



OFFICIAL REPORT
AITHISG OIFIGEIL

Local Government, Housing and Planning Committee

Tuesday 21 February 2023

Session 6



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LOCAL GOVERNMENT, HOUSING AND PLANNING COMMITTEE
5th Meeting 2023, 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:

David Bookbinder (Glasgow and West of Scotland Forum of Housing Associations)

Mike Callaghan (Convention of Scottish Local Authorities)

Timothy Douglas (Propertymark)

Fenella Gabrysch (Living Rent)

Sarah-Jane Laing (Scottish Land & Estates)

Carolyn Lochhead (Scottish Federation of Housing Associations)

Gordon MacRae (Shelter Scotland)

David Manderson (Scottish Government)

David Melhuish (Scottish Property Federation)

Sherina Peek (Association of Local Authority Chief Housing Officers)

Shona Robison (Cabinet Secretary for Social Justice, Housing and Local Government)

Emma Saunders (Living Rent)

Colin Stewart (North of Scotland Regional Network of Tenants and Residents)

CLERK TO THE COMMITTEE

Euan Donald

LOCATION

The David Livingstone Room (CR6)

Scottish Parliament

Local Government, Housing and Planning Committee

Tuesday 21 February 2023

[The Convener opened the meeting at 09:07]

Decision on taking business in private

The Convener (Ariane Burgess): Good morning and welcome to the fifth meeting in 2023 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 items 7 and 8 in private. Are members agreed?

Members indicated agreement.

Subordinate Legislation

Civic Government (Scotland) Act 1982 (Licensing of Short-term Lets) (Amendment) Order 2023 [Draft]

The Convener: We now turn to agenda item 2, which is to take evidence on the Civic Government (Scotland) Act 1982 (Licensing of Short-term Lets) (Amendment) Order 2023 from Shona Robison, the Cabinet Secretary for Social Justice, Housing and Local Government. Ms Robison is joined by David Manderson, who is the short-term lets policy manager, and Craig McGuffie, who is a lawyer, both from the Scottish Government. I welcome the cabinet secretary and her officials to the meeting and invite her to make an opening statement.

The Cabinet Secretary for Social Justice, Housing and Local Government (Shona Robison): I am grateful for the opportunity to speak to the motion that seeks approval for the draft order.

Legislation to establish a licensing scheme for all short-term lets was approved by the Parliament in January 2022 and the scheme opened in October 2022. Many hosts have now submitted an application for a licence and I thank those who have done so.

The licensing scheme has introduced a set of basic safety standards, which will help to protect guests, hosts, neighbours and communities across Scotland. Where there are other problems, such as noise, nuisance, littering, antisocial behaviour, the loss of residential housing stock and other adverse impacts on communities, the licensing scheme, together with the control area legislation—The Town and Country Planning (Short-term Let Control Areas) (Scotland) Regulations 2021—give local authorities the powers to address those problems.

We recognise that the cost of living crisis is placing significant pressures on businesses and individuals. Therefore, we have responded by taking a pragmatic approach to help to support hosts in recognition of those challenges. We are confident that the one-off six-month extension will give businesses more time to spread the cost of the licence fee and meet the scheme's requirements. It will also assist businesses that are facing difficulties in procuring contractors to carry out necessary work, such as gas safety checks and energy performance certificate assessments.

Although the extension will give existing hosts more time to apply, I encourage those who have yet to do so to apply well in advance of the extended deadline, in order to join the growing number of licensed premises in the sector.

We will continue to work with and listen to stakeholders as we refine guidance, taking into account feedback from the early months since the scheme launched. Some businesses have raised concern about certain aspects of the operation of the scheme. In responding, officials have worked closely with licensing authorities to raise those concerns and look for solutions that resolve them.

The extension offers a pragmatic solution to genuine concerns that have been raised by businesses during the cost of living crisis, but we recognise that we cannot unduly delay action to ensure that all short-term lets are safe and that local authorities have the powers to tackle local issues.

I therefore ask the committee to support the motion on the order.

The Convener: Thank you for outlining why you propose to delay the date by which existing hosts must apply for a short-term let licence and for reinforcing encouragement for the owners of short-term lets to continue the application process now—because we need to get across to people that the process has not stopped but is continuing.

I am interested in hearing what reassurances you can offer to residents who live in short-term let hotspots that the delay will not adversely affect their quality of life or the wider neighbourhood amenity for another summer season.

Shona Robison: I recognise that, and I recognise that there were mixed views about the short delay.

It is important to emphasise that we are not delaying the implementation of the licensing of short-term lets. Local authorities continue to receive applications from new and existing hosts. This is not a pause, and we encourage hosts to keep applying throughout. The extension is a recognition of some of the challenges for existing hosts, to which it is a pragmatic solution. However, there is no rolling back of the scheme overall, because we believe that it is important not just that everyone can have confidence that the basic safety standards are met but that things are taken together as a package—given that local authorities have promised to address concerns around antisocial behaviour and so on. I therefore do not think that residents should have concern.

The Convener: Thank you for that response.

I am also interested in what you say to short-term let hosts who have already applied for the licence—as both you and I encouraged people to do—who have invested in complying with licensing conditions and will now have to renew licences six months earlier than hosts who delayed applying.

Shona Robison: As I said in my opening remarks, many hosts have already submitted an

application for a licence, and I thank them. The core component of the scheme is a set of mandatory safety standards. Many hosts will have already met those standards and therefore have incurred associated costs as a matter of best practice or compliance with the existing law. They will have had to do that.

Existing hosts who are yet to apply are encouraged to apply for a licence well in advance of the deadline. I re-emphasise that. Those who have already applied for a licence will have already met the costs of doing so; others will now need to do so.

I go back to the original comments in my opening remarks. This is a pragmatic solution in response to genuine concerns that have been raised by businesses during the cost of living crisis. It is a balanced response to that.

The Convener: Thank you for your response.

09:15

Marie McNair (Clydebank and Milngavie) (SNP): Good morning, cabinet secretary and other panel members.

Concerns have been expressed about the proposed delay, particularly by local authorities that recruited licensing staff on the basis of the original deadline. Authorities told us that the proposed delay might create financial and staffing problems. How does the Scottish Government intend to support local authorities to deal with such issues?

Shona Robison: I recognise that some local authorities have put in place additional staffing. In our guidance, we encourage licensing authorities to take steps to publicise their licensing schemes, to raise awareness among current and potential short-term let hosts and operators. We encourage licensing authorities, through their staff, to take active steps to continue to raise awareness—the work does not stop; it continues—and to encourage hosts to apply well in advance of the deadline.

We want to help local authorities to emphasise that message. We are about to run the second phase of our digital marketing campaign, to remind hosts of the scheme requirements. That might spark people to apply. We will use that opportunity to encourage hosts to apply well in advance of the extended deadline. That will help licensing authorities to spread the load of applications. We do not want all the applications to come in just before the extended deadline.

The licensing scheme operates on a cost-recovery basis, so we anticipate that licensing authorities will consider any impact of the extension when they come to review licence

fees—but a balance must be struck, in that regard, because we want fees to be kept to a minimum and to be used only for cost recovery.

We will remain engaged with local authority partners during implementation, so that we identify other areas in which we can help to streamline the process, to benefit operators and licensing authorities. We want the scheme to be simple, straightforward, not onerous and provided digitally, where possible.

Marie McNair: Thank you. Can you provide more detail on how the Scottish Government intends to monitor and review the impact of the short-term lets licensing regime, with a particular focus on residential amenity, housing markets and the tourist economy?

Shona Robison: Are you asking about the review, going forward?

Marie McNair: Yes.

Shona Robison: We had previously committed to work with local authorities to review levels of short-term let activity in hotspot areas this summer, but the extension to the deadline by which existing hosts must apply for a licence means that we must reconsider the timing of that review. I will update the committee on the scope and timing of the review in due course, if that would be helpful.

We are not waiting for the review of the licensing scheme before taking action. We have demonstrated that we have been responsive to concerns that businesses have raised, by engaging with licensing authorities to discuss concerns. For example, there was a discussion to make clear that some of the perceived onerous requirements to do with floor plans were not actually requirements. That shows that we have tried to promote a sensible outcome to such discussions.

We will continue to work with stakeholders to monitor the scheme's implementation and we will respond by facilitating common processes, where possible, and by ensuring, through guidance, that learning from best practice is spread across areas.

Miles Briggs (Lothian) (Con): Good morning, cabinet secretary and officials. Thank you for joining us.

Why has the Scottish Government put forward an extension of only six months, not a year, given that the aim—I think—is really to cater for the situation here in Edinburgh over the festival period?

Shona Robison: The aim is to do more than that; we are acting in recognition of the cost of living pressures that are impacting businesses at the moment.

The six-month timeframe is balanced and pragmatic—although I guess that you might ask how long the cost of living crisis will last. We felt that having a six-month extension would allow hosts to cover one of their busiest time periods, over the summer, which would help them with the costs of applying for the licence.

It is a one-off six-month extension. We do not want to go beyond that, because that would be disproportionate. We are also working with licensing authorities to ensure that we support them in ironing out any difficulties and specific concerns that hosts raise, such as the floor plan issue that I mentioned. We think that that is a proportionate and balanced approach.

Miles Briggs: The committee has heard evidence and calls from organisations such as Festivals Edinburgh for home sharing and home letting to be fully exempt from the legislation and the licensing scheme, especially when supporting major events. You have touched on the order being a piece of health and safety legislation, at heart. What is your view on that call? Will the Government consider it as part of the review?

