



OFFICIAL REPORT
AITHISG OIFIGEIL

Local Government, Housing and Planning Committee

Tuesday 4 October 2022

Session 6



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Pàrlamaid na h-Alba

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LOCAL GOVERNMENT, HOUSING AND PLANNING COMMITTEE
24th Meeting 2022, Session 6

CONVENER

*Ariane Burgess (Highlands and Islands) (Green)

DEPUTY CONVENER

*Willie Coffey (Kilmarnock and Irvine Valley) (SNP)

COMMITTEE MEMBERS

*Miles Briggs (Lothian) (Con)

*Mark Griffin (Central Scotland) (Lab)

*Paul McLennan (East Lothian) (SNP)

*Marie McNair (Clydebank and Milngavie) (SNP)

*Annie Wells (Glasgow) (Con)

*attended

THE FOLLOWING ALSO PARTICIPATED:

John Blackwood (Scottish Association of Landlords)

Amanda Callaghan (Scottish Government)

Caroline Cawley (Living Rent)

Timothy Douglas (Propertymark)

Patrick Harvie (Minister for Zero Carbon Buildings, Active Travel and Tenants' Rights)

Aaron Hill (Scottish Federation of Housing Associations)

John Kerr (Association of Local Authority Chief Housing Officers)

Rhiannon Sims (Crisis)

Elena Whitham (Carrick, Cumnock and Doon Valley) (SNP)

CLERK TO THE COMMITTEE

Euan Donald

LOCATION

The David Livingstone Room (CR6)

Scottish Parliament

Local Government, Housing and Planning Committee

Tuesday 4 October 2022

[The Convener opened the meeting at 09:03]

Decision on Taking Business in Private

The Convener (Ariane Burgess): Good morning, and welcome to the 24th meeting in 2022 of the Local Government, Housing and Planning Committee. Members should note that the convener of the Social Justice and Social Security Committee, Elena Whitham MSP, is joining us for both of our substantive evidence sessions in this meeting. I welcome her to the meeting.

I ask all members and witnesses to ensure that their mobile phones are on silent and that all other notifications are turned off during the meeting.

We have received apologies from Annie Wells.

Agenda item 1 is to decide whether to take agenda items 4 and 5 in private. Do members agree to do so?

Members *indicated agreement.*

Rent Freeze and Evictions Moratorium

09:04

The Convener: Agenda item 2 is evidence taking on emergency legislation on a rent freeze and evictions moratorium.

We have two panels this morning, with some of the first panel participating remotely. Joining us in the room are Caroline Cawley, member, and Emma Saunders, national organiser, Living Rent; Timothy Douglas, head of policy and campaigns, Propertymark; and Rhiannon Sims, senior policy officer, Crisis. Joining us online are John Blackwood, chief executive, Scottish Association of Landlords; Aaron Hill, director of policy and membership, Scottish Federation of Housing Associations; and John Kerr, vice chair, Association of Local Authority Chief Housing Officers. I welcome everyone to the meeting. I should say that once we have concluded taking evidence from this panel, we will hear from Patrick Harvie, the Minister for Zero Carbon Buildings, Active Travel and Tenants' Rights.

Before we move to questions from the committee, I want to make it clear that the Cost of Living (Tenant Protection) (Scotland) Bill was published only last night. As Parliament has agreed to all three stages of the bill being taken before Thursday, there is no formal role for this committee in its scrutiny. However, the committee previously agreed that it would be helpful to explore issues arising from the bill with stakeholders and the minister to help inform scrutiny of the bill in the chamber over the coming days. Given the timings, there is no expectation that witnesses will be fully up to speed with the specific content of the bill.

To ensure that everyone understands the process, I should say that members will have an allocated amount of time for their questions. We try to direct questions to witnesses, and we do not necessarily expect everyone to answer every single question. If you wish to respond to a question that has been directed to someone else, please indicate as much to me or to Euan Donald, the clerk, or, if you are on BlueJeans, put an R in the chat function.

We move to questions. The current cost crisis has required the Scottish Government to take legislative action to protect tenants, but do you think that it is a proportionate response that balances the rights of tenants and landlords? I will begin with Aaron Hill.

Aaron Hill (Scottish Federation of Housing Associations): Good morning and thanks for the opportunity to give evidence.

Housing associations recognise the gravity of the cost of living crisis that is being faced by people right across communities, and an emergency response from the Scottish Government is absolutely necessary.

For a number of months now, housing associations have been working with their tenants to support them with food, fuel and cash in their pockets. The cost of living crisis, however, is structural and requires supply-side action as well as a response to the crisis's symptoms, and that will require significant interventions including building thousands more social homes and retrofitting existing homes to bring down energy costs. Our concern, therefore, with the balance being struck in the Scottish Government's action is that if a rent freeze were to be extended beyond 31 March 2023 it would be ineffective in tackling some of the symptoms and would reduce the collective ability of housing associations and our partners to tackle some of the longer-term systemic challenges around poverty.

Ultimately, the Scottish Housing Regulator's evidence alongside the bill shows that around £50 million of income would be taken out of housing association business plans in year 1. That figure would rise to more than £200 million over four years and billions of pounds over the course of a business plan. That adds up to fewer homes being built or being retrofitted to zero carbon standards, less service provision for tenants and less support that can be offered to them to deal with the cost of living crisis.

That said, the bill as drafted only takes us up to 31 March 2023, and we want to work collectively and collaboratively with the Scottish Government on finding a solution. There is strong evidence that Government intervention is not required beyond that point. Social rents in Scotland have consistently been half of those in the private rented sector—and, indeed, are the lowest in the United Kingdom—and that has happened because we have not had Government intervention up to now. The role that housing associations play in their communities, consulting with tenants and working closely with them on setting rents, is why we have got to that point.

If you look at other interventions on rent across the UK, you can see that rent policy often drives unintended consequences. When social landlords in England and Wales have uncertainty, they will often take the highest rent rise available to them because it gives them certainty in that year. We have not had that in Scotland; the position of being able to consult over a number of years gives us a

chance to smooth out some of the challenges that we face over the course of the business plan.

My final point is about the role that tenants play: social housing tenants are a vital part of the rent-setting process in Scotland. They have a formal consultation role. Last year, when social landlords went out to consult with their tenants, less than 50 per cent of those tenants chose the lowest rent increase that was available, because when social housing tenants are informed about the impact that rent increases have on businesses and services, they take informed decisions. There is a danger that we underestimate social housing tenants in saying that it is for Government to make this decision and not them.

The Convener: Thanks for that. It is very interesting to hear about those consultation responses. When you have been at this committee before, you have talked about the three issues of building new supply, better fitting, and keeping the rents affordable. Given that challenge, I am interested in hearing from you about any new proposals that you would like to see being introduced or about ones that you are introducing yourself to tackle this situation.

Aaron Hill: As I said, we want to work collectively with the Scottish Government on what happens beyond 31 March 2023. We have been giving some thought to what that might look like. There could be concerted action—as there is already from social landlords—around the cost of living, with support for tenants around food, fuel, and getting cash into people's pockets.

However, what we need is certainty and stability on the home-building issue and the retrofit issue. The unprecedented nature of Government intervention in this space in Scotland has already spooked some of our key partners, not least the lenders.

I am aware of a number of housing associations that have had loans withdrawn that were about to be signed off. In one example, that was a £90 million loan, half of which was for refinancing and half of which was for new build. The new-build element of that loan was withdrawn. I have heard of big housing associations over the past few days—prior to some of the other things that have happened in the market—having financial agreements taken away to be repriced.

We need stability and certainty early on from the Scottish Government around what is happening. We need management of that relationship with the lenders, with really strong engagement from the Scottish Government with UK finance and with key partners in the sector.

Ultimately, housing associations are carrying about £6 billion-worth of debt. We cannot carry out those key functions that we talked about without

that debt—without that lending from private lenders—and we need to make sure that there is a positive relationship both between us and that sector and between that sector and Government.

The Scottish Government has committed a huge amount of support to the development of new homes during this Parliament but, as I have mentioned to this committee before, the cost increases that we have already seen over the life of this Parliament have been enormous.

Without the ability to increase rent moderately—and the point about being moderate is really important—development will ultimately fall off a cliff. To come back to the point around moderate rent increases, we completely acknowledge the unprecedented situation that we are in here in relation to inflation levels. Inflation is often the marker that informs rent increases in social housing. I am not aware of any housing association that would have gone anywhere near the level of inflation this year, had they had the power to increase their rents.

Last year, the average rent increase was below inflation and we were looking at a similar position this year. We were talking to members who were around the 5 or 6 per cent increase mark—way below inflation. It is really important that we are able to balance those pressures of the cost increases that we face on the business side with the ability to meet the needs of staff and the wider community, as well as supporting tenants.

The Convener: Thanks very much for that. I put the same question to John Blackwood. Do you think that the emergency legislation is required, given the housing and economic context that we are in?

09:15

John Blackwood (Scottish Association of Landlords): Thank you for inviting me to give evidence. I will not repeat some of the issues that have already been mentioned, but I echo a lot of the points that have been made.

I emphasise that we do not believe that the legislation is proportionate, because landlords as well as tenants are affected by the cost of living crisis that we are living through. I also emphasise that it is important that landlords work together in partnership with tenants in order to overcome some of the issues. Likewise, we agree that landlords and tenants need to be supported in these difficult times.

As I said, increases in the cost of living affect landlords as well as tenants. Mortgage interest rates are already going up. In fact, access to mortgages will become a major problem for landlord investors. Such issues need to be taken

on board, because, quite frankly, some existing landlords will not be able to operate in the sector.

It was mentioned earlier that landlords are “spooked” by the bill. Indeed, back on 6 September, the First Minister’s statement was clearly along the lines that there would be a ban on evictions and a rent freeze. The bill seems to be a watered-down version of what was in that statement, so it is not quite what she promised. The statement gave investors a lot to worry about, so many of them decided to pull out of the sector. We are really worried about investor confidence in the private rented sector.

We need more supply both in social housing and in the private rented sector. That is really important because, ultimately, we want to be able to bring prices down so that tenants can afford to live in the homes that we all provide.

The Convener: You mentioned concerns and that people have been leaving the sector. However, the sector has grown dramatically over the period in which there have been regulation interventions, even following the new tenancy agreement in 2016. I am interested in why you think the bill, which, in the current context, will ensure that people have a home over the winter and will lead Scotland in a fairer direction, might result in people choosing to leave the sector. Where is the evidence for that?

John Blackwood: We have evidence, through landlord registration figures over the past couple of years, that landlords have been leaving the sector. We also have evidence of tenants struggling to find a home. We know from our members, individual landlords and letting agents that, when they put properties on the market, they are inundated with prospective tenants wanting to have a viewing, so we know that there is a lack of supply. Our members and other landlords tell us that they are actively selling their properties just now. As landlords, they no longer see Scotland as a place to invest and are looking to invest elsewhere. That is not good news. It tells us not only that we have a housing crisis at the moment, with landlords leaving the sector, but that the situation will get much worse very soon.

