



OFFICIAL REPORT
AITHISG OIFIGEIL

Local Government, Housing and Planning Committee

Tuesday 20 December 2022

Session 6



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LOCAL GOVERNMENT, HOUSING AND PLANNING COMMITTEE

33rd 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:

Michael Cameron (Scottish Housing Regulator)

George Walker (Scottish Housing Regulator)

CLERK TO THE COMMITTEE

Euan Donald

LOCATION

The David Livingstone Room (CR6)

Scottish Parliament
**Local Government, Housing and
Planning Committee**

Tuesday 20 December 2022

[The Convener opened the meeting at 10:00]

**Decision on Taking Business in
Private**

The Convener (Ariane Burgess): Good morning, and welcome to the 33rd meeting in 2022 of the Local Government, Housing and Planning Committee. I remind all members and witnesses to ensure that their devices are on silent and that all other notifications are turned off during the meeting.

The first item on our agenda is to decide whether to take agenda items 4, 5, 6 and 7 in private.

Do members agree to take those items in private?

Members indicated agreement.

Scottish Housing Regulator
**“Annual Report and Accounts
2021-22”**

10:00

The Convener: Under agenda item 2, we will take evidence from the Scottish Housing Regulator on its “Annual Report and Accounts 2021-22”. We are joined by Michael Cameron, the chief executive; and George Walker, the chair. I welcome our witnesses to the meeting and invite George to make a short opening statement.

George Walker (Scottish Housing Regulator): I thank the convener and the committee for inviting us to present our annual report and accounts for the year 2021-22, which was published in October. As members will likely remember, we last met the committee in March 2022 and we are happy to be back in person to update you on our work and what has happened since then. By way of a reminder, in March, I updated the committee on our priorities. They include: a strong focus on the quality and safety of tenant homes as paramount; for Gypsy Travellers to have sites that meet the standards that have been determined by the Scottish Government; for landlords to meet the needs of people who have experienced homelessness, with a particular focus on their provision of temporary and settled accommodation; affordability and value for money, being mindful of the huge cost pressures that tenants and landlords are experiencing; and for registered social landlords to be underpinned by effective governance and financial health.

There is also a “but”, which is that much has changed since we last met the committee in March—I do not really need to tell you that. We are facing the most challenging economic context in a generation, and there is no doubt that tenants and social landlords are facing some of the most difficult financial challenges that they have ever had to meet. Increases in the cost of living certainly mean that tenants are finding it more difficult to afford the cost of renting and running a home. However, social landlords are also considering the implications of the Scottish Government’s emergency legislation on rent increases, the Cost of Living (Tenant Protection) (Scotland) Act 2022, and what a possible extension of the rent freeze provision may mean for rent levels next year. Those decisions may impact on their ability to invest in tenants’ homes and to deliver key services to tenants and other service users. As you know, rents, along with some public subsidies, are social landlords’ principal source of income. It is also worth pointing out that social landlords continue to be asked to respond to the climate emergency, decarbonise

heating sources in homes, deal with the problems of supply chains' rising business costs, and invest to protect themselves from the increasing incidences of cyber attacks, which are significant.

The quality and safety of existing homes is, of course, vital. The recent coroner's report on the very tragic death of Awaab Ishak highlighted just how important that is. We know that resilient organisations cope better, and we encourage landlords to build and test their resilience. We will continue to focus on our priorities, while trying to remain agile and responsive to the volatile and uncertain operating environment that we all know that we are in. Most recently, on 30 November 2022, we published information about the focus of our landlord risk assessment for this year and into 2023. That takes account of the resources that we expect to have available to regulate effectively in future years, and we will publish the outcome of that work at the end of March and share it with the committee. That will include plans for engagement that we will have with all landlords during 2023-24.

The cost pressures that I have referred to also apply to the Scottish Housing Regulator, which is a small public body. That said, our funding for next year gives us what we need, and we can now proceed to recruit to the posts that we have been holding vacant, which we told you about when we last saw you. Those posts had been held vacant because of the uncertainty that there had been about next year's budget. That puts us in a good place ahead of our review of the regulatory framework, which we will initiate next year. It is a big piece of work.

We will continue working closely with our stakeholders to support social housing and deliver shared goals. We will, of course, keep the committee updated on our work plans, particularly on homelessness, on which we have increasing concerns. There are real issues emerging and, because of that, we will publish a significant report on homelessness early in the new year after a period in which we have engaged with every local authority in Scotland on the issue.

Convener, I am sure that the committee has lots of questions for us, so I hand back to you. We are happy to discuss any aspects of our annual report or anything else that you care to raise.

The Convener: Thank you for giving us a bit of an overview.

I begin the questions by focusing on staffing pressures. When we last spoke, you were concerned about delays in recruiting staff because of pressures on the Scottish Government's shared recruitment service. You have touched on that a little bit. Will you update the committee with a bit more detail on the latest staff position, whether

vacancies remain and whether the recruitment process has improved?

George Walker: I will start on that and then get Michael Cameron to comment.

We have been in a slightly unusual position. You asked about whether the process has improved. There were some challenges and my understanding is that work was going on to improve that as we emerged from the pandemic. However, it is difficult for me to comment much on whether that process of staffing has improved because we have been holding on to vacancies.

I think that I am right in saying that we have five vacancies that we have been holding for some time. Because of the uncertainty around the spending review and about what our financial settlement would be for next year, we felt that we should do the responsible thing and be cautious. Therefore, recruitment has been paused, save for some work on a more junior role.