Shona Robison: Requiring hosts to apply for temporary exemptions will give licensing authorities the ability to have temporary licences of up to six weeks. That is the right approach to take. As for home sharers, we have set out in guidance the parameters that licensing authorities should consider—for example, when setting fees—to ensure that the process distinguishes between home sharers, who should be recognised as being at the lower end of the scale, and whole-property lets, which are quite different. Taking that together with the availability of temporary licences for up to six weeks should ensure that during the Edinburgh festival, for example, people who let out a room in their home or a flat for that part of the year, for that purpose and nothing else, will be covered.

Miles Briggs: In terms of the legislation being delivered and applied, would it not make sense for those individuals not to be part of the current approach and perhaps to form part of a future phase? To date, City of Edinburgh Council has processed only 40 applications, so there is real concern from the festivals that the six-month period will not be enough to meet the demand that is coming, if applications are not being made for next year's festival period. In the Government's thinking, where does it make sense—for health and safety reasons, too—for people who are going to be in such a property, not to be part of the legislation? Why did you not look at that in more detail at this stage, given the six-month extension and the re-opening of the legislation?

Shona Robison: I might bring in my officials on the detail, because they have been speaking directly to the Edinburgh festivals organisations.

We have listened to their concerns. Along with discussions that have happened around making the process less onerous and more straightforward, the extension will not have an adverse impact. I think that we will want to take stock of this year's situation in time for summer next year.

David Manderson might want to say a bit more about that.

David Manderson (Scottish Government):

The position in Edinburgh at the minute for existing hosts—people who have operated during the festival for a number of years—is that this year, during the extension, if it is approved, a smaller number of people will be applying for temporary exemptions. That will then give the festival organisations, the council and the Scottish Government the opportunity to work together and consider how the process works with a lower number of applications, ahead of a larger influx in 2024.

It is important that exemptions are applied for, because that gives the licensing authority a form of oversight. For example, an exemption might be granted for a premises during the festival one year, but, the following year, the licensing authority might refuse the application or grant it with conditions, in order to manage concerns.

Miles Briggs: We might need to return to the issue. My understanding from my conversations with the council is that people who will be operating before September are being told that they do not need to apply until after the festival. If this is just a one-off, I doubt that people will apply until next year, when the council could face a tsunami of applications. I do not think that the approach will necessarily fix the problem now; it will just build it up for later.

Cabinet secretary, you touched on the issue of licensing schemes being applied inconsistently across Scotland, specifically in relation to floor plans. Have you provided councils with guidance that a detailed architect floor plan is not needed and that a hand-drawn one is acceptable? What guidance is being provided to councils on what is expected?

Shona Robison: That issue has been raised. We have received reassurances from licensing authorities that they are taking pragmatic approaches to floor plans. For example, they are accepting hand-drawn plans that provide sufficient detail, they are offering to pre-check drawings before an application is submitted and they are providing examples of acceptable plans. Such plans include annotated versions of existing plans that hosts have, so hosts should not feel that they need to get a set of architect drawings. Through discussion of those issues, the position is now

clear. Licensing authorities have been communicating with hosts to make the expectations clear.

There is, of course, an important reason for having floor plans of some description. They ensure that, for example, the Scottish Fire and Rescue Service is able to identify and address potential issues with fire escape locations. There is therefore a purpose to having floor plans, even in a basic form. Another reason for having them relates to maximum occupancy levels.

We need to be pragmatic about what a floor plan should consist of, and we have reached a much more reasonable and pragmatic position in that regard.

Miles Briggs: It might be worth monitoring the issue, because the description that is being provided seems to be quite varied across council websites. I take your point about the signposting of fire exits, but different details are provided on council websites, given that 32 variations are being applied.

Shona Robison: We will monitor the situation. That goes back to the point about sharing best practice across the 32 councils. When issues have been raised—that issue is a key one—we have worked with licensing authorities and asked them to take a sensible approach.

Miles Briggs: Thank you.

Willie Coffey (Kilmarnock and Irvine Valley) (SNP): Good morning, cabinet secretary. We have heard evidence that some local authorities are applying conditions to licences that are outwith the scope of the legislation. We were provided with a couple of examples, which covered things such as garden play equipment and swimming pools. Is the Government aware of that? Does the legislation allow local authorities to apply those additional conditions?

09:30

Shona Robison: Obviously, there are mandatory requirements, and then licensing authorities have discretion to impose additional conditions to respond to local needs and concerns. Those additional conditions might apply to everyone in a licensing authority area, or they might be specific to certain types of property, such as tenements. Alternatively, they might apply on a case-by-case basis. Additional conditions can help licensing authorities to respond to local challenges and concerns that are specific to certain models of short-term letting, such as tenement flats, where there are other people to consider.

The Civic Government (Scotland) Act 1982 gives licensing authorities powers to impose conditions, which should be

“reasonable conditions as the licensing authority think fit”.

That is quite a wide power. In the guidance, we have set out some of the issues that licensing authorities might wish to address through the use of additional conditions. Those include things such as

“noise and nuisance ... litter or other mess in communal areas”

and a

“failure to maintain, or contribute to the cost of, communal area repairs and increased wear and tear”.

The guidance includes suggested template additional conditions in relation to antisocial behaviour, privacy, security, noise, littering and waste disposal, and damage to property.

Some licensing authorities removed or amended additional conditions following consultations on their draft licensing policies, so they have obviously taken into account the feedback from communities. Where hosts have concerns about specific additional conditions that they feel are onerous or go beyond the intention, we would encourage them to discuss those directly with the relevant licensing authority.

There is extensive local flexibility, but we urge that there should be a relationship with the guidance. I have set out the areas on which we anticipated that additional conditions would focus.

Willie Coffey: Clearly, it is your view that these matters are all within a broad competence framework for this legislation and associated legislation to deal with the issues that you have mentioned, which have been raised with the committee several times.

Shona Robison: Yes, indeed.

Willie Coffey: I also have a question about the application process. We have heard that it is a wee bit complex, particularly when it comes to the online mechanism that people are engaging with. Are you aware of that? Are there any plans to simplify the process to encourage more people to get through it quickly and efficiently?

Shona Robison: In the guidance, we set out that we would like hosts and operators to be able to conduct as many transactions as possible in an online or electronic format. Most licensing authorities have put in place online application systems for short-term let licensing. There are of course benefits to licensing authorities from having clear and easy-to-use application methods. It helps to reduce the volume of queries from prospective applicants if the process and guidance are clear and if the application is straightforward.

The guidance also sets out that licensing authorities are still expected to have paper copies of relevant information and the application form

available on request, for what will perhaps be a small number of people who cannot access them online.

Given that the scheme is new, we would expect licensing authorities to refine their processes over time in the light of feedback from hosts. Clearly, when we do the wider review, that is one area where we will want to ensure that the best practice—based on feedback from hosts about what they have found easiest to use—is encouraged. I do not think that there is anything to be gained from having overly complex systems. We therefore have not required that, and we have tried to set out in the guidance that we want the systems to be as simple and straightforward as possible, and as digitally based as possible.

Willie Coffey: Does the delay give us the chance to pinpoint or identify good online processes and perhaps encourage authorities to adopt what seem to be more streamlined and resilient application processes?

Shona Robison: I would say so. As I said in an earlier answer, we are not waiting for the official review to get on with sharing best practice and encouraging as simple a process as possible. We are sharing best practice and encouraging that to happen now.

Willie Coffey: Thank you.

The Convener: I bring in Miles Griffin, who joins us online. [*Interruption.*] I am sorry; I mean Mark Griffin.

Mark Griffin (Central Scotland) (Lab): For the purposes of this item and a number of other agenda items, I declare an interest as the owner of a private rental property in the North Lanarkshire Council area.

Cabinet secretary, the committee has heard evidence from a number of local authorities and public sector partners, including, in particular, the Scottish Fire and Rescue Service and Police Scotland, that they do not have the resources available to process licence applications as fast as they would like to be able to, and that they did not get additional resource to support that process. Have you seen the evidence that those public sector partners have provided? Is the Government taking any action to resolve the issues that they have flagged?

Shona Robison: I am aware of that evidence. During this year, the SFRS developed a fire safety checklist for licensing authorities and applicants to complete, which helps the service to target its resources effectively using a risk-based approach. That is the right thing to do. Police Scotland is now assisting licensing authorities to complete fit and proper person checks as part of the process that they undertake.

Although resourcing is a matter for Police Scotland and the SFRS to consider, they have been planning this for some time, and we remain engaged in support of that element of the scheme. As I said earlier, licensing schemes are administered on a cost recovery basis through the collection of application fees, and we expect all the costs to be covered.

We will keep the matter under review. If Police Scotland and the SFRS raise the issue formally, we will look at it, but given the lead-in time, I anticipate that they will be doing this very much as part of the on-going work that they do on a number of schemes. We will keep the situation under review.

Mark Griffin: My second question goes back to the point about consistency. We have heard that some local authorities, including Glasgow City Council, are asking for the planning status of a short-term let to be set out in the licence application, even when the property is outwith a short-term let control area. What is the cabinet secretary's view of that requirement when it comes to licence applications?

Shona Robison: A licensing authority can refuse to consider a licence application if it considers that the use of the premises would breach planning control. The guidance for hosts sets out that applicants are advised to check their local authority's planning policies to find out whether they need to obtain planning permission before applying for a licence. Outwith control areas, a material change of use will continue to require planning permission. It is a matter for the relevant planning authority to determine case by case whether the proposed change of use is material, and it is the responsibility of hosts to ensure that they comply with any relevant legal requirements, including any required planning permission.