The Convener: I ask Living Rent the same question. Is the emergency legislation required, given the housing and economic context that we are in?

Caroline Cawley (Living Rent): Thank you for inviting us to speak today. We absolutely believe that the legislation needs to be passed. Everyone is in a crisis, but that is especially the case for tenants. Food bank use has gone up, energy bills are spiralling and rents just keep increasing at insane rates.

The rent of one of our members in Glasgow went up from £660 a month to £895 a month, which is a 35 per cent increase. The property has poor-fitting single glazing, so it is freezing in the winter, and the heating is ineffective and expensive, so that tenant is having to move out.

A tenant in Edinburgh has seen their rent increase by 32 per cent. They stated that they cannot afford to stay and will have to move out, but that requires more money for deposits and so on, which they do not have.

In Dundee, a tenant saw a 20 per cent increase in their rent and had to move out of their home. They are now illegally living in someone's living room.

The current market value is completely unsustainable. Between 2010 and 2021, private rents increased by 30 per cent in Glasgow and 42 per cent in Lothians. In the past year, since the pandemic, they have increased by 12 per cent in Dundee, 14 per cent in Edinburgh and 16 per cent in Glasgow. That is truly unaffordable for people who are working, never mind those on benefits. It should also be noted that the market value of social housing has increased by 24 per cent, and Edinburgh has by far the highest social rents in Scotland. It is unsustainable for anyone to put up with these prices.

The Convener: The bill does not affect rent increases between tenancies, so how will that affect the cost of living for tenants who are moving between tenancies?

Caroline Cawley: It will be a disaster. For people trying to find new properties, all of a sudden, the rent will be far too high. It is going to hit vulnerable people in particular, especially those who are leaving domestic violence, new people moving to the city, young people and people who have simply found that the situation that they are in is too expensive and need to find somewhere cheaper. However, because everywhere is bumping up the rent, there will not be anywhere affordable for those people. There are 24,000 people on the waiting list for social housing in Edinburgh. Temporary accommodation is overstretched beyond all measure. Where are these people supposed to go? The loophole needs to be closed to ensure that no rents are increased, so that new tenants do not have to suffer skyrocketing prices.

The Convener: Thanks. I will now move on and bring in other members. I will go way over my allocated time if I try to get round everybody with my questions, so I ask members to bring in witnesses who have not yet spoken.

I call Willie Coffey.

Willie Coffey (Kilmarnock and Irvine Valley) (SNP): Good morning. I want to ask about the impact of the proposal on the private sector, and I invite Timothy Douglas to come in initially.

Timothy, in a submission that you have made, you warn about the possibility that tenants might interpret the rent freeze as an instruction not to pay the rent at all. I want to explore that issue with you, and I would be obliged if you would tell us what you think the impact will be on tenants and private landlords. I invite responses from other witnesses, too.

Timothy Douglas (PropertyMark): Thank you for the opportunity to come here and provide evidence and insight from PropertyMark, which is a professional body that represents letting agents and has more than 500 members in Scotland. PropertyMark and our members acknowledge the cost of living crisis. Agents are businesses themselves with costs—they have overheads and employees.

The programme for government includes extensions to the tenant grant fund as well as the discretionary housing payments and warmer homes Scotland schemes. However, we do not think that the focus on a rent freeze is balanced and proportionate. It might bring significant peace of mind to tenants, as rent outgoings will not rise alongside other costs during the cost of living crisis, but rent controls do not address the root cause of rising rents, which is a shortage of rental properties caused by the lack of housing supply.

Fundamentally, therefore, PropertyMark's perspective is that a rent freeze will further reduce supply, which in turn will increase rents further. There is also a potential impact on the quality of those properties as a result of the disincentive for landlords to put money into their upkeep or to invest in them. How can they market a property when rents are, in essence, capped? Such a measure could further reduce supply and have an impact on the quality of properties.

Willie Coffey: Your statement about the measure potentially being interpreted as an instruction not to pay rent at all is quite a big one. Do you have any evidence to back that up? Do you have any forecasts around it? I would be obliged if you could share any information that might give some credibility to that statement.

Timothy Douglas: Yes, sure. I might be able to provide more detail on that after the meeting.

Rhiannon Sims (Crisis): I would just point to some research on the impact of the eviction ban that was introduced during the pandemic. Reports from the rent better research programme by Indigo House Group and from the Scottish Federation of Housing Associations on sustaining tenancies show that the ban did not lead to the rise in rent

arrears that people might have expected. In fact, they went down. That might be due to other support that was in place at the time, such as the £20 uplift to universal credit and the increase in discretionary housing payments. It is really important research, because it lets us know that the best, most targeted way of supporting people—especially those at the lowest end of the market—to manage their rent is to increase their incomes.

From Crisis's perspective, there is no doubt that people in low-income households—people in poverty—are really struggling right now. Last week, the Joseph Rowntree Foundation published some research that showed that, of the renters surveyed, a quarter regularly cut their spending on other essentials; however, the figure rose to a third for those on low incomes. We all know that the cost of living crisis is an emergency. For people who are in poverty, it is an emergency as acute as the pandemic and calls for emergency measures that, at other times, would not be considered. We absolutely support doing something to support tenants through that crisis, but we need to be clear that the measures are temporary and that we need a clear way to transition out of them, too.

Another part of the context is that the homelessness system is bursting at the seams. It has, as I am sure that members see in their constituencies all the time, been pushed to breaking point. In fact, I can give you a couple of figures that show that really starkly. In the five years up to 2020, applications for homelessness support were increasing steadily; we saw a little dip during the pandemic, but those figures have increased again so one could argue that the pandemic interrupted that long-term trend. We now have 26,000 households in the homelessness system, which is the highest figure in two decades and since records began; we have almost 14,000 households, including households with children, in temporary accommodation; and people are spending longer and longer in such accommodation.

Although it is necessary to tackle the cost of living crisis, the emergency legislation that we are discussing is, in the context of the statistics that I have just given, more of a sticking plaster on a much bigger, longer-term problem. As colleagues have said, we need to prioritise the supply of, and access to, settled housing and investment in homelessness services, which is vital. We also need bigger systems change; indeed, the sort of systems change that I am talking about includes the introduction of homelessness prevention duties.

We will have an opportunity to do that later this parliamentary year when the longer-term housing bill is introduced. However, Crisis worries that the

emergency legislation will push the timescales on that housing bill. That is worrying, because it means that we might not get the opportunity to make the systems change that we need to shift the dial on the homelessness statistics.

Willie Coffey: Thanks very much for that response. Do any other witnesses want to offer an answer to that question?

Timothy Douglas: It needs to be acknowledged that throughout the pandemic, letting agents and landlords worked extremely hard to maintain tenancies and keep people in their homes. For example, a letting agent in Glasgow who contacted me paused all rent increases during the pandemic; some landlords withdrew all rent charges, while others reduced amounts that were owed. They have capped rent increases at 5 per cent, which they think is a reasonable response after a pause of two to three years. As a whole, agents are not bartering rent prices or offering to the highest bidder; instead, they are checking affordability at length before the tenancy commences and are working with landlords and tenants to be accommodating and to provide solutions as best as they can. They have provided that support throughout the pandemic.

09:30

Willie Coffey: Thanks for that. Do I have time for another question, convener?

The Convener: John Kerr and John Blackwood want to come in and then we will need to move on.

John Kerr (Association of Local Authority Chief Housing Officers): On behalf of ALACHO, I thank the committee for the opportunity to speak to you this morning.

We fully understand the need to be responsible with council housing rent levels and to ensure that they are affordable. In responding to this question, I will build on the comments that have been made by Rhiannon Sims and Aaron Hill on the wider impact.

There is much to be lauded in the emergency legislation. It gives tenants in the social and private sectors some certainty in the winter months. As Rhiannon Sims has said, the moratorium on evictions is to be welcomed, particularly at a time when our homelessness systems are very stretched.

However, although we are fully supportive of the current scope of the legislation, there are, as Aaron Hill said at the start of the session, concerns about potential unintended consequences. If the powers were to be extended into 2023 and 2024, we would start to see those unintended consequences arising. For example, no one has spoken about housing supply, which is

key to our getting out of the housing crisis, particularly in the provision of social housing in the local authority and housing association sectors.

Another consequence is lenders for registered social landlords getting spooked while, for local authorities, there will be consequences in relation to borrowing requirements and more pressures on housing revenue accounts. The negative impact of that on tenants will be that councils start to disinvest—unwillingly—in the provision of housing in the future.

There will also be consequences in relation to achieving the shared ambitions and aspirations for our current stock in the journey towards decarbonisation and, crucially, putting in energy efficiency measures. It will make a real difference to tenants' pockets if we put in certain heating systems that reduce fuel bills. However, that requires borrowing, and further pressure on housing revenue accounts will have a negative impact.

In short, if the provisions are extended beyond the March 2023 deadline, there will be unintended consequences that will be detrimental to the tenants whom we are trying to help.

The Convener: Thank you for that.

John Blackwood: As I know that you are short of time, I will be very brief and pick up on a point that was made by Timothy Douglas about how landlords and tenants have worked together in the past.

Our biggest concern about the bill is the lack of consultation with the sector by the Scottish Government prior to its introduction. I appreciate that it is emergency legislation and was announced as such, but we were consulted prior to the introduction of the Covid-19 emergency legislation and worked closely with the Scottish Government and other organisations to ensure that the impact of the pandemic was mitigated as much as possible. Landlords and tenants worked together, and the Scottish Government applauded landlords for that. Where possible, we reduced rents, and we worked with our tenants to make sure that they sustained their tenancies.

Willie Coffey's question, which was in the context of rent arrears, was about the evidence that we have of tenants willingly not paying their rent. We do have evidence. Members can tell you their own stories, but there are also the stories that have been published in the decisions of the First-Tier Tribunal for Scotland—in other words, the eviction cases that have gone through the tribunal process and have been fully written up. Those details are publicly available.

However, the main thing that we want to get across is, again, that we are in an emergency.

Nobody is denying that. The cost of living affects everyone—tenants in particular, but landlords, too. We cannot lose sight of the fact that landlords' costs are also going up. This is all about how we as a sector work together to sustain tenancies, keep landlords in the sector and encourage them to invest in the future, not discourage them from doing so.

All the written submissions that the committee has received from other organisations allude to the same thing: the legislation's unintended consequences and the impact that on future housing supply. That is the bigger concern. The legislation is a sticking plaster, not a solution. We need to get around the table and find the solution to creating affordable rents that cover landlords' costs and give a return on investment as well as provide a secure home for tenants to live in.

The Convener: Thank you. Now that we have opened up the subject, I must ask witnesses to keep their comments brief so that we can get all the members in. We do have quite a few questions.

I call Paul McLennan.

Paul McLennan (East Lothian) (SNP): I refer members to my entry in the register of members' interests as the owner of a property in Dunbar that I rent to my in-laws.