I can make some more comments, if you would like, on the fact that we will now be starting to recruit, given the financial settlement that we have received. I do not know whether Michael Cameron can add anything on the process for recruitment.

Michael Cameron (Scottish Housing Regulator): We have had limited exposure to the new improved recruitment process that the Scottish Government has put in place, because we have been holding those posts vacant. However, where we have engaged with Scottish Government human resources on recruitment, we have noticed that there have been improvements in the process. Although it is always challenging to work with something new, particularly on the information technology front, there has been a streamlining of the process in the new system, which has allowed us to move through the various stages of recruitment more efficiently and effectively, albeit with the caveat that George Walker set out that that has been relatively limited so far.

The Convener: That is helpful and it sounds like good news. We are keen on that streamlining and efficiency.

I move on to the budget. There is somewhat good news in that respect. Your annual report notes that the 2022-23 budget increased but that you are

"still likely to see pressure on budgets caused by rising inflation, increased employer costs and centrally negotiated pay rises."

How does your likely expenditure for 2022-23 compare with the budget? Have you experienced any particular pressures? Will the recently announced budget for 2023-24 be sufficient for you to be an effective regulator?

George Walker: Certainly, in the current year, we are seeing cost pressures. However, it is worth pointing out that, as a regulator, we are ultimately a people business. Depending on how you count it, about 80 per cent to 85 per cent of our budget is spent on people—staff costs and board costs. Because of that, we were in the, I suppose, enviable position of being able to hand back some budget to the Scottish Government. The reason for that was that we were holding on to the vacancies that we just discussed.

Our spend beyond people is relatively modest, so although we are seeing cost pressures, with only about 15 per cent to 20 per cent on non-staff issues, we will end the year in an okay position, having handed back budget due to the vacancies.

On the budget, you are likely aware that the Scottish Housing Regulator's funding for next year was set at £6 million. That comprises £5.3 million for revenue, £200,000 in non-cash and about £400,000 of capital funding that we requested. That is up from a total of £5.3 million in the current year. That gives us what we need, and we can proceed to recruit to the posts that I mentioned, which it is important that we fill. We have already undergone some restructuring in the business; we believe that we are quite efficient; and we want to fill those vacancies.

That puts us in a good position for next year. Obviously, there is still uncertainty over funding beyond that year, just as for everyone else—we accept that—but it puts us in a good place, ahead of the six-year review of our regulatory framework, which we will initiate next year and which is an important and resource-intensive piece of work. That budget comes from the figures that we gave to the Scottish Government in the business case that we made for what we would need to fund our current structure and to put us in a position to move forward with our regulatory framework and cover pay rises.

The Convener: That sounds good.

I am a little curious. You held on to five vacancies, but you also talked about doing some work on streamlining your workflow. Does the pressure of not having those five positions filled force you into looking at how you do the “people business”, as you put it? Will that set you up well for staffing?

George Walker: There is some truth in that. We did some work in advance of that, some time ago, when we went through a restructure. We certainly had to pull back on some of the work that we have done during the pandemic.

The big area on which we were unable to deliver was thematic work—although we have started to pick that up again. There was a gap; we had to focus on other things, as we touched on, during

the pandemic, which meant a diversion of resources.

Certainly, we did not do some things that we would have liked to have done. On how that positioned us, I hand over to Michael Cameron, who may have more detailed comments on the operational aspects.

Michael Cameron: Through the course of this year, having held five posts vacant, we have had to reprioritise a number of our activities. George Walker has already mentioned that we had hoped to restart our programme of thematic work this year. That was delayed. We have started to do a wee bit on that, although we have not initiated a full programme during this financial year. However, now that we know the position next year, as George has said, we will take forward a review of the regulatory framework, which we are obliged to do every five years. Within that review, we will look at how we can re-establish some of the areas of work that we have had to put on hold because of the vacancies that we were carrying.

Miles Briggs (Lothian) (Con): Good morning, and thank you for joining us. I have a couple of questions specifically about the risks that have been identified. Currently, in your opinion, what are the main risks for the social rented sector, and how are you working to help to mitigate those?

George Walker: Gosh—that is an interesting one. I do not think that those risks are likely to surprise you. I will give you a little background, then I will come on to our risk assessment work, which has just started for the coming year and which will set the approach that we will take with landlords in the new year.

We published some information on the key risks at the end of November. In summary, the strategic context and landscape for landlords is volatile and unpredictable, as we know. We highlighted the cost of living; rent affordability, which applies to tenants and, of course, to landlords, who need to deliver that; issues around RSL finances—in particular, business planning, which I might comment on further in a second; decarbonisation; the provision and quality of temporary accommodation for homeless people, which is an emerging issue; and, of course, issues around tenant and resident safety.

It is fair to say that landlords are dealing with increasing interest rates, high inflation and the cost of energy—all those things that others are dealing with—as well as their obligations on net zero and rent affordability. Of course, the Scottish Government will announce its rent policy in mid-January next year.

Tenants are also facing significant challenges, so let me come to how we approach that. In a risk assessment this year, we will take all those

challenges into account. We will take into account aspects of the economic environment and the Scottish Government's rent and evictions policy, as you would expect. By way of example, we will pay close attention to affordability for tenants, planned rent increases, and levels of arrears.

10:15

How do we go about doing that? Again, in the piece of work in November, we published a summary of the risks on which we will focus next year when all of the data and information have already flowed in to the regulator.