The question was specifically about the situation in Glasgow. Planning authorities can adopt blanket policies on short-term lets in their local development plans and, as I understand it, since 2017, Glasgow City Council has adopted a policy in its LDP of refusing to grant planning permission for change of use from a residential flat to short-stay accommodation in existing blocks of residential flats. I assume that that is for all the reasons that we understand around the potential for neighbour disruption and so on. Those powers already exist. I hope that that is a helpful clarification.

Mark Griffin: That is helpful—thank you.

The Convener: Before we move on to the next item, I note that we received apologies from committee member Paul McLennan, who is not able to join us today.

Agenda item 3 is consideration of the motion to approve the instrument. I invite the cabinet secretary to move motion S6M-07566.

Motion moved,

That the Local Government, Housing and Planning Committee recommends that the Civic Government (Scotland) Act 1982 (Licensing of Short-term Lets) (Amendment) Order 2023 [draft] be approved.—[*Shona Robison*]

The Convener: Do members have any questions for the cabinet secretary or any comments?

Miles Briggs: Although I am happy to support the proposed extension, I have concerns, because it feels as though many of the issues that have been highlighted have not been properly taken on board and as though the opportunity has been missed to look again at how the measure can be applied across councils. Sadly, I think that we will be back here discussing the issue in the autumn. My council here in Edinburgh certainly does not seem to be in a space in which the licence can be delivered.

Although I welcome the extension, six months is not enough, and the Government has not taken on board the potential opportunities to change the legislation. We will support the motion today, but I wanted to put that on record.

The Convener: As nobody else has a question or comment, I note that I will support the extension. What has swayed me in that direction is the Scottish Fire and Rescue Service and Police Scotland saying that the extension will give them the time to do the work that they need to do.

I highlight the fact that we are bringing in this legislation to take care of residents who live in short-term let hotspots, so we must ensure that we are not back here in October considering another extension.

Evidence that we took last week from Highland Council gave me great concern, and I am aware of other local authorities that are in the same position. They have put the scheme in place and used their budget to hire a legal team and other staff for this time when they were expecting a deluge of applications. Highland Council is one of the local authorities that we are most aware of having a short-term lets issue, and it has now used up that budget. We can promote and advertise the process, but we all know that deadlines really work—the deadline is when people finally do what they have to do. We must ensure that we do not keep moving the goalposts, and we must be mindful of those local authorities that did the work.

The question is, that motion S6M-07566 be agreed to.

Motion agreed to,

That the Local Government, Housing and Planning Committee recommends that the Civic Government (Scotland) Act 1982 (Licensing of Short-term Lets) (Amendment) Order 2023 [draft] be approved.

The Convener: The committee will publish a report setting out its recommendations on the instrument in the coming days.

I thank the cabinet secretary and her officials for joining us. I suspend the meeting to allow for a changeover of witnesses.

09:44

Meeting suspended.

09:48

On resuming—

**Cost of Living (Tenant Protection)
(Scotland) Act 2022 (Amendment of Expiry
Dates and Rent Cap Modification)
Regulations 2023 [Draft]**

**Cost of Living (Tenant Protection)
(Scotland) Act (Early Expiry and
Suspension of Provisions) Regulations
2023 (SSI 2023/8)**

The Convener: The next item on our agenda is evidence from three panels of witnesses on the Cost of Living (Tenant Protection) (Scotland) Act 2022 (Amendment of Expiry Dates and Rent Cap Modification) Regulations 2023 and the Cost of Living (Tenant Protection) (Scotland) Act (Early Expiry and Suspension of Provisions) Regulations 2023.

Joining us on our first panel are Timothy Douglas, head of policy and campaigns at PropertyMark; Sarah-Jane Laing, chief executive of Scottish Land & Estates; and David Melhuish, director at the Scottish Property Federation. We have a quite a few questions for you. We will try to direct them to specific witnesses where possible, but, if you would like to come in, please indicate that to the clerks.

I will direct my first question to David Melhuish initially. What impacts has the current rent freeze had on tenants and private landlords? For example, has the supply of private rented accommodation changed, and are there any different geographical effects?

David Melhuish (Scottish Property Federation): Good morning, and thank you for the introductory question.

We, at the SPF, are very much focusing on future supply and the future investment piece. A

lot of our membership's interest in this area is in what we call build to rent—brand new bespoke buildings that are designed specifically for rental purposes—and expanding across the United Kingdom into what is called single-family renting, which is houses for rent as opposed to flats or apartments, for want of a better description.

Initially, from the perspective of investors and landlords, there was a sudden pause in activity, or even a retreat from activity, in new-build supply. At the same time, our wider membership involves advisers who let properties in the wider private rented sector. We picked up a stand-out statistic on that from Savills, which suggests that there are 29 per cent fewer properties available for letting now than there were in 2016.

Timothy Douglas might mention this later, but there was initially some evidence of landlords looking to sell and move out of the sector, but against that are some reports of new entrants coming in. The point is that we are starting to see slightly longer tenures and tenants staying in the home longer, so supply needs to be increased to keep up the availability of let properties, but the evidence is that there has been a reduction in the availability of properties for letting.

Sarah-Jane Laing (Scottish Land & Estates): Scottish Land & Estates represents the rural private rented sector, and our members currently provide homes for more than 13,000 households across Scotland. I will split the impact into two areas: the current supply and the new supply—in particular, the supply of affordable rented housing.

On the impact on current supply, we have seen a reduction in planned investment in properties. Landlords need to be able to reinvest rental income into planned investment and improvements, and we definitely see plans for that changing. We have members who had planned significant capital investment programmes for energy efficiency and other improvements in the next few years who have had to put those programmes on hold until they get some certainty.

The other thing is the specific impact of the legislation and the wider impact of retrospective changes on tenancy law. Landlords who were always willing to take a chance on young people and other vulnerable members of society who were looking for private rented housing in rural Scotland are now thinking, “I need to de-risk this, because I don't know with certainty that I can get the property back and I don't know what my long-term rental income will be.” They are leaving properties empty, and young people are not being given the opportunities that they were given in the past, which is understandable.

Some landlords are starting to look at their stock, and some plan to sell stock at change of

tenancy. The evidence that we have to date shows that a lot of stock will leave the private rented sector—in fact, it will leave the local housing market, because many properties will be sold as second homes or holiday homes.

As important is the impact on new supply. Our members have worked with registered social landlords and housing trusts, and they have developed affordable rented homes through Scottish Government grants, but our members have now halted that. They are unnerved by the uncertainty and are worried that, if they enter into a new long-term grant agreement to deliver affordable housing, as members did last year, suddenly the terms of that contract will be changed by the Scottish Government. That means uncertainty for funders, and it is really disappointing that that means a drying up of interest in the provision of much-needed affordable rented homes in rural areas.

Timothy Douglas (Propertymark): Thank you very much for the invitation to attend today. Propertymark is a membership body for letting agents, and we have more than 500 members in Scotland. The legislation definitely continues to have an effect on landlord confidence. The majority of agents that reported back to us are still seeing landlords exiting the market.

In our survey data for November and December—when the legislation first came in—85 per cent of members reported that landlords had expressed a wish to sell their property. That figure has increased to 89 per cent in January and February. Agents have already seen an increase in notices to sell due to the temporary measures; that figure was at 68 per cent in November and December and has increased to 78 per cent in January and February. They have also seen an increase in the number of landlords selling property when a tenancy naturally comes to an end—92 per cent of our agents reported that in January and February.

The crux of the housing problem is that demand is far outstripping supply. We have touched on geographical locations, and I will share information from an agent that manages 1,800 properties across Scotland. It recently advertised a property in Glasgow and received 100 requests to view within three hours of the advert going live. An agent in Aberdeenshire had a property on the market for one day and received 30 requests to view from families. The demand is very much there.

I will also make a point about behavioural change, which the committee will probably come on to. Our agents and members are reporting that rent increase has never really been a significant factor, yet the legislation and the threat of further rent controls and the continuation of legislation are

inciting landlords to put up rents between tenancies in order to cover any future costs, as Sarah-Jane Laing alluded.

The Convener: You have pre-empted my next question, which was about whether there is any evidence of behavioural change among landlords as a result of the legislation.

Sarah-Jane, do you have any evidence from among your landlords who are providing the 13,000 homes?

Sarah-Jane Laing: I touched on the example of de-risking at the letting stage, which we are definitely seeing among members, as well as their not bringing new properties into supply.

We are also definitely hearing from members that it is about the conversations that are happening between landlords and tenants, some of whom have had really good and strong relationships for years, as there is a history of longer tenancy length in the rural sector. However, the messaging around the legislation has meant that there have been more conflicts between landlords and tenants.

Landlords are having to counter some of the simple messaging about a “rent freeze” and an “eviction ban”, and they are having to explain the nuanced impact, because those are, of course, not what we have. We are definitely seeing that an awful lot more intervention is required from landlords in order to explain what the legislation actually means for tenants. Some tenants have stopped paying their rent and are saying things like, “There’s nothing you can do—you can’t evict me.” That is a tenant behavioural change that landlords are having to pre-empt and provide advice and support around.

The Convener: You mentioned that your landlords tend to offer longer tenancies, but is there any indication that landlords are increasing rents between tenancies more than they might have otherwise done?

Sarah-Jane Laing: No, not so much from the survey of our members.

We also have a number of members who voluntarily froze rents during Covid. Some of them were therefore simply looking for a modest catch-up.