My question is for Caroline Cawley, Emma Saunders and Rhiannon Sims. How should the emergency legislation deal with rent rises in purpose-built student accommodation, which is currently excluded from the private residential tenancy regime?

Emma Saunders (Living Rent): I believe that the legislation covers student accommodation. That is important, because we need to look at the sector as a whole. If we create loopholes around, for example, purpose-built student accommodation or short-term lets, we will create systems that are more and more tiered and which do not tackle the overall question of how we provide affordable rents in Scotland.

Paul McLennan: I know that, two or three months ago, there was a demonstration by the National Union of Students on this matter, but do you have any evidence of rent rises in that sector? A figure of around 30 per cent was mentioned, particularly in the Edinburgh area. Do you have any evidence to back that up?

Emma Saunders: I do not have any evidence on me, but I can provide some afterwards.

Paul McLennan: Rhiannon, can you respond to the question?

Rhiannon Sims: Other groups tend to be at a higher risk of homelessness than students, but I

know that a representative of the NUS spoke to the Education, Children and Young People Committee last week about the risk to students and the fact that students are experiencing homelessness.

We welcome the fact that the bill includes student accommodation. We do not have a huge amount of evidence on that area, but I can come back to the committee afterwards, if that would be useful.

Paul McLennan: Okay. Does anybody else wish to comment?

The Convener: I see that Emma Saunders wants to come back in. Please be brief.

Emma Saunders: Apologies.

We are seeing an impact on in-between-tenancy rent increases. A lot of students, especially those from overseas, are newcomers to the market and, with those kinds of rent increases, they can find access difficult. Moreover, when universities increase the population of students, that can give rise to difficulties, too. It all points to the need to think through the problem of in-between-tenancy rent increases.

Paul McLennan: Thank you.

My next question is for Aaron Hill, first of all, then John Kerr and perhaps Timothy Douglas. How can tenants and landlords best be informed of any changes to legislation to ensure that the policy has maximum effect?

Aaron Hill: Informing and consulting tenants is important. At this point in the year, housing associations normally go out to consult on this year's rent increases. One element of this kind of big political announcement is its impact on the perception of such a consultation and our ability to do it effectively.

There is a real chance of seeing some confusion over the next couple of months. The supporting documents for the legislation say that nothing is preventing housing associations and social landlords from going out to consult on next year's rent rises at this point. With such big political messaging about a rent freeze, there will be some backlash. We are working closely with Scottish Government officials to manage that situation and to get clear, consistent communication and messaging out as best we can, but it is tricky. The consultation period is really important.

Paul McLennan: What is the local authority point of view, John?

John Kerr: I would just reiterate what Aaron Hill has said. Most local authorities have not begun the consultation process with tenants, but they will do so next month. We are working closely with

Scottish Government officials on this, and the short-life working group that has been established has agreed to get the appropriate messaging out.

As Aaron Hill has also pointed out, this is a fine balancing act, because tenants might have preconceptions about the rent freeze. We want to talk about rent increases and rent consultation options in order to assess tenant priorities. I go back to the earlier point about the involvement of tenants in rent consultations, which was introduced as a statutory element many years ago. Tenants have benefited from that, as it has allowed them to put forward their priorities.

As Aaron Hill has said in relation to housing associations and local authorities, tenants do not always go for the lowest rent increase options when they know about improvements that can be made to their homes or of options to invest in new homes. Tenants are attuned to those options and have that foresight, so it is important that we continue to speak to them and that those rent consultations take place in order to give some certainty about the situation. We have to be smart with our communication to ensure that no mixed messages go out.

Paul McLennan: There is an onus on the Scottish Government, too, to do that general messaging. The minister is in next, and we will certainly ask him that question.

What is your members' perspective, Timothy?

Timothy Douglas: Communication is key. Every agent worth their salt will regularly communicate with landlords and tenants at the start of, and throughout, tenancies. Professional bodies have a role to play, too, in disseminating information. John Blackwood has alluded to the fact that detail has been limited on this emergency legislation, but we have pushed through and forced a meeting with Scottish Government officials, who have told us as much information as they can. The question is whether there is a role for local authorities and the Scottish Government through the register of landlords and the register of letting agents. It is about pulling on all those levers.

Finally, I go back to Mr Coffey's point about the importance of language. It is key. This is not a freeze—a freeze implies that people should not pay their rent—but a cap. The language that we use with the sector—that is, with landlords, tenants and agents—is important.

Paul McLennan: I understand that John Blackwood wants to come in on that point, too.

John Blackwood: During the pandemic, there were mechanisms in place for communicating with landlords and tenants, and they were crucial. It is important to get a clear message out to tenants

and landlords about what their rights and responsibilities actually are. We could use the landlord registration database to do that—it happened during the pandemic—and we encourage ministers and local authorities to administer those databases. They provide a clear and easy way of communicating with tenants and landlords.

There is a lot of confusion out there. Even though the bill is before us, lots of landlords and tenants still do not quite know what it means for them. In effect, rents can still go up, and evictions can still take place. It is confusing landlords and tenants, so clear communication is important.

09:45

Paul McLennan: I am aware of the time, so I ask people to be brief on my final question, which is an important one. Everybody has touched on this issue. How should the Scottish Government monitor the impact of the rent freeze? What factors does it need to consider when it decides whether to extend the freeze beyond the end of March 2023? We have touched on how to develop longer-term legislative change.

I will go to Rhiannon Sims first and then open things up. People should be brief, if possible.

Rhiannon Sims: There are a few things that we need to monitor in order to know what effect that is having. Monitoring that is quite tricky, because we do not currently have the data. Data on rents for sitting tenants and not just tenancies that are being advertised is needed. As a minimum, we need to collect property addresses, rent costs and information on properties such as the number of rooms, whether they are furnished or unfurnished and their condition. I think that there were plans to put that approach in place through the housing bill that is coming later in this parliamentary year—I hope that it is still coming. Alongside the data on rents, we need to monitor the impact on the supply of, and access to, housing, particularly for people on the lowest incomes.

Crisis shares some of the concerns about the knock-on impacts that there might be on the market. From our perspective, when there is a reduction in the supply of private rented housing, those who are most likely to be squeezed out of the market are those at the lowest end of the income distribution and those at the highest risk of homelessness. Crisis runs a help-to-rent scheme, through which we support people who are currently experiencing homelessness into the rented sector through things such as deposit guarantee schemes.

There is a worry that it will become more difficult to support people who are experiencing homelessness into tenancies. I would argue that

the best and most targeted way to help people at the lowest end of the market is by providing more targeted support through discretionary housing payments and the tenant grant fund. There are ways in which we could make that support much more targeted at those who need it most.

Paul McLennan: I open up that question—

The Convener: Hang on a minute, Paul. I am sorry to interrupt. People have already asked to respond. However, in the interests of time, you do not need to come in to say something if it has already been said. I am sorry about that, but time is an issue.

Aaron Hill: I will be as quick as I can.

That issue is fundamental. The bill will give powers to ministers to extend the legislation. We need to be really clear about what the criteria would be for extending any cap. We have been pressing officials and ministers on that. We would expect to see data on rent arrears, evictions and homelessness—all those sorts of things—as well as on the wider impact of the cost of living crisis. It is really important that we also consider things such as the number of starts and the number of applications for the affordable housing grant, in order to monitor the wider impact on what is going on.

The issues that Caroline Cawley and others have pointed to relate to market failure. There is a danger that the bill will stop us addressing that market failure. We need to ensure that we have the whole picture of evidence for the impact.

John Kerr: I will add one thing about the responsible nature of social landlords in particular. I spoke earlier about the consultations starting. The Government will have a full ream of information about the proposed rent increases—if there have to be rent increases—across social landlords. That is crucial evidence for the Government to have prior to making a decision about whether any additional intervention is required in the market after April 2023. It will show how landlords are doing on their responsibility to keep their rents as low as possible while still delivering high-quality services and investment in new and existing stock.

The Convener: Thank you. Does anyone else want to come in on the question of what we need to monitor to understand the impact? We will start with John Blackwood.

John Blackwood: One thing that would be worth monitoring is the market for the availability of new accommodation for rent. We could easily do that by monitoring the portals that market property. We could also seek evidence from tenants, landlords and letting agents. Tenants can share their experiences of how difficult it is to find

accommodation, and those who supply the accommodation can tell us what their experience is. It is my understanding that there is no monitoring of that data.

Timothy Douglas: I will be brief. The point about advertised rents versus the actual rents that are achieved is crucially important. Perhaps intelligence can be obtained from tribunal rulings relating to rent.

The bill provides for reporting by the Scottish Government and the minister every three months. I assume that that information will be made public to inform future decisions.

Emma Saunders: I emphasise that we really need the rent database. Data can also potentially be accessed through deposit schemes that have information on rents, because deposits are linked to rent, and/or through the landlord register.

It is also important that we monitor the rent to income ratio, especially as we are not seeing incomes rise, as well as the ratio of rent to income and bills.

The Convener: Thank you. I come back to Rhiannon Sims.

Rhiannon Sims: As a tiny additional comment, £10 million was committed to the tenant grant fund, and it is very unclear how that is being spent. We have heard that eligibility for the fund is going to be extended, but it is not clear how. I think that we need to monitor the spending of that fund very carefully.

Timothy Douglas: To date, there have been more than 1,000 refusals to that scheme, and we need to understand why.

The Convener: Thank you. We move on to Mark Griffin.

Mark Griffin (Central Scotland) (Lab): I draw attention to my entry in the register of members' interests. I am the owner of a private rented property in the North Lanarkshire Council area.

My question follows on from Paul McLennan's question. It is for Aaron Hill and John Blackwood. Have you considered, with regard to the review period and the option to extend the rent freeze, whether there should be a separation of the social and private sectors, given that they operate in different legal and regulatory environments? Should there be a separate review and decision for each sector?

Aaron Hill: I think that they absolutely need to be separate. As I said at the start of my evidence, rents in the social housing sector are around half of rents in the private rented sector. For me, the key question is, who benefits? I talked earlier about what might be used to measure that.

When social rents were cut by 1 per cent in England in 2015, the Institute for Fiscal Studies carried out some work to look at who ultimately benefited from that change. Its conclusion was that there was little benefit to tenants and enormous benefit to the Exchequer. We need to look at this decision in that context. It is really important that the legislation provides mechanisms for having varied caps across sectors that reflect the different economic circumstances that affect them.

Any action that is taken must allow social landlords to continue to provide services that support tenants. We recognise the pressures that tenants face, and it is important that we are able to continue funding those services. If we are not able to increase rents moderately as we go into next year, there is a chance that some of the important services that will help tenants through the cost of living crisis will suffer.

John Blackwood: At some point, there will be a decoupling of the issues for social and private landlords. Private landlords are affected very differently by cost of living increases, not least because of how rising interest rates affect their mortgages. Private individuals who rent out property face very concerning issues that are different from those that are faced by housing associations and local authorities. Any further assessment must look at all the variables in the housing that is provided, both in the social sector and in the private rented sector.