What will we focus on? I will not speak about each of these, but I will quickly give you the list. We will focus on: homelessness; performance in delivering services; stock quality; tenant and resident safety—this is a significant one; development, and those RSLs that are developing new homes; financial strength of RSLs; and good governance of RSLs.

Mr Briggs asked about how we go about mitigating those things, and I will say three things in answer to that. First, we find that setting out what we will focus on in a risk assessment draws the attention of landlords to those areas—they know what we will focus on, so they pay attention to those things, and that is part of the mitigation strategy. Crucially, within that, is the need to ensure that RSLs are well-run and have good governance in place—I do not think that there has ever been a time when that governance has mattered more—so that they can make the best decisions. The third thing to highlight is the financial health of RSLs. Again, much of the mitigation is around RSLs making themselves as financially robust as possible, so that they can establish themselves in the best place for the future. Part of that has been about and will be about us encouraging them to look forward and revisit their business plans because some business plans will have been knocked off course by the pandemic.

Finally, if the committee will indulge me, I will say a wee bit about homelessness, because it is an important area for us. In order to mitigate that, we will focus on how local authorities deliver services for people who are threatened with or are experiencing homelessness. That includes understanding the homelessness journey and the four steps within that. This year we will pay a lot of attention to the increased demand for temporary and permanent accommodation that local authorities and RSLs provide.

I hope that that gives the committee a bit of a flavour of the risks that we see and flag to landlords, and some of the approaches that we will

take to guide landlords towards the best mitigation.

Miles Briggs: What you have outlined about homelessness and temporary accommodation is helpful. I raise the situation in my own area of Edinburgh regularly with the committee, so I look forward to seeing that report in the new year.

When you attended the committee previously, we heard that some of the work that you are looking towards was about resilience, and as you said, we are living in a changed environment since the last time you were before the committee. What sort of conversations have taken place around business planning, given the costs of construction and the rent controls in most housing associations, which are reporting that they are redrawing their plans for future building because of income projections? Is there any resilience in that, and can you outline what it looks like?

Michael Cameron: I am happy to pick up on that. In the past couple of years, we have highlighted the importance of landlords enhancing and safeguarding their organisational resilience, and indeed the resilience of the communities that they serve. That is an important focus for most social landlords.

George Walker has already set out in a bit of detail the current context and that economic volatility and uncertainty, if anything, puts even more emphasis on the importance of landlords building and testing their organisational resilience. By that, we mean understanding their capacity to handle unexpected events while continuing to deliver the core critical services on which their tenants and communities rely. We see those as ever more critical elements of leadership and business planning.

It is increasingly important for landlords to understand what they will need to sustain and build that resilience, given that the reality is that the current context looks like it is going to be with us for some time. To that end, we have been promoting the importance of landlords stress testing their business plans by considering a range of different scenarios, so that they understand at what point their businesses will start to come under pressure. They can then start to think about mitigations for those pressure points.

We have also started giving some thought to what a more structured regulatory focus on resilience might look like. In June, we hosted a two-day programme on resilience in social housing, delivered by Cranfield University school of management. We invited the chief executives of the Scottish Federation of Housing Associations, the Glasgow and West of Scotland Forum of Housing Associations and the Association of Local Authority Chief Housing Officers to attend that, so

that we could have a sector-wide conversation. We will use the learning from that to consider the place of resilience within our work and will explore further with the sector what the concepts and principles of a resilience framework would be. We will do that as part of the review of the regulatory framework that George Walker already touched on.

Marie McNair (Clydebank and Milngavie) (SNP): As you know, the Scottish Government will announce its approach to social sector rents for 2023-24 by mid-January. That will include whether rents will be frozen or increases limited. What impact might a rent freeze or a cap on rent increases have on social landlords' business plans and on their responsibilities to their tenants?

Michael Cameron: I am happy to pick that up. It is worth noting that the current rent freeze has no immediate or direct impact on most social landlords in Scotland, because they apply rent increases from 1 April.

As you say, the Scottish Government will announce its intentions regarding the emergency legislation and the possible continuation of a rent cap by 14 January. It is safe to say that that has generated a lot of work by social landlords and has resulted in significant reviews of business planning. Social landlords are already consulting their tenants about rent increases for next year. This reality is part of that conversation. It is appropriate for landlords to have those conversations with their tenants now, because any landlord that wants to increase its rents on 1 April will have to have had those structured consultations with tenants.

We have done some initial forecasting of the potential impact of a rent freeze next year across all social landlords in Scotland. If there is an actual freeze and not a cap beyond 0 per cent, we estimate that that would take at least £60 million out of the business plans of RSLs and suspect that the figure for local authorities would be similar. I say "at least" because that assessment is based on business plans that landlords submitted to us at the end of the previous financial year. There will have been significant changes to those business plans since then, as a consequence of the context that we have already touched on. A rent freeze might have a bigger than £60 million impact.

Marie McNair: How might a rent freeze or a capped rent increase for social landlords impact your regulatory approach?

Michael Cameron: There are a couple of elements to that. If landlords are under a statutory obligation not to increase rents, it is appropriate for us as the regulator to have regard to that and to ensure that landlords are meeting their statutory

obligations. As a regulator, we need to understand what that means for every landlord and their tenants. We will look to ensure that landlords are setting their business plans in such a way that they can accommodate that. That will be extremely challenging, particularly for some landlords. We will also look to ensure that they continue to deliver on core statutory requirements for tenants, including the outcomes and standards that are set out in the Scottish social housing charter.