The private rented sector is not homogeneous. Within our sector, and especially within Scottish Land & Estates, we have everything from large detached properties in Aberdeenshire that are rented to the mobile oil and gas workforce to affordable housing in local villages that families have lived in for 15 years. It is a very different market. I am certainly not seeing anything coming back from members in relation to rental figures that leads me to believe that they are jumping in to

hike up rents at tenancy change. There is no evidence of that happening among our members.

The Convener: Thank you. Timothy, do you want to come back in on that?

10:00

Timothy Douglas: Yes. Building on what I said in my opening remarks, mortgage costs are definitely a factor. My notes from an agent say that a landlord in Inverness was between tenancies and has a fixed-term mortgage that is due to end in 15 months. She has increased the rent now in expectation of an impending rise in the mortgage payments in 15 months. She does not need or want the additional rent now, but she is afraid that she will not be able to ask for it next year, when she will need it. The tenant is therefore paying an extra £35 a month now instead of in 15 months' time. That means that the legislation is actually pushing up rents—or, at least, landlords who were not previously thinking about raising rents, as Sarah-Jane Laing has alluded, and who worked hard with agents during the pandemic to keep to no rent increases are now having to look at that.

I also have notes here from an agent in Lanarkshire that has 250 managed properties. Most landlords appreciate the cost of living issues, but one of its landlords has had an increase in mortgage payments from £151 to £560. Even a 6 per cent rise will not dent those additional costs. Mortgage payments are definitely playing a part.

More broadly, in our survey of Scottish members as a whole, in November and December, 83 per cent of agents told us that landlords would be inclined to increase rents between tenancies because of the act, to cover impending rising costs. When we asked them again in January into February, that figure rose to 94 per cent. It is definitely having an effect.

The Convener: Thank you for your responses. David, do you want to come in, or can we move on to other questions?

David Melhuish: I will just add something on behavioural change, although it is anecdotal. Some of our members invest in or finance RSLs or mid-market rentals. There was some evidence of non-payment, and our members' feedback was that it was because some tenants realised that there was a moratorium. That did factor in to some of the initial feedback that we received after the legislation was passed, late last year.

In addition, those agents that we have as members report those increasing pressures on tenants. There is a traditional difference between changes to rents for existing tenancies or even tenancies that will be rolled over to the same tenant and tenancies for lettings that are new to

the market, where rent changes are more a product of demand and supply. Tim Douglas has well described how the huge imbalance between demand and supply means that one of our smaller agent members reported that there were over 600 eligible applicants for one property recently. That is a signal of just how imbalanced the supply-to-demand ratio is. I think, and the data suggests, that there has been a very big difference in the average percentage of rental increases as well.

The Convener: Thank you. We will move on to questions from Willie Coffey.

Willie Coffey: Good morning. I want your views on the rent cap that the Scottish Government is proposing and on whether it is a proportionate measure. Depending on your response, I might be able to wrap my next question into that one: what do you think about the 3 per cent and 6 per cent that are being proposed? Are they reasonable and balanced in all circumstances, given the cost of living crisis that we are in? Will they give some support to private landlords who might be experiencing difficulty, as we have heard?

Sarah-Jane Laing: It is a good question. One thing that we struggle with is that there is no methodology behind how the Government has arrived at the figure of 3 per cent. It is very difficult to say whether it is a proportionate response because, to be honest, it feels like a figure that has been plucked out of thin air.

For us, it goes back to fairness and to looking at the sector as a whole. If a well-paid executive living in a detached house in Aberdeenshire is going to be afforded more protection than a social rent tenant, it does not feel as though there is fairness across the whole sector.

It is difficult to see how the Scottish Government has arrived at the figure of 3 per cent. For Scottish Land & Estates, therefore, the question of fairness and proportionality is a fundamental concern.

David Melhuish: I do not think that the measure is proportionate. The real issue is that we are simply not supplying enough new homes for rent across all tenures, whether for social, mid-market, affordable or outright market rent.

The data and evidence on which the proposal is based has been a point of frustration. Without being specific, I think that in some of the engagements that we have all had, the frustration at the lack of data and evidence on what happens to existing tenancies as a result of rental increases has, to a degree, been shared by the Government. That leads us to question the evidence as the basis on which decisions have been made.

With regard to the Scottish housing review, even towards the end of last year, with increased mortgage and energy costs and so on, the

Government was still suggesting a 4.4 per cent increase for existing tenancies. The data is not perfect—the housing review makes that clear—but what it shows is very different from what one might have seen publicised over the past 10 years or so, with increases of 40 per cent or whatever in hotspots such as Edinburgh. There is a massive difference. The regulations refer to existing tenancy rental increases, and that has been a point of frustration for the SPF.

The move to 3 per cent has at least got some SPF members talking to investors to try to bring new homes to Scotland across all tenures, including for mid-market rent as well as homes for outright rent. From our perspective, it is a step in the right direction, but 3 per cent is still highly constrained. There would probably be a bit more positivity if the figure was closer to 5 per cent, to be honest, but we welcome that step from the Government in order that the figure is not absolutely zero. It seems to have got some discussions going again with the crucial investor market, which we will need if we are going to bring forward the volume of homes that are required in the rented sector.

Timothy Douglas: It has been well publicised that Propertymark does not think that the legislation as a whole is proportionate. As David Melhuish alluded to, members will welcome a raising of the cap, but it is simply not enough.

To reiterate a previous point, agents and landlords were not increasing rents during the pandemic, and they worked really hard to sustain tenancies. As one agent said to me, there was no forewarning of the legislation that was sprung on them in September.

There is frustration at the assumption that all landlords are wealthy, and that every tenant needs support, which has not been factored in. The other issue, which has been mentioned previously, is—dare I say it?—that although rent pressure zones exist, they have not been used. If there is an issue, why have they not been used? As I said in my opening remarks, that has served only to cause uncertainty for landlords, and many are selling or looking to sell.

Another frustration for Propertymark and for the sector is that the Government has focused a great deal on recognising the costs to the social rented sector, but there has been very little mention of the costs, including fixed costs, for landlords. As I mentioned, costs are increasing—for example, through mortgages.

With regard to the decision to continue and the rise to 3 per cent, I will give the committee some of our survey data, again from January and February this year. When agents were asked, “Do you think that the rent cap rise to 3 per cent is enough to

cover increasing landlord costs?”, 92 per cent said no.

In response to the question, “Have any of your landlords applied for an exemption to increase their rents above the cap?”, 70 per cent said yes. Finally, in answer to the question, “Have they been successful?”, 17 per cent said no and 83 per cent said that they did not know. There seems to be knowledge out there about the change, but it is definitely having an impact.

Willie Coffey: Did you ask what percentage they felt would be fair?

Timothy Douglas: No, but that may be something—

Willie Coffey: What do you think? David Melhuish offered a view: he said that 5 per cent might be reasonable.

Timothy Douglas: As I said in my opening remarks, Propertymark members think that, as a whole, the legislation is not proportionate to the problem and to where the market was at when the legislation was brought in. What would be proportionate, therefore, is to remove it altogether.

Willie Coffey: Thanks for that, Timothy.

The Convener: We will now move to a different topic. I call Mark Griffin.

Mark Griffin: I will direct my first question to Timothy Douglas—if anybody else wants to come in after he answers, they can. My line of questioning concerns the moratorium on evictions. Broadly, what impact has the moratorium on the enforcement of some eviction orders had on your tenants and on landlords?

Timothy Douglas: To be honest, it is probably difficult to say. When speaking to agents about the general impact of that, we hear that, on the whole, landlords take the opportunity to exit if they can. The key issue that has come back to us is about substantive rent arrears—when rent arrears go beyond six months. That brings us into long-term territory and what happens if the tenant does not have the rent and cannot pay in the end. As I have said, most of the feedback that we have had from agents is that landlords give notice to sell. That is what we see.

Sarah-Jane Laing: From SLE members, we hear of an increase in rent arrears. A lot of the advice that we give them is about the steps that they can take, because there have been changes in how those rent arrears cases are handled.

We are only just starting to see the impact. Through the Scottish Government’s recent report, we are starting to see some trends, but we are still probably a few months away from knowing just what the long-term impact is because, as I said,

some members are also still carrying rent arrears from Covid.

Given the anecdotal evidence from our members, there is definitely a growing number of rent arrears cases that are about to come into the system. Landlords have been trying to manage those as carefully as they can but cannot continue to carry the current scale of rent arrears.

Mark Griffin: Thanks for that. Secondly, I ask all three panel members whether they feel that it is proportionate and necessary for the moratorium on evictions to continue, as proposed by the Scottish Government.

David Melhuish: The only evidence that we have had on the impact of the moratorium was referred to earlier. It came from funders and investors in the RSL sector. There were already very strong protections and, we felt, a balance in the pre-existing legislation. On that basis, at this stage, we would not say that it was proportionate. It was a very blunt instrument, as was the related rent cap, and that has disrupted what we thought was a balance of interests between landlords and tenants that had been secured after the Parliament voted through the 2016 legislation.

10:15

As Sarah-Jane Laing said, a lot of evidence may be stored up because we are right after the Covid pandemic, but we are not convinced that the evidence that the eviction moratorium was based on was correct at the time. We think that that was a very blunt instrument.