Mark Griffin: I have one more question, which is about what will happen if the freeze is extended beyond 31 March. It is directed at Aaron Hill and John Kerr.

You have talked about there being a caveated acceptance of a freeze up to 31 March but have said that there would be a real and dramatic impact on investment programmes if rents were to be frozen beyond then. Do you feel that any decision to extend the freeze should be accompanied by financial assistance for the social sector to maintain essential supply-side programmes and programmes that support tenants through the cost of living crisis?

John Kerr: I will be brief. The answer is yes.

Aaron Hill: I share John Kerr's view. If the freeze were to be extended beyond 31 March, the financial impact felt by businesses would not be only in year 1 but throughout the business plan. Although intervention and support by the Scottish Government would be welcome, it would mitigate that impact only year by year; it would not prevent impact over the course of the business plan.

Even if that financial assistance were forthcoming, there would still be an impact and there is still likely to be less delivery as a result of

that across the 30 years of a housing association business plan.

Timothy Douglas: I have a quick point to build on what John Blackwood said about variances. We must remember the environment that private landlords are operating in. There is higher cost for buy-to-let property because of the increase in surcharges, higher interest rates and higher tax on rental income. Landlords can no longer offset mortgage interest costs and there are changes to the wear and tear allowance, as well as the removal of the mandatory grounds for possession and the impending energy efficiency costs. All those things play into the costs for private landlords.

Miles Briggs (Lothian) (Con): Good morning, and thank you for joining us. We have heard everyone talk about unintended consequences of the bill. Is there any international example of a rent freeze that has not resulted in fewer private lets, a slump in the building of affordable homes, increases in future rents and more homelessness? I will start with Rhiannon Sims.

Rhiannon Sims: I am not overly familiar with all the academic literature on rent policy, but those are important issues to consider and that is an important question to ask. It might be a question that you can ask the minister later.

At Crisis, our policy on rents, particularly in the private sector, has always been that we should introduce a limit on annual rent increases that should be linked to an inflationary measure. At a time when inflation is approaching 10 per cent, there is a question about whether the consumer prices index or the retail prices index is the right sort of measure to link rents to. We increasingly think that wage growth is a much more effective way to think about how rent increases affect people who have such tenancies.

As we transition out of the emergency legislation, we will need a longer-term policy. We have had the commitment to introducing a national system of rent controls, and we need to consider what that should look like. We need to make sure that there is a more permanent housing bill coming down the line to put in place that kind of policy, and we need to do the proper consultation to ensure that.

10:00

Miles Briggs: I know that Ireland, which has put in place a similar scheme, has had a 30 per cent increase in homelessness. Does anyone else on the panel want to come in on consequences that they are aware of in different countries?

Emma Saunders: I do not want to be facetious, but the UK had 70 years of rent controls—those

were the 70 years when building supply was at its highest, if I am correct in my UK history. It is a question of having a clear plan around supply. Rent controls are a key part of delivering affordable housing, so it is a bit of a false argument to oppose both; they should work together to deliver affordable homes across Scotland.

Aaron Hill: I am not aware of any academic evidence of that sort, but we do not have to look far to see systems of social rent controls in place—there are such systems in England and Wales. Those systems are familiar across the UK, but they have impacts.

Traditionally, Scottish housing associations have been able to borrow at lower rates, because we have not had Government intervention in the area. Lending to Scottish housing associations is often at lower rates than it is for comparable organisations in England and Wales, which means that we can set lower rents, because the rate that we are paying for finance is lower. The cost of Government intervention is higher costs of borrowing, which ultimately means that we can build less.

Timothy Douglas: The answer is probably no. Like Aaron Hill, I am not aware of any such evidence.

In a way, the elephant in the room is the rent pressure zones in Scotland, which have been paused through the legislation. Why have they not been utilised? Local authorities were given the autonomy to run the tenant hardship fund during Covid, so they are on the ground and know what is going on in their burghs and areas, but no rent pressure zones are in place in Scotland.

Rhiannon Sims: I want to come in on the issue of rent pressure zones. One of the main reasons that rent pressure zones were never introduced was that the level of data required to introduce one was very high, but we do not currently have the data. To go back to Emma Saunders's point, the collection of data on rents is crucial to inform us all on our policy decisions around the issue.

Miles Briggs: I agree with that, but it also feels as though the horse might have bolted in relation to what the bill provides us with in relation to people withdrawing private rented properties in the future.

John Blackwood: To add to that point, there is always a danger in considering international comparisons, because we are never really looking at a like-for-like system. Different countries have different systems of taxation and different attitudes to living, housing conditions, accommodation and home ownership, so we have to take all that into consideration.

However, there are things that we can learn. From what we know from our research on the issue, any kind of rent control in effect increases rent, which might not be a bad thing. Perhaps we need to look at creating some kind of rent stabilisation in Scotland, as opposed to control. There are many ways of dealing with the rising costs that are incurred by the landlord as well as the tenant, and of ensuring that the rental return is sustainable in the long term for investors.

It is always interesting to look at what happens in other parts of the world. We must never lose sight of the fact that supply is really important, but the unintended consequence is that we will drive investors out of Scotland and there will be fewer and fewer properties available to rent. We need to avoid that at all costs.

Miles Briggs: I want to move on to the exemptions in the bill, which we have now seen. What is your view on that quite substantial set of exemptions, which include “substantial rent arrears”? What potential impact might they have? With regard to, for example, repossession of a rental property by a bank, would that result in the property being able to be sold but not allow an individual to remain in it?

Rhiannon Sims: There is evidence to suggest that landlords are struggling with their mortgage repayments. Citizens Advice Scotland has released data showing that visits to its mortgage advice page increased by something like 270 per cent in a year, which is worrying, especially if we are talking about buy-to-let mortgages. If repossessions are being sought by lenders, tenants are potentially put at risk of homelessness. It is worth exploring whether, with such an exemption, a tenant could stay in the property even if ownership were to change hands. We saw the bill only at 5 o'clock last night, so there has not been a huge amount of time to consider the matter in detail, but I know that others in the sector, including our friends in Shelter Scotland, are exploring it.

Emma Saunders: As far as repossession is concerned, we believe that it is really important to encourage any such sales to go ahead with sitting tenants—indeed, that already happens—or to give local authorities the right of first buy-back under a different valuation in order to increase local authority housing stock. However, enabling councils to buy back housing stock will require more money from the Scottish Government.

John Blackwood: I certainly welcome the exemptions in the bill. In fact, it pleases me to see them, because it shows that the Minister for Zero Carbon Buildings, Active Travel and Tenants' Rights has taken on board some of the concerns that we expressed on behalf of landlords and letting agents in order to ensure that their interests

were represented in the bill. I therefore thank the minister for considering and putting in the bill provisions that will safeguard the interests of landlords in the long term.

However, other aspects need to be in the bill. For example, notices that were issued prior to 6 September should be exempted, too. In other words, those notices should be honoured to ensure that the First-Tier Tribunal for Scotland can take them into consideration.

Overall, this is all about encouraging investment and keeping landlords in the sector, so the Government should not be encouraging people to get into debt. We could very soon be in a situation in which landlords cannot afford to pay their mortgages—or, indeed, other costs. This is, after all, not just about mortgage costs. The cost of living also affects labour and parts: their costs have gone up, too, which means that maintenance of properties is much more expensive than it ever has been. It is important that landlords maintain their properties properly.

Such things will become more of a challenge, with some landlords very soon finding themselves in financial difficulty and, ultimately, having to take action by selling the property and exiting the sector. Although the exemptions in the bill are welcome, they do not go far enough to protect the interests of landlords. There could be a scenario in which a landlord finds themselves in debt but could not, because of the bill, do anything about it legally for more than 12 months. That is unacceptable, so we need to look at the timescale for application of the exemptions and how at landlords will be supported as a result of them.

Timothy Douglas: I will build on what John Blackwood said. We welcome the exemptions as much as we can. I can provide a bit of insight and data on landlord notice requests. In one of our large letting agencies, which manages just over 3,000 tenancies across Scotland, in 2021 there were 16 landlord notice requests for arrears, but 66 from landlords who were selling. In 2022 to date, up to 22 September, there were 18 notice requests for arrears and 69 landlords selling. The number of landlord selling requests is up from 33 in 2020. As John Blackwood and others have alluded to, all roads lead back to supply and, of course, selling is one of the exemptions.

Miles Briggs: I have a very short final question. With regard to the 0 per cent cap, which is what is being proposed initially, the Scottish Federation of Housing Associations suggested that on average the increase across your members was likely to be 3.2 per cent. In the future, when the cap is lifted by the Government, what level of increase will you expect for your members, to recoup what will be a significant hit on finances for providing day-to-day running of the organisation, repairs and future 10-

year plans around affordable housing developments? I start with Aaron Hill, because I specifically mentioned your organisation.

Aaron Hill: The 3.2 per cent figure was for last year's rent increases—for 2021-22. As I said earlier, that was significantly below inflation at the time at which it was set. I do not have a figure that I can easily point to, but we were talking to our members about rent increases in the 4, 5 or 6 per cent region, which was significantly below anticipated inflation of anywhere between 12 and 18 per cent, at that point.

Therefore, we are not looking at massive rent increases, which is really important when we come back to how rent increases are paid. About 70 per cent of the rent bill in social housing is paid for by benefits, and there is already significant targeted work for self-payers and those who are in work and not in receipt of universal credit or housing benefit. Were we to be in a position in which rents could increase from 1 April, it would be a moderate increase that would largely be paid for by the Treasury.

There is something in that about it being investment from the UK Government in Scotland—into Scottish homes and communities. To forego a rent increase would mean that Scotland would lose out on investment from the Treasury. It is also important that, in its current considerations around universal credit, the Treasury needs to make sure that benefit uprating reflects the true cost of living here, so that we do not end up with a squeeze on both sides.

However, any rent increase that follows the freeze would be moderate. It is important that we are working with ministers and officials at the moment to work out what the situation will look like after 31 March. It is also important that the sector has an offer to make on the cost of living in terms of lots of the action that we might take with tenants and communities, but it will require a moderate small rent rise to allow that to happen.

Emma Saunders: I want to come in on rent consultation, which was mentioned by Aaron Hill. We see a lot of variation among housing associations, so it would be very good to have standards for best practice around that. From one of the biggest housing associations, which has about 85,000 tenants, 1,343 tenants responded to the consultation and only 738 tenants said that they were in favour of a rent increase. Out of 85,000 people, 738 saying that they are in favour of a rent increase is very low. That was in one of the largest housing associations, but other housing associations do much better. There are really interesting things about best practice around consultations that should be shared and, potentially, enforced a bit more.