Marie McNair: Your recently published report on RSLs' financial forecasts showed that their financial performance should remain robust but that the outlook continues to be challenging, as you have already mentioned. Can you say more about the financial challenges that RSLs face and about how you will work with them and their tenants to address the challenges?

George Walker: I will pick that question up. That has been a significant piece of recent work. As you said, we just published that report, which sets out the five-year financial forward projection from the end of March this year. That data all came in to us in April this year, and it looks forward over the next five years to 2027.

The data showed us several key factors that affect RSLs' business plans. The Scottish Government intervention on rent setting is certainly in my mind—there is no doubt about that. The issues of increasing requirements to address the quality of homes and on energy efficiency and decarbonisation are right there and live, along with the on-going uncertainty from and lasting impact of Brexit and Covid-19. We highlighted those issues, because the current context for RSLs might mean that they have made significant changes to their business plans since they submitted all that data to us back in April. We know what is going on, and I know that the committee is tapped into that.

I will give you some of the highlights, bearing in mind the context that the data is from April. Marie McNair is right: we said that RSL finances looked robust—I think that that was the language that we used—and we hope that that will continue. What does that mean? It means that most RSLs continue to show a modest surplus of rents versus expenditure; they expect turnover to increase by a little shy of 0.5 per cent over operating costs over the five-year period; and they expect their asset base to grow.

However, there is a but. One of the things that is highlighted in the report is that, currently, RSLs have significant, but reducing, reserves. To give you an idea of how that looks, at the end of March 2022, they had cash reserves of roughly £890 million—a significant amount of money—but that will drop to closer to £500 million by the end of the five-year period. That means that, although

interest rate cover remains healthy, it is declining, so that is worth paying attention to.

The report showed that landlords expect rent arrears to peak in 2022-23, which is an interesting finding. The prediction is that they will peak at around 4.7 per cent before returning to more historically normal levels, if I can use those words, of 3 per cent to 3.5 per cent rolling forward. That is probably quite good news.

The report also showed that landlords will continue to spend significant amounts of money investing in their tenants' homes—about £1.7 billion over the five-year period, which works out at about £5,000 per property.

Finally, the expectation is that 30,000 new homes will be built by landlords, which is up 1,000 from the previous cycle. That will be supported by funding of roughly £4.5 billion from the Scottish Government and private finance.

Bearing in mind the fact that the projections were done a wee while ago and that things might have changed, we nevertheless think that that puts landlords in a pretty strong position.

The other fly in our ointment, if I can use that term, is increasing interest rates. Landlords are having to deal with that. To give you an idea of the situation, we estimate that every 1 per cent increase in interest rates will result in about £13 million extra cost in debt servicing for landlords each year, which is not an insignificant amount of money.

That is the context in which landlords are looking to deliver against building safety requirements, decarbonisation and stock quality commitments, as well as continuing to invest in new homes.

10:30

We are mindful of the reduction in financial headroom—the fall in cash reserves—that I touched on. There is a wee thought in the back of our minds that that reduction in headroom might well reduce the capacity to respond to any other unanticipated external shocks that hit. I summarise by saying what we said in the report, which was that, based on what we know, RSLs' finances are in a reasonably robust position as we sit here today.

Marie McNair: That is helpful information.

Willie Coffey (Kilmarnock and Irvine Valley) (SNP): Good morning. I will ask a couple of questions about the overall quality of the housing stock and touch on the issue of dampness, condensation and mould that George Walker mentioned in his opening remarks.

First, there seems to have been a bit of a dip in the number of properties that meet the Scottish housing quality standard—it is down from 87 per cent to 85 per cent. Could you give us a flavour of why you think that is?

Michael Cameron: From our monitoring of landlords' compliance with the Scottish housing quality standard, we have seen that dip in the number of properties that meet the standards, but we expected that to a degree. Much of the decrease related to delays in carrying out electrical safety inspections, the requirements on the installation of interlinked smoke and heat detectors and a range of upgrades to energy efficiency, which have all now become part of the Scottish housing quality standard.

That has in part been a consequence of the delays and challenges that landlords experienced during the pandemic in relation to getting access to tenants' homes and securing the necessary materials, labour and skills to undertake the work.

We are working with all the landlords that have indicated that they have not met the Scottish housing quality standard. Where there have been failures, we are looking at plans that landlords have in place to address those. Many of them hope that they will be able to deal with those issues during this financial year, and landlords are projecting a 90 per cent compliance rate with the Scottish housing quality standard by the end of this financial year.

As George Walker touched on, we are aware that landlords anticipate a significant programme of investment of around £1.7 billion over the next five years, in part to address some of those issues.

Willie Coffey: Do any of the houses not meet the standard because of dampness or condensation? Do they not meet the housing standard because of their structural condition in relation to dampness, condensation or mould, or is it because of all the functional things that you mentioned such as electrical installations and upgrades and so on?

Michael Cameron: It is almost entirely due to the issues that I touched on. It is difficult to quantify the incidence of dampness, condensation and mould, because it does not form a specific element of the Scottish housing quality standard in that way, and there are no national measurements or indicators of reports of dampness and mould.

That in itself would not necessarily translate into a failure to achieve the Scottish housing quality standard, unless there are some component elements that delivered that, such as inadequate heating systems. That is how it would be flagged rather than as an issue of dampness and mould.

We are giving some thought to that issue, particularly in relation to our review of the regulatory framework and whether we need to bring forward a series of measures to try and capture the scale of the damp and mould issue and whether landlords are responding effectively to any reported incidence of damp and mould.