Sarah-Jane Laing: Changes came in after Covid, when emergency measures continued with the move from mandatory to discretionary grounds and evictions had to be referred to the First-tier Tribunal for Scotland. There was also an introduction of pre-eviction protocols, which this committee looked at. There were already significant safeguards in place. As David Melhuish said, there did not seem to be any evidence of a need to introduce a moratorium on evictions last September. The figures suggest that that is still the case. I do not believe that it was a proportionate response, given the changes to tenancy protection that had already been put in place last year.

Timothy Douglas: I totally agree with what David Melhuish and Sarah-Jane Laing have said. There is no doubt that our agents are frustrated. This feels like déjà vu all over again. They were told that Covid measures would be temporary, but they were extended.

There is a wider, knock-on impact. Agents and landlords do not know where they stand with the Scottish Government. That plays into uncertainty

and leads to more landlords questioning their portfolios and rent levels.

The key question that should be asked of the Scottish Government about the eviction moratorium concerns engagement with lenders. What is their appetite and how are they responding to the continued moratorium, particularly when instances of mortgage default are increasing?

The Convener: We move on to questions from Miles Briggs.

Miles Briggs: I thank the panel members for joining us today.

My question is about private tenancies and how to support people who are furthest from the housing market into tenancies. You have comprehensively outlined what you see as a change in landlord behaviour. Record numbers of people in Scotland are living in temporary accommodation. Is that a direct result of that change and of the people who are furthest from the market being unable to access private tenancies? That is likely to have a more pronounced impact in rural Scotland, where the loss of even one property can have a huge impact. Sarah-Jane Laing, will you talk about the rural dimension?

Sarah-Jane Laing: As I said earlier, the rural private rented sector is very diverse. In many areas, it plays the important role of being a pseudo registered social landlord. The sector provides, or was providing, affordable rented housing for people who were looking for temporary or longer-term accommodation but had no history of renting. They were the vulnerable people in society who were looking to set up home or who needed to stay in a specific area.

The reality is that landlords might think twice. If a person has no history of being able to pay their rent or of good behaviour in a tenancy, or if they have no references, would a landlord take a risk with them, knowing that they might be left with 18 months of rent arrears and that it might be very difficult to take action?

Many members of Scottish Land & Estates see themselves as having a social commitment; they might look at who is sending their children to a local school and how that impacts on community dynamics. They were previously willing to take risks, but that has definitely reduced. The more limited housing options become, the more young people we will lose from our rural areas, which is a real concern for us.

The other issue is new supply; we need to derisk the current supply. We are really concerned about what we are hearing from members who are putting new affordable housing developments on

hold at the moment. That is housing that is much-needed across Scotland.

Timothy Douglas: We do not have anything to say specifically on rural areas, but I can make a general observation. In the past 12 months, more and more of our agents have reported that landlords are using rent guarantee schemes and insurance. Those policies tend to be added on to the landlord policy. The observation that I am keen to make is that, even on the websites of large insurance providers, if you type in “rent guarantee insurance”, it will say that, in light of the cost of living legislation, the provider has changed its policy since 6 September and will not cover rent. That is an industry insight, but it will have a knock-on effect on the people whom Sarah-Jane Laing referred to, who are trying to access the market but who might be perceived to be a higher risk by landlords and agents.

Miles Briggs: Thanks for that. Around the world, what is the trend? Ireland, for example, had such intervention and legislation in place ahead of us, and now has a record low number of urban and rural properties being available to rent and is seeing big rent increases. The intervention has not had the impact that the Irish Government desired. Do you think that Scotland will buck that trend?

Timothy Douglas: Is that question for me, Miles?

Miles Briggs: Yes.

Timothy Douglas: It is very difficult to say. Every country is different. We cannot talk even in Scotland, or across the UK, of there being one housing market: it is made up of lots of different markets. We would use that example to caution the Scottish Government about impending impacts.

Close to home, the Private Tenancies Act (Northern Ireland) 2022, which was passed recently, includes a decision to restrict the frequency of rent increases to once every 12 months. However, the act also includes a trigger for a review of further rent control and fair rent measures. That review reported in autumn 2022 and said that no further measures were needed.

From our point of view, the issue of the impact of rent caps, rent controls or fair rents is not a new one. We surveyed our members on the issue back in November 2019: 73 per cent said that such a policy would lead to higher rents at the start of the tenancy; 65 per cent said that it would cause a lack of incentive to maintain property; 73 said that it would reduce portfolio size; and 83 per cent said that they would leave the sector. Three or four years on, what are we seeing? That is exactly what is happening, as we said.

David Melhuish: I do not think that the experience in Scotland would be different from experiences more widely. Miles Briggs mentioned concerns in Ireland. There have in other jurisdictions, including Berlin, Sweden and some American states, been similar concerns about rent control policies and their longer-term consequences for supply and increasingly high rental prices for properties coming on to the market. Scotland would not be exempt from that scenario. It is important to get new supply into the market to meet the huge demand.

The Government may well point to rent control policies in other parts of the world. However, we must be careful because those systems have been in place for longer and those places have had long-term investors in place for some time. Our concern is that we had only just started to attract back into the market that kind of longer-term institutional investor landlord—pension funds and people who take a long-term perspective on major investments. The responses that we have had suggest that the perception of Scotland as a place to invest has taken a dent.

On the longer term and the PRS, certainty—I think that Tim Douglas mentioned it earlier—is crucial. Even in the past week, agents have said that they are trying to advise funds on potential investments in Scotland but simply do not know where policy will lie or how they can best advise on things such as where mid-market rents will go, where broad rental market areas will go in the future and so on. When people are building new properties and trying to bring in new supply, they look four or five years ahead, so decisions that are made now will crystallise in four or five years, once things have gone through planning, all the investor criteria, committees and so on. That is something that we need to be aware of.

Sarah-Jane Laing: I will add to that. When we look at international comparisons, we also have to look at the Government of the country’s general approach to the private rented sector. Some Governments do not view the private rented sector as the sector of last resort; rather, they often see it as the first choice for many people in their countries. Perhaps that is not the case in Ireland, but it certainly is in some of the other international comparators.

As David Melhuish said, we should come at rent control from within a system of certainty and without the risk of retrospective changes to contractual agreements. The sector is very different, and we have to be quite careful in looking at comparators.

I absolutely think that the same will happen in Scotland as has happened in Ireland. I have looked at the latest figures from our members. It is planned that 14 per cent of the homes that I talked

about will be withdrawn from the sector when the current tenants vacate. I do not think that anyone wants that to happen in rural Scotland, but we are already seeing that intention.

Miles Briggs: Finally, the legislation requires ministers to ensure that tenants who are affected by the rent cap and evictions moratorium receive appropriate information. How has that been provided to private landlords to ensure that tenants are aware of the legislation and the support and advice that are available? Do you have examples of good practice?

Timothy Douglas: I would like to go back to the previous question and make one or two quick points.

It has been mentioned that Germany is hailed as the great example, where just under 50 per cent of the population rent long term. The key aspect is that, in the UK, around 60 per cent of renters are on lower incomes, whereas in Germany the figure is 40 per cent. In addition, fewer landlords let more of the properties in Germany. That goes back to the issue of certainty and what long-term vision the Scottish Government has for the private rented sector in Scotland.

We talk about new investment. In the Scottish budget in December the Scottish Government raised the additional dwelling supplement to 6 per cent. It says that landlords are putting up rents just for the sake of it, but it has now given them, including new entrants, reason to do that. Economic policy has to match housing policy. Within the ADS, there is an exemption if six or more properties are purchased, but is that aligned to the number of individual landlords who own properties in Scotland? They probably have one or two, on average.

There needs to be joined-up thinking on investment. Obviously, we would like the surcharge to be reduced or, at least, the ADS to be looked at—I know that it is being looked at. Overall, there must be a review of the taxes that relate to private landlords, and the income from those taxes.

On advice on the legislation, back in November to December, 86 per cent of our members said that landlords had come to them for advice and information. We use information that the Scottish Government provides and we liaise with officials. As a membership organisation, we push out—as, I am sure, others do—regular communications and fact sheets, and members have access to a legal helpline. We are certainly doing our best to ensure that everyone is aware of the changes.

Sarah-Jane Laing: Scottish Land & Estates has done the same. We have also pointed tenants

towards Shelter Scotland and other sources of excellent information.

The biggest challenge for those of us in the sector was in filling the gap between the political headlines and the reality of the legislation. There are lots of opportunities for misconception and misinterpretation of what the legislation actually means in practice. What is on the Scottish Government website is, naturally, very technical and is written in legalese. Converting that into something that is easily understood by tenants and landlords fell to organisations such as ours and those that support tenants. Therefore, we had to move quickly and we had to fill a vacuum in relation to direct advice from the Scottish Government.

10:30

David Melhuish: From the SPF side, the frustration that some of our landlord members felt was about the fact that they have worked very closely with tenants throughout Covid and continuingly, as part of their service. Typically, that would apply to the larger-scale developments. Judging from the customer surveys that those landlords do regularly, they are highly effective.

With regard to wider advice, we, too, point people towards the advice from the Scottish Government. As far as we are aware, that is well used by our agent members who advise the wider PRS. Certainly, our larger members felt a lot of frustration that they had worked very proactively during the difficult times, particularly during Covid. That is bound up in some of the frustrations that have been expressed about the legislation that is under scrutiny today.

Marie McNair: Good morning, and thank you for your time this morning. Are there any additional measures that the Scottish Government, councils and landlords could take to support tenants and landlords through the cost of living crisis? I am aware that some measures have been touched on, but do you wish to give the committee any further suggestions?