Miles Briggs: Before I hand back to the convener, it is worth my while to put on the record that, last week, we passed the Scottish Social Housing Charter: November 2022, in looking at how tenants' situation could be improved. The bill will, obviously, bypass that for associations and councils, so that work to give tenants that voice is now being put to one side.

The Convener: Thanks, Miles. We move on to questions from Marie McNair.

10:15

Marie McNair (Clydebank and Milngavie) (SNP): Good morning, witnesses. It is great to see you all. I will cover the eviction moratorium. I pose my first question to our witnesses from Living Rent and Crisis. To what extent is the proposed eviction moratorium needed to protect tenants from the current cost crisis?

Caroline Cawley: The moratorium is needed because of the simple fact that people cannot afford both to eat and to heat their homes, let alone pay rent as well. Doing all that is just not possible. A rent moratorium will give people an extra bit of security in knowing that they are not going to lose their home. That security will also help people's mental and physical health because they will not have to worry about it and might be able to spend a bit more on heating. I am aware that the moratorium could lead to rent arrears, but when it is cold people need to stay warm and to be healthy and secure. If the moratorium is not put in place, people will lose their homes and—as has been pointed out many times—there is no temporary accommodation and too many people are in homelessness already. The system cannot take any more, so the moratorium is important.

Rhiannon Sims: I could not say better than Caroline has why the moratorium is important as a temporary measure at this time.

We think that longer-term support is needed and that we need—this is important—to change how the system responds to people who are at risk of eviction and to people who are at risk of homelessness, because they are not the same thing: not everyone who faces eviction faces homelessness. Crisis thinks that rather than delay the time when a landlord seeks to repossess a property, it is more important to introduce a stronger focus on the role of social and private landlords in working with the tenant to prevent homelessness through advice and support, which could be provided to tenants and landlords in order to prevent situations deteriorating towards eviction. At the risk of sounding like a broken record, I say again that having prevention of homelessness duties is a real opportunity to do that. Some good work has been carried out by the

SFHA on how landlords can do more to help to sustain tenancies.

It is also worth being aware that a relatively small proportion of evictions, particularly in the social sector, result from rent arrears, and that here are a lot of other reasons why people lose or abandon their tenancies; they might, for example, relate to antisocial behaviour or relationship breakdown. There are many different reasons, so we should not focus on financial situations being the only thing that drives people into that.

Timothy Douglas: I will pick up on the point about sustaining tenancies. I totally agree that it is all in the set-up. Unlike in other parts of the UK, in Scotland the private residential tenancy agreement—PRT—is a written tenancy agreement. It is pretty robust and sets out rights and responsibilities. Any letting agent or landlord that is worth their salt will do a check-in and check-out report and an inventory. They will keep up regular communications and check in with tenants, they will keep all invoices and written communication and they will give a welcome pack, housekeeping advice and emergency contact information. A lot already exists to sustain tenancies: agents and landlords work hard to do that.

Emma Saunders: First, I add that it is important that the two aspects of the bill work together—especially given the loophole in relation to rent increases happening between tenancies. If we do not have protections against evictions, tenants will be evicted so that landlords can increase rent between tenancies.

Secondly, on enforcement, we want to avoid unlawful evictions, which includes abuse of a ground for eviction, and illegal evictions. We want the measures to be enforced so that it is not attractive to carry out an illegal eviction.

Lastly—this also relates to enforcement—I want to comment on eviction orders. We see a lot of tenants who are feeling very stressed just through having received a notice. During Covid, the notice period for eviction was increased. That was incredibly helpful for tenants, because most tenants leave after being served notice, not after receiving an eviction order.

John Kerr: I agree with everything that has been said on the evictions moratorium. In addition to that, it is crucial that direct assistance be given to tenants who are struggling. That includes the tenant grant fund, which has been mentioned, as well as direct financial assistance from social landlords to tenants who are struggling, which Aaron Hill and I have mentioned. That support should be allowed to continue over the period of the eviction moratorium to ensure that we are not just kicking the can down the road with people still

racking up quite high levels of debt as we go forward.

Aaron Hill: I agree with John Kerr. A general point has been made about the eviction moratorium being of less concern than the action on rent. However, that does not make it straightforward. During the pandemic, housing associations committed to not evicting anybody who was in rent arrears who was engaging with their landlord. The work around tenancy sustainment that Rhiannon Sims has pointed to is really important. We are working with our members to drive the practice, and we share examples of what works. We are also working with Crisis and others to create a toolkit to help them in doing that.

The focus must be on tenancy sustainment—that is really important. Housing associations evict a very small number of tenants as a result of their being in rent arrears. Eviction is always used as a last resort.

The exemptions that were mentioned earlier are critical for community cohesion. Ensuring that personal safety is guaranteed in relation to domestic abuse and antisocial behaviour is important; we cannot lose sight of that in the bill.

Timothy Douglas: I want to pick up the point on unlawful evictions again. It is already the case that large fines can be issued and—I think—people can be imprisoned for up to two years. There is an easy-read version of the PRT and supporting notes. In addition, access to the First-Tier Tribunal for Scotland housing and property chamber is free.

The final point that I want to make around the moratorium is that we are already moving towards that. The discretionary grounds are already in play—since 1 October. Those were deemed to have been an emergency measure but have become the norm.

The Convener: Great. Thank you for making that point.

Marie McNair: I want to go back to John Kerr. You said that you support the eviction moratorium. Are there circumstances in which an eviction should be allowed? If there are, what are they?

John Kerr: Aaron Hill touched on that issue when he mentioned exemptions being critical for community cohesion and in relation to safety in relation to antisocial behaviour and domestic abuse grounds. Thankfully, those are covered in the legislation.

I think that what we are talking about here is the financial element. At the moment, given the pressures on the homelessness system, which has been mentioned, a pause on evictions until March 2023 is to be welcomed. However, the exemptions are needed, because it is crucial that

evictions can still take place to ensure individuals' safety.

Marie McNair: I direct my final question to John Blackwood. What is the likely impact of an eviction moratorium on landlords? Do you have evidence on eviction moratoriums from anywhere that would be of interest to the committee?

John Blackwood: As my colleagues on the panel have emphasised, it is important that we work together to try to sustain tenancies. Ultimately, that is what a private landlord wants—they do not want to evict their tenant. Therefore, we need to look at ways in which we can encourage landlords to work with their tenants, and tenants with their landlords, to sustain tenancies in the long term. We have some good examples of how that worked during the pandemic. We were pleasantly surprised and encouraged by that, with regard to tenants being able to afford to pay their rent and landlords being able to work with their tenants to ensure that tenancies did not break down. That is important. As an organisation, we have a role to play—as all the witnesses have—in working together to sustain tenancies.

It is important to remember that private landlords are not big corporate organisations, but are individuals with one or two properties. The cost of living increase could be the difference between their wanting to continue to rent a property out and their deciding to sell it. We must ensure that there are appropriate mitigations in place to support them. Therefore, as I have said, we welcome the exemptions in the bill, but once we have had more time to go through the bill, we will need to look more closely at the practical implications. For example, how long would it take a landlord to repossess—in extreme circumstances—a property, if they needed to sell it. I am afraid that that is what it could come to. If interest rates rise as we expect them to, lots of landlords might have to say, "Sorry, but I just can't afford this rental property any more." We must be prepared for that.

Marie McNair: Thanks. I asked what the impact would be on landlords of an eviction moratorium. Do you want to add more to that?

John Blackwood: It is about investor confidence, as I mentioned earlier. Landlords are investors. I always say that landlords who invest in property are reluctant investors. As a result of interventions from the UK Government and its policy decisions over the past couple of weeks, investors have felt really nervous. We have seen that in Scotland in the private rented sector. Over the past month, landlords have been running to the hills and saying that they will sell their property rather than put it back on the market for rent. We want to avoid that; we want to encourage them to

stay in the sector. Therefore, among the biggest issues for landlords are that they are wondering whether they would ever be able to repossess their property, if their tenant did not pay the rent; whether they would ever be able to move back into the property; and whether they would be able to sell it. Those are big issues for investors, and we need to—[Inaudible.]—some of those issues for landlords.

The Convener: Elena Whitham is next.

Elena Whitham (Carrick, Cumnock and Doon Valley) (SNP): Good morning. We have discussed already the fact that we have a lot of data gaps. I hope that a housing bill will help us to sort that out.

With regard to social justice in particular, we know that the individuals who are bearing the worst of the cost crisis tend to be women, people with disabilities and people from black and minority ethnic communities. How do we ensure that we collect the data that we need in order to understand the impact of the intervention? I hear people calling it a sticking plaster, but in emergency situations a sticking plaster is often all that we can apply. How do we ensure that those who need it most will benefit from the policy, given that we do not generally collect disaggregated gender data and that we do not always understand intersectionality with regard to how policies are applied?

The tenant grant fund and discretionary housing payments have been mentioned. How do we ensure that the Scottish welfare fund is applied effectively? Who collects data, and how do we ensure that we get the intended outcome? That question is for Rhiannon Sims, Emma Saunders and Caroline Crawley. I am interested in the perspective of tenants in your organisations.

Rhiannon Sims: Those are really important questions. I am not sure that I have any solutions right now, but I am keen to come back to you on what kinds of data we need to collect in order to know which households the interventions benefit and who is missing out.

It goes back to how we ensure that the targeted support that is available to increase people's incomes goes to the households that we know are at the highest risk of poverty. The at-risk households that are at the front of the Scottish Government's tackling child poverty delivery plan need to be the ones that we protect the most.

I will come back to you on that.

10:30

Caroline Cawley: For me, the answer would be communication. There is overemphasis on everything being online and in English. Providing more information in other forms and in different

languages would mean that more people would be able to access the help that they need—specifically, the groups that you mentioned, Ms Whitham. In Edinburgh—and, I am sure, in other areas—there are lots of organisations, trusts and charities that work specifically with the demographics that you talked about and respond to and help individuals from those communities. I suggest contacting them to find out who they are seeing, what the concerns are and what help has been asked for.

There is a lot of information available. It is just a matter of speaking to the right people to get it.

The Convener: Aaron Hill would like to come in on that question, too.

Aaron Hill: Although the Government could always improve data across the board, there is a role for the Scottish Housing Regulator in terms of the data that it captures. Housing associations are already undertaking an exercise to understand protected characteristics within their organisations, which will help to inform policy in a way that, I hope, will address some of the issues that Ms Whitham raised.

Although Emma Saunders is right that rent consultations could be better and consultations wider, and that there is targeted outreach within rent consultations and wider tenant engagement by many organisations with communities and groups with protected characteristics, to help to identify where action can be taken. All the rent decisions that housing associations take are informed by a significant amount of data. The SFHA provides an affordability tool that plugs in lots of Government, Department for Work and Pensions and other data to ensure that decisions are informed and taken in a way that allows us to ameliorate some of the worst excesses of the challenges that we face.

