the work as one collective.

Therefore, we have changed how we offer our support to young advisers. They are now all in one main group and we are developing a training programme that we will offer them so that they can develop skills in the areas in which they are specifically interested. They can still go into sub-groups if they want to, but we will not divide the group entirely and will offer better support and training opportunities. Probably, some of them lacked confidence and might not have put themselves forward for opportunities because they were not getting enough training to allow them to feel that they could put themselves forward. Specifically in relation to how we support our young advisers group, we have changed the infrastructure and have thought very carefully about how to support them better to be involved in scrutiny of our work and to understand our governance processes.

09:45

**Liam Kerr:** I would like to ask about a not-unrelated point that you have both talked about already. I was really pleased to see just how wide the consultation was: we saw in the video how many views were taken and how you gave a voice to children and young people. How do you propose to communicate—not only with those who contributed, but with children and young people more widely—on how much progress is being made?

**Nicola Killean:** I will touch on a couple of ways in which we are planning to do that, at the moment.

Throughout the strategic plan, we are trying to look at how we can work on broad systemic issues and do the very targeted work with particular groups of children and young people that is necessary at times—how to bring their voice into that systemic-issues work. We are thinking about that and about how we communicate and work with children and young people.

For example, I would love to talk to the committee at an appropriate time about the work that we are planning around education. There are groups of children and young people whose voices we feel are underrepresented within the ongoing discussion. We are planning to do some very specific work on building stronger relationships and will offer targeted support and engagement with our office. That will be built in throughout what we do. There will be groups of children and young people, or groups that work with them, with whom we—either me or members of our team—continue to connect, either in person or through ongoing feedback. We are also continuing to think about what our role is more broadly and how we communicate with children and young people.

The engagement plan that we put together for the strategic plan allowed me to experiment a little bit with different ways of communicating with children and young people. I hope that members are aware that we did online assemblies, with 7,000 children and young people attending on one day. We are looking at things like that. We already have our website and our social media content. It is actually about where children and young people are and how we can use our existing infrastructure to have an ongoing communication loop with them, so that we absolutely make sure that we are keeping them updated and that we continue to promote their rights to them and the adults who work with them, and so that they get the opportunity to continue to challenge us and ask us questions.

We have the young advisers with whom we work systematically and we have groups of children and young people with whom we work in thematic projects and pieces of work. There are groups of young people who we know are particularly vulnerable, so as part of our work some of our team will be building ongoing relationships within such settings and looking at the broad infrastructure for ways of communicating.

**Liam Kerr:** On that final point, the plan talks about supporting or prioritising children and young people whose rights are most at risk. Can you talk a little more about that? How will you assess who they are and what that will actually mean, as the work takes shape?

**Nicola Killean:** Again, we are looking at the matter through various lenses. I will talk a little bit about education work, for example. When we were doing our engagement plan, we looked at it through the lenses of our child rights impact assessment and the analysis of the consultation of children and young people that had already happened. We assessed, in a gap analysis, where our children and young people were already being asked for their views, where they already had a

conduit to support them and through which to give their views, and whether there were particular gaps in that. We identified groups of children and young people, but we were not able to find a huge amount of consultation or evidence. That is why we are approaching targeting our in-person work through engagement sessions.

We will continue to look at that through thematic work that we will do. On education, we will have another look at the gap analysis to see what has been found already and where the well-represented groups are. They will be part of the conversation, but that is actually where we have to do more work. It might be us doing the work, but we will ensure that others are aware of the gaps so that they can approach the matter because we need everyone to be able to address this together.

I should mention that we will publish another evidence paper within the next two months, which will give you all the information about all the groups that we worked with, what children and young people have told us and how that has informed the strategic plan.

There are some groups of children and young people whom we have been working with over the years who we already understand are very vulnerable, so there will be ongoing work on that. The independent CRIA that we have already undertaken, which we will update, will be used in combination with the gap analysis. We will see where we think either that children's and young people's ongoing relationships will sustain, or there are concerns that their views are not understood and that there is a need to ensure that they have support to understand their rights and how to advance them and to have access to justice around that. I am trying to say that, ultimately, there is quite a systematic approach.

**Liam Kerr:** I am very grateful for that. Thank you.

**Ruth Maguire:** I want to ask about the UNCRC. What work is your office doing to ensure that public bodies and schools are ready for the commencement of the United Nations Convention of the Rights of the Child (Incorporation) (Scotland) Act 2024?

**Nicola Killean:** At a very high level, that absolutely informs all our work, and I hope that that comes through the strategic plan. As I mentioned earlier, implementation will be a key focus for us now. A lot of our work on promoting children's rights will focus on the UNCRC and continuing to ensure that children and adults understand that. As you will be aware, our office will be one of the statutory consultees for the children's rights scheme.

I will pass over to Gina Wilson in case there is anything that she wants to add.

**Gina Wilson:** We sit as a member of the Scottish Government's UNCRC strategic implementation board, so we are kept up to date on public bodies' preparedness and on the resources that are being created to support them in their readiness. We are reviewing the guidance that has been created for public bodies and we will be responding on that in a couple of weeks' time.

It would probably be useful for you to be aware of the work that we are doing around our legal powers. I will pass over to Nick Hobbs to say a little bit about that.

**Nick Hobbs (Children and Young People's Commissioner Scotland):** Although the delay to the passage of the UNCRC legislation was frustrating, the one positive was that it gave us a window of opportunity to think about how we wanted to use the litigation powers. We have taken that opportunity to develop a strategic litigation toolkit, with the involvement of experts in strategic litigation, and there is a project that draws on experience of global children's rights litigation. That helps us to set out the way in which we will make decisions on strategic litigation cases, which cases we will take and in what circumstances, and it will ensure that we are litigating in a way that is compliant with children's rights.

It is very important to say that we do not want to litigate if we do not have to. We would expect to take an approach with public authorities in which we might raise issues but in the hope that we would not need to end up in court and that they would take that opportunity to rectify whatever issue we are raising and identifying with them.

**Ruth Maguire:** Have you made an assessment of the volume of issues that there might be currently?

**Nick Hobbs:** It is difficult to tell what will come through the door. We are probably expecting a significant number of contacts with the office. Not all those will be cases that could be taken. I am sure people will be approaching us, as they do now, with issues and frustrations about how they or their children are being treated by public bodies. Those might not fit within the scope of the 2024 act or they might not be a litigation issue and we will have to be very sensitive to how we deal with those.

Some of the cases will relate solely to individual children and young people. We will want to ensure that we can support and signpost people to the appropriate routes to get legal advice and support to take those cases themselves.

The cases that we want to take are the ones that will have the most impact—that is, those that offer the opportunity to change the law, to establish precedents and to address issues where



there are systemic rights breaches that affect large numbers of children or perhaps a smaller group of children in a really fundamental way. That is why we have taken that step of developing the decision-making framework, so that all the decisions that we make are very clear, transparent, accountable and grounded in children's human rights standards.

We will find out very shortly what the volume of cases will be. That is very exciting for us.

**Ruth Maguire:** Are you confident that you have capacity to deal with the volume of inquiries, if you are not sure how many there will be?

**Nick Hobbs:** We will find that out very shortly. It was never going to be the case that we would be able to take every children's rights case in Scotland. We were always going to have to make very careful, deliberate and often, I suspect, very difficult decisions about what cases the office is able to take forward, but the proof of the pudding is in the eating.

**Ruth Maguire:** For the benefit of the record and for setting people's expectations—it is important that people do not have an incorrect expectation of what you can achieve—who do you anticipate will be, or who should be, in touch with the office to highlight any cases that they feel reflect systemic issues?

**Nick Hobbs:** We have already been talking with and will continue to talk with the legal profession through a number of different forums. There is a children's rights strategic litigation network that we are very engaged with, so we have been reaching out and speaking to solicitors. We will be also developing work with members of the Faculty of Advocates. We expect that the majority of cases that we are likely to take forward will come from legal practitioners rather than from members of the public.

**Ruth Maguire:** Sometimes those whose rights are being impinged on or are not being realised have the least capacity to engage the legal profession. How do you address that?

**Nick Hobbs:** That loops back to the comment that both Gina Wilson and the commissioner made earlier about ensuring, through the work that we are doing, that we reach out to the communities of children and young people who we have identified as being most at risk. Part of the reason for that is exactly to do with the point that you make, and those are the ways in which we might be able to identify potential avenues for use of our formal powers of investigation or litigation.

**Ruth Maguire:** Holding duty bearers accountable for decision making and delivery of commitments to children is outlined as a strategic objective in the plan. How will you do that?

**Nicola Killean:** First of all, it has always been part of the role of commissioner to be a champion for children and young people and to look at who is accountable and responsible for delivering on children's rights, so it is a clear one to continue.

In terms of how we will go about doing that, it will take different forms at different moments. How people are held to account or how duty bearers are held to account depends on what the issue is and when that is happening.

I will give you an example of different ways in which we might do that. That might be about having one-to-one meetings and conversations. If the office identifies an issue, sometimes we will write to particular duty bearers to ask for an explanation. Sometimes, it can be a more public challenge, if that is appropriate.

I will continue to take the approach of looking at what the issue is and who is responsible. We might not initially be aware of who is responsible because, for some of the challenges for children's rights and services, that is not always clear.

There are many different ways of doing that and we will continue to assess what is the most appropriate way of doing so at the right time.

I would like to mention another thing. We are looking at how challenging it can be sometimes to understand whether commitments that have been made to children and young people have been delivered and how to hold those who are responsible accountable for that. We are looking to create and trial a more complex accountability tracker. For example, you will see in the strategic plan that young people have very strongly identified the top three themes of education, poverty and mental health, so we are looking at some thematic long-term pieces of work around those topics.

The first piece of work in which we will look at an accountability tracker is on mental health. I will explain this a little bit more. If I use the Scottish Government as an example, as a duty bearer the Government will make recommendations and commitments. Sometimes, those commitments will result in additional reports and action groups being set up. There will be minutes of those groups and actions for them. Sometimes, when you are trying to follow the thread of when a commitment was made to children and young people and what has happened with it, it can become very complex to track all the different ways in which that is being done and who is responsible for that.

For mental health in particular, we will be looking across the board to see what commitments have been made to children and young people across multiple policy areas that relate to services to support their mental health. We will be considering how can we track that

better so that, whenever we are having conversations and meetings and we can see that there are deadlines for actions, we are crystal clear about those aspects. We will be able to share that with others as well.

**Ruth Maguire:** What are the timescales for that work?

10:00

**Nicola Killean:** It will take us a while to get the first tracker up and running. With these big, meaningful longer-term pieces of work, I am really keen that the team and I take the time to do them well. We are looking at doing that in year 1 of the plan. By the end of year 1, we would like to have that up and running, and we will be testing whether it is useful and is making a real difference to our work. If we can make it useful, in the longer term, we would also like to see whether it is possible to make that public. That in itself will help us to hold duty bearers to account, which should help children and young people, and the adults who are working with them, to be able to do that as well.

**Ruth Maguire:** I will ask a final question, if I may, convener. People will rightly look to your office to fiercely champion children's rights. I think that all of us round this table would acknowledge that, although as a headline, we all support rights of children and everyone wants to see them upheld, when we get into the details of legislation or even policy and budget choices, rights come into conflict. How will your office assist in dialogue about that and contribute to ensure that discussions about rights are meaningful and that that interaction is spoken about?

**Nicola Killean:** Coming into the role, I have been really pleased to see how the office works, with the level of engagement and involvement with Parliament and MSP briefings that we provide and that on-going contribution. That will absolutely continue as part of our on-going work. Where there are complex issues and where we assess that we have the skills, knowledge and capacity to contribute towards that, we will continue to do so. We want to help as much as possible.

We absolutely recognise that, when it comes to human rights, it can be really complex and that the necessary debates have to happen with Parliament. We want to continue to provide briefings where we can, as well as to have meetings and conversations and help in any way we can.

I just want to check to see whether Nick Hobbs or Gina Wilson have anything to add. They are shaking their heads.

**Ruth Maguire:** Just very briefly, further to that, how do you have those conversations with children and young people?

**Nicola Killean:** In terms of my experiences of working with children and young people over many years, and my experiences over the past six or seven months in this role, children and young people are often much better than we adults are at having these conversations. That has to be done in age-appropriate ways and they have to be well supported.

Our work is often about allowing young people to lead the discussion, so the engagement plan that we did over the past six months was about encouraging children and young people to tell us what the issues were. We were not necessarily going to them with some of the really challenging current issues; rather, we asked them to tell us what the issues are.

There are ways in which children and young people can be brought into discussions. They are often excellent at listening to others. As and when it is appropriate for them to be involved, they should be well supported, and that should happen at the appropriate time and in age-appropriate ways.

**Bill Kidd (Glasgow Anniesland) (SNP):** Thank you for everything that you have outlined. You have pretty much covered this, but on promoting access to justice for breaches of children's rights—that is a commitment in the plan—who will you approach so that those can be resolved? It is fine—I am not saying that this is what you are doing—to say, "This is wrong and we're going to sort it out," but how do you sort that out? Who do you approach to bring on board in legal terms, if it comes to that?

**Nicola Killean:** I will start, then pass over to Nick Hobbs.

That piece of work has been on-going. On what has changed over the past few years, we have had additional legal powers to be able to approach that in different ways. Some of the work that has happened historically has been exactly as I have outlined. If there is a particular issue, we can identify who the duty bearer is. We might make an approach directly and challenge that directly. That can be done through meetings or letters. The approach might involve saying, "What is the group that is responsible for setting principles or standards for a certain issue? Is it appropriate, through a children's rights lens, that we are the right organisation to challenge and approach that?" The office has had many successes over the years with that approach.

In the consultation, somebody described the addition of legal powers as giving the office more teeth on behalf of children and young people to

say, “We want to explore this more in advance of using the legal powers.” That has also been really useful.

I will pass over to Nick Hobbs to see whether he would like to add anything more about our newer powers.

**Nick Hobbs:** It is important to think about and understand where the office sits in the broader access-to-justice landscape. As I touched on earlier, the scope and scale of the office’s resource means that it is not appropriate for us to be the only route through which children are able to access remedy and redress. Obviously, what the landscape looks like depends on the particular issue that is being considered. For instance, the tribunal process exists for additional support needs. That does not exist in other areas. It is important for children to be able to understand the different routes through which they might be able to seek remedy for a potential rights breach and to be able to access support that enables them to do that.

The Scottish Government is currently doing some work on non-judicial routes to remedy. That work has the potential to be really positive in providing children and young people and those who support them with a better road map of the different routes through which they might be able to raise and resolve issues. Obviously, our office will be a part of that with the legal powers that we have for systemic and significant rights breaches.

It is also about making sure that remedy is available as close to the child as possible. We do not want a child to have to go through a very complex legal process if the issue can be resolved very quickly and very close to them. That will require a holistic assessment of where the gaps might be, particularly around things such as advocacy and legal advice and representation. We are currently doing a piece of research, which we hope to publish fairly shortly, that is helping to map out advice and advocacy provision across Scotland for children and young people. That will help to inform us about where the gaps are and where we might want to put some of our resource.

**Bill Kidd:** Thank you—that is really useful. I suppose that that fits in with the statement in the strategic plan that the commissioner’s office will work

“as an Independent Children’s Rights Institution”.

There needs to be a focal point and a place that people know that they can go to. They need to know what their rights are, and if people or organisations breach those rights, they need somebody with expertise to know what direction to head in to resolve that. Is that the approach that you will take in order to uphold children’s rights? Do you have an idea about timescales?

**Nicola Killean:** The strategic litigation and legal powers are just one part of the approach. I hope that the way that we are presenting the strategic plan shows the connection between all of them.

On timescales, the new powers will commence this summer. We have been preparing to operationalise them, and we think that we will see them coming to fruition at some point this year and that we will move forward with that. However, our approach to protecting and promoting children’s rights is about everything that we are doing. It is about continued education and assurance that we understand across Scotland how children are really enjoying their rights and realising them. It is about the continuation of targeted work with children and young people and those who work with them to ensure that we have a feedback loop, looking at the different skills, functions and powers that the office holds, and selecting the most appropriate approach at the right time.

**Bill Kidd:** Thank you very much. That is helpful.

**The Convener:** I have some questions. Before I ask specifically about the Promise, I want to ask about those whom you consulted. I am looking for some more information about how you involved care-experienced children in developing your strategy.

**Nicola Killean:** On the strategy and how we involved children and young people—I will touch on care-experienced young people in this answer—as I mentioned, we looked at what consultations had already taken place. There is a huge body of work around the independent care review, and the work of The Promise Scotland and Who Cares? Scotland. That work was already included in an initial desk-based analysis.

We then worked on our smart survey. We wanted to sense check the key themes that children and young people had identified. We distributed that as widely as we possibly could through schools, youth clubs and informal settings as well as online. We then had targeted in-person and online work in which we worked with some care-experienced groups, and some care-experienced young people were present in mixed groups that we worked with.

What was really interesting for us in all the groups that we worked with—particularly the targeted groups—was how recurrent were the themes that we saw and heard. Regardless of who the group of children and young people were and what their particular circumstances were, they all wanted to talk about their experiences of education. That is why that came out so strongly in the selection for the strategic plan.

**The Convener:** It was interesting that, prior to the recess, we had a session with some young people that was facilitated by Who Cares?

Scotland. Hearing from them was quite a frustrating session for us. A note about that will be published, and I would certainly direct your office to have a look at that and take great cognisance of it. They specifically said, "You just send out a survey and then we never hear from you again." Perhaps that was that survey. We did not quite get to understand what survey they were referring to—maybe it was yours.

What role do you see the commissioner's office having in relation to keeping the Promise by 2030? The feedback that we got was that that is quite aspirational.

**Nicola Killean:** There are the high-level responsibilities that we will take as a corporate parent, and we will continue to contribute to scrutiny, where appropriate. You will remember that I recently took part in an evidence session about the Promise and raised our concerns about the need for a detailed implementation plan. We will continue to add our voice to support the work that requires to be done and the need for a detailed implementation plan. I know that there have been calls for understanding the investment plan that will go alongside that. The work in our thematic areas will also be part of our commitment to looking at that.

As I mentioned earlier, children across the board talked to us about their experiences of education. As we are all aware, care-experienced children and young people can have poorer outcomes in many different ways, such as in education. That is why we are looking at a long whole-system and children-led look at education and how we can look in a very visionary, whole-system way at what needs to change. We will absolutely be planning for a number of groups to shape that and to be part of that with us. I anticipate that care-experienced young people will be part of that as well.

**The Convener:** I cannot speak too much about the detail, but we heard that the Promise is great, but there was generally a "but" afterwards. It is great to have a visionary and whole-system approach, but when it comes to how that impacts on young people, that is quite disconnected from reality.

Will your office be monitoring progress on the ground? What work will that involve, so that we have the evidence to challenge the reality?

**Nicola Killean:** With the strategic plan, there will be general on-going monitoring. You will see in our objectives that we have an on-going commitment to continue to monitor law, policy and practice. The work of The Promise Scotland will therefore continue to be of importance. We will continue to monitor that and at times, if appropriate, we may add to and contribute

towards that. However, our key commitment in our strategic plan is about looking at some of the services that children and young people who are care experienced experience day to day and where those are not working for them.

10:15

Again, to point towards the work around education, children have strongly said to me that there are many things that can be better about the education system. We recognise that their voices are not heard as much in the current debate. Excellent work has happened over the past few years in commissioning great reports and reviews about that. That is our key pledge.

**The Convener:** I know that colleagues will come in on the specific theme of the education reform agenda, so you will be able to elaborate on that.

There are a couple of supplementary questions.

**Willie Rennie (North East Fife) (LD):** I will be blunt. The care-experienced young people were pretty angry when we met them. They think that nothing has really changed. They think that there is a lot of talk and that there are lots of plans, documents and surveys, but that nothing really happens. That is why they are angry, cynical and sceptical. They gave us a pretty hard time, because they think that we are part of the problem. Are you angry about that? Are they right to be angry? Do you share the anger about those in positions of power?

**Nicola Killean:** I am frustrated, because more can be done for all children and young people in Scotland, including care-experienced young people. Part of my role is to share that frustration on behalf of children and young people as and when it is appropriate to do so. I hope that that helps to answer those questions.

Part of my responsibility is to hold duty bearers to account. When I meet care-experienced children and young people, they talk to me about a number of things that are really challenging for them right now.

You will be aware of great examples of progress on the Promise, but we are not great at systematically embedding change and allowing all children and young people, including care-experienced children and young people, to feel that change, so much more needs to be done.

**Willie Rennie:** Give me an example of great progress on the Promise and an example of very poor progress or no progress being made.

**Nicola Killean:** This was not part of the engagement for the strategic plan but, when I met some care-experienced young people in advance

of that, they gave examples relating to support for throughcare—

**Willie Rennie:** Is that the good example?

**Nicola Killean:** Yes. They felt that positive progress had been made. That is a good example. Pilot programmes have been developed to provide holistic support and care for pregnant mothers. You will be aware of such examples across Scotland.

However, we still struggle—not just in relation to the Promise but across many areas of children’s services—to systematically embed good examples and pilots throughout our services. That is why our strategic plan is really interested in implementation. We have lots of good legislation, including emerging legislation, and we have great policies, but how does that convert into a reality for children and young people on the ground?

**Willie Rennie:** Is the lack of spreading good practice the bad example, or is there anything else that children and young people should be, or are right to be, angry about?

**Nicola Killean:** Any child or young person who is having difficult experiences right now has the right to be angry. I am pleased that those young people felt able to come in here to tell you exactly how angry they are.

The lack of ability to spread good practice is an example that shows how much better we have to be at enabling that to happen through our systems. I have heard many other examples from children and young people, including care-experienced young people, of how we are still not getting things right in many different ways. Some of those examples will be included in the evidence paper that we will publish in—I will just check with Gina Wilson—about two months. There will be lots of evidence in that paper.

**The Convener:** I will bring in Pam Duncan-Glancy. Thank you for your patience.

**Pam Duncan-Glancy (Glasgow) (Lab):** No problem at all, convener.

I thank Nicola Killean for everything that she has said so far and for the video, which I found really interesting—it was a nice way of putting across the points that young people have made.

I will stick with the theme of laws, policies and practice and focus on the broader picture. We have spoken about the Promise. The young people really were angry. Near the end of our session, one young person said, “They might as well name it something different.” That really struck me.

In the strategic plan, you highlight that your organisation’s aim is that

“Laws, policies and practice will fulfil children’s rights”.

In addition to the Promise, are you concerned about any other laws, policies and practices in relation to fulfilling children’s rights?

**Nicola Killean:** I will highlight education. If it is appropriate, I can talk more about that.

**The Convener:** That is fine, but Mr Macpherson’s supplementary questions might feed into that, too.

**Nicola Killean:** Children and young people talked to us about lots of different ways—there are many different ways—in which they are not experiencing all of their rights at the moment. We chose to focus on the themes that we did because there were consistent issues with them. As I mentioned earlier, we worked with numerous targeted groups, including asylum seekers and refugees, care-experienced young people, disabled young people and young carers. Again, that will be clear in the evidence paper that we will publish.

There was remarkable consistency in how strongly those children and young people wanted to talk to us. They were concerned about their experiences in education, but they were also concerned about their experiences relating to poverty and the cost of living crisis, and they were worried about their friends who were having those experiences, too.

I will touch on two of the big thematic pieces of work that we are planning to do. On education, we will commit to putting the voices of children and young people back at the centre of the discussion about education reform. In the strategic plan and in the work plan that follows it, we commit to creating with children and young people a set of principles and priorities for education reform in Scotland. That will take us a number of years.

When we have reflected, we have found that some of the most impactful work that the office has done over the years has involved looking at systemic issues that will take a long time to change. Our approach involves thinking about how we can add value by bringing together different organisations, children and young people and those who are working on such issues.

I will set out how we plan to go about that work. As I mentioned, our plan is to look at the children and young people who are furthest away from enjoying all their rights in the current education system. We will do a systematic review to find out where there are groups that can support young people to contribute really well and which young people are still not having their voices as well heard. We will work to build relationships and trust with those groups of young people. Based on how

they would like to be involved, we will try to create a way in which they can have their voices heard.

We will look at all the different issues across the whole education system. That will result in our creating child-friendly collaborative spaces where we can involve education professionals across the board—from the formal and informal sectors—academics, youth workers and creative practitioners. They can come together to listen to the voices of the children and young people who are furthest away from enjoying the education system, and they can begin to work together to create an education reform agenda that has its core principles defined by children and young people.

We plan to begin that key strategic piece of work now. It will take us some time, but that work is critical to ensure that children and young people remain at the core of the education reform agenda.

I should say that we absolutely recognise that there are lots of amazing educationists, teachers and support workers who are working extremely hard. Many children and young people have really positive experiences in schools and other education settings, but many do not. It is important that, in our role, we are really honest about that. Children and young people have strongly expressed that they want me and my office to work on that issue, and we are really excited about developing links with the groups that I mentioned and bringing them back into the conversation.

Ken Muir's report and the Morgan review are excellent pieces of work that stress the need to listen to the voices of children and young people and to connect with them. We are not starting from scratch, but we want to look at some groups that have not been enabled to contribute and try our absolute best to bring them in wherever possible.

**Pam Duncan-Glancy:** Did you say that the timescale for the education work is a couple of years?

**Nicola Killean:** We hope that we will have created what I have set out within two years. The first part of that work will involve identifying the groups and building trusting relationships. There will be lots of different strands, and those will be defined by children and young people. That is the timescale that we are setting at the moment.

**Pam Duncan-Glancy:** Will the paper that you will publish in a couple of months include specific issues that you have highlighted relating to education, mental health and poverty?

**Nicola Killean:** The evidence paper that we will publish in a couple of months, which we will share with you, will include what children and young

people have said throughout the engagement process.

We will also have a paper that will look at what the legislation and policy relating to our education system says and how we set that against the issues that children and young people have recognised with us. Over the next few months, we will look at the issues that children and young people have identified and how we might code them against the current education system. What issues are about having clarity of purpose in the system? What issues are about training and support for staff who work in the system? What issues are about resources? That paper will not be published by the summer—the evidence paper will be—but it is another piece of work that we are starting at the moment.

**Pam Duncan-Glancy:** That is helpful. As well as the concerns that were highlighted earlier about the Promise, I am hearing that education is really up there when it comes to concerns about laws, policies and practices that would fulfil children's rights.

My next question is about funding. What monitoring will your office undertake to understand the impact on children and young people of the tightening financial settlements for the Government and local authorities?

**Nicola Killean:** We will look at that specifically through the lens of poverty. We are very interested in what the connection is between decisions that are made about funding at the local level and work at the national level. Given that the child poverty action plan needs to be renewed by 2026, we will look at how children and young people are involved in that process. We will take an in-depth look at how decisions are made and how children's voices are heard and taken into consideration when funding decisions about services are made.

Our thematic piece of work on poverty will look specifically at what is important to children and young people who are experiencing poverty, how that is understood and whether that is connected to decision making at the local level. Rather than looking at the totality of resources across the whole of Scotland, that will involve taking an in-depth look at how children and young people are experiencing poverty in certain communities and to what extent that connects to decisions that are made about them.

**Pam Duncan-Glancy:** That is helpful. As part of that work, will you differentiate and look at how certain policies might impact on specific groups, such as care-experienced groups or disabled people?

**Gina Wilson:** We have written to all local authorities to ask them whether they could share

with us what consideration they gave to children's rights in the setting of the current budgets. As part of the analysis of that, rather than looking at specific budget lines, we will look at what assessment local authorities have made of children's rights and whether any particular protected characteristics have been considered as part of that process.

We hope to do that analysis and maybe publish it in the summer in order to give a picture of the extent to which children's rights and protected characteristics have been considered at a local level when budget decisions have been made. That will feed into the longer-term piece of work that the commissioner described. At the moment, we do not have a picture of the extent to which children's rights have been considered at the local level.

10:30

**Pam Duncan-Glancy:** Have you been concerned about any decisions that you have seen in that particular space?

**Nicola Killean:** We are concerned overall about the reduction in budgets and the impact that that has. As you will be aware, almost all sectors that work with children and young people have raised concerns about the fact that budgets are reducing and the impact that that is having on them. Non-statutory services—services such as youth work—are particularly vulnerable in that regard. We want children and young people to be able to identify a trusted adult, as that can make a huge difference to them.

We have general concerns about the on-going reduction in opportunities for children and young people and how choices are made about them, and, in many areas, the workforce is saying, "We need support—we need investment."

**Pam Duncan-Glancy:** I also want to ask about your budget. In your plan, you say that the budget that you have outlined

"is the minimum required to deliver our current statutory functions",

but that

"there is some unpredictability."

Could you tell us a bit about that unpredictability and what conversations you are having with the Government about it?

**Nicola Killean:** We wanted to ensure that we were transparent about the fact that the legal powers that we are taking on are new. Earlier, we were asked about the amount that we are asking for for that. In our budget, we are being pragmatic and are looking at what we have the capacity to do. That is the budget that we have put together,

on which we will make choices. We anticipate that, over the next year or two, we will have a much better understanding of what could be possible.

It was important for us to say that we will work hard as a team to cope with the allocation that we have. We are very conscious of the difficult financial climate that everyone is operating in, but we are talking about new powers that create opportunities for children and young people. As we develop a better understanding of what the future holds, we will approach the Scottish Parliamentary Corporate Body to find out whether there is an opportunity for more. We were simply being transparent about that, while taking a sensible and pragmatic approach.

**Pam Duncan-Glancy:** Thank you.

**The Convener:** I would like to go back a bit. You spoke about some of the decisions that will be made about budgets and how you will always advocate for youth work and so on. How do you help young people to understand the decisions that are taken? They will not understand why those decisions have been taken. Are you doing work to help them with that?

**Nicola Killean:** It is important for us to probe and challenge on whether that is happening at the local level. We are interested in how systematically children and young people are involved in decision making. A big feature of the strategic plan is whether such involvement is systematically embedded, whether it is done in an age-appropriate way and whether there is a feedback loop on that.

We find that children and young people are able to understand complex issues. They understand that, if there is not enough money to do everything, choices have to be made, but they are often not included in that process. When we wrote to local authorities recently, we inquired about how they include children and young people and ensure that they know what choices are made.

Across the board, our role will be to continue to highlight good practice where that is happening, but to continue to probe and push for children and young people to be included in conversations, and for that to be done in an appropriate and child-friendly way, with appropriate timescales being allowed for conversations to be had and understood. We will look at that in detail through our thematic work in the area of poverty.

**Ben Macpherson (Edinburgh Northern and Leith) (SNP):** Good morning. We have already touched on the issue of how you plan to influence education reform, what areas are a priority for you and why you want to influence that. If there is anything more that you want to add on education reform, please do. I appreciate you have already

touched on that in response to Pam Duncan-Glancy.

I am also interested in any priorities that you might have for post-school education reform, in relation to which we have had the Withers review. I would be grateful to hear your thoughts on those matters.

**Nicola Killean:** I will pass over to Gina Wilson to say a bit more on our behalf. In relation to post-school education, when we did the consultation, as well as young people who were attending an education setting such as school, we involved some young people who were at college, and they were able to draw on many positive examples of approaches that they were experiencing at college. They were able to draw out some key differences, and they felt that the education system as a whole could benefit from some of those good examples and positive approaches.

When it comes to our work on the strategic plan, from a thematic point of view, our starting point will be to look at primary and secondary school rather than post-school destinations such as college or further education, but we will continue to look at any good examples.

**Gina Wilson:** It is an interesting question. We hope to have further and higher education professionals involved in the discussions with us, because it has come out strongly to us from children and young people that they can find the transition—this is the case at all stages of education—to be limiting. Sometimes, that is what drives the exam system that we have or the process that children and young people feel they have to go through at secondary school.

We will try to look at the issue in the round, but we will probably use a particular lens for care-experienced children and young people, in relation to whom our remit extends up to the age of 21. As our education focus develops, we will probably look specifically at the post-school experience of care-experienced children and young people, and what we can learn from that that would be applicable for all children and young people.

**Ben Macpherson:** I presume that, in addition to higher and further education, you will take into account considerations to do with employers and the apprenticeship programmes.

**Gina Wilson:** Very much so. Nicola Killean has described some of the child-friendly collaborative spaces that we will try to create over the next two years in order to look at education and find out what children and young people really value. It is clear from the video that we showed earlier that children and young people want to learn more life skills and skills that have real value at school. There is so much that we can learn from the apprenticeship model and the further education

model that would be applicable throughout education. We will want to involve professionals from across those spheres in those discussions.

**Ben Macpherson:** Going back to schooling and the considerations around reform, I noted the part of the video that was about life skills and financial awareness. Will you seek to push those issues in the context of education reform and curriculum changes?

**Nicola Killean:** Our starting point is that we are not looking to push single issues. We very much want to build the relationships with the children and young people. As I mentioned earlier, we want to look at the data that we have already gathered and how, initially, we might code that.

Life skills were an issue that came through strongly, but children and young people also talked about other areas of the curriculum where they felt that there were gaps or things that were out of date. They talked a lot about how they learn. As a starting point, we are not looking to push single issues, but we will look at the complex issues that exist in relation to the curriculum and teacher training. That is the approach that we will take to begin with, which will evolve as we talk and listen to children and young people and involve a diverse group of educationists in that process.

**Ben Macpherson:** The Government already has a lot to consider from the various reviews that have taken place in recent months and years. Do you feel that the doors are open, so to speak, for you to feed in your thoughts, as you have just mentioned?

**Nicola Killean:** I very much hope so. We have already had a number of initial conversations with some senior civil servants and we have met a number of other public bodies that are responsible for different elements of education. We have had some initial conversations to say, “This is what children and young people are telling us. With the UNCRC act being incorporated, this is what education should be from a children’s rights perspective. Where are we on that journey?” We are giving an initial steer on the piece of work that we are planning, which is still in the development stage. Those conversations have been very warm and people have been very interested.

As Pam Duncan-Glancy mentioned, it will probably be a two-year piece of work, but our intention is to publish as we go. Whenever we have a child-friendly collaborative space, we will share the learning from that. There are many different organisations that we want to involve in this and we want to create outputs as we go that we hope will influence people.

**The Convener:** You have already touched on my next question, Nicola. Under the curriculum for excellence and, in particular, the broad general



education, teachers and schools are expected to determine the curriculum. How do you ensure that, within that education space, schools are consistently directing towards the five elements that are listed in article 29 of the UNCRC?

**Nicola Killean:** I do not have a specific answer to that question. It will be part of the broader conversation that we will enter into. We will look at whether teachers and support staff have all the information, resources and support that they need, and we will look at that through different lenses around what initial teacher training, continuing professional development and longer-term training is in place. I do not have a specific response to that question now because it is part of the discussions that we want to have.

**The Convener:** Okay—thank you. We look forward to seeing that develop over next wee while.

**Stephanie Callaghan (Uddingston and Bellshill) (SNP):** Thanks for coming along today. You are probably aware of some of the themes of the work that the committee has undertaken, such as our inquiry into additional support for learning and our work on the Disabled Children and Young People (Transitions to Adulthood) (Scotland) Bill. It has been clear that, sometimes, different services do not work together well. Do you have views on how public services could work together better to support the right outcomes for disabled children and young people?

**Nicola Killean:** The subject of additional support for learning and disabled children has come up very strongly in the consultation that we have been doing. We are very aware of the inquiry that the committee has been undertaking and the learning from that.

On how organisations can work together, we will explore part of that through the piece of work on education. That will involve listening to children and young people's perspectives on the subject, but also looking at the challenges that we already know exist. We know that there are challenges around the need for time for professionals and around partnership and collaboration, which need to be planned and supported by leadership and management. A lot of ways of working are known, but we are interested in looking underneath that and asking why those things are not happening, what has to change to allow them to happen and who is ultimately responsible for creating that change. That is an indication of how deep we want to dig when we look at the subject.

**Stephanie Callaghan:** Do you want to focus, for example, on co-ordinated support plans?

**Nicola Killean:** We are aware that co-ordinated support plans are not being created for many children and young people, which is a big issue.

We will continue to look at that and I imagine that it will come out in our piece of work. However, we are keen not to jump into a particular issue but to connect with children and young people, focus on the issues that they want to raise and then bring people together to look at where those issues sit and what is underneath them.

**Stephanie Callaghan:** You will make sure that you are looking at the whole picture.

**Nicola Killean:** Absolutely.

**Stephanie Callaghan:** That makes sense. A learning disabilities, autism and neurodivergence bill is proposed and there is the possibility of a commissioner. Do you have plans to contribute or feed into that as it develops? What are you doing or are you planning to do on that?

**Nicola Killean:** We will contribute to the consultation. I will pass that question to Gina Wilson, as her team leads on that.

10:45

**Gina Wilson:** We have had a number of discussions with the Scottish Government's team as it has developed its proposals and we are looking to respond on the learning disabilities and neurodivergence proposals within that.

There is a proposal for another commissioner. We have given our view that, where proposals for new commissioners are taken forward, it is important to ensure that any duplication or overlap of remits is reduced so that additional complexity or confusion is not created for children and young people. That is one of the things that we are most concerned about. There is already a very confusing and adult-driven landscape for children and young people who want to know where they can go for support. We want to make sure that things are as simple as possible for them so that they know where they can get some support. That will be part of our response on the proposed bill.

**Stephanie Callaghan:** You see some challenges around that possibility. Do you also see opportunities, perhaps to work together and do some cross working?

**Gina Wilson:** There are no proposals in relation to any of the potential new commissioners for our office to receive any additional resource to work with them, so there are questions about how it is anticipated that our offices would work together. Given that we have a strategic plan and we are directed by children and young people, how would Parliament envisage that working? Would we all be asked to respond on the same issues? How would we ensure that there was no duplication between our offices? Other commissioners may actually limit how we are able to use our powers, and particularly our investigation powers. There

are lots of things to consider regarding possible unintended impacts on existing offices and how we are able to fulfil our functions.

You have heard from both of my colleagues how much of our focus has been on disabled children. We would not want any limitation on the work that we are able to do in that area, particularly around additional support needs, which will be a key theme in our education work. We have lots of questions and possible concerns about the proposals as they are coming through.

**Stephanie Callaghan:** That is good to hear. The video with the young people was absolutely excellent. It was great to see such a wide range of children and young people being represented. One of the quotes that you included in your report is:

“Adults need to step back and see why our behaviour isn’t great. There’s always an underlying thing.”

What representation do you have from groups of young people with particular challenges around additional support for learning, disabilities and so on? How do you look at that? Is it a proportionate thing or something that you balance out? Is there sometimes a need to have more of those young people in your young advisers group or is it more about that group interacting with others in those groups and bringing things forward?

**Gina Wilson:** It is bit of both. When we recruit our young advisers, it is an open recruitment, so any young person can apply, but we target specific organisations and ask them whether any children and young people whom they are working with might be interested, and we offer any additional support that is required to support them to engage with us. For instance, if they need to have a support worker with them to be able to engage with us, we will provide support for that. We try to make it as open as possible.

I am trying to respect the confidentiality of our young advisers. We have young advisers in the group who have additional support needs. We try to have a group that is balanced and has as many different characteristics as possible so that we get a really broad range of experiences and views. However, we recognise that we cannot possibly cover everything in a single group of young advisers, so we do specific work with organisations that support children and young people whom we want to ensure are engaged.

I will talk about one of the gaps that we have. We really wanted to have a young British Sign Language user as part of our standing young advisers group. We have not been able to recruit one, but we are building our links with organisations that work with groups of young BSL users and we are doing targeted work with them. Where we recognise that we have gaps, we are

setting up relationships so that we are able to do targeted work with groups of young people that organisations are supporting in order to make sure that we constantly hear diverse views.

**Stephanie Callaghan:** That is really helpful. It was great to see some BSL in your video, too. Thanks.

**The Convener:** The video was too far away for me to read the subtitles, but I will look at it again later.

**Ben Macpherson:** With the commissioner’s permission, I have a question for Nick Hobbs, who engaged with me in relation to my members’ business debate on Scottish football in January. For transparency, I note that he and I had a meeting about the issue during the recess.

Nick, following our meeting in recent weeks and the debate in the chamber, will you update Parliament on your concerns and the commissioner’s office’s concerns about the way in which young people are considered in Scottish football as economic assets?

**Nick Hobbs:** It is striking that the issue of how children are treated in football has now straddled the remits of three different children’s commissioners, which probably indicates why we have arrived at a position where we see great force in the argument for independent regulation of football. Despite a huge amount of work by the petitioners from Realgrassroots who raised the issue originally and over a decade of work by the Parliament’s Public Petitions Committee and by our office, Scottish football and the Scottish Football Association are still not where they need to be in recognising children as rights holders in Scottish football and putting in place the protections from imbalanced legal relationships that need to be in place. That is why, when you had your debate, we were supportive of the argument around regulation, and we remain supportive of that.

A round-table discussion has been committed to and we are really keen to see the outcome of that. I think that it is time for the Scottish Government to step in and think about either specific legislation on the issue or, potentially, a consultation about independent regulation of Scottish football. We would be very supportive of that.

**Ben Macpherson:** The issue is that young people are contracted in law and they do not have the agency to move between clubs in a way that would be right and reasonable. That is what your concerns derive from, is it not?

**Nick Hobbs:** That is right. It is about the unbalanced legal relationship between players and clubs, the power that that gives clubs and the

restrictions that it places on children regarding where they go to play football.

**Ben Macpherson:** You will be aware that, in my members' business debate, I proposed that, as well as the round table, it would be in the interests of all who are involved in the concerns and issues around Scottish football for the Government to undertake a formal consultation on the matter before the end of the current session of Parliament. Would the children's commissioner's office support that?

**Nick Hobbs:** Very much so.

**Michelle Thomson (Falkirk East) (SNP):** Good morning and thank you for attending. I put on the record that I also enjoyed your wee video, especially the use of the pentatonic scale for the young children.

Before I go on to my main question, I want to pick up on what my colleague, Stephanie Callaghan, asked about the potential for another commissioner for learning, disability and neurodiversity. I assume that you are aware that the funding for all the commissioners is top-sliced off the SPCB budget. There is the law of diminishing returns, so the more commissioners there are, the less there will be to go around, given the budget constraints. Are you aware of that and did you reflect that in your submission to the recent research into the potential for a new commissioner?

**Nicola Killean:** We certainly reflected our concerns about allocation of budget and resources in our submission to the parliamentary inquiry on commissioners, and we will reiterate those points for the different commissioners. We are aware that so many issues are still to be addressed for children, young people and all people in Scotland in relation to disability and all the different reasons why those commissioners are being proposed. However, it was incumbent on us to raise the issues that we could foresee coming up if additional offices were set up and possibly not fully funded to cover expectations and the powers that they could be given, especially if it would have a negative impact on our office by reducing funding and affecting our ability to promote and protect children's rights. We have been quite open about that and will continue to be so.

**Michelle Thomson:** I have read your strategic document, which talks a lot about children's rights, and rightly so. The flipside is your organisation's responsibilities. I appreciate that it is early days but what assessment have you made thus far of the implications of the Cass review on children's rights and your responsibilities therein?

**Nicola Killean:** It is early days. However, the Cass review has raised some important issues in an open way.

The first one that is important is the polarisation of the discussion and debate around support and healthcare for young trans people. That is so important right now for any trans and non-binary children and young people who are questioning their gender identity in Scotland. We can see that the nature of the discussion in the media and online is again inflamed at the moment, and children and young people absolutely need maximum support.

There are also some important issues in the Cass review around evidence and research gaps. All children and young people—not just trans young people, but across the board—have the right to access the highest attainable standard of healthcare, and wherever there are gaps, we would absolutely look to see that those are addressed.

The report is about England, but I see that Scottish Government is looking at the matter at the moment and we will be interested to see what its response is. However, I thought that it would be helpful to raise the point that, just a few weeks ago—I think the committee will be aware of it—the Royal College of Paediatrics and Child Health published a report called "Worried and waiting: A review of paediatric waiting times in Scotland", which is about healthcare for all children and young people in Scotland. Although the Cass review has raised some important issues, in the Scottish context there are some concerning systemic issues with waiting times and the lack of access to healthcare for many children and young people across Scotland. We are also waiting to see the Scottish Government's response to that report. Again, as part of our on-going work on monitoring law, policy and practice, we will look at what needs to and is being done on those issues across the board.

**Michelle Thomson:** There is a consideration of safe access to healthcare. Article 33 of the UNCRC notes that children and young people have a right to be protected from harmful drugs. One of the take-aways from the Cass review was the issue of prescribing of puberty blockers to young children, which states that it compromises bone density.

I appreciate that it is early days and a number of organisations will need to look at the report, but with that in mind, how alarmed do you feel about that? You have set out what trans and non-binary children might be looking for against potential harm being done to them by being given these drugs too early in their development. Have you made any further assessment of that specific issue rather than the general context we have talked about?

**Nicola Killean:** It is not a specific issue that the office has worked on to date and I do not have a

fixed view on it. What we would say is that Scottish Government is looking at it and decisions about medical care should continue to be made by medical professionals. Again, as part of our ongoing work on monitoring law, policy and practice, we will be looking at what the Scottish Government's response is.

**Michelle Thomson:** I am sure that we will all watch the area with interest. Thank you.

**Willie Rennie:** The commissioner will be aware of the debate that is currently taking place about behaviour, distress and violence in schools. You will also be aware that the cabinet secretary is preparing a report and action plan. I am interested to know what involvement you have had in that action plan and particularly what your views are on some of the emerging issues of exclusion, boundaries and consequences, resources, and the effectiveness of restorative practice. What is your take on all that?

11:00

**Nicola Killean:** Any behaviour that is presented by children and young people is a form of communication. All children and young people should feel safe and well within educational settings. I have already spoken out about this and the need to understand the reasons for distressed behaviour.

The debate has again fed into why we are looking at education reform, because we do not believe that this can be solved—if “solved” is the right word to use—or progressed by looking at it through a single-issue lens. Our approach is very much that we have to understand why children display distressed behaviour and that, when it happens, to ensure that the adults around them get the support that they need. That will sometimes be teachers or support workers, and sometimes it will be other adults who work with children and young people.

We have not had a role in the development of the action plan, although we had some attendance at the summits that were held by the cabinet secretary.

My key message on all this is that there are multiple complex challenges within our current system. It can be better and that is why our contribution is to look at it using a child's-rights approach along with children and young people, and to look at the principles and current priorities that we have to set to be able to address these complex issues that we are all aware of and move things on.

**Willie Rennie:** I will just be a wee bit more persistent about this. I asked about resources, exclusions, restorative practice and boundaries

and consequences. I get the general point and I get that your approach of understanding why young people are behaving in the way that they behave is very important, but we also have to think about what everybody else in the class and the teacher experiences. It is about a balance between the two and how we achieve that balance. What is your view on the specific issues that I have mentioned?

**Nicola Killean:** On the point about all the children in the class, when I have met children and young people, they talked to me first of all about how they are worried about one another and about things that could be improved within the education system. I had to push them to talk about behaviour as being an issue because they were not raising it. What led to that quote was a young person reacting to me pushing them and saying, “But are you worried about behaviour, because a lot of adults are talking about this just now” and that led to a passionate young person saying, “Well, if adults are worried about that, they have to address what is underneath it.”

Essentially, we can prevent lots of challenging behaviours and we can prevent exclusions, but we have to have a system that is well resourced, aligned to the purpose that we believe in and with the UNCRC, able to deliver on what CFE set up, and hopeful for children and young people. There is more to be done to be able to get to that point. We now have much more understanding about children and young people's developmental needs, and about children and young people who are neurodiverse and what they need within a particular setting to support them. That is, however, not being implemented systematically throughout our system and that is what we want to get to: a plan and a vision with children and young people of how that can be.

I am not trying to dodge—

**Willie Rennie:** You are dodging.

**Nicola Killean:** —but the point that I am trying to make is that if I answer you by giving a view on each of those issues, I will just keep coming back to the same point, which is that we have to connect all of those and look at the whole system. That is what we fundamentally believe and that is the approach that we will take.

**Willie Rennie:** Okay.

**The Convener:** You have a wee think about anything else you want to ask, Willie. Stephanie Callaghan has a supplementary.

**Stephanie Callaghan:** I want to pick up on what Willie Rennie was saying about boundaries, consequences and exclusions. You have already said that they are all linked, and I suppose that bullying can be part of that. A child who is

continuing to be harmed might feel that they cannot attend school or they might be facing challenges around that. Is it your intention to zoom in to talk about those issues with young people and ask them to take a step back and look at both sides of the equation? We know that boundaries and consequences are important in helping children and young people to feel secure, and sometimes in stopping children whose behaviour is difficult from spiralling into other behaviours so that when they look back over their should a few years down the line, they are not thinking, "Oh my goodness! I cannot believe it got to that point or that I was responsible for those things happening." Have you talked about how to approach that?

**Nicola Killean:** When we begin to develop the work around education, it will be about developing those trusting relationships. However, it is important that we allow children and young people to talk to us about the issues that they want to talk about. We will be guided by them and then we will support them and look at the different categories that those issues fall into and how they can be connected. We will be guided by children and young people.

Bullying did come up a lot when we were doing the consultation with children and young people. When we looked at what the children and young people were saying, they were giving lots of different examples of bullying that we feel were examples of discrimination. We are interested in looking at that through the education reform work that we will be doing. We will look at what incidents are happening, how we understand them and what can be done to support the children and young people more. However, I have to say that a lot of what they described to me and us were their broader frustrations about the support that they require not necessarily being in place, and how the way in which things were being taught could be different.

As I mentioned, the children and young people's focus was on saying, "There are different ways to do this. It could relieve pressure, it could help us all to be included." They had lots of really good examples of that, but they did not necessarily focus so much on their behaviour. It was much more about how things could be better for everyone.

**Willie Rennie:** Stephanie Callaghan summed up very well how the boundaries, consequences, frameworks and apparatus that are created in a classroom keep everyone safe. I am not talking about punishment. I do not want to go back to the days when I used to get belted every second week at school. I want an understanding system. That is a far superior way of doing it.

However, there is now a fear among the teachers and pupils that I speak to—and lots of

them come to me—who say that the situation is intolerable in their circumstances, that it must change, and that they have to have those boundaries, consequences and other apparatus to make them all safe.

I am disappointed you are dodging the question and I do not know why you are, because it is about every young person feeling safe. I get the bit about resources and support and having to deal with the symptoms rather than the causes—I get all that. However, that is not working just now and it will not change overnight. What else can we do to make sure that young people feel safe in their class?

**Nicola Killean:** I absolutely agree that all children and young people should feel safe, as should all adults who work with them within an education setting. I also agree that appropriate boundaries, consequences and routines also help children and young people to feel safe. We do not disagree on that.

My job is, however, to ensure that you hear what children and young people have been able to say to me. They have told me about examples where they have used a fidget toy to support their coping and they have been told off and shouted at because of that and asked to put it away. I have found examples of many children and young people developing coping strategies and the system itself shutting them down or not recognising that behaviour for what it is. It is such an important part of my role for me to come in and say what children and young people have told me and show the choices that we are making about how we will continue to bring them into a space where we can ensure that their voices are heard in this complex discussion about education.

That is one of the concerns that I hope I have raised through the strategic plan objectives. We have had these great reports and we have heard people say that children and young people need to be more centred within that. We will attempt to do that and I am sure that there are lots of discussions to come.

**The Convener:** On that note of making sure that children's voices are heard, we will conclude our question session. I thank you for your evidence this morning.

That concludes the public part of our proceedings. We will suspend the meeting to allow our witnesses to leave and then we will move into private session to consider our final agenda items. Thanks very much.

11:10

*Meeting continued in private until 12:12.*



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