David Melhuish: The first point of advice that we have for tenants who are facing challenges with energy bills and rent—those are the big challenges, for the reasons that we have described—is to talk things through with their landlord, because the landlord will wish to retain a good tenant. Often, the discussion will be more positive than was expected. I admit that we are probably speaking from the perspective of larger landlords. It is about reinforcing and maybe aiding with some of the advice that is put out there by the Scottish Government. Sarah-Jane Laing is absolutely right that the language can be quite dry and technical.

I also think that it would be helpful to invest in pre-existing services whose role is slightly changed under the legislation, such as Rent Service Scotland and so on. We have had the odd call where we have said, “Look, are you aware that these are your rights—these were already your rights, anyway—as tenants?” Investing in those services as a point of contact for tenants who do not, for whatever reason, have a collaborative relationship with landlords would be tremendously helpful, particularly given that—as has been touched on—there have been such frequent changes in policy and legislation. That could help, because RSS has been quite stretched, resource-wise.

Marie McNair: Is there anything that local government could do?

David Melhuish: Local government is equally very pressured on the resource side. I have always felt that it has not been as invested in as it should have been, given the various approaches to landlord registration, regulation and the “fit and proper person” requirements. That has not helped us to get to the position that we want to reach. You can understand that tenants would wish to turn to the local authority as an independent source of advice if, for whatever reason, their relationship with their landlord or their landlord’s representative was not as collaborative as it could be. That could definitely help.

Sarah-Jane Laing: David Melhuish mentioned landlord registration. That is a source of data that local authorities could use to proactively send out very simple messages—some are already doing so—whether that is pointing people towards sources of advice or just letting them know what the exact situation is.

There is the advice side of things, but there are also some structural changes that I think need to happen. For a start, we must ensure that the First-Tier Tribunal for Scotland is adequately resourced. That might well be seen as supporting landlords rather than tenants, but the fact is that the latest average for cases is, I think, about 137 days from point of application to decision. We have to ensure that cases are being dealt with timeously. After all, it helps landlords’ confidence to know that any issue that they might have will be dealt with in a timely way; that, in turn, helps the whole sector.

I am worried that we have what I would call sticking-plaster measures—in other words, advice and support—when the one thing that we have to tackle is housing supply. The situation is largely being driven by the fact that there are just not enough homes in Scotland. Local authorities have a key role to play in that respect, whether it be in dealing with the housing land issue or in working with RSLs and private landowners to fast-track housing. However, we can do that only if we have

the confidence of investors. We can have sticking-plaster fixes at the moment, but we have to sort out the wider longer-term problem.

Timothy Douglas: I definitely agree that, in the short term, this is all about providing local authorities with more investment for them to offer more services directly to tenants and landlords who come to them, and to deal with the registration scheme. However, our agents are also reporting the need for enforcement of existing requirements on irresponsible landlords.

In the long term, there is, as Sarah-Jane Laing said, a need for more social housing to be built, so we are lobbying the UK Government—we urge others to do the same—for a rise in local housing allowance rates to support welfare.

Something else that we have been talking about is help with the up-front costs and affordability of tenancies and deposit schemes by, for example, advertising the fact that they can be paid in instalments. Local authorities could also create bond schemes as a way of helping and they could work with local employers to offer loans and other help with up-front costs for tenants.

Marie McNair: Do you have any comments on the impact of legislation on student tenancies? Do you agree with the Scottish Government’s plans to suspend the rent cap on such tenancies? I will go first to Sarah-Jane Laing.

Sarah-Jane Laing: Scottish Land & Estates does not tend to be involved in the student-let sector, so I will leave it to Tim Douglas and David Melhuish to answer that question.

David Melhuish: The SPF has a lot of members in the purpose-built student accommodation sector, which is undergoing its own reviews at the moment. This is partly to do with practicalities, given the stop and restart that we get during the academic year. The proposal was, as much as anything else, a recognition of the reality that there would be a break in tenancies, with new tenancies coming in. Moreover, by the time the legislation had come in, we were already into the academic year.

The situation is still being monitored by the Government, and where student accommodation rents end up in the new academic year will be watched very closely. As I have said, though, the situation is more about recognition of the practicalities, as opposed to any particular political or policy perspective.

Timothy Douglas: PropertyMark’s response would be similar to Sarah-Jane Laing’s; our members do not work directly in purpose-built student accommodation. The feedback that we are getting is that there must be a level playing field, and that there has certainly been a lack of clarity

in respect of purpose-built student accommodation tenancies and PRTs, with the removal of the fixed-term provision and its impact on landlords who operate with students. That is the main issue, and it should be considered with regard to all accommodation. Indeed, it plays into our whole response to the legislation, which is that all tenants should be afforded the same rights, irrespective of property type, and that those rights need to be balanced with the risks that are faced by all accommodation providers.

The Convener: That brings us to the end of our questions, and I thank our witnesses for coming in and giving their evidence today.

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

10:39

Meeting suspended.

10:44

On resuming—

The Convener: We are joined in the room by David Bookbinder, who is the director at the Glasgow and West of Scotland Forum of Housing Associations, and Carolyn Lochhead, who is the director of external affairs at the Scottish Federation of Housing Associations. We are joined online by Mike Callaghan, who is the policy manager at the Convention of Scottish Local Authorities, and Sherina Peek, who is the acting policy manager at the Association of Local Authority Chief Housing Officers, otherwise known as ALACHO.

I welcome the witnesses to the meeting. As I mentioned to the first panel, we will try to direct questions to a specific witness, where possible, but if someone would like to come in, please indicate that to the clerks. Sherina and Mike, as you are appearing virtually, please do that by typing R in the chat function.

I will open with a couple of questions on the rent cap. I would be interested to hear how housing associations and councils reached the voluntary approach on rent rises with the Scottish Government, and how that approach balances the need to keep rents affordable during the cost of living crisis with allowing social landlords to maintain and invest in services and stock. I will start with Carolyn Lochhead, then David Bookbinder, and then go to our online witnesses.

10:45

Carolyn Lochhead (Scottish Federation of Housing Associations): Thank you for the opportunity to speak to the committee.

In terms of how we reached the approach while balancing the need for affordable rent with the need to maintain homes and build new homes, providing affordable housing is obviously what housing associations exist to do. They are charitable not-for-profit organisations, and all their income goes back into communities. Therefore, it was vital for our members that we were able to find a way to allow them to continue to do that.

As you can imagine, there was a great deal of member consultation. We held a meeting with our members just days after the announcement was made. That meeting attracted about 1,000 of our members, which demonstrates the level of concern about the impact that an on-going rent freeze would have had on their ability to do the things that they need to do.

We did a number of things that you would expect us to do in terms of giving evidence to committees and having discussions with politicians. The statement of intent that we finally published reported on the average rent increase that we expected to see based on the data that we had from our members. That allowed us to demonstrate that, actually, housing associations would always keep rents affordable. That is what they exist to do. Last year, when inflation was at 9 per cent, we saw an average rent increase of 3.3 per cent, which demonstrates that keeping rents affordable was always going to be the case.

We hope that the statement of intent, which we based on six principles, with associated actions for housing associations and the Scottish Government, sets out that the approach can continue and that our members will continue to prioritise affordable rents and good, high-quality and safe housing as we go on. There were a lot of concerns about the implications of the legislation that was introduced in terms of it restricting our members' ability to do that, but we think that the final statement that we published, which the Scottish Government accepted as its basis for not continuing the rent provisions of the legislation, balances our members' responsibilities with the considerations that the Scottish Government took into account when it introduced the legislation.

The Convener: Thank you. Does David Bookbinder have anything to add?

David Bookbinder (Glasgow and West of Scotland Forum of Housing Associations): Thank you to the committee for inviting the forum. I agree with everything that Carolyn said. The sector is so relieved to have got to a point where the balance between the shorter-term impact on tenants of the cost of living crisis and the longer-term need to invest was fully recognised. The loss of income from a single year's freeze is quite alarming when you look at the investment income

that can be lost when it is compounded over 30 years.

Our message is similar to that of the whole social housing sector. For 30 or 40 years or more, the sector has been trusted to consult tenants and come to an arrangement—they are never easy decisions—that is right for the individual housing association and looks at future investment. We have never been more aware of the need for future investment. In the past, that has sometimes been discussed mostly in the context of trying to contribute to new build. What is on the mind of every housing association and local authority at the moment is the size and scale of the retrofit agenda. Coming at the same time as the cost of living crisis, that need for balance has been on everyone's mind.

I think that we have got to a place now where we continue to be trusted, and we would not expect the issue of rent control in the social sector to be raised again. Scottish rents in the social sector are 25 or 30 per cent lower than those in England and we have managed that without any rent control at any point.

The Convener: Thank you. I am just checking online. Would Mike Callaghan like to come in?

Mike Callaghan (Convention of Scottish Local Authorities): Yes. Thank you for the opportunity to provide evidence. Local authorities obviously have a substantial interest in the functioning of the entire rented sector in Scotland. The majority—more than two thirds—are landlords that manage half the country's social housing.

As local strategic housing authorities, all local authorities seek to improve the supply and overall condition of housing stock, along with registering and licensing private landlords and houses in multiple occupation in local areas. Over a fifth of housing is part of local authority rented stock, and local authorities tend to have the lowest rents across the country. Local authorities are very responsible landlords.

Last year, local authority leaders recognised the severe financial crisis facing many of their tenants and other individuals and households across the country. They also recognised that the high rates of inflation in heating and food disproportionately affect those on low incomes and those who are disadvantaged, given the proportion of an individual's income that is spent on accommodation in the rented sector.