John Blackwood: The Scottish Association of Landlords had some experience of the issue during the pandemic, when landlords said that they were often the first people to hear of their tenants struggling not only to pay their rent but to pay their bills and live. Those landlords were really unsure how to signpost and support their tenants. For instance, when they approached local advice agencies to access various welfare funds that we told them could be available to their tenants, they did not get anywhere because they were told that, in the first instance, the tenant had to approach the agencies.

There needs to be more joined-up thinking about appropriate signposting and support for tenants through these difficult times. Landlords are key to that, because they will probably be the people who have a good enough relationship with the tenant to say that they know where the tenant

needs to go. There is a requirement on the landlord to do that through the pre-action requirements for dealing with rent arrears, but there is still a lack of joined-up thinking about how we could best support all parties to ensure that support is given to tenants—in particular, those who are in need.

The Convener: Thank you, everybody. We have reached the end of our time. I hope that you were able to convey to us everything that you wanted to convey.

I suspend the meeting for five minutes to allow for a change of witnesses.

10:34

Meeting suspended.

10:40

On resuming—

The Convener: For our second session on the emergency legislation on a rent freeze and a moratorium on evictions, we are joined by the Minister for Zero Carbon Buildings, Active Travel and Tenants' Rights; I welcome Mr Harvie to the meeting. He is accompanied by Scottish Government officials Amanda Callaghan, head of private housing services; James Hamilton, lawyer, Scottish Government legal directorate; Adam Krawczyk, head of housing, homelessness and regeneration analysis; and Shazia Razzaq, strategic lead, university policy, governance and equalities.

Before I open up the session to questions from members, I invite Mr Harvie to make a short opening statement.

The Minister for Zero Carbon Buildings, Active Travel and Tenants' Rights (Patrick Harvie): Good morning to colleagues across the committee. I am grateful for the opportunity to speak on the Cost of Living (Tenant Protection) (Scotland) Bill, which we introduced in the Parliament yesterday, and for the committee's agreeing to take evidence at very short notice. My colleagues and I listened to the first panel of witnesses, and I am grateful to all those who have contributed to the debate.

As members are aware, the emergency bill aims to provide critical temporary protection for people who rent their homes. On average, tenants have lower household incomes, higher levels of poverty and are more vulnerable to economic shocks. Sixty-three per cent of social rented households and 40 per cent of private rented households do not have enough savings to cover even a month of income at the poverty line. That is compared with 24 per cent of households that buy with a

mortgage, and 9 per cent of those that own outright. Tenants are, therefore, particularly exposed to the cost crisis.

With that context in mind, the bill has three key aims: to protect tenants through stabilising their household costs by freezing rent; to reduce the impact of evictions on homelessness, through a moratorium on evictions; and to avoid the eviction of tenants in the private rented sector by a landlord who wants to raise rents between tenancies through the temporary measures, and to reduce unlawful evictions.

The provisions are intended to be in place until 31 March in the first instance. With the approval of the Parliament, the Scottish ministers can extend them for two further six-month periods, should circumstances and evidence show that to be necessary. Similarly to the approach to the coronavirus emergency legislation, the on-going necessity and proportionality of the provisions will be reviewed and reported on. Regulations to suspend or expire any provision that is no longer appropriate must be made.

I know that time is limited, but I want to give a very brief overview of the main provisions in the bill. First, we intend to achieve the rent freeze by setting a variable cap on the level of increase in rent. Initially, that will be set at zero per cent until 31 March next year. The cap will operate separately for the social and private rented sectors and will apply to all rent increase notices that were served on or after 6 September—the day of the programme for government announcement.

To reflect the various circumstances that landlords might face, we have allowed for applications to increase rent for prescribed and legitimate costs that are associated with offering the property for rent, when those costs have increased. Rises are restricted to a maximum of 3 per cent of rent, although ministers will have the power—subject, again, to Parliamentary scrutiny—to propose a change to that percentage.

Recognising that some of the most economically vulnerable people live in the social rented sector, we believe that it is an important signal of equal protection to cover both sectors. However, to reflect the critical differences in the nature and structure of the social rented sector, we are already working closely with the sector to consider what should happen after 31 March.

10:45

On the moratorium on eviction, we intend to prevent enforcement of eviction action in the private and social rented sector and in college and university halls of residence and purpose-built student accommodation. Those restrictions will apply to all eviction orders that are issued in

proceedings that are raised after the moratorium comes into force. They will also apply to proceedings that are raised before the moratorium comes into force where the eviction notice was served on or after 6 September. The moratorium will not apply to eviction orders that are granted in proceedings before the legislation comes into force, which will ensure that no one is evicted in a case that is started after or as a result of the programme for government announcement.

Recognising that the cost crisis is impacting on some landlords, too, we have allowed for specific limited exemptions to deal with serious cases of antisocial or criminal behaviour, substantial levels of rent arrears and a property being repossessed and sold by a mortgage lender.

We know that the majority of landlords are law abiding and responsible and are appalled and frustrated by those landlords who try to bypass the law to evict people unfairly. To guard against that, the bill makes important changes to the way in which civil damages can be awarded for unlawful evictions, making it easier for tenants to challenge them and, by substantially increasing the potential damages, making it less attractive for landlords to carry them out.

Finally, the rent adjudication provisions in the bill look ahead to a time when, hopefully, we will be transitioning out of the emergency measures as economic circumstances change. That part of the bill gives the power to adjust the adjudication process to avoid a cliff-edge effect. Again, that will be subject to parliamentary scrutiny.

To summarise, the proposed legislation will help to keep people in their homes and to stabilise their housing costs during this extraordinary cost crisis. We believe that the package of measures strikes the right balance between that aim and ensuring that landlords can continue to offer properties for rent and manage tenancies sustainably.

I look forward to the committee's questions and the discussion.

The Convener: Thank you for your opening statement and for outlining at a high level what the bill is intended to do.

We had a very constructive evidence session earlier. The publication of the bill made it even more constructive because the people who participated were able to see what it contains, which I appreciate.

Quite a range of things was covered. One thing that came through early in the meeting from the social housing sector is the tension between the need for housing supply, the retrofitting piece and the need to keep tenancies affordable—we have that conversation quite often in the committee. One of the concerns that Aaron Hill raised was

that the social rented sector in Scotland has always enjoyed a good relationship with lenders but that lenders have been spooked by the announcement of the bill. He talked about the need for certainty and stability in the future. He also talked about the fact that you have already been working with him. I would be interested to hear what you think about that concern and about how we can ensure that the social housing sector has stability in order to meet the demand for housing supply. We also heard from Crisis that the homelessness issue is escalating and that supply is part of the problem.

Patrick Harvie: I was pleased that, in one of his first answers, Aaron Hill acknowledged that an emergency response is necessary. The desire to protect tenants is shared by the Government and the sector. Social landlords are non-profit organisations; they exist to provide affordable housing. We recognise that a huge amount is being asked of the sector, generally, in terms of provision of supply, maintenance and the retrofit agenda to address the net zero challenges that the whole Parliament has agreed are important.

It is important to recognise that there are significant factors that operate differently in the social rented sector compared with the private rented sector. There are existing requirements to consult with tenants on rent setting, and rental income is reinvested in provision and quality. A higher proportion of tenants in the social rented sector access benefits, so any prolonged and extended rent freeze would benefit not the tenants but the UK Treasury.

We are conscious of all those differences and more, and we are already working closely with the sector, not only to reassure it but to reassure its lenders that the Government will take a proportionate and responsible approach. The SFHA and others have been invited to, and have agreed to participate in, a short-life task and finish working group that will look at those issues. The group has already begun meeting and those discussions have been very constructive.

I know that some people in the social rented sector have concerns, but I have also spoken to many who see a positive opportunity to ensure that we are protecting tenants at a very difficult time. As I told Parliament last week, no decision has been made about what will happen to the cap after 31 March. We will make that decision in a responsible way, bearing in mind how economic circumstances change over time and the arguments and discussions that we take forward the social rented sector.

The Convener: I will go into some detail about the rent freeze. One concern that came up with the earlier panel was the fact that rents can increase between tenancies. The bill does not

affect rent increases between tenancies. I would be interested to hear your thinking about that. How do we protect tenants who might need to move between tenancies? That might affect students, but it applies to other situations too.

Patrick Harvie: I assume that you are not still thinking about the social rented sector.

The Convener: I am talking in general.

Patrick Harvie: The rent freeze measures do apply to end-of-tenancy rent increases. The central reason is that we already have that mechanism. Tenants have a right to challenge unreasonable rent increases during their tenancy and there is a requirement for increases to happen only once a year in the private rented sector and with three months' notice. It is clear that we have the ability to intervene in a short period of time in response to the current emergency.

There is, of course, a longer-term argument, much of which was explored in the consultation on the new deal for tenants. The Government will address those questions in its longer-term legislative work on the private rented sector.

The Convener: Thanks for that.

Willie Coffey: Minister, you may have heard some contributions from the previous panel suggesting that the proposals might lead to a feeling that tenants do not have to pay their rent at all and might give the green light to non-payment. A couple of the contributors mentioned that. What is your view on that? What is the Scottish Government's thinking?

Patrick Harvie: In many ways, that suggestion is slightly akin to the idea that all landlords will take the most exploitative or opportunistic approach. I do not think that that is true. The majority of landlords will obey the law and will not try to get around it and the majority of tenants will meet their responsibilities.

There is a concern that a minority of tenants might be tempted to stop paying their rent altogether, even when they can afford it. That is one reason why we thought long and hard about the exemptions from the eviction moratorium and decided, on balance, that there was a requirement to include severe rent arrears as a ground for exemption from that moratorium.

In my view, which we will discuss at length in the chamber this afternoon, tenants with rent arrears need support that is different to the interventions in the rest of the system. As the witness from Crisis said, they need direct support. Through the discretionary housing payments and the tenant grant fund, we have increased not only the amount of support that is available directly for tenants who are facing rent arrears, but the flexibility in the way that it can be offered. We will

continue to look at how that might be developed further.

However, I think that the inclusion of the exemption from the moratorium will give landlords some confidence that there will not be that incentive for people to simply stop paying rent altogether. As I said, only a minority of people would ever be tempted to do that, but there will be no incentive. I think that I remember hearing John Blackwood welcome that measure as well.

Willie Coffey: Is the Government thinking about setting a level that will constitute “substantial rent arrears”? Is there some thinking regarding the bill that will give private landlords some comfort should that situation arise?

Patrick Harvie: Yes. We are defining “substantial rent arrears” as up to or the equivalent of six months’ rent in the private rented sector. We are using the specific figure of £2,250 in the social rented sector, which is roughly equivalent to six months’ average rent in that sector. Amanda, do you want to comment?

Amanda Callaghan (Scottish Government): The bill does not state a specific figure for the PRS but, to give you a ballpark figure, six months of average PRS rent is £4,632.

Willie Coffey: That is very helpful. It was really important to clarify that point, which was part of the discussion with the previous panel.

I will move on to my other question. Previous contributors said that, in circumstances in which landlords find themselves going into debt as a result of the measures, they feel that they would have no recourse to do anything whatsoever to get themselves out of that debt. A question was posed as to whether a landlord could sell their property under those circumstances. Can you clarify whether it will be possible for a landlord who owns a property to sell it during the period that is covered by the legislation?

Patrick Harvie: Indeed I can. It is important to acknowledge that landlords, particularly those in the private rented sector, are not all in the same financial circumstances. Some are very large and profitable. Others, as John Blackwood said, are people who have for whatever reason, perhaps unintentionally, found themselves letting out one or two properties. Some of them will be facing the cost of living crisis and will be worried about their circumstances.

We have included versions of the existing grounds for eviction that are to do with the intention to sell or to live in a property, but the adapted versions that we are including on a temporary basis in the emergency legislation concern the landlord’s intention to do that to

address their own financial hardship. We will work with the tribunal on how that is implemented.

Obviously, we do not want a landlord who would face the risk of severe debt or even homelessness to be unable to take action, so those limited and prescribed forms of eviction grounds will be included, and you can see that in the text of the bill.

Willie Coffey: That is really helpful, minister. Thank you.

Paul McLennan: I am conscious of the time, so I will try to limit myself to one question. You probably heard us raise with the previous panel how the Scottish Government should monitor the impact of the rent freeze, what factors it needs to consider and whether it will need to extend the freeze beyond March 2023. You have touched on the longer-term legislative change, but how are you going to monitor the freeze over the next six months? The committee is really interested in what will happen not only at the end of the six months, but during that time. Will you say a little about how you see the Scottish Government monitoring the freeze in the next six months?

Patrick Harvie: We have based some of the reporting requirements, as well as the provisions on the expiry or extension of the provisions in the bill, on a model that will be fairly familiar to those who followed the emergency coronavirus legislation.

It is important to acknowledge—the committee discussed this with the previous panel as well—that we are doing that having not yet dealt with some of the longer-term work that needs to be done on data in the private rented sector in particular. Aaron Hill made the point that we have more data, some of which is collected by the regulator, for the social rented sector. That is extremely useful, but we do not have that data in relation to the private rented sector. That is one of the reasons why the Government has a long-term goal not just to collect more data and have the mechanisms and machinery in place to do that, but to create a regulator for the private rented sector.

We will continue to monitor and report on the operation of the emergency legislation. We are conscious that some of the data that is being collected in real time is only going to come in as we are having to make decisions, so we want to work very closely with stakeholders, including those in the private, social and student accommodation sectors, to ensure that our decisions are informed by their expertise.

11:00

Paul McLennan: I hope that those stakeholders will include the committee, because we should not have to wait until the end of this six-month period before we can discuss and make decisions on our view of those things. I was going to raise this at the end of the meeting anyway, but it would be useful and helpful for the committee to be kept up to date with what is going on so that we can have discussions at that stage instead of at the end of the six months. It would be good to get your commitment on that, minister.

Patrick Harvie: I am very happy to give it. The bill specifies the reporting requirements on Government to Parliament, but we will be very happy to discuss with the committee the best way of ensuring that it is involved in discussions.

The Convener: Thank you, minister. We very much appreciate the elements of the bill that relate to reporting requirements to Parliament.

I call Mark Griffin.

Mark Griffin: Good morning, minister. I want to ask about the effective rent cap period. I think that you said in your opening remarks that the cap will apply to notices made on or after 6 September this year. Does that mean that any notice given to a private tenant before that date is still actionable? In other words, can rent rises still go ahead up until 5 December?

Patrick Harvie: What we have been most keen to avoid is rent increase notices being issued in response to the announcement of the rent freeze policy. That is what the First Minister committed to and what we have managed to achieve. Rent increase notices issued after that date will be covered by the rent cap.

I do not think that it is possible to be more retrospective than that and go back in time to prevent rent increase notices that were issued in good faith under the rules as they stood before the announcement was made. I recognise that there are some people who will feel that all these measures go far too far and are too interventionist and others who will think that they do not go far enough and that we should be able to do a lot more. I think that we have struck the right balance in protecting tenants from rent increases that might have been prompted in response to the announcement without doing what would have been legally questionable and, I think, unfair in preventing the notices that were issued in good faith before the announcement having effect.

Mark Griffin: Just for clarity, then, it is the Government's view that rent rises can legally go ahead up until 5 December.

Patrick Harvie: Rent increase notices that were issued before 6 September will not be covered by the cap.

Mark Griffin: I just want to move to the other end of the freeze. Is it the Government's understanding that a rent increase notice cannot be issued up to and including 31 March, which means that no rent rise can take effect until 1 July? In other words, does the effective rent cap period run from 6 December to 1 July? Have I understood that correctly?

Patrick Harvie: If the cap continues at zero per cent until 31 March, as is our current intention—albeit that we have the power to remove it earlier or extend it further—a rent increase notice issued in that period will need to be consistent with that cap.

Mark Griffin: Again, just for clarity, my understanding is that the effective rent cap period runs from 6 December to 1 July, as long as no provisions are repealed.

Patrick Harvie: What you mean by the rent freeze period is a matter of interpretation. Under the previous legislation, a rent increase notice is the mechanism by which a landlord increases the rent. That action cannot take place inconsistent with the cap from 6 September onwards until or unless the cap is removed or changed.

Mark Griffin: I am asking the questions purely on the basis of what a tenant's practical experience would be. I think that I have clarity from the minister.

Patrick Harvie: It is worth adding that a large part of what we are seeking to do is to provide the reassurance and stability that people need. From 6 September, as the First Minister said when she announced the programme for government, people can have confidence that they will not be issued with a rent increase notice that will go beyond the cap. If people are issued with those notices, that means that their landlords will have acted unlawfully, and in those circumstances, there are provisions and measures that can get that redressed.

Miles Briggs: Good morning. I will ask a few short questions; first, about legal competence. Can the minister confirm whether the legislation is compliant with article 1 of the European convention of human rights?

Patrick Harvie: Yes. As the member is aware, the Government needs to satisfy itself about the advice on that point of legal competence, as does the Parliament and the Presiding Officer, before a bill is introduced.

Miles Briggs: Given the concerns that you have expressed previously about the unworkability of

such a bill, do you expect a legal challenge to the bill?

Patrick Harvie: I have not expressed concerns about the unworkability of the bill. I am satisfied that it is compliant and consistent with devolved competence.

Miles Briggs: I am asking about the concerns that were expressed previously about Labour's proposals.

Patrick Harvie: I see.

Miles Briggs: What has changed with what the Government has lodged in the bill?

Patrick Harvie: As we have discussed at some length in the chamber, a proposed late amendment to the Coronavirus (Recovery and Reform) (Scotland) Bill—the purpose of which was to look at the coronavirus emergency legislation and decide which elements of that should be made permanent—proposed that a completely new provision be included that would have amounted to a near blanket rent freeze for a period of two years. As we debated in the chamber, very little argument was brought forward by the member who was behind those amendments to suggest that they were legally competent and ECHR compliant. That approach would have been much more clearly subject to legal challenge.

I am confident that we have now brought forward a bill that responds to an emergency situation in an appropriate and balanced way that reflects the interesting circumstances of both landlords and tenants.

Miles Briggs: During the pandemic, many landlords reduced rents to help to sustain tenancies. Does the legislation cover the rents that were reduced, or does it cover the contracted levels of rent? For example, for people who have received a 20 per cent discount on rent, do you expect the contracted level of their rent to be covered, or the reduced level?

Patrick Harvie: A rent increase notice needs to tell a tenant by how much a landlord intends to change the rent from the current rent level. Rent increase notices during the period will have to be consistent with the cap as it stands at any particular time, which is zero per cent initially, with the potential for that to be changed. Of course, some flexibilities have been built in, particularly where landlords are facing increased costs that are outwith their control as a result of letting out a property and making it available for rent. Those increased costs will be within the clearly defined limits of 50 per cent of the increased costs and a total of 3 per cent of the existing rent. Rent increase notices have to be issued in that way in terms of their relationship to existing rent.

Miles Briggs: What revisions will be in the bill for housing associations that are providing supported accommodation for vulnerable groups? They have additional costs that are associated with supporting residents, and those costs are often built into rent increases. Has there been a discussion with the sector about any additional costs that they will be facing?

Patrick Harvie: I come back to the points that were made earlier about engagement with the social rented sector. The social rented sector not only operates in a different way from the private rented sector around things such as reinvestment of rents and consultation mechanisms for rent setting, but it also provides a wider range of services. All of those things, as well as the investment in supply and quality, need to be protected, and we will engage actively with the social rented sector well ahead of any decision. In fact, that active engagement is already under way. We will make sure that we take account of all of those circumstances. Nobody, not the Government, tenants or the social rented sector, would want to endanger those services.

Miles Briggs: In terms of exemptions, I think that we need more clarity on what “substantial rent arrears” means in law, specifically with regard to where ministers would see that sitting. Is it three months of non-payment of rent, which I think is what I think is outlined in the bill?

Patrick Harvie: What we have set in the bill is, as I said earlier to Willie Coffey, six months of rent in relation to the private rented sector and a specific figure, which is roughly equivalent to six months of social rent, in the social rented sector.

Miles Briggs: Thank you—that is helpful. Finally, I have a question that I put to the earlier panel. Looking internationally, at countries around the world where rent freezes or rent caps have been put in place, the unintended consequences, which the minister has said that he is aware of, are quite severe. They range from fewer private lets, a slump in building and construction of affordable homes, increased rents when properties come to market and more homelessness—in Ireland, there was a 30 per cent increase in homelessness. Is the minister at all concerned about what the rent freeze could do to the housing sector in Scotland, which is already in a very vulnerable position?

Patrick Harvie: I think that we should all be concerned about the impact of housing policy and legislation on the housing sector and the housing systems that exist in our society. We should be concerned about provision and quality, and about people's rights and the experience that they have as tenants. One of the longer-term goals of the Government is to close the gap in outcomes between the social and private rented sectors,

because we regard adequate housing as a human right. That is the goal that we have.

Over the long term, in the past, there has been an increase in regulation in the private rented sector, which has gone alongside a substantial increase in the size of the private rented sector. The member mentioned some countries, but perhaps we can all choose the comparisons that we make selectively. There are other European countries with a higher level of regulation and long-standing systems of rent controls that have an even bigger private rented sector than Scotland. Therefore, it can be done properly and responsibly, making sure that we raise standards and that there is protection for tenants and tenants' rights at the same time as making sure that our housing systems have an adequate supply of good-quality stock.

Miles Briggs: Given your title—which is a long title; let us be honest—net zero is one of the key projects that you have been working on and that Parliament has been discussing. Most of the social housing sector is already warning that rewriting its 10-year plans will impact on investment in net zero. Where do you think it will now be impacted? If the sector cannot bring in the income and plan that expenditure, the first casualty of the rent freeze could be that those projects to retrofit, decarbonise and work towards net zero do not take place.

Patrick Harvie: I come back again to the point that I made earlier: the intention of setting a zero per cent cap until the end of March would not have a direct impact on rental income in the social rented sector because that sector does not have constant in-year rent increases; those tend to happen at the start of the financial year. We are working closely with the sector to understand all the implications, the way that it works and the impact that any future decision on the rent cap would have on its business model. We are also working with it to give assurance and confidence to its lenders.

The need for investment in provision of affordable social housing, in repairs and maintenance and in net zero, as well as in the other services that Miles Briggs rightly highlighted in his earlier question, are all important points of common ground between the Government, political parties and the social rented sector.

We must recognise that net zero investment is absolutely in the interests of tenants, too. I have spoken to social rented sector tenants who are now paying peanuts in energy bills after investment has been made not just in energy efficiency but in zero emissions heating systems, communal heating systems and so on.

We want to see much more of that. The Scottish Government is already committing substantial investment to support such work in the social rented sector. We are working closely and collaboratively with social landlords, many of which have been leaders in the field. We want such work to continue, and I am certain that it will.

11:15

Marie McNair: Good morning. Most of my questions have been covered, so I will further explore the conversations that you have had with the social housing sector since the announcement of emergency legislation. Do you have anything to add?

Patrick Harvie: The cabinet secretary and I have both had one-to-one conversations with a number of individual RSLs and social rented sector bodies. We have had two meetings of the task and finish group—it began its work two weeks ago and had another meeting last week. As I said, the SFHA and others are involved in that and are making valuable contributions.

I am convinced that there is creativity to be brought to bear on how we protect tenants in what is an emergency situation that, as Aaron Hill acknowledged, requires an emergency response, and on how we support the social rented sector to continue to deliver the high-quality and affordable housing that we know is so important in communities across Scotland.

Annie Wells (Glasgow) (Con): Good morning, minister. I have heard my colleague Jamie Greene speaking about housing associations not being able to increase rents and maybe having to stop maintenance or modernisation programmes. What conversations have you had about that? Like Jamie Greene, I am aware of this; my mum is a housing association tenant, too, and she is worried about whether her rewiring will be done and stuff like that. How can we give people confidence that these things will still go ahead?

Patrick Harvie: To give tenants confidence, the Government is already doing a huge amount of work—and more is to come—on communications with people about the cost of living crisis, the support that is available and the advice that they can follow to minimise their exposure.

As for the sector, I come back to exactly the same points that I made to Miles Briggs about working closely with the sector ahead of any decision about the cap's future. The initial six-month period, to the end of March, does not directly impact on social landlords' rental income, but it gives a clear focus to ensure that we can work with them and make a decision that is well informed by their perspective on the future operation of a cap and the future of how to support

tenants, not just through investment in the quality of properties—in repairs and maintenance and in net zero measures—but through the wider services that social landlords provide. We are actively engaging with them and creativity is being brought to bear, as I have said.

Annie Wells: I have one more question. How successful has the rent pressure zones legislation been for councils?

Patrick Harvie: The legislation has been exactly as successful as I thought it would be. When it was introduced, I welcomed the fact that something was being tried, but I was sceptical whether rent pressure zones would be enough to solve the problem.

There is a lack of data available to local authorities. We know that none of them has taken forward such a zone; the reason is that local authorities do not have the data to justify it, and they could be exposed to the threat of legal challenge if somebody argued that a zone was a disproportionate interference in landlords' rights. As we develop our longer-term proposals for reforming the rented sector, including a national system of rent controls, we need to fill in the data gaps that exist.

If rent pressure zones had been put into practice and we had seen them work, we might be in a very different position. In my view, the bill that provided for RPZs was unlikely to be successful. RPZs were unlikely to be put into practice and therefore unlikely to reduce anyone's rent, and that is what has come to pass.

We are now in a situation where, as I have said, some landlords are being very responsible and have tried to protect tenants from rent increases, whether during the cost of living crisis or the years of the pandemic. However—and I am sure that members from across the country are aware of this—others are imposing eye-watering rent increases. I will be far from the only Glasgow MSP who has heard from tenants who are seeing 20, 30 or 40 per cent increases, which are simply unmanageable, unaffordable and unsustainable and will not take place under this legislation.

Elena Whitham: I welcome you and your officials to the meeting, minister. I will start with the question that I asked the first panel. As the convener of the Social Justice and Social Security Committee, I have always been keenly aware of the fact that we do not always have a gendered analysis and disaggregated data, specifically on issues around poverty, inequality and the housing sector in its totality.

We know that those in the most extreme poverty are disproportionately women, lone parents, people from black and minority ethnic backgrounds and those who are disabled, and the

intention of this policy is to act swiftly to assist people in that situation. How do we monitor both the policy intention and the policy outcome? That is not always captured, and we see that as a gap.

As for the measures that are in place to support the policy—the extension to the tenant grant fund, the extension to how discretionary housing payments can be used and the Scottish welfare fund, which councils administer—how can we ensure that we collect the data on who is accessing those measures, how the decisions are made and what impact they have?

Patrick Harvie: Those are important and well-put questions. Information in the impact assessments that accompany the bill will give some indication of the differential impact and the intersectional aspects of inequality in relation to it. *[Interruption.]* I have just been told that those impact assessments have just been published, so they will be available to you.

It would be wrong not to reflect, as I did earlier, on the fact that data on the private rented sector is one of the areas where there is a lot more work to do. The social rented sector tends to be a better position, not only because of certain requirements, but because in many cases it is structurally easier to collect that data. The social rented sector has larger landlords, which operate mostly in a close geographic area and are well regulated. Because the private rented sector is much more fragmented, with many more individual landlords, it is much harder to collect that data under the current framework. That is something that we are looking to improve.

On the question of accessing the various support schemes and funds that the Government has put in place, I will certainly engage with my colleagues who are responsible for social security to make sure that we join the dots between the issues within their remit and the ways in which the bill and its reporting mechanisms will operate.

Elena Whitham: I will just follow up on that, then I will ask another question.

We have a task and finish working group, but sometimes there is the task of the policy intention and then there is how something is finished and what impact it has. I am keen to look at the impact assessment that has been published, but I am concerned about the other end of the process and about double-checking in, say, six months' time that we have understood the consequences as they apply to those groups who often experience the sharpest impact of poverty and inequality. I would like to get an assurance that the Scottish Government will seek to report back on that.

Patrick Harvie: Absolutely. We will make every effort that we can to do that. It is something on which we can engage actively with the committee.

For example, with the reporting provisions in the bill—assuming that Parliament approves it—the committee might want to write to us ahead of time to flag up the specific questions that you would want us to cover, either in the report that will be published or in the discussions that we have with the committee.

Elena Whitham: My next question arises from an ask from Shelter and other organisations and relates to provisions in the bill to allow for the sale of a property when landlords are in specific financial difficulties. How can the Scottish Government support landlords and, indeed, registered social landlords to buy back homes, so that we can protect tenants in situ? That would give everyone involved a level of comfort.

Patrick Harvie: I recognise that point, which has been made by some people who responded to the consultation on the new deal for tenants. If we were to try to incorporate that into the emergency legislation, we would be here a lot longer and would not have the emergency legislation in time to protect people. Some of these arguments will have to be built into the review of the existing grounds for repossession, the permanent legislation and our consideration of how we might alter that. However, your point is well made and the issue is certainly on our radar.

Elena Whitham: With regard to best practice, many local authorities and RSLs across the country engage actively in buy-back, specifically of properties that were formerly social lets, to bolster the number of affordable homes. An agreement that that already happens and that such an approach should be supported over this six-month period would be helpful.

Patrick Harvie: We can certainly consider how we might put that on the agenda for the task and finish group and engage with the sector on that. There are many instances in which that happens and there are many more where it could happen, if the right support was in place. It is probably never going to be a blanket solution for every circumstance, but the member is right to bring the issue to our attention, and I will see whether we can write to the committee again on it soon, if we manage to put it on the task and finish group's agenda for a response.

The Convener: Thanks for those useful questions, Elena. I will bring Miles Briggs back in briefly.

Miles Briggs: Thank you, convener. Further to Elena Whitham's line of questioning, my question relates to the 26,000 households that are in the homelessness system. When is the proposed housing bill likely to be introduced, and what impact will the homelessness situation have on it? Will it include prevention duties? As we heard from

the previous panel, homelessness services are being pushed to breaking point, and any unintended consequences of the legislation will only add further pressure. Given the record number of children in temporary accommodation, that would be unacceptable. Can the minister give an assurance as to when the housing bill will be introduced and what it will include that is not covered by the emergency legislation?

Patrick Harvie: The housing bill was, of course, included in the programme for government announcement. Therefore, we will be working at pace on that. I hope that the member will acknowledge that many of the officials who have been working incredibly hard at an incredible pace to bring forward the emergency legislation are the same people whose job it is to support us in the longer-term development of the housing bill. I will not say that there is no possibility of an impact, but we will be working on understanding any impact that not only developing but operating the emergency legislation will have on our longer-term work.

However, the intentions of that longer-term work are absolutely unchanged. They are not only to develop the proposals under the new deal for tenants and measures such as the national system of rent controls but to take that wider approach to preventing homelessness. I know that the committee has discussed many approaches to achieving that with the cabinet secretary.

Do you want to add anything, Mandy?

Amanda Callaghan: The prevention duty work is continuing. Some analysis was published last Thursday, so we can make that available.

Miles Briggs: That would be helpful. It would also be helpful if you could update the committee on the timescale for the work.

Patrick Harvie: We will certainly keep the committee informed on timescales. If the updated research has not yet been made available, we will ensure that it is.

The Convener: I thank everyone for their great questions. It was very helpful to get the bigger picture of the work that you have been doing, minister. Government and Parliament are here together to collaborate on shaping a fairer Scotland. Therefore, as I said at the beginning, I appreciate the fact that the bill came out with slightly earlier notice so that we could have a constructive conversation. I am impressed by the work that has been undertaken, the fact that you are working at pace and the fact that you have pulled all of this together in a matter of four weeks, with a priority on and a high concern about getting it right. This morning's conversation has been very useful, and it was good to hear from stakeholders in the earlier evidence session. Thank you,

Patrick, for being here along with your officials this morning.

I suspend the meeting to allow our witnesses to leave the room.

11:29

Meeting suspended.

11:31

On resuming—

Subordinate Legislation

Council Tax (Exempt Dwellings) (Scotland) Amendment (No 2) Order 2022 (SSI 2022/272)

The Convener: The final public item on our agenda is agenda item 3, which is consideration of a negative instrument. As the instrument is subject to the negative procedure, there is no requirement for the committee to make any recommendation on it.

If members have no comments, does the committee agree that we do not wish to make any recommendations in relation to the instrument?

Members *indicated agreement.*

The Convener: We agreed at the start of the meeting to take the final two items on our agenda in private. As we have no more public business today, I close the public part of the meeting.

11:31

Meeting continued in private until 11:59.

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