Willie Coffey: Absolutely. Earlier, you mentioned the tragedy of the wee boy in Rochdale who lost his life because of a medical condition that was directly attributable to mould growth in the house where he lived. The story is not a new one. Having been an elected member for many years, I can say that cases of tenants having to ask for help with condensation, dampness and mould growth in their houses used to be the bane of my life. In my experience, housing officials regarded such problems as lifestyle issues for the tenants who lived in those houses, rather than being caused by structural issues there.

Are we now better informed about that issue? Will that tragic incident help us along that pathway? I note that you have written to social landlords, but I am not quite sure what you have asked them to do. For example, is it to conduct a survey or to be aware of the issue? If I were a tenant who was taking up a local authority house I would like to know whether it was damp and, if so, for the local authority to tell me that on some sort of register. Are we heading in that direction? Is that a good thing for us to be working on in future?

Michael Cameron: We wrote to all social landlords on 1 December to highlight the importance of their having robust procedures for managing reports in instances of mould and dampness. As you said, that followed publication of the coroner's report on the tragic death of Awaab Ishak. The report was very much about his condition, which related to mould in his home.

We are working with the Scottish Federation of Housing Associations, the Chartered Institute of Housing and the Association of Local Authority Chief Housing Officers to identify and promote good practice in the management of reports of mould and dampness that have come out of that work, and that has been given priority by all those parties. We aim to see a series of good practice guides for landlords being produced and a series of events being held to highlight the importance of having robust procedures in place.

We have already highlighted the publication that the housing ombudsman in England issued back in 2020, which contained a lot of resources to help landlords to consider best practice. Certainly in that there is a strong message about landlords being responsive, not adopting a position of blame around what is happening in a tenant's home, and considering the complex interplay of heating, ventilation, structural challenges and how the

property is used. All those elements must be considered when a landlord is responding to any incidents but, critically, the approach should be about dealing with an issue and resolving it rather than trying to suggest that there is any blame on the part of the tenant or members of their household.

Willie Coffey: Will we see a register—or whatever it might be called—of local authority landlords' properties, which will set out how they comply with the standard? Should addressing issues of dampness, condensation and mould form part of the standard?

Michael Cameron: Having something about tackling dampness and mould as part of the standard would be quite challenging technically, as regards defining how those issues could be measured. That is why, at this point, our principal focus is on ensuring that landlords fully understand their responsibilities around addressing tenants' reports of mould and dampness and that they are properly equipped with the right ways to respond so that the situation is dealt with quickly and effectively. Thereafter, we could give consideration to whether there would be a way to capture an understanding of the scale and extent of the problems—if for no other reason than we could then start to see how we could address them and reduce the level of incidence of dampness and mould.

George Walker: Could I add two points that I think are important? As Michael Cameron has said, he and I sat in meetings with the SFHA and other organisations with which we are working on the issue. I say to the committee that I came away from those with a clear view that when we were discussing the issue—I was about to say that we were raising it, but it was raised by both parties to those regular meetings—the door was very much open. There was a nuanced approach—in particular, to the point that Mr Coffey made about lifestyle issues, where it is all too easy to jump to such conclusions. I felt that there was a nuance, an understanding and a sensitivity about those issues from the organisations. That was helpful.

Next year, we move into revisiting our regulatory framework, which is about adapting how we regulate. That gives us an opportunity to start a discussion on how we might bring that important subject into the regulatory framework, discussion and consultation. I will not prejudge that, because, to be honest, I do not know how we will do it but, next year, when we start that work, we will have the opportunity to think that through and engage on that important issue with the Scottish Government and other stakeholders, including landlords.

Willie Coffey: Lastly, not to labour the point, do you not think that, before they take up a tenancy,

tenants have a right to know that the house that they are about to live in is free from dampness, condensation and mould, and that they have a right to have an authority tell them that that is so?

Michael Cameron: I think that any tenant should be able to be clear that the house that they are taking is fit to live in.

Willie Coffey: I will leave it at that.

The Convener: Thank you, Willie. That issue has been an important part of the conversation, as has George Walker's identification of the potential for revisiting the regulatory framework and, potentially, seeing where that could be brought in, so that dampness and mould can be monitored, because that is certainly a massive issue in Scotland and, obviously, it has a knock-on effect on people's health and therefore on our health service. Tackling that is really important.

Recently, I worked on a case from my region that got pushed into the lifestyle aspect, and it felt very much as though the landlords were digging their heels in. It was disheartening to hear of a family that is struggling with health issues because of the housing situation. That is therefore an important topic to pick up and work on together. I look forward to hearing how you take forward that opportunity.

Mark Griffin (Central Scotland) (Lab): Good morning. George Walker, in your earlier answers, you touched on the risks, costs and concerns that are associated with landlords' commitments to achieving decarbonisation and net zero. In your previous session with us, you said that the costs and risks were not necessarily identified in associations' business plans. Has the position changed? Are those business plans starting to give more recognition to the funding that will have to be identified and set aside for those things? If not, how is the regulator supporting landlords to go down that path?

Michael Cameron: I am happy to pick up on that. A number of challenges remain for social landlords around putting in place a clear and funded programme of work to achieve the energy efficiency of homes and the decarbonisation of heating and homes.

The first of those challenges is uncertainty. The Scottish Government is reviewing the energy efficiency standards in social housing. It has established a working group to do that, and we are part of that working group. The Government has issued interim guidance to landlords that, in effect, puts on hold the targets and milestones for the energy efficiency standards that were in place for 2025 and 2032. As things stand, therefore, social landlords do not yet have clarity on what they will be asked to deliver for the new standard, when

that emerges. The Scottish Government hopes that it will complete the review in summer 2023.