As a result, COSLA, in discussions with the Scottish Government, came to a cross-party agreement with our member councils on a statement of intent on rents. We agreed to maintain future rent levels beyond March 2023 at a very low rate for local authority tenants, with the intention of keeping rental increases to a level that

is highly affordable and way below the level of inflation.

That was done on a cross-party basis, with shared ambition and intent to maintain rents levels and affordable quality housing. It has to be said that that does not come without its challenges for other aspects and the other ambitions that local elected members, and members of the Scottish Parliament, share on working towards maintaining quality housing, reducing homelessness, maintaining the pace of new-build housing and supporting energy-efficiency measures. We can perhaps go into that in more detail in our discussion today.

Following the cross-party agreement and the statement of intent, local authorities are currently setting their rent levels in consultation with their tenants, with oversight from local elected members.

The Convener: Thank you for that response.

I was about to say that, unfortunately, Sherina Peek was not here, but she is now. Sherina, it is great that you are on the call.

I do not know whether you heard my question, so I will repeat it. How did housing associations and councils reach a voluntary approach on rent rises with the Scottish Government? How does the approach balance the need to keep rents affordable during the cost of living crisis with allowing social landlords to maintain and invest in services and stock?

Everyone else has had a chance to respond to that, so if you want to add anything, that would be welcome.

Sherina Peek (Association of Local Authority Chief Housing Officers): To build on what Mike Callaghan from COSLA said, ALACHO, as a local authority membership organisation, reached an agreement as to what we thought would be most beneficial for our tenants. At the end of the day, we still need to be able to deliver improvements to homes, so £5 a week seems to be the most appropriate level, and it stays in line with affordability.

It will pose issues—we will not be able to do as much as we would like, as investment will be much lower. We feel, however, that given where we are, it is the best solution at present. That is the consensus from ALACHO members.

The Convener: You said that it will pose issues. What impact will a below-inflation rent increase have on social landlords' capital investment plans for building new homes and investing in existing stock? What difficult choices will have to be made in that regard?

Sherina Peek: We will struggle to be able to deliver on the energy efficiency standard for social housing—EESH—2. We think that it will cost around £6 billion to bring homes up to that standard. We also need to be able to improve the quality of our homes. We have a capital investment programme to put in new kitchens and bathrooms and improve the quality of our tenants' homes, which is exactly what they want us to do. When we put out consultations to them and ask, "How would you like your rent to be spent?", those are the things that they say that they would like to see. They want retrofitting to be done to make their homes energy efficient, which will mean that they do not have to spend as much money on their utility bills. Those are the things that tenants want: improvements in their lives that will allow them to thrive.

In addition, with regard to our new-build programme, the grant funding that we get is not really sufficient. The costs of construction and materials are going up.

The need to balance the priorities for what our tenants require in their existing homes with the use of investment to build new homes means that we have hard decisions to make. Ultimately, those decisions must be guided by our tenants, as it is a question of our tenants' rents. Our house-building programmes will probably have to slow down, unfortunately. Given where we are with the current amount of homelessness and the pressures on our housing stock, that is not ideal.

The Convener: Thank you for that response; I would like to ask you the same question, Carolyn.

Carolyn Lochhead: On the basis of the average rent increase that we have reported, we expect our members to lose income of £80 million. That obviously has an impact on exactly what Sherina Peek was just describing: their ability to carry out planned maintenance and to maintain and retrofit homes. There will certainly be an impact, and there are difficult decisions to be made about that.

A number of our members worked really hard to keep rents affordable during Covid in particular. Some of them did not put their rents up at all. It is worth noting that some members are starting from a position where, by now, they would have hoped to make some of that lost income back, but they are now facing some really difficult decisions about where they invest and how much they are able to invest.

Another point is about certainty and stability. David Bookbinder has already mentioned that our members work to 30-year business plans. Over the past few months, not knowing what the situation was going to be has been very difficult, and our members now have to factor in quite a

different situation from what had been expected. All of that has an impact on members' ability to carry out their business plans, whether that involves the maintenance of properties or new build. Members have been pulling back from planned new builds, and they have been slowing their maintenance plans. That has an impact, too.

It is also worth noting that the issue does not just concern the regulations in the social sector. A number of our members also provide mid-market rent tenancies—those are private sector tenancies, so they are affected by the private sector rent cap. We are certainly hearing from those involved in that area about their ability to build that kind of tenancy, which is much needed and is a part of the affordable housing supply programme that tends to be attractive to people who are not likely to qualify for social housing but who live on a fairly modest income. The ability to provide MMR and to build new social housing is likely to be affected.

The Convener: We now move on to questions from Mark Griffin, who is joining us online.

Mark Griffin: I want to ask a question about mid-market rent, since Carolyn Lochhead has brought it up, before I go on to my other question.

We have multiple panels today. We heard from the private sector earlier; now we are hearing from the social sector. Mid-market rent tenancies come under private sector tenancies, but those tenancies are developed and provided by social housing providers. Carolyn, what are the SFHA's views on whether there is a practical solution that moves mid-market rent tenancies out of private sector tenancy agreements so that there is not some catch-all situation that affects investment programmes for mid-market rent?

Carolyn Lochhead: Initially, when the Cost of Living (Tenant Protection) (Scotland) Bill was going through Parliament, we had sought to have mid-market rent designated as social housing where it was provided by a registered social landlord or a subsidiary. That would have meant that such tenancies would have come under the social housing regulations, rather than the private sector regulations. Unfortunately, we were not successful in that.

The next opportunity to sort that will be the housing bill that we know is coming in later this year. We understand that there is a lot of pressure on the Scottish Government to get that bill written, and we are hopeful that there will be room in it essentially to create a new kind of tenancy—that is what we think is the solution. Obviously, we will be open to talking to the Government about other options, but that seems to us to be the solution.

We very much hope that room will be found in the housing bill to do that, because of what would

happen if we do not fix the issue so that our members can continue to build and provide mid-market rent tenancies, with all the protections that are built into that. For example, mid-market rents are set at around the local housing allowance level and there is a three-month notice period if there is a change of rent. There is a lot of protection built into mid-market rent—it is a good product—so we very much hope that we can find an opportunity in the coming months to fix the issue.

11:00

Mark Griffin: That is helpful as a heads-up for what to look out for in the housing bill, so thanks for that, Carolyn.

My next question is for all the panel members. The statement of intent that was agreed between housing associations and the Scottish Government sets out that housing associations will seek to mitigate as much as possible the cost implications of inflationary price increases and interest rate rises. How are they doing that? How are they protecting tenants against cost increases?

David Bookbinder: The short-term response from social landlords is to mitigate by having rent increases that are significantly below inflation. As Carolyn Lochhead and others have said, this is probably the third or fourth year in succession that that has happened. Investment plans might not change instantly, but rent increases are below inflation and that is our initial way of dealing with it. Among our members, the average increase is something like 5.1 per cent at our last count—it is not dissimilar to the SFHA's estimated figure of 6.1 per cent. Therefore, the main protection is that rent rises are still well below inflation.

How we deal with the issue in practical terms in the coming years will probably initially involve the kitchen and bathroom scenario that Sherina Peek mentioned. Can we lengthen the replacement cycle for kitchens and bathrooms? When would that be appropriate? When would it not be appropriate? We can sort that out only in close consultation with tenants.

The other way in which money might be saved, because we have had so many years of below-inflation increases, is by watching and waiting when it comes to the energy efficiency agenda. We are not sure what public money will be available and there are so many uncertainties about the future of gas and hydrogen, technology such as heat pumps and so on, so there is still a lot of watching and waiting to see what scale of investment will be needed and what the pace of that will be. From a social landlord point of view, I think that that is probably where some of the compromises will need to come, but I hope that it

will always involve the best possible consultation with tenants.

Sherina Peek: I will answer that question from a local authority point of view. We are working with our tenants to see what financial assistance we can give them and to help them to maximise their incomes. Then, as David Bookbinder pointed out, it is about reviewing our delivery programme and seeing how far we can push things out. We certainly do not want that to mean that tenants are not getting the level of service that they want and are not having home improvements. We need to do things through engagement and consultation. When we have gone out to our tenants to tell them what the rent increases will mean, we have set that out to them—we have said that their kitchens and bathrooms might not get done this year but might happen in the next couple of years. We have been doing that engagement with tenants to make everybody aware. Tenants have been informed about what not increasing rents to the level that we need will mean for their homes.

Carolyn Lochhead: As well as doing everything that David Bookbinder has outlined, many of our housing association members are supporting their tenants by providing services such as energy advice services, welfare services, employability services and links with local community opportunities. Many of the associations employ people whose job it is to maximise people's income by making sure that they are getting all the social security that they are entitled to, which can result in significant sums.

Because housing associations work closely with tenants, they can target that support and ensure that it gets to the people who particularly need it. Most recently, we have been able to work with the Scottish Government on a couple of funds. The SFHA has administered the fuel insecurity fund and the food support fund, both of which have involved our members accessing new funding to provide cash-first support to people who are struggling. That involves things such as direct support to meet energy costs and clear energy arrears and providing cash to buy food, insulation and other items.

Those are some of the ways in which our members can try to support their tenants.

Mike Callaghan: I will briefly add to what Sherina Peek from ALACHO mentioned about local authorities working proactively with their tenants to maximise incomes, help them to pay rent and help them to tackle the cost of living. Local authorities across the country have also been providing a raft of initiatives to help tenants, ranging from energy poverty initiatives to fuel hardship funds and a range of other measures. Obviously, we have had a rent freeze for some time, and the statement of intent is in essence a

drive to keep rises in the next financial year way below inflation and as affordable as possible.

Willie Coffey: Good morning to everybody on the panel. I want to touch base with you on the moratorium on evictions. I ask each of you to give a brief overall perspective on the impact that the moratorium has had, beneficial or otherwise, on tenants and landlords.

Carolyn Lochhead: The first thing to say is that housing associations do not want to evict tenants; the associations work hard to sustain tenancies and to provide all manner of services to work with tenants to ensure that they do not get to the point of eviction. We would always say that the first move for any tenant who is worried about their ability to pay their rent is to speak to their housing association, because it can and will help.

On the impact, our members were clear with us that they were a lot more concerned about the impact of rent restrictions than they were about the restrictions on evictions, which are in essence continued, as the sector has been dealing with them throughout Covid. Those priorities were clear.

If we look back at the figures from before the pandemic, which is the last time that there were no additional restrictions on evictions, we can see that the level of evictions in housing associations and social housing was low. We are not particularly hearing from our members that the continued restrictions are having any new impact. The feeling is that our members can live with the restrictions.

Housing associations have to take a lot of actions before they even get to the point of a notice of proceedings. However, I would make the point that it is not unusual for a tenant to start engaging with one of our members about rent arrears only when the notice of proceedings arrives. That can be for very good reasons—the tenant might have serious concerns about the implications. I suppose that the only point that we would make about the continued restrictions on when the process can begin is that that point is often the first time that the tenant will engage.

David Bookbinder: As Carolyn Lochhead said, eviction is very much a last resort. Our members, as local community-based housing associations, pride themselves on being close to their tenants and being able to intervene early when an issue with rent arises. The reality is that, even when relatively high levels of arrears have built up, there would be no question of that leading to eviction if a tenant is engaging with the association and trying to address the issue. Obviously, we have not had a significant number of evictions for a long time now, for reasons that everyone is familiar with.

One very specific reason why the current moratorium can be tolerated in our sector and why, as Carolyn said, it is not resulting in a lot of members being alarmed about the consequences is that, unlike the Covid evictions moratorium, we now have an exception when arrears are above what is estimated to be six months of arrears—I think that the figure is £2,250.

Most arrears cases that get as far as getting near to decree and eviction are usually for arrears of £3,000, £4,000 or £5,000-plus. Although we do not want those cases to go to eviction, they could do so, technically, under the wording of the current moratorium. It is helpful, although we do not want it to lead to evictions.

Mike Callaghan: Thank you for the question, Mr Coffey. Local authorities as landlords take a preventive approach to evictions and homelessness, and they comply with the Housing (Scotland) Act 2010. The pre-actions that are required for rent arrears mean that local authorities seek to evict a tenant only as a very last resort, having exhausted every other option. That is how local authorities operate, because we need to help people to maintain their tenancies and ensure that they have a repayment package to manage their rent arrears effectively. During the period of the emergency legislation, it has not had an impact on eviction levels for our tenants, because local authorities have been following these processes.

Sherina Peek: I echo what the other witnesses have said. We have not seen many issues from ALACHO members. As Mike Callaghan has said, we work to prevent anybody from being evicted by putting in place support that people might need with repayment processes. It has not made a massive difference to local authorities.

Willie Coffey: I have a final question, which is possibly just for you, Sherina. Have councils noticed whether the number of homelessness applications has dropped during the moratorium? Conversely, do you anticipate that the number might go back up if the moratorium ends?

Sherina Peek: I do not think that we have seen a drop. What we have seen in some areas is that there have been people who have been asked to leave the PRS, and you will have seen that the homelessness figures have gone up in the latest quarter. However, I do not think that that necessarily has anything to do with the social rented sector, because, as David Bookbinder, Carolyn Lochhead, Mike Callaghan and I have all said, we would not ordinarily push for anybody to be evicted from one of our tenancies.

Miles Briggs: Good morning, panellists. Thank you for joining us here and online. I have a couple of questions. The first is about the pause on

evictions until the end of September 2023. How proportionate and necessary is that?

Carolyn Lochhead: As we have said, housing associations do not want to evict anyone. That goes completely against what they exist to do, and there is no incentive for them to evict people. It is not an issue that our members bring up with us particularly regularly.

On the proportionateness of the measure, we understand that we are operating in the context of a cost of living crisis, and we understand the desire to take measures to protect people, which is the right thing for the Government to seek to do. I think that our members feel that we can continue to live with it, in particular with the amendments that David Bookbinder has outlined. At some point, we would be keen to return to a more stable system in which we do not see these short-term interventions, but I think that our members feel that we can continue to work within it.

David Bookbinder: I echo that. Although, as a sector, we are relatively relaxed about this particular intervention, it is the principle of intervention per se, whether that is around rents or evictions, that always makes our sector nervous. Members will remember that, some years ago, the Scottish housing association sector faced a bit of a crisis, because the Office for National Statistics classified housing associations as public bodies, which meant that the public debt lay on the Government's account, which had all kinds of implications. We are always nervous about the broader issue of state control or intervention. The evictions intervention has not had major implications, as we have said; it is just the principle that we are nervous about.

11:15

Miles Briggs: As no one else who is online wants to come in on that, I will move on.

You have already mentioned the potential impact of the legislation on future funding decisions and on the rewriting of business plans. Is it fair to say that that has destabilised the social rented sector in Scotland, and does the Government now understand that? Do any of the witnesses who are online want to come in on that?

Sherina Peek: There is no doubt that the Cost of Living (Tenant Protection) (Scotland) Act 2022 has had an impact on financing and local authorities' housing revenue accounts. We also need to bear in mind that, where local authorities cannot plug the gap in housing, we are looking to institutional investors to come in, perhaps through build to rent with long-term leases. They need long-term stability.

Legislative shocks in which rent caps are put in has meant that some investors may have thought that Scotland is not the place to invest in at the moment. As I mentioned earlier, at a time when we are in an acute housing shortage, that investment is much needed.

Mike Callaghan: That is a very good question. I would echo the points that Sherina Peek has made.

We—locally elected council members and members of the Scottish Parliament—have shared ambitions and aspirations for housing. However, it will be a challenge to attain the objectives on maintaining quality housing, reducing homelessness, maintaining the pace of house building and supporting the energy efficiency of homes within the timeframe to which we have been working towards.

Achieving energy efficiency standards in social housing will be a real pressure. We do not receive any Scottish Government funding towards housing revenue account business plans; our housing revenue accounts are generated through rents locally. We are—quite rightly—reducing our rents to make them affordable for tenants, but that means that there is a significant gap in local authorities' ability to fund the energy efficiency standard for social housing 2—ESSH2. We need support and we need a new pragmatic approach to funding to deliver energy efficiency. Recasting ESSH2 as an element requiring critical national funding would help. If that is not feasible, the timeframe by which social rented properties are required to meet high-energy performance levels could be looked at.

Taking a new pragmatic approach to the funding side of things is a priority for us.

David Bookbinder: We can argue about the word “destabilised”. There certainly has been a greater degree of nervousness and hesitation among our members. I will give you one example, which relates to new build. A lot of our members are smaller local housing associations. I know of one or two that have a site left that they would like to develop in their area, but they are much more hesitant to do so now. As members will know, new build is technically financed through a combination of grant and public finance. In some cases, there is a third element, with associations putting in a small amount from, for example, their reserves as a capital sum to add to the subsidy. There is much greater hesitation about doing that now. I very much hope that the current hesitation around the new-build programme does not last, but that is certainly a feeling among our members—there is a more cautious approach.

Carolyn Lochhead: I will make a couple of additional points. Exactly as David Bookbinder has

said, confidence in building has been shaken. That matters for lenders' confidence. In any new-build project, Government funding pays for about half of it and the other half is from private finance. We need private lenders to feel confident that the sector is stable, so that we can build the houses that we know are desperately needed. That confidence has been affected.

The proposals came at the point at which members would usually be just starting the process of consulting their tenants, setting out their potential plans then taking feedback to their boards—going through quite a well-established process of setting rents in a stable way. That was disrupted. Some members chose just to delay the whole thing, so that they consulted much later, which meant that they were much later in giving their tenants an indication of how much rents would be. Some members consulted earlier, but they did so without having any idea of what they would be allowed to do. There was a great deal of instability. All of that distracts people from what they intended to do.

You also asked whether the Scottish Government now has an understanding of that impact. We felt that the Scottish Government listened quite carefully and that it understood the arguments that we were making—so, on the issue of social rents, we got there. The issue of mid-market rent, which we have touched on, is outstanding, and we certainly hope to get a good hearing on that.

Miles Briggs: Thank you.

Marie McNair: Good morning to the panel. It is good to see you.

As you are aware, the legislation required the Scottish ministers to ensure that tenants who were affected by the rent cap and the moratorium on evictions received appropriate information, advice and support on the measures that were in place. How effective has the Scottish Government been in doing that, and should anything else change? I ask Mike Callaghan to start.

Mike Callaghan: COSLA is a political organisation. My colleague from ALACHO, Sherina Peek, might be able to provide more information from her regular day-to-day contacts with chief housing officers.

I understand that information on changes has been provided to local authorities, which are currently consulting on new rents for the next financial year, as they are required by law to do, which is overseen by local elected members. We have worked to ensure that evictions do not take place—or that they are literally a very last resort. My colleague from ALACHO might be able to provide more comments on your question.

Sherina Peek: You asked what information, advice and support has been given to the tenants who are affected. Local authorