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Education, Children and Young People Committee

Wednesday 1 March 2023

Session 6

The Scottish Parliament
Pàrlamaid na h-Alba

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EDUCATION, CHILDREN AND YOUNG PEOPLE COMMITTEE

7th Meeting 2023, Session 6

CONVENER

*Sue Webber (Lothian) (Con)

DEPUTY CONVENER

*Kaukab Stewart (Glasgow Kelvin) (SNP)

COMMITTEE MEMBERS

*Stephanie Callaghan (Uddingston and Bellshill) (SNP)
*Graeme Dey (Angus South) (SNP)
*Bob Doris (Glasgow Maryhill and Springburn) (SNP)
*Ross Greer (West Scotland) (Green)
*Stephen Kerr (Central Scotland) (Con)
*Ruth Maguire (Cunninghame South) (SNP)
*Michael Marra (North East Scotland) (Lab)
*Willie Rennie (North East Fife) (LD)

*attended

THE FOLLOWING ALSO PARTICIPATED:

Pam Duncan-Glancy (Glasgow) (Lab)
Bill Scott (Inclusion Scotland)

CLERK TO THE COMMITTEE

Pauline McIntyre

LOCATION

The Robert Burns Room (CR1)

Scottish Parliament

Education, Children and Young People Committee

Wednesday 1 March 2023

[The Convener opened the meeting at 10:10]

Disabled Children and Young People (Transitions to Adulthood) (Scotland) Bill: Stage 1

The Convener (Sue Webber): Good morning, and welcome to the seventh meeting of the Education, Children and Young People Committee in 2023. The first item on our agenda is our final evidence session on the Disabled Children and Young People (Transitions to Adulthood) (Scotland) Bill.

I welcome our first panel of witnesses. Pam Duncan-Glancy MSP is the member in charge of the bill, and Bill Scott is a senior policy adviser for Inclusion Scotland.

We will begin with a short statement from Pam Duncan-Glancy before moving to questions from members. You have three minutes, Pam.

Pam Duncan-Glancy (Glasgow) (Lab): Thank you, convener, and good morning to the committee. It is a pleasure to be back in front of you. I want to thank you for all the evidence that you have taken on the bill. It is an incredibly important bill, as I am sure you all agree, so the people that this matters to will be hugely appreciative of the work that you have done.

I also put on record my thanks to Johann Lamont for lodging the previous bill, in session 5. I want to thank her for all the work that she did on her bill then, which has allowed me to bring it back.

In session 5, Johann identified what my own transition has taught me, which is that there is a problem and that thousands of young people are being failed every year. We know that disabled people are three times more likely to not be in education, employment or training—incidentally, that has not changed since 2008. A briefing was prepared by Inclusion Scotland in 2008, which I have with me today, and it says that the figure has not changed since then.

There is a five-point gap in the number of disabled people who are getting grades A to C at higher. Disabled people's economic inactivity rate is three times higher than the inactivity rate of non-disabled people. Disabled people are half as likely to be employed as non-disabled people, and the situation is worse in certain groups, such as people with a learning disability.

Perhaps the hardest thing to hear is that, at 16, young disabled people have the same aspirations as everyone else but, by the age of 26, they believe that nothing they can do will change their lives. At a time when they should be excited about their future and thinking about what and who they want to be, we are stripping them of hope. At that point in their life, it is hardly any wonder that they feel like project managers. They are not focused on their dreams or ambitions; they are project managing their own life and the future that it brings. That cannot continue. I remember my own transitions, when we finally got a plan in place and my mum said to me, "I can now be your mum again." That has never really left me, and I think that it is one of the reasons why we have to take this forward.

As I said a moment ago, this is not a new issue. Inclusion Scotland said in its 2008 briefing that,

> "if the correct support is not delivered during this crucial phase, it is likely that disabled people will not enter college to obtain qualifications crucial to prospective employers. If this occurs, they will end up NEET and remain in limbo, it becomes increasingly difficult to escape it".

That was right in 2008 and it remains right now. We know that progress has been too slow, and we cannot leave this to chance. If we are serious about addressing these issues among young disabled people, their move to adulthood cannot be left to chance. It is a matter of equality, human rights and justice.

It also should not rest on a manifesto commitment and ministers acting in good faith, because we have seen what can happen when they come and go. When the bill was lodged the first time round, it was noted in committee that the Scottish National Party manifesto committed to a national transitions strategy, but, at that point, it had been five years since that commitment had been made and there was still no strategy.

We also know that things can be deprioritised depending on leadership, such as could happen with the deposit return scheme. I do not say that to be provocative, convener, but to highlight the transient nature of strategies that are plans and not laws.

Much action is taking place already—I recognise that, and I am sure that we will cover a lot of that today—but we really need a bill to address this issue. You might ask why it should be my bill. To that, I say this. It does not undo current work; it adds to it. It creates a legislative structure for the one child, one plan approach that the additional support for learning review and the co-ordinated support plan review recommend. It requires a transition strategy in law to be laid before Parliament, protecting it against changes of Government or leadership. It provides an opportunity for scrutiny that the Education (Additional Support for Learning) (Scotland) Act 2004 does not, and it addresses issues in the Morgan review, which says that

> “the implementation of Additional Support for Learning legislation is over-dependent on committed individuals, is fragmented, inconsistent and is not ensuring that all children and young people who need additional support are being supported to flourish and fulfil their potential.”

It also says that additional support for learning is always somebody else’s problem, and my bill seeks to address that.

A lot of people agree with me. We will talk about this later, but a number of organisations—including the Law Society of Scotland, the Children and Young People’s Commissioner Scotland, Enable Scotland and the National Autistic Society—believe that the bill will make the change that we need to see.

10:15

Members may ask why we simply do not wait to see whether the current strategy works. In response, I would say this: we have heard that before. This year, I will be 42. I graduated in 2004, two years after I should have done, because my transition was not planned properly. Despite the blood, sweat and tears, I got there in the end. I think that we can all agree that, if it takes the tenacity of a future parliamentarian, one good worker—I know that we have all heard of the worker from Falkirk, who did some great work—and a fighter mum to get there, something needs to change.

The Convener: Thank you very much, Pam.

We move to questions, starting with Ruth Maguire.

Ruth Maguire (Cunninghame South) (SNP): Good morning. Thank you, Pam, for being with us. I appreciate your opening statement, particularly your recognition of the evidence that committee colleagues have taken. We are also very grateful to the young people, parents and practitioners who shared their expert experience with us.

I would like to ask you about the implementation gap, given that, as we know, there are policies in place. We have heard from parents, young people and practitioners that the reason for the gap is to do with capacity and resources. Parents talk to us about communication as well, and practitioners, in particular, have spoken about culture and leadership. In your view, why do we have that implementation gap? It is clear that what we currently have in place is failing too many of our disabled children and young people. What are the reasons, in your view, for the implementation gap that young people are experiencing?

Pam Duncan-Glancy: I thank Ruth Maguire for that question.

There are a number of reasons for the implementation gap, and you have highlighted some of them. They include issues around culture, education and support, training, awareness raising and resources. Crucially, however, policy is driven by legislation, and I believe that the current policy and legislative framework is not driving the change that we need. I will take a moment to talk through the current structures and why I do not think that they are what we need right now. The Scottish Government’s own literature review, which was published this week, recognised that there have been significant failures across guidance and, indeed, in implementation.

The Fraser of Allander Institute reflected that transitions do not need to be difficult if they are well planned and well managed. However, the evidence suggests that that is rarely the case. The Royal College of Occupational Therapists told the committee:

> “Everyone feels that they are working in crisis mode at the moment, which means that transitions and long-term planning are taking a step back.”—[*Official Report, Education, Children and Young People Committee,* 1 February 2023; c 32.]

That highlights one of the serious concerns about implementation. When the going gets tough, it is always disabled people who end up having to get going. We have seen that happen through various different economic crises, including the Covid-19 pandemic and the current cost of living crisis. We know, therefore, that the implementation gap exists, but we also know that, when it is not a statutory duty to provide something for disabled people, it is not provided. That is the stark reality of the society that we are living in. We really need the legislation to drive the policy.