As a consequence, we have paused our collection of data on the energy efficiency standard as it was. As part of the regulatory framework review, we will revisit appropriate performance indicators for landlords that reflect the outcome of the Scottish Government's review.

We are not stepping away from that important issue, but, in the meantime, we are focusing on the importance of the quality of landlords' housing condition information and the effectiveness of their asset management strategies.

10:45

Arguably, the biggest challenge for landlords, which you touched on, is the funding of the investment that will be required. Until we get clarity on what landlords are expected to deliver, it is difficult to get a precise quantum for that investment. We have seen a range of estimations of what will be required. The figures that have been spoken about range from £1.5 billion to about £6 billion or £7 billion. As George Walker says, over the next five years, social landlords have a significant programme of investment, with £1.7 billion to invest in existing homes, but that is principally for things other than energy efficiency and decarbonisation.

When we last looked at social landlords' business plans, they still did not show the full costing for what will be required to achieve whatever emerges out of the Scottish Government's review. At the moment, we are still in what I would characterise as a position of uncertainty.

Mark Griffin: I know that the standards are up for review at the moment, but as well as the fairly huge cost burden, individual RSLs have properties on their books that, no matter how much money is spent on them, will never be brought up to standard as a result of a range of issues, such as mixed-tenure blocks of flats. What view is the regulator taking on properties that RSLs deem impossible to bring up to standard? We do not want to be in a situation where stock is decreasing. How is the process managed when RSLs take the view that they cannot spend money on properties to bring them up to standard?

Michael Cameron: There are a couple of aspects to that. The first is that it will be important to see what comes out of the Scottish Government's review of exemptions. The Scottish housing quality standard has a range of exemptions that can be applied by social landlords. One exemption that has been mooted is around the economics of undertaking works on

properties where doing so may be extremely difficult.

That raises the second element, which is landlords making some potentially difficult decisions about whether it is possible to bring all properties up to the appropriate standard and whether properties where that is not possible therefore do not have longevity. That is challenging because, aside from anything else, we are talking about people's homes.

Most landlords are looking at how they can achieve the type of works that might be necessary in a different range of properties. One element of the review group's work is to look at different archetypes for different property types, so that social landlords are equipped with the best knowledge of what solutions are appropriate in different property types.

However, there will still be some potentially very difficult decisions to be made about the feasibility of continuing to invest in certain homes. That might lead us to a conversation, including with the Scottish Government, about whether investment in re-provisioning is necessary in relation to particular properties, over and above the work that is already going on in the development programmes that George Walker spoke about. There are some very big issues there.

At the moment, we are particularly focusing on the effectiveness of landlords' asset management strategies, where we are picking up on some of those very issues. Much of this depends on landlords having good-quality information about the properties that they own and manage, including the condition of those properties and whether carrying out the necessary investments for energy efficiency and decarbonisation will be straightforward or more challenging.

The Convener: Thank you. That was useful.

I am curious to know whether you are aware of BE-ST—Built Environment—Smarter Transformation—which used to be called the Construction Scotland Innovation Centre. It seems to be doing a lot of very good work, not just with new build but with retrofitting and helping landlords to understand their assets and what they could be doing to decarbonise.

Michael Cameron: We are aware of that work—it is certainly in front of the Scottish Government working group that I mentioned. A range of significant projects to test the most effective ways of carrying out retrofitting have happened or are planned. An important one was done in Glasgow on retrofitting traditional sandstone tenements, which illustrated the challenges and possibilities for landlords.

It is critically important that all such information is available to the working group that is looking at the review of the energy efficiency standards in Scotland, because that will help to drive the improvements and investment that are needed.

The Convener: Some members of the committee went to that project earlier this year—perhaps it was last year; I cannot remember. It is a fantastic example of what can be done. It is really heartening to know that those pilots are out there so that we can get a better understanding.

I will bring in Annie Wells, who joins us online.

Annie Wells (Glasgow) (Con): Thank you, convener.

I will touch on homelessness, which has already been mentioned. One of the priorities set by the regulator back in March 2022 was about landlords discharging their duties to people who are experiencing, or who have experienced, homelessness, with a particular focus on a duty to provide temporary and settled accommodation. However, the most recent national report on the charter says that the number of times that households experiencing homelessness were not offered temporary accommodation by local authorities has risen. Can you assure me and the committee that you are taking appropriate action to improve that situation?

George Walker: I will pick that up. It is quite a big subject but it is a great question—and an important one. Convener, if you are willing to indulge me a bit, I will probably give a slightly longer answer because there are some complexities. I know that the committee understands that. Perhaps I can take you systematically through some of the issues around homelessness, if that would be okay.

The Convener: That would be welcome. Thank you.

George Walker: I wanted to flag that, because there will be a little bit of detail.

I will start by saying that Annie Wells is right that homelessness has been a priority for SHR for some time. Indeed, we continue to highlight it in our corporate strategy. I can tell you that, as chair, the subject is very dear to my heart.

A key element of our statutory objective is to safeguard and promote the interests of the approximately 40,000 people and families who experience homelessness and seek help from local authorities. That is writ large in our statutory responsibilities, and we do it in a number of ways.

We monitor, assess and report against the range of duties and obligations that are placed on local authorities by legislation, as the committee might expect, and the statutory guidance that has

been issued. An example of that is the requirement on local authorities to provide temporary accommodation to those who need it—I will come back to that subject in a minute. There are also the relevant standards—there is a good number of them—in the Scottish housing charter that Annie Wells referenced.

All that starts with an annual risk assessment. Homelessness was part of the annual risk assessment that we have implemented this year and will be part of the one that we are working on to implement next year. In that assessment, we focus on the four key parts of the homelessness journey. By that, I mean that we assess access to service, we look at the assessment of applications and the provision of temporary accommodation, and then we look at the outcomes for households that are in that situation. The annual risk assessment informs how we approach all that.

To give members a flavour of where we are right now, we are engaging with more than half the local authorities in Scotland on at least one of the four stages that I have just highlighted. Right now, we are engaging with three local authorities—East Lothian, Fife and Glasgow—on all four stages. We most commonly engage with local authorities on the assessment and outcome stages of the homelessness journey, although they do not stand alone—that is a significant point for us.

We also engaged with all local authorities across Scotland in the past year to get a better understanding of the extent of the impact of the pandemic on homelessness. We did that through a series of structured conversations across the local authority landscape, which helped us to understand the impact of the pandemic. I will summarise that work for you.

Several things came out of those conversations. Bed-and-breakfast accommodation and hotels provided vital temporary accommodation at the start of the pandemic and through the later lockdowns. Sadly, too many people have been left in that type of accommodation. We heard evidence from landlords that family breakdown and domestic abuse led to an increase in homelessness presentations during the various lockdown periods. There is no doubt in our minds that some landlords faced real challenges in providing a sufficient quantity of temporary accommodation during the pandemic. I do not know whether that has continued post-pandemic, but a number of landlords are still struggling with it. It is true to say that some landlords outlined the challenges that they faced in complying with the Government's unsuitable accommodation order in the short to medium term.

To move forward a wee bit from the issues that emerged from the structured conversations, we are currently speaking to all local authorities about

homelessness services. We see three major challenges for them. The first is how to deal with the significant number of people who are in temporary accommodation as a response to the pandemic, and the hangover from that, if I can put it that way. The second is about maintaining a sufficient supply of appropriate temporary accommodation, and the third is about ensuring access to the number of permanent homes that are needed for those who become homeless. I am kind of stating the obvious there, but those issues are alive and well.

There is a but, which is that the homelessness obligations on councils are statutory, irrespective of the strategic context of the environment within which local authorities operate, and local authorities must do everything within their control to comply.

To sum up the situation, those challenges, and the struggle of some local authorities to rise to them, might mean that, in practice, we have to accept that there is some degree of non-compliance with one or more of the statutory obligations, even when we recognise that a local authority is trying to do everything within its power to improve and to meet the statutory requirements. When we see a system issue, we recognise it as a primary cause of non-compliance, and we will say so in engagement plans for that local authority.

For the reasons that I highlighted earlier, we will publish a major thematic report on homelessness in the new year. We hope to have that out by the end of January. It will be informed by the discussions that we have had with local authorities, but it will also be informed by an event that I hosted in Edinburgh two weeks ago with various advice agencies and bodies. That was a sobering experience. I sat in front of them with a group of colleagues from the SHR to hear them say that they have never seen the challenges of access to temporary accommodation so bad. I heard stories of gatekeeping being alive and well in some places. I will not go through all the details, but every person there told me, as chair of the regulator, that they have never seen things this bad. The situation is as challenging as they have ever seen it, which squares with our concerns. There is no doubt that social landlords—local authorities and RSLs—are working really hard on this, but it was sobering to hear what I heard.

I will wrap up with some statistics as a reminder for the committee. We have not finished the current year, but there were 35,230 homelessness applications in 2021-22. That is an increase of 3 per cent, although, in fairness, it is still down on the peak of 37,000. There were 28,000 households assessed as homeless or threatened with homelessness, and at the end of March last

year, there were a total of 26,000 open homelessness cases.

11:00

I will end by touching on the issue of temporary accommodation, because it is significant. There were 13,945 households in temporary accommodation at the end of March, which is a 4 per cent increase on the previous year and a bigger increase again on 2020. What troubles me is that there are 8,635 children in temporary accommodation, and some of them will be in hotels or bed-and-breakfast accommodation. I commented earlier that that was one of the consequences of the pandemic.

More worrying for us as the regulator is the fact that the average time spent in temporary accommodation has been going up. Not so long ago, in 2017-18, the average time spent in temporary accommodation was 175 days. I will not bore you with the figures for every year, but, by the time that we get to 2021-2022, that is up to 207 days, which is a lot of days. The most significant length of time spent in temporary accommodation was in Edinburgh, where it increased to 449 days—I did mean that: 449 days—and Stirling, where in the past year it has gone up to 323 days. Those are long periods of time, especially for families, to sit in that accommodation. You can see that that will be a significant part of our focus as we move forward, which is why we will publish the report in the new year.

We hear from some social landlords that they are struggling to meet their obligations. I could provide more information, and the committee might require more information in follow-up questions, but I will pause there. That gives you a sense of the issue and of why it has been and will remain an important part of our risk assessment. As I said, it is part of our risk assessment for the coming year, during which we will assess which landlords we engage with, how and on what parts of the journey. I will pause there to see whether that answers Annie Wells's question or whether there is anything else that I can help with.

Michael, is there anything that I have missed that you would like to add?

Michael Cameron: No, I have nothing to add.

Annie Wells: Thank you, Mr Walker. That was comprehensive.

The Convener: That was helpful. It was worth while to go into that detail. Miles Briggs has a supplementary question.

Miles Briggs: Shelter Scotland has called on the Government to declare a housing emergency. I have called on the Government to do that, too,

particularly in Edinburgh. You have outlined the situation in Edinburgh, which is now unacceptable. Is that what we need the Government to do? Why has that not happened, given that we are talking about such numbers? On temporary accommodation, the options available to councils include, sometimes, the use of condemned buildings—former guesthouses that are not suitable for families to live in. Do you agree with that call from Shelter Scotland?

George Walker: There is no doubt that we are in a difficult situation. As chair of the regulator, it is probably not for me to comment on the specific language of emergencies and so on.

I met with Shelter representatives recently—it was at the advice agencies event that I referred to. Indeed, Michael and I met the chair and director of Shelter Scotland again recently, so we have a lot of engagement. There is no doubt that we are in a difficult situation. That relates to the two matters that I highlighted. First, the issue of temporary accommodation is writ large in Edinburgh, as you will know as a local MSP, Mr Briggs. I think that I am right to say that SHR meets monthly with the City of Edinburgh Council to look at that in detail. The issue is writ large in places where it is difficult to secure accommodation—particularly, for a host of capital city reasons, in Edinburgh.

The second matter is a supply issue. The statistics tell us that there are more people going into temporary accommodation than come out the other end. Last year, about 2,500 more people went in than came out, which shows the supply issue at the other end.

We might add to that the fact that we are not yet seeing any impact of the Ukraine situation. We know that what happened there has led to people hosting folk from Ukraine and the use of cruise ships, which are both welcome additions. However, as chair of the regulator, I certainly worry that, if those very needy people from Ukraine start to exit host family homes, cruise ships and so on, that could add to the demand. I do not want to downplay that at all; it is a really significant issue, which is why we have highlighted it and why we will publish our report in the new year. I hope that that helps.

The Convener: Thank you.

We will continue for a bit longer. I will bring in Paul McLennan.

Paul McLennan (East Lothian) (SNP): Thank you, convener, and good morning.

I want to ask a bit more about SHR's whistleblowing policy. I was contacted by an MSP colleague about a case, so I am interested to know what the procedure is if an allegation is made to you about an RSL. I understand that a full

and independent investigation is conducted after an allegation. What is the process, and how many whistleblowing allegations have there been in the past two or three years?

George Walker: I will start with that question and Michael Cameron might have something to add. I might know the scenario that you are talking about.

Let me separate two things. There is a robust process in place for whistleblowing. Perhaps Michael will take you through the process, and I will start at the high level on what is in place if a whistleblower from within an organisation or from our organisation were to raise an issue. However, it is my guess that the scenario that we are dealing with and engaging on with one of your fellow MSPs is not a whistleblowing scenario, but is one where complainants are raising issues due to a statutory action that we took. If that is the case that I am thinking of—

Paul McLennan: I am not aware of the case; it is a general question.

George Walker: I will not go into detail. There is a separation between whistleblowing and complainants who are unhappy with things that we do. There is a very clear whistleblowing policy; Michael might want to comment more on that. For people who have complaints, we have a very clear approach that escalates through a number of levels within the SHR. A complaint can escalate to the board of the SHR—that has happened only once in my time as chair, and possibly only once ever. Finally, people can go to the ombudsman.

I will not go into specifics, but there is a clear distinction between whistleblowing and complainants. The two are a bit different. Michael, do you have anything to add?

Michael Cameron: I just want to emphasise that point. The SHR is a “prescribed person” under the whistleblowing legislation, which is the Public Interest Disclosure Act 1998, and whistleblowers can make disclosures to us.

During 2021-22, whistleblowers contacted us on three occasions, although none of those occasions qualified as protected disclosures. That said, we took action in all three cases. In one case, we gathered information before deciding what the next steps were. In the two others, we worked with the landlords in question to establish the facts, and we are continuing to engage with those landlords during the current year to obtain assurance that they are addressing the issues that were raised.

Since April 2020, through our regulatory framework, we have required all social landlords to have in place effective arrangements and a policy for whistleblowing by staff and elected governing body members, to make the policy easily available

to those individuals and to ensure that it is promoted widely to staff and governing body members.

In the year to date, we have been contacted twice; those cases are still working their way through, and we will report on them in the annual report for the current financial year.

Paul McLennan: I will perhaps pick that up offline. Thank you.

The Convener: That concludes our questioning. It has been a useful conversation and I appreciate your coming in to give evidence. I suspend the meeting briefly while our witnesses leave the room.

11:09

Meeting suspended.

11:10

On resuming—

Subordinate Legislation

Building (Scotland) Amendment (No 2) Regulations 2022 (SSI 2022/349)

Building (Scotland) Amendment (Amendment) (No 2) Regulations 2022 (SSI 2022/340)

The Convener: Our third item is consideration of two Scottish statutory instruments. As they are negative instruments, there is no requirement for the committee to make any recommendations on them.

Members will note that the Delegated Powers and Law Reform Committee reported the Building (Scotland) Amendment (Amendment) (No 2) Regulations 2022 to the Parliament for breaching the 28-day rule. That committee drew our attention to correspondence from the Government explaining the reasons for the breach, which is annexed to its report.

As members have no comments on the instruments, is the committee agreed that we do not wish to make any recommendations in relation to them?

Members *indicated agreement.*

The Convener: We agreed at the start of the meeting to consider the rest of our agenda items in private, so I close the public part of the meeting.

11:11

Meeting continued in private until 12:06.

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