The Law Society agrees. It has said that a national transitions strategy would contribute to achieving all

> “the rights accorded by the UN Convention on the Rights of Persons with Disabilities by ensuring that all relevant policies and planning—as well as individual planning—achieves that purpose.”

It went on to say:

> “we would suggest that significant improvement is unlikely to be achieved without legislative measures.”

Ruth Maguire: Thank you for that.

Pam Duncan-Glancy: I think that Bill Scott was going to comment.

Ruth Maguire: I will just ask you another question, if that is okay, and Bill can come in after that.

We have legislation in place but, as we all acknowledge, it is clear that there is an implementation gap. What is it about additional legislation, in the form of this bill, that would address those issues? I think that we probably agree on the reasons for the gap. For example, we agreed just now on the need for resources and capacity. What is it about your legislation that would address that aspect?

Pam Duncan-Glancy: Much of that rests in the legislative structure created by the Education (Additional Support for Learning) (Scotland) Act 2004. The 2004 act provides for a co-ordinated support plan to be made available. We know that very few people get a co-ordinated support plan, but we also know that the transitions plans that would be covered by the legislation are limited in nature, given the purpose of the co-ordinated support plan. They focus only on education, and they are not deliberately targeted at disabled people, whom the bill is intended to support.

We recognise that there is a significant underrepresentation of disabled people in employment and those going on to positive destinations. The bill seeks to address that group of people and to support them. The statutory guidance locates the planning process within the 2004 act and within a child’s plan, but the part of the legislation that contained the child’s plan was repealed in 2019, which left a huge gap in provision. The duties in the 2004 act cover all pupils with additional support needs, but that is limited by the words “think fit (if any)”, and the local authority might not think it fit to exchange information or to put in place a plan for a young disabled person.

It is a different group of people that we are looking to support under the bill. We are looking to address the significant discrimination and oppression faced by a group of people who have a protected characteristic and who are disabled people under the Equality Act 2010. The duties and regulations in the 2004 act are caveated in that they apply

> “only in relation to such children and young persons as the authority consider appropriate.”

The review of co-ordinated support plans, which comes under the 2004 act, considered that there is a need for clarity in the relationship between those plans, child plans and other plans. In fact, the review suggested a one child, one plan approach, and I contend that the bill would deliver that.

Bill Scott (Inclusion Scotland): Very much so.

A really reasonable question is being asked, which is, “Why will the bill make a difference?” The problem at the moment is to do with the fact that a co-ordinated support plan should be given to just about every disabled child who is identified, because they all have multiple support needs. According to the latest figures, which were released yesterday, 1,780 disabled children and young people left school last year. Of those, if we are lucky, between 1 and 2 per cent received a co-ordinated support plan, which is 30-odd, or one per local authority. That is a huge failure.

If resources are the issue—at the moment, every local authority is telling us that its finances are hard pressed—what is the chance that resources for guidance, which is always voluntary, as people are not required to follow it but are told that it is best practice to do so, being resources that local authorities say they do not have at the moment, are going to go towards giving every disabled child the support that they need, both before they leave school and afterwards? The Fraser of Allander Institute found that support has to be in place until young people are 25. That is because some of them leave school for what looks like a positive destination—college, say—but, two years later, they are no further on in their journey in life, with no better qualifications than when they left school.

The bill at least says that resources are needed to provide that support. We might have got our figures wrong in terms of the amount of money that is required, but the amount that we are talking about is somewhere between £10 million and £15 million. Is that investment in the future of tens of thousands of disabled school leavers worth while? It very definitely is, I would argue. If we want that to happen, however, we have to give the dedicated resources to local authorities. The bill does that in that every child gets a plan and is entitled to support. They might not always opt to get that support, but every child is entitled to support until they reach the age of 25. The Scottish Government’s own review of the literature and the research conducted with young people and their parents said that early and sustained transition planning is essential, and it called for holistic, co-ordinated wraparound support, with services delivered in partnership, a designated key worker—which is what the bill provides—and person-centred family involvement in the preparation of the plan.

That is all there, in the bill. It just needs to be translated into practice. To do that, we need the resources.

Ruth Maguire: There is a lot in that to probe, but I do not want to tread on other people’s questions.

The Convener: Some of the substance of Bill Scott’s response will be interrogated—I know that that is the wrong word, but I am struggling to think of another—by the deputy convener later. I will move first to follow-on questions from Graeme Dey.

Graeme Dey (Angus South) (SNP): Good morning. At last week’s meeting, the Scottish Transitions Forum talked about there being a “legislation salad”. The view has been expressed that the legislative landscape is already very congested. I am interested in exploring with you how easily you think the proposals in the bill would dovetail with existing duties and current policy development, such as the principles into practice trials, to avoid a situation whereby—regrettably, perhaps—that congestion would provide cover for more inaction rather than enable what we all want to see, which is an improvement in the situation.

Pam Duncan-Glancy: I heard the evidence that you took in which reference was made to the “legislation salad”. That was a really good description of where things are.

There is a bit of a legislation salad—I cannot disagree with that. A number of bits and pieces of legislation are relevant here, but none of them are delivering the change that we really need to see. We are still in a situation whereby young disabled people are less likely to be in employment and more likely not to be in education or training.

The current salad is not what we need. We need a bit of a different menu, if I am honest. I say that because of some of my earlier points on the Education (Additional Support for Learning) (Scotland) Act 2004. The Morgan review also recognised that. It said that the

> “Additional Support for Learning legislation is over-dependent on committed individuals”—

that speaks a bit to Ruth Maguire’s earlier question about the implementation gap—

> “is fragmented, inconsistent and is not ensuring that all children and young people who need additional support are being supported to flourish and fulfil their potential.”

As I said, the Law Society of Scotland recognised that, too.

There is nothing in the bill that says that the principles into practice framework should no longer exist or that it would not continue. I think that the work that is being done on principles into practice and the work of the Scottish Transitions Forum is excellent, and I suggest that that could dovetail really nicely with some of the powers in the bill for guidance and support. As with any piece of legislation, people will need support, advice and guidance. We need principles on which to support it. Furthermore, we might want to consider putting principles into practice into the legislation, so that it then drives the practice that we need to see.

There are various pieces of legislation. The salad might include, for example, the Social Care (Self-directed Support) (Scotland) Act 2013. The independent review of the legislation said that self-directed support needs to be scaled up. However, that is separate from the bill. If I thought that I could introduce one bill that would solve every problem that disabled people in Scotland face, from when they are born until they die, I would do that.

A number of different bits of legislation are intended to have an impact on disabled people’s lives. However, we do not have something that supports them through a crucial part of their life—from about the age of 14, which is proposed in the bill, up until the age of 26—that, as Bill Scott set out earlier, helps people to pull together all that legislation salad, that gives them rights and support at different parts of their life and that becomes a co-ordinating framework for that management.

Right now, too many families are distressed and are struggling to cope. People’s transitions are being addressed far too late. My inbox is full—as, I am sure, all your inboxes are—of people saying that their son or daughter is leaving school the following week and they do not have a transition plan in place. We really need something that pulls everything together, that co-ordinates things and that works well with the different aspects of the salad that are on the plate.

However, it must also say that we will have a national transitions strategy that will look at what action we need to improve the outcomes of disabled young people; that we will have a plan in place specifically for that group of people, to address the transitions; and that there will be responsibility and accountability at the ministerial level to ensure that people and families can see clearly what their rights are. The professionals working in the area also need to understand what that means, so that they can navigate that salad a bit more easily.

Graeme Dey: Is another strategy not the last thing that we need? Is it not action that we need? On that basis, this process of interrogating your bill has laid bare, for all the committee members, I think, the shocking situation that exists.

Would the purpose that we are all committed to not be better served by looking closely at what does not work—rather than focusing on one aspect of it, or a couple of aspects, as your bill does—and changing lots of little things that would make a huge difference? Is there not a bigger picture here beyond the bill that we ought to be focusing on more?

10:30

Pam Duncan-Glancy: Yes, absolutely, and I thank Graeme Dey for saying that. There is a much bigger picture here. I hope that, through bills that will come to the Parliament, including the incorporation bill at some point, along with a national care service, we can start to look at what needs to change in all those areas, because Graeme Dey is right—so much needs to change.

Fundamentally, what we do not have in legislation is a right for children and young people to have a transitions plan from the age of 14 that follows them through to the age of 26 or beyond. There are regulation-making powers in the bill to do that. It is about focusing on what they need in order to give them a fighting chance at a future, and that is just not there right now. Ruth Maguire highlighted the implementation gap, but I am not surprised that there is an implementation gap, because the existing legislation is not directing professionals and it is not focused on this particular group of people. It is leaving professionals unclear about what their duties are, and it does not include that element of accountability so that young disabled people can hold those people to account.

I have learned a lot since coming to Parliament, in May 2021, and I think that this has probably been the steepest learning curve of my life. One of the things I have learned is that nothing sharpens a minister's mind more than having to get on their feet in the chamber and talk about something that they have done. Over the past decade—over the past two decades, even—Bill Scott and I have worked together on similar issues. He and I have worked together for a long time—I will not embarrass him by suggesting how long, but it has been a while—and we have constantly been told, "This guidance will do it. This is the bit that will work. This strategy will work. Just focus on what doesn't work and change that little bit." However, I am sorry to say that the bit that does not work is the bit that the bill is trying to address. It is about giving disabled people an opportunity—a right in statute to have a plan that gives them a fighting chance at a future.

Bill Scott: I will just make a brief point on the legislation salad issue. Part 5 of the Children and Young People (Scotland) Act 2014, which is where the child plan features, has never been commenced, so it is not part of the salad. The Scottish Government has announced that it will be repealed—I am still waiting for that to happen—but that element is not part of the salad. There is no obligation on local authorities to do anything in regard to part 5 at the moment. We have the co-ordinated support plans, but, as we know, they are affecting only a tiny minority of the disabled children and young people who are in the school system at the moment.

The bill creates a duty on local authorities to have transitions plans, and, if the Scottish Government agrees, it will provide local authorities with the resources to do the planning and to provide support after young people have left school. It is important that support continues after they leave school. Too many young people are being abandoned and there is no contact with them whatsoever, so the worklessness rate and the economic inactivity rate are high, as Pam Duncan-Glancy has pointed out. We cannot afford to lose that resource from our economy at the moment. We need those young people to be entering work or training to get the skills that they need.

The Convener: We will move to questions from Stephen Kerr.

Stephen Kerr (Central Scotland) (Con): Kaukab Stewart and I were going to ask a similar question about definitions—why have you chosen to use the definitions that are deployed in the Equality Act 2010 as opposed to a broader definition? That has certainly had an impact in terms of the financial memorandum and the costs, which Kaukab will maybe comment on.

The Convener: The deputy convener will drill down more on the finance questions later.

Stephen Kerr: Can we start with the issue of the definitions and what your calculation of those definitions is in terms of the number of people the bill will cover?

Pam Duncan-Glancy: Yes, absolutely. I thank Stephen Kerr for that question.

The definition that we have chosen in the bill is the definition of a disabled person in the Equality Act 2010. The reason that we have chosen that definition is that I was content that that definition is broad. It includes people on the autistic spectrum and those with learning disabilities and with mental ill health, because it is about how an impairment impacts on their social interaction and the way that they interact with society. If a person's impairment has a long-term impact on those things, they are considered to be a disabled person.

The Scottish Government's guidance on definitions of people who can get support at transitions, which I think is provided through a service called Enquire, includes that definition of disabled people. To be honest, that shows a little bit of inconsistency, because, on the one hand, the current legislation talks about people with additional support needs, but, on the other hand, the Government is giving out information that uses the definition that is in the Equality Act 2010. I think that it is correct for the Government to do that, because it is about specifically addressing the needs of this group of people. The other groups of people who are included in the statistics for, and those who have, additional support needs are care leavers and young people who are gifted, which is why that definition is broader.

I am not suggesting for a second that those children do not have additional support needs—they do—or that they do not need support—they do. I am suggesting that there is a cohort of people who are deliberately categorised as having a protected characteristic in the Equality Act 2010, because it recognises the fundamental oppression and discrimination that they face, and the bill is for that group of people. People worry that that means that it does not include certain impairment categories. However, the Equality Act 2010 is drawn broadly for that specific purpose. If we look back at *Hansard* from the time when the act was being developed, there was a lot of discussion in Parliament about how you would define disabled people, which looked at shifting the narrative from a medical model focus to a social model focus. That is why I think the definition of a disabled person in the Equality Act 2010 is the right one for this piece of legislation.

Stephen Kerr: There is an element of self-identification in there as well, is there not?

Pam Duncan-Glancy: There is, but it is also about suggesting that a disability or condition has a long-term impact on people’s lives. That is not new: it is how organisations and schools, as well as education authorities, universities and colleges, are already identifying some of their disabled young people. I know that some evidence has raised the question of how authorities will identify disabled young people—how will those characteristics come across, and how are they going to know what they are?

Stephen Kerr: That was going to be my next question.

Pam Duncan-Glancy: Excellent. I am glad to be on the front foot for a change.

They are doing that. I know that because the data on young people with additional support needs is broken down by large numbers of categories of impairment. So, organisations know who those children and young people are. I also think that it is not the case that teachers and schools do not know which pupils in their classes need the extra support and who could be considered a disabled person. They have very good relationships with them.

Stephen Kerr: But who ultimately decides? Some people will feel that their children should be included in the category of people who automatically receive a support plan, and others will say that they should not. Who ultimately decides?

Bill Scott: In essence, that will be determined in the same way as the Equality Act 2010 determines that. If a child’s parents believe that their child is impaired to a significant degree that impacts their daily life, they will claim that they are entitled to support and will be able to make a claim under the Equality Act 2010 if that claim is refused. However, around 1,800 school leavers are already identified as disabled children and young people, and the statistics on additional support needs can be broken down by impairment category.

A lot of people under the ASN would not qualify as disabled people because their level of impairment does not have a significant impact on their daily lives. Let me give you an example. I am not, by any means, saying that there is no impairment involved, but children with dyslexia have approximately the same number of positive outcomes as children without dyslexia. So, the level of impairment does not seem to have a significant impact on whether those children go to college or higher education or become employed, whereas 10 per cent of children who have a learning disability, a motor impairment or a speech or language impairment fail to get to a positive destination when they leave school—which is four times the rate for those without an impairment.

There is definitely an issue there. The Equality Act 2010 is good enough for the Scottish Government—usually—and it is good enough for the United Kingdom Government. Why is it not good enough for children and parents? It is the normal way of defining disability.

Pam Duncan-Glancy: I will add to that before Stephen Kerr comes back in. Schools and the structures around young disabled people now are probably contending with that exact question. For example, everyone can see that I am a disabled person, so there is no hiding—not that I would ever want to do that, actually; I am proud of my identity. However, with impairments that you cannot see, there is always the question of how we know someone is a disabled person.

Schools are already asking those questions, because they have to identify the young people in order to work with them. There are various mechanisms that they can use to do that. They can ask what support people need and they can look at whether a diagnosis is in place. Of course, that gets us into waiting times, which is a whole other question, and it goes back to Graeme Dey’s point about the number of current problems and how we will address them. Ultimately, that will need to be looked at.

Therefore, those questions are not new as a result of the definition that we use in the bill. The purpose of the definition in the bill is to put a focus specifically on people who have that protected characteristic, in recognition of the fact that they are significantly oppressed and discriminated against.

Stephen Kerr: Kaukab Stewart will talk about the financial implications of the definition, which are significant.

I will move on to my last question. In the evidence on the bill, we have heard a number of memorable phrases that have stuck with me. One was about the salad that was much mentioned earlier. Another was when someone said, "You can't legislate for a relationship." We know from the evidence that we have received, particularly from the individuals who are the most impacted—the young people and their parents and carers—that relationships are the critical element in all this. For example, you mentioned in your opening statement the individual from Falkirk, who has been much mentioned and whose job is based around supporting families and individuals with the transition journey right through to the age of 25, as you mentioned. That single point of contact therefore becomes a critical relationship in the management of what you described as a "project".

When it comes to the resources that will flow with the bill, should every local authority have someone like the person we heard about in Falkirk? What are the implications of that for the direction of resources, which are already quite scarce?

Pam Duncan-Glancy: Under the technical detail in the bill, a lot of that will be down to regulation and guidance, so that local authorities can decide the model that best suits them.

On your point about legislating for relationships, you cannot legislate for relationships but you can legislate to put people in the room and build those relationships, which is what the bill seeks to do. I have been looking at the action plan that the Scottish Government has published, and I know that much work has been done on co-ordinated support plans and the ASL review. From the evidence that the ministers Clare Haughey and Christina McKelvie gave to the committee last week, it seems that the national transitions strategy might, indeed, address some of these questions. That is all really valuable. In fact, work is on-going on the creation of qualifications for teaching support and additional support teachers in schools.

All of that will add to the approach and will be helpful and important, but none of it involves legislating to ensure that people get in the room and that somebody takes control of what is happening. That is the benefit that the bill will bring.

The Convener: Bob Doris has a brief supplementary on this thread.

Bob Doris (Glasgow Maryhill and Springburn) (SNP): It is very brief, because the thrust of what I want to talk about is on the deputy convener's line of questioning.

Bill Scott helpfully mentioned the broad definition under the Equality Act 2010. He mentioned dyslexia, and I think that he was making the point that all disabilities have impacts but, with a more profound and complex mix of disabilities, there might be a greater need. I do not want to be disparaging, but dyslexia might not necessarily be at that level. However, in the guidance on the Equality Act 2010, dyslexia is specifically mentioned as qualifying. Mr Scott, you talked about more profound and less profound disabilities—I am paraphrasing, so I apologise and I am not trying to put words in your mouth—and you mentioned dyslexia as potentially being less impactful. However, dyslexia is specifically a qualifying disability under the Equality Act 2010. Will you say a little more about that?

10:45

Bill Scott: Mental health is also a qualifying disability under the Equality Act 2010. I have a mental health condition—I suffer from periodic depression—and there are times when I would define myself as a disabled person. At the moment, I do not, because my mental health is good. The difference is that the 2010 act does not just say that it is the condition that qualifies you as a disabled person; it has to have a significant impact on your daily life for a period of time, unless you are, for example, terminally ill. It is necessary to go beyond the question of whether the person has an impairment to that of whether the impairment is having a significant impact on their daily life. If the answer to that is yes, they qualify for support.

Bob Doris: The person might say that they do not think that they progressed as smoothly in school as they might have done because of barriers in relation to dyslexia. I think that almost everyone with dyslexia would say that as a matter of course, and they would have a strong case for doing so. Therefore, it could be argued that everyone with dyslexia would qualify for a transitions plan. Would that be a reasonable assumption to make?

Bill Scott: It would be a reasonable assumption if they could show that their progression had not advanced to the same extent. In other words, if, for example, their grades were high despite the fact that they said that their progression was not good, their dyslexia would appear not to be impacting on their daily life. Of course they can make the case, and, if it turned out to be the case that they were not progressing as well as they might be, their dyslexia probably would be having a significant impact.

The Convener: I did not want to cut you off, but we were going round in circles a little bit there.

We move to questions from Stephanie Callaghan.

Stephanie Callaghan (Uddingston and Bellshill) (SNP): Thank you for being here this morning, Pam. It is great that you have been highlighting this stuff.

What you said about your mum saying, "Now I can be a mum again," was really quite powerful. That is so important. You mentioned the legislative salad and the fact that none of the legislation is delivering what needs to be delivered. Having guidance, strategies and duties is absolutely fine, but the issue comes down to relationships, advocacy and people feeling that they have agency.

We have heard from young people and families—this has been mentioned in the evidence that has been submitted to us, too—that professionals will often identify "positive destinations" for them but that those do not always reflect the aspirations and interests of young people or the things that matter to them and their families. We have also heard about data and control and about young people wanting to own their own story, to have that agency and control, and to have choices around sharing their data.

I am interested in two specific issues. First, how will the bill bring an approach that is centred around the young person and their aspirations? Secondly, how will it improve their outcomes?

Pam Duncan-Glancy: Thank you very much for that question. I know that you have a keen interest in the subject and that you are passionate about the rights of young disabled people, and I thank you for the work that you have done on it so far.

The questions that you asked are key. I know that the committee has been looking at the detail of the bill, and I thank it for the work that it has done on the bill. I have looked, but I have not seen another piece of legislation that has done this: at every point in the bill where there is mention of a regulation or a duty on a body, or reference to the development of a strategy or a plan, there is also a provision, almost in the same clause, that says "and must consult", and that requires the young person and their family to be involved.

Various sections of the bill—sections 7, 11 and 12—cover the issue of ensuring that a person-centred approach is taken. In fact, that is what is most important about the bill. Earlier, I talked about people not wanting to be project managers in their own lives or in the lives of the young people whom they love and care for. It is not that young disabled people want to devolve all responsibility and step aside; it is that they want to spend time thinking about where they want to go, who they want to be and what they want to be. That involves thinking about whether they want to end up in the destination that has been proposed and whether that destination is positive. As an aside, I think that there is a bigger conversation to be had about how we define positive destinations, not just for young disabled people but for all young people in Scotland.

The focus needs to be on those kind of questions, rather than on whether someone has contacted social work and let them know that, in a couple of years' time, the person might need self-directed support to be put in place or whether someone has had a look at what kind of accommodation or housing will be available if the person goes to college or university. Those are transactional questions about managing a project, as I described. They are not questions such as, "Where do I want to go when I grow up? Do I want to go on a college course?"

I do not want to be disparaging, but I am sure that you have heard in evidence that, in some situations, because of the aspirations that other people have—a plethora of data and research shows that non-disabled people sometimes have lower expectations of disabled people than they themselves have, and I earlier gave a statistic about people's aspirations being beaten down almost—young disabled people end up being parked on certain courses that they might not want to be on.

That might be because, at the last minute, we rush to find a destination of any description—positive or otherwise, to be honest. What I have heard from people when I have spoken to them about the legislation is that everything is decided far too late. People are often faced with a situation whereby a young person is going to leave school, maybe in a matter of weeks, and they ask, "What are we going to do? We will have to do something. Right, here's a college course. You can definitely go and do that life skills course," or whatever.

I am not suggesting that those courses are not appropriate for some people—of course, they are—but we should not end up in a situation in which, because we do not have much time, we are almost panic placing people into situations that are not really positive destinations—they are just destinations.

The bill will bring in that planning process in a more streamlined fashion, starting at an earlier point, giving people a responsibility to get round the table and having somebody outwith the family as the person who makes sure that people have done the bit that they are supposed to do, have phoned the person they said they would phone and have been in touch with whoever. That is important, because it allows the family to focus on what the destination is.

Stephanie Callaghan: I do not disagree with much of what you have said. I hear such stuff myself. However, the part that really concerns me, as you know, and as we hear when we talk to practitioners, is that transitions should not be separate but organic and built in all the way through.

I know that North Lanarkshire Council has done loads of great work over the past 12 years. It has been absolutely fabulous and fantastic. However, practitioners have said that legislation is legislation but it is about the quality that is underneath that. We have heard them say that they are worried about the idea of having yet another plan. Plans are piling up on somebody's desk and it becomes something to be completed. That could be reductionist and could end up being a bit of a tick-box exercise for them as well, so the plan might get in the way of some of the good practice that they are doing and that is evolving.

Would it not be better to focus on the good practice that is happening just now rather than what is specifically in the bill—to look at bringing that forward, really supporting it and bringing in legislation to support it and make sure that it is happening, if there turns out to be a need for that?

Pam Duncan-Glancy: The point that you ended on, about bringing in legislation to support that and make it happen, is key. As I said in my earlier answer, possibly to Stephen Kerr or Graeme Dey—forgive me, I cannot remember who it was—about putting the principles into practice, there are opportunities for us to say what is working really well and what is not working. There are lots of things that we can do to improve the practice on the ground—of course there are. However, ultimately, legislation drives policy and policy drives practice—or it should, as I think we all know. That is why I believe that we need to look at this.

On the points that you have just made—about the practitioner saying that it is just another plan in a pile, that there are lots of other plans and that it is all a bit much, so we should perhaps just focus on what needs to be done—all the reviews of the current ASL legislation agree with that practitioner. They say that there is too much, to an extent, and that we need a one child, one plan focus. That is what the bill provides.

The Convener: We move to questions from Ross Greer.

Ross Greer (West Scotland) (Green): Pam, I will pick up on what you said about legislation driving policy and policy driving practice. At the core of what you propose is the premise that we need to mandate such action if we want transformational change. I am interested in the comparison between that and the experience with co-ordinated support plans, which, I think, both you and Bill Scott have mentioned. They are not the same thing but, if we are looking at the same space, they are currently the only kind of plan that has statutory underpinning, which should result in a compulsion on relevant authorities to improve support for a young person.

However, as Bill Scott pointed out, that does not happen for the 99.5 per cent of young people who do not have a co-ordinated support plan. Even for the 0.5 per cent who have one, we have plenty of examples in which, despite the fact that it is a statutory plan that should give them the ability to pursue recourse if they do not get support, it does not happen.

I am interested in your thoughts on why that statutory approach has not worked for CSPs and why, if it has not worked, the bill would provide a solution and result in a different outcome—the compulsion on authorities that you are looking for.

Pam Duncan-Glancy: I appreciate that question, and I recognise your passion for the subject. In fact, all the members from whom we have heard so far have that passion. I welcome the support and energy around the subject.

The implementation gap, which is one of the first matters that Ruth Maguire asked about, is crucial. We can all point to a lot of legislation that still needs to be implemented. I understand that. I see that and, when it comes to disabled people, I have seen it for decades. Justice and access to justice for disabled people are a serious concern. I will talk in a minute about the ways in which the bill addresses some of that and is enforceable.

I recognise the work that is being done on whether we need qualifications for additional support teachers and how we encourage good practice. There is also the awards system for schools that recognises good practice in education and the journey that young disabled people have travelled. All of that is on-going and should continue. The bill does not stop any of it.

I have seen, time and again—particularly when it comes to disabled people, but the same is true for all the different protected characteristics—that, if we leave improvement to accident and default, we end up defaulting to a situation in which society discriminates against and oppresses a large group of people: disabled people. We have to fix the process by design. We cannot leave it to accident any more, and that design, I believe, should involve looking at the various different bits of legislation that exist.

Ross Greer pointed out that the co-ordinated support plan is not the same as the transitions plan. It is not. It was developed for a different purpose. The bill is developed for a specific purpose, and it is about transition.

There are two points here. The first is whether the current legislative framework is right. I do not believe that it is, and neither do a number of organisations, including the Law Society of Scotland and the Children and Young People's Commissioner Scotland, so we need to change that. That is what I am trying to do with the bill, but we always have to change practice because, as Graeme Dey pointed out, there is good practice in places, but there is also some pretty poor practice that we need to shine a light on and address. I contend that the bill sharpens the mind and the focus on that by putting it into legislation, being much clearer, and taking a one child, one plan approach.

Ross Greer: I appreciate that, and you do not need me to tell you that there is absolute logical consistency in what you say. The conclusion is still that the bill will result in better practice. However, co-ordinated support plans are the result of another bit of legislation, and those statutory requirements have not resulted in the change in practice that we want. I accept what you say, in that they are not exactly the same as transition plans. However, the premise of my question remains: why will legislation result in the change in practice that we are all looking for on transitions when other bits of legislation in education that were intended for exactly the same thing—not specifically intended to address transitions, but intended to force a change in practice—have not forced a change? What is different with the bill?

Pam Duncan-Glancy: I suggest that scrutiny is part of the problem. It goes back to one of my earlier answers on having a minister with special responsibility for transitions, having the strategy lead in Parliament, and having a reporting period so that people know that there will be a point at which they can scrutinise the development of the process.

Right now, we do not have a strategy to address transitions. I know that the Government is producing one, and I welcome that, but we need it in legislation because we cannot just leave it in manifesto commitments that may or may not ever be enacted or that exist only while a certain well-intentioned, passionate member of the Cabinet drives it forward. We need to legislate. That is incredibly important.

There also needs to be an opportunity for people to hold ministers to account on that. That is what the bill would specifically provide. That does not exist in other pieces of legislation.

11:00

Forgive me for looking at my notes for this bit so that I get the sections right. Section 1, which is on the national transitions strategy, would provide a clear reference point to local authorities and other agencies. It says that the aims and objectives and outcomes need to be set out—those are important—as well as the actions that authorities will need to take to meet the aims that ministers think will be "necessary to improve transitions". The effect of having something like that in legislation cannot be overestimated.

Section 4 says that local authorities and other agencies would have a statutory duty when exercising their functions to comply with the strategy. That is another point at which you would be able to scrutinise the way in which the plans were being developed.

Section 6 says that a member of the Government or a minister would be assigned responsibility for the act. We have changed the language in this version of the bill from the previous version to take into account some concerns of previous committees.

Section 9 says:

> "A local authority must ensure that each disabled child or young person ... receives the care and support necessary to meet the needs ... in the ... plan."

Section 14 says:

> "The Scottish Ministers may issue guidance"

about transitions, and that local authorities and agencies "must have regard" to it.

Section 15 says:

> "The Scottish Ministers may issue general or specific directions about ... plans",

and section 16 would require ministers to lay before Parliament an annual report on progress.

All those things do not yet exist, but they would add the scrutiny that young disabled people and their families really need. People can come to me and to all of us as parliamentarians and say—we have all heard this—"I am tearing my hair out. My young person is leaving school next week and nothing is in place." This morning, I heard exactly that story. Somebody with significant support needs is now stuck at home. They have already left school, and nothing is yet in place. They do not have an adult social worker in place.

People come to us, and we say that we will put pressure on. We do what we can—we write letters, we have meetings, and we call people. However, when we look at what duties and responsibilities people have, we see that they are not clear and that they are not as robust as those in the bill are. We need to change that.

Ross Greer: That is great. Thank you very much.

The Convener: We have some supplementary questions on that theme. Willie Rennie is first.

Willie Rennie (North East Fife) (LD): Ross Greer's question was quite a powerful one, and Pam Duncan-Glancy has gone some way to dealing with it.

It is a slight counsel of despair to say that, because we have not been able to enforce such statutory rights or plans before, we should never try to do so again. Nevertheless, that begs the question whether this will be any different from what we have had before.

It is open to us to scrutinise co-ordinated support plans. We can question them in Parliament and do all that stuff just now. There is nothing to prevent us from doing that. However, you are saying that, by stipulating that a minister is responsible and that there are scrutiny angles, that will somehow change the position. Are there parallels in other areas, where that approach has really made a difference?

Bill Scott: Yes, there are. About seven years ago, the Equality and Human Rights Commission published a study that it conducted into modern apprenticeships in Scotland. Some members might remember that. It identified that 0.5 per cent of modern apprenticeships were going to young disabled people, but they made up between 8 and 9 per cent of the young people in Scotland.

Nowadays, if you ask Skills Development Scotland how many modern apprenticeships go to young disabled people, you will find that the proportion is exactly the same as the proportion of young disabled people in Scotland. That is because of parliamentary scrutiny. That is because Parliament decided that that was an important issue, and it put its weight behind it. We are saying that we are creating a right for young disabled people to have a plan.

The Scottish Transitions Forum, which you have heard evidence from, has said:

> "Planning should start early and continue up to age 25"

for all young learning disabled people. There is no legal duty for that to happen at the moment. It does not exist in the child's plan and it does not exist in the co-ordinated support plan. Both plans are for education; they stop when the child leaves school. This plan would be the only one that guarantees support after the young person has left school. That is important, because we are failing young people after they leave school as well as while they are at school.

That is why the plan is needed and why legislation is needed—to change things.

The Convener: I call Stephanie Callaghan.

Stephanie Callaghan: Thanks for allowing me to come back in, convener.

Bill Scott made a really important point about scrutiny really making a change in that area. I really appreciate that.

I go back to Ross Greer's point about practice. For example, we heard about a wee boy who wanted to be a pilot. He was taken along to the airport, and he was as interested in the baggage as much as he was in anything else, so he ended up with a job in the baggage department. Will the bill really be the thing that changes practice? Would that happen for other wee boys? Would it change things for them? That is the nitty-gritty of the issue.

Pam Duncan-Glancy: That is the question that I am trying to answer with the bill. I point to what Bill Scott has just said in relation to modern apprentices, and I will add to the answer to Willie Rennie's question, which I thank him for.

Right now, we could say, "This co-ordinated support plan was not put in place"—actually, given the statistics, we would be more likely to say, "There was no co-ordinated support plan." We are still dealing with one person after another, each in an isolated situation. That means that we are constantly firefighting, and there is nothing that pulls all that work together.

The bill will do two things in that context. First, it will put on a statutory footing the need for a national strategy that looks at how we will address those issues. I have already made a comment about the purpose of and the need to do that. Secondly, it will give individual rights. It will do both things at the same time.

Nobody wants to be associated with not doing what is right for disabled people, and most people who work in that field set out every day to do the right thing and as much as they possibly can, but disabled people are constantly told, "That circumstance was a one-off" or "That happened only in this situation—it does not happen in all situations." We really need to have a broader focus on that, as well. The strategy part of the bill suggests that.

I will finish on your final question, Stephanie. I am sorry—I am not suggesting that it was your final question. I am not chairing the meeting.

The Convener: I am chairing the meeting, and I want to move very quickly to questions from Michael Marra, if you do not mind, Ms Duncan-Glancy.

Pam Duncan-Glancy: Excellent—I will be quick.

On that final point, all the things that I outlined in relation to scrutiny—the assignment of ministerial responsibility, the laying before Parliament of the annual report, the review of plans, and the review of the strategy—will sharpen the focus to make sure that, if we are doing the right thing on the ground, we will know that we are, because we are asking people about it.

Michael Marra (North East Scotland) (Lab): You will have watched the evidence that ministers gave us last week. For me, the thrust of that was that a strategy is coming. Do you think that we should wait until that is published to see what is in it and whether it works?

Pam Duncan-Glancy: No, I do not think that we should wait. In my opening statement, I said that the data that the committee is aware of—young disabled people are three times more likely to end up not in education, employment or training—was the same in 2008, when Inclusion Scotland wrote the briefing that I have in front of me. The data was probably the same prior to that, too.

Disabled people are consistently told, “This next strategy will be the thing. You do not need this in legislation.” I remember that from working on policy when I worked in the area. There was a constant refrain of “The next thing will do it,” but it has not done it yet. Here we are, almost 20 years since we started to work together in the field—I am sorry, Bill; I said that I would not out that number—and the rights of young disabled people still do not deliver the fighting chance that they need. Therefore, I do not think that we should wait for the strategy.

How long does the committee think that disabled people should wait? What does it think is the right timescale to say whether the strategy is or is not working? Right now, there are disabled people in communities who are about to leave school or have already left school with no plan. They cannot wait for the Government’s strategy, which is not yet published.

I fully acknowledge that the Government has committed to that strategy, and I fully believe that it will be published. I take the ministers at their word, but those disabled people cannot wait for that. I urge the committee to consider that question and say how long it thinks that it is acceptable to wait and see whether that strategy works.

Michael Marra: There is huge frustration, which I hear from Pam Duncan-Glancy and Bill Scott, as well as from the committee, in relation to the delivery and what is going to make change happen. I suppose that that goes to the nub of the discussion today.

Earlier this week, I had a meeting with a council chief executive, who said that they are now in a position in which they can do nothing that is not required of them by law. Is that the situation that disabled people face?

Pam Duncan-Glancy: Absolutely. That is the situation that disabled people face. I have a quotation from Audit Scotland that speaks to that. In a blog on transitions, it said:

> “It’s distressing and frustrating that we repeatedly hear of the barriers that some families fight against to get the right support to help their child to learn. Too often, families are worn down by a prolonged search for the right support, and by having to manage a crisis that could have and should have been avoided.”

It went on to note:

> “Councils provide support in different ways, with a wide variation in spending ... This partly reflects the different ways services are provided and the varying costs of supporting individuals—but”—

this point is crucial—

> “may also reflect local decisions by councils to prioritise between a wide range of services.”

Therefore, Audit Scotland recognises the position of councils.

I should put on record that councils are in a horrific position right now—I in no way underestimate that. Now is not the time to get into the budget, because I could be here for another three hours if we were to touch on that. However, you hit the nail on the head when you made the point about councils really struggling to meet just their statutory responsibilities. I cannot tell you how often disabled people face the argument that “It’s not an obligation, so we don’t have to do it.” Social care is an example of that. Eligibility criteria get stripped back and stripped back until people are literally doing the only thing that they have to do, which is keep people alive. That is the situation that we are trying to avoid with the bill for transitions for young disabled people.

The Convener: Does Bill Scott want to come in on that?

Bill Scott: Yes. Again, it is about how we measure success. Supposing that a strategy is developed and published—I have worked with those ministers, and I understand fully that they are committed to trying to deliver that strategy—how do we measure success? One way might be to look at how many young disabled people are benefiting from the young person’s guarantee. Can the Scottish ministers tell us how many young disabled people are benefiting from the young person’s guarantee? No, they cannot, because they do not collect any statistics on whether young disabled people are accessing the guarantee.

We are in the same position with modern apprenticeships. We do not know, and therefore we do not care and we do not act. The statistics that we present to you should tell you that we are failing young disabled people and that we need to act, and it has to go beyond guidance, because local authorities are so hard pressed that they will do only what they are required to in law. The bill would require them to do something in law. It would have to happen, and it would carry a budget with it—I know that we will come on to that issue.

The Convener: That is a nice segue into the next line of questioning from my deputy convener, Kaukab Stewart.

Kaukab Stewart (Glasgow Kelvin) (SNP): Thank you, convener. We will look at the financial memorandum. Bill Scott, I think that you have already alluded to the fact that you might have got the figures wrong—

Bill Scott: I did not say that I had got them wrong; I said that I am prepared to listen to arguments that I have got them wrong.

The Convener: I think that your words were:

> “We might have got our figures wrong”.

That is what you said.

Kaukab Stewart: Thank you for the clarification, convener.

The approximate cost in your financial memorandum is £893,372 in year 1, but the Convention of Scottish Local Authorities estimate is 11 times that, so can I get a wee bit of an understanding of how you originally came across your figures?

Bill Scott: Well, I would like to see how COSLA came across its figures, because it does not provide any accompanying figures with that estimate of £10 million. It actually—

Kaukab Stewart: Okay, but can I get an understanding of how you came across your figures—how those were informed?

Bill Scott: We used the figures that COSLA supplied on the grade of the people who would be likely to be assigned this work. We then worked out the number of hours, based on how many hours were normally spent on similar work by local authorities in assisting people through transitions. The hours and the grade were supplied by COSLA. We then worked out the number of young people who would require a plan to be put in place and multiplied it by the number of hours, the number of people and the grade.

11:15

Kaukab Stewart: We have talked a little bit about the definitions of disability that would be included under the Equality Act 2010, and, in other sessions, we have heard evidence about the time allocated for preparation being underestimated simply because of the complexity of arranging and delivering multi-agency meetings. On reflection, do you feel that your figures are underestimates?

Bill Scott: There could be an underestimate. The true figure probably lies somewhere between what we have estimated and North Lanarkshire’s estimate. It has estimated about three times the cost, but it is looking at the transition from child to adult social care. Those transitions are particularly complex because the young people who go through them need a lot of support.

The great majority of the young disabled people who would be covered by the transitions plan in the bill do not receive social care, so that aspect is not part of their transition. As a result, the average that we have arrived at is for a lot of young disabled people who do not have complex needs but still have needs based on their impairment. The average, therefore, lies somewhere between the figures at the high end and those at the very low end. As I have said, I think that the figure probably lies between North Lanarkshire’s estimate and our own.

Even if we say that it is another £5 million on top of the £10 million that we have estimated after year 8, I still think that that is money well spent, and I do not think that we should be quibbling about a few million here or there. I know that every pound is precious, but these are young people’s lives that we are talking about. Indeed, it is the rest of their lives that we are talking about. As far as making this investment at that early stage is concerned, I agree with previous children’s commissioners and the previous poverty adviser to the Scottish Government: there are key points in people’s lives where an intervention by the state can make a real difference, and that is what we are asking for here.

Kaukab Stewart: Absolutely. I am just concerned about the figures rather than the principle. I do not disagree with what you have said.

Did you want to come in, Pam?

Pam Duncan-Glancy: I would appreciate it. Thank you for the question.

I just want to say at the outset that we have done the best that we can to produce the figures in the financial memorandum. However, as with the bill, we are prepared to discuss these things in detail. I have had meetings about this with COSLA, but I note that there are certain points of departure. It has said, for example, that an additional member of staff will be needed to do something, while I have pointed out that existing staff already have such duties and responsibilities. There are, therefore, a few questions about existing responsibilities and the costs attached to them. I would argue that, if we are not already putting in the resources that COSLA says that we need to put in to meet the requirements of disabled people and give them a fighting chance to have a future, we are failing them. I would therefore call that an admission of failure.

As for the pounds and pence in the figures, I want to start with the figure of 4,000 people that we have set out in the financial memorandum. That figure has been based on the definition used in the census with regard to the disabled people who will be able to access a plan under the bill, and it includes the number of ASN pupils as well as the census data. Usually, the census data uses the definition of disabled people in the 2010 act, and we have looked at that and multiplied it by the number of local authorities. Of course, this is where the law of averages comes in. We have seen the evidence, and I know that the committee, too, has written evidence from, I believe, councils such as Glasgow that have said that the figure will be much more, and from other authorities that have said that it will be different. I understand how that can happen with the way that averages are used and the concerns about that.

However, the most important thing to remember is this: if COSLA and local authorities are arguing that it will be significantly more expensive to do this, we have to ask ourselves what we are not doing already that makes this such an additional cost. We have spent a lot of time this morning talking about existing duties, responsibilities and legislation, but we also have organisations such as COSLA saying, “Actually, it’ll cost a lot more if we do this.” Either those responsibilities exist now and councils should be spending money on them, or they do not exist—which is another argument for the bill.

Kaukab Stewart: According to the Finance and Public Administration Committee, all the evidence that it received considered that the financial memorandum

“understates the cost of implementing changes”.

What, then, was your rationale for expecting that some costs would be accommodated within existing resources?

Pam Duncan-Glancy: We know that young people in school have access to pastoral care teachers—they were called guidance teachers in my day—and that existing structures are in place to support them. For example, staff from Skills Development Scotland engage with special and state schools. There are existing structures, which should be treating all young people equally, including young disabled people, but the statistics show that they are not doing that yet. We are saying that the bill contains a mechanism to focus attention on and address some of that.

I reassure the committee that I have not closed my ears and eyes to a different perspective on finance. I say that on the basis of my earlier comment about the costs for local authorities. The last thing that anyone wants to do is land local authorities with duties that they do not have the financial support to back up, but I contend that such support is Government’s responsibility.

We must remember two comments. I contend that good transitions would be a form of good support, and the National Audit Office said that good support could save £1 million per person—I repeat: £1 million per person. Even if we take our estimate of the cost and COSLA’s estimate and the £5 million extra, we would only have to get it right for five people to make a longer-term saving for the state.

Secondly, the Law Society of Scotland said that

“the wider costs of inaction would be greater in comparison to the costs of implementation”.

It is in the context of those two statements that I approach the question of the financial memorandum.

The Convener: I have a specific question. You used the definition and numbers from the census. The most recent census data that I can find comes from 2011, and we know that there were significant issues with last year’s census. You are using data that comes from quite some time ago. It might be perceived as out of date.

Pam Duncan-Glancy: That is a fair contention. That is the most up-to-date census data that was available to us when we prepared the financial memorandum. However, it is not unreasonable to assume that our data is right because, as I said earlier, we cross-referenced the census data with data on children with additional support needs. When we look at that data, which is more regularly updated—I believe that it was updated yesterday—and the number of disabled people in the census, we can come to a conclusion about the number of people who would access support under the plan.

Kaukab Stewart: You will be aware that, at last week’s meeting, the Minister for Children and Young People said that ministers had discussions with you about the modelling in the financial memorandum and that you were looking to work with stakeholders to better understand the potential costs of the bill. You have said that you have not yet met with COSLA. Can you update us on which stakeholders you have engaged with or intend to engage with?

Pam Duncan-Glancy: I think that I said that I have met with COSLA, not that I have not—

Kaukab Stewart: Oh—you have met COSLA.

Pam Duncan-Glancy: I have now met twice with COSLA.

I have met with a range of stakeholders and have done engagement on the bill right across Scotland. Members may have seen the roadshows that I did during the summer, which engaged people who work in the field and those who work for the Department for Work and Pensions and for Skills Development Scotland. I also met them separately from that engagement. During those roadshows, I met teachers, young disabled people and their families and carers.

I have carried out extensive engagement and have probably met most of the stakeholders that you would think should be engaged in the process. I am willing to meet anyone who believes that they have a stake in this and to discuss how best to make it work. I hope that this has come across to the committee: I want to make this work; I want to do the right thing; and I want to ensure that, for example, the financial memorandum is accurate. We have done that to the best of our ability. Bill Scott acknowledged that we would be prepared to discuss other numbers. We spent a lot of time coming to our conclusions. Our rationale is there.

That is how I approach stakeholder engagement. If people want to speak to us, I would be more than happy to speak to them, but I have already engaged with a large number of groups, including the Transitions Forum.

Kaukab Stewart: I think that Bill Scott wants to comment.

Bill Scott: Yes, very quickly. There is one thing wrong with the Finance and Public Administration Committee's assumptions and the COSLA estimates, which is that they assume that every young disabled person with a plan will still be accessing support eight or 10 years after they leave school. We do not think that that will be the case. Almost half our young disabled school leavers have positive destinations that they manage to maintain; we do not think that such young people will access support.

There will also be attrition. Every service provider knows that when we call people in to meetings that they do not think have any purpose, people drop away and cease to access support. You can lose contact with people, too. Some of the estimates are false, because they do not take account of attrition or success—and we think that, by providing support, we will increase the number of successes, so fewer people will access support later.

The Convener: We heard that dipping in and out of support would be important to young people during the transition period.

Graeme Dey: With respect, we should not be sitting here, disputing whether the figures are out by a factor of three or a factor of 11. I am pretty sure that, in evidence to us last week, the minister indicated that, after a meeting with Pam Duncan-Glancy late last year, an undertaking was given to talk to COSLA about the issue and get the answers. Has that meeting, for that purpose, taken place? It sounds like it has not taken place, because there is no agreement on the numbers.

Pam Duncan-Glancy: There is no mechanism for us to replace the financial memorandum once it is laid before the Parliament, but we have met COSLA to talk about the financial memorandum.

Graeme Dey: What was the outcome?

Pam Duncan-Glancy: The outcome was as Bill Scott described: there is a departure when it comes to agreement on the figures. I want to assure you—and I go back to my comments about the National Audit Office and the Law Society—

The Convener: Thank you. If there is a departure, perhaps you will share it with the committee. I want to move on to questions from Bob Doris, because I have my eye on the clock.

Bob Doris: I thank Pam Duncan-Glancy for introducing the bill. I also thank Bill Scott for his support, and I acknowledge the work of Johann Lamont, who I see is following the proceedings.

Even when we are dealing with a good bill, we still have to scrutinise it pretty robustly. I ask Pam please to take the questions in that spirit.

Members have asked about the financial memorandum. It suggests that each transition planning meeting will take, on average, two hours and will require an hour for preparation and an hour for follow-up action. It is suggested that there would be between two and four meetings a year. Andy Miller, from the Scottish Commission for People with Learning Disabilities, disputed those numbers and said that they were unrealistic and did not take account of the complexities that could be involved. On reflection, do you think that the numbers are a bit ambitious?

Pam Duncan-Glancy: In a number of cases, what we suggest will be accurate. However, I have seen and acknowledge the SCLD's evidence.

The approach to calculating the hours that will be needed to ascertain what sort of support people will need is based on decades of work with disabled people and their parents, and with disabled people's organisations, including the SCLD. We have come to the best possible conclusion on the issue. Such things are always open to discussion—that is the purpose of parliamentary scrutiny, which is really important.

Thank you for your question. On your first point, I would expect nothing less than significant scrutiny from the committee, because we are talking about a bill that, I hope, will get on to the statute book at some point. If we put something into statute, we need to be absolutely sure about it. I have learned that—very much so—since becoming a member of the Parliament. I expect scrutiny and have prepared as best I can for your interrogation, which I think is the word that the convener used. Someone said to me earlier, "It will not be interrogation; it will be scrutiny". Either way, I am here to answer your questions and I undertake to come back to the committee with further detail, particularly on the difference between COSLA's estimates and ours.

Bob Doris: Thank you. No interrogation is likely to be easy.

Convener, you will move me on if I am taking up too much time, as I have a lot of questions to ask—

The Convener: You are okay at the moment, Mr Doris. I am trying a new approach today.

Bob Doris: Perhaps I had better keep things moving.

I acknowledge that answer, and I will weigh that up when we look at the evidence.

I see in the financial memorandum that it is assumed that many of the costs associated with the work in school will not require any additional resources. I will read from the Scottish Parliament information centre's briefing:

> "while the child remains at school, the costs of the guidance teacher's, or other member of the school's pastoral care staff's, time would fall within existing resources on the basis that the local authority officer will already have existing pastoral duties for, and responsibilities for, the child."

I suspect that teachers and their colleagues think that they are pretty burdened with work already, without all that additional work. Do you have any reflections on those comments?

11:30

Pam Duncan-Glancy: Bob Doris speaks to a very real and live concern. The fact that we are meeting this morning as teachers are striking does not escape me. It is fair to note that more is being asked of teachers and additional support needs assistants in schools and that there are, in fact, fewer of them than there used to be, which is part of the problem.

I go back to my earlier comment: it is absolutely not my intention to put something in place that burdens people, with them not having the resources or capacity to deal with the issue. Part of the problem with the implementation gap, which Ruth Maguire mentioned at the start of this morning's evidence session, is exactly that.

I also argue that one reason why teachers are striking today relates to the additional stress that they experience from supporting all young people, including young disabled people, in their classes.

Bob Doris: I suspect that, if we debate that issue further, there will be a bit of mission drift. I should acknowledge that I am an Educational Institute of Scotland member.

Bill Scott: It will only be the initial work and the planning that will take a lot of time at school, because the plan does not really take effect until the young person leaves school. The plan will be in place at age 14, but the meetings thereafter will be to ask, "Is everything still going to plan? Are we still on course? Have your needs changed?" Those meetings will be check-ins; we will not be formulating a new plan for the young person every time. That is why the average time is significantly less. We believe that the costs will be lower while the child is still at school, but they will rise when the child leaves school.

Bob Doris: I want to drill down into the numbers a bit more. Scott Richardson-Read, from the Association for Real Change Scotland, talked about what the number of young people in the school estate who require transition plans could be. In 2019, 128,000 young people were capable of leaving school between S4 and S6, and 47,500 did so. He estimated that about 20 per cent of young people leaving school are likely to have some form of additional support need and, therefore, potentially qualify for a transition plan. That 20 per cent would be known to education and other services, but up to 37 per cent could require a transition plan. Those figures are dramatically higher than those in the financial memorandum—there is significant disparity. Do you have any comments on that?

Bill Scott: If you look at the figures that were published yesterday—I can supply them to the committee later—you will see that every young person who has additional support for learning needs has to have those needs identified. Of those young people, fewer than 1,800 are identified as young disabled people, and we think that that is an underrecording.

If you look at the figures in detail, you will see that the outcomes for a number of young people with additional support needs are no different, or are in some cases better, than the average for pupils with no additional support needs. For example, the largest group with additional support needs—young people with emotional and behavioural problems—are not identified as young disabled people. Last year, there were 6,000 school leavers in that group. Another 1,500 pupils' learning was interrupted, and another 400-odd pupils were especially gifted. There are a lot of young people with additional support needs who do not qualify as young disabled people. Given that a lot of groups are eliminated from being classed as having ASN, there is a disparity between that 1,800 figure and the, probably, about 7,000 who are potentially impaired, but we would have to look at the extent to which they are impaired.

The best figures that we had were the census figures, which suggest that about 4,000 school leavers a year will have impairments at a level that would qualify them for protection under the Equality Act 2010. Those are the ones at whom we are aiming the transition plans. If the number of young disabled people is significantly more than that, the census has failed to catch them and so have a lot of other services, which will not be providing for them.

Bob Doris: The purpose of what we are doing is not to argue about the financial memorandum. The point is that, without the necessary resources within local authorities and other partner organisations, this well-intentioned legislation—that is not a glib description; I mean that the legislation is properly well-intentioned and thought through—will not drive a difference, and there will be a prioritisation of needs, just as there currently is in relation to ASN, with only 1 to 2 per cent of young people who qualify for a co-ordinated support plan actually getting one. There is a concern that, if the bill passes, only the most complex disabilities that young people have will be on the radar of schools, local authorities and other players that would be involved in the provision of a transition plan, and we will end up with a similar picture to the one that pertains in relation to co-ordinated support plans. Do you think that that is a reasonable concern?

The Convener: Please answer briefly, as we have one more question to ask.

Pam Duncan-Glancy: No problem, convener. I do not think that that is a reasonable concern—I think that the opposite will be the case.

The Convener: That was brief—lovely.

Michael Marra has a supplementary question.

Michael Marra: The Government is preparing the strategy that we have talked about and, clearly, there will be costs associated with delivering that strategy to transform outcomes in transitions. In your meetings with ministers, did they outline what they thought the costs of that would be in a way that would be comparable with the costs that you have outlined?

Pam Duncan-Glancy: That is an interesting point. I have had to submit a parliamentary question to try to get that information, because the level 4 information in the budget does not detail specific funding for that. It is difficult for me to tell what is being spent on the transitions of young disabled people and how much the strategy will have behind it. That is the kind of question that is really important.

The costs associated with the bill must be specifically related to the framework that it is putting in place. The financial memorandum specifically details a lot of that in a way that I have not necessarily seen in some Government budgets, because it goes into a significant level of detail. All of us, in our various committees, have just scrutinised the Government's budget, and it is fair to say that it has been a difficult process. I contend that, because the figures in our financial memorandum are contingent on a given number of people, which relates to a number of hours and, therefore, the costs, it details the rationale for the costs in a way that some Government bills have not done.

The Convener: I understand that Mr Doris might have a question.

Bob Doris: I promise that it is not just an add-on to the previous line of questioning. My question is inspired by Bill Scott's earlier comment that, in some cases, there might not be continuing costs because some young people will move on to positive destinations in further or higher education. However, at another point, he said that, once we have signed folk off as having reached a positive destination, we do not monitor the situation to see whether those positive destinations are realised for the period of time for which the statutory obligations exist. You cannot have it both ways: there is either on-going monitoring or there is not. I am genuinely a little bit confused about that.

The Convener: You do not have long to answer that, Mr Scott.

Bill Scott: If the right exists for someone to re-enter the system at any point until they are 26, they can do so, whether or not they were initially signed off as having reached a positive destination. If the positive destination turns out not to be positive, they can ask to meet the person who helped them to put together the plan or the person who is designated by the local authority as being responsible for the plan being implemented. I am not denying that some people will re-enter the system; what I am saying is that a lot of people who enter employment or go on to further or higher education will not access support.

Bob Doris: Does that mean that every young person will have a named person within social work?

Bill Scott: I wouldnae use the term “named person”—that has particular connotations. We could call them a key worker or some other designation.

Bob Doris: I am relaxed about the term “named person”, but there we are.

The Convener: I thank Pam Duncan-Glancy and Bill Scott for their evidence. That brings the public part of the meeting to an end. We will consider our final agenda item in private.

11:40

Meeting continued in private until 12:12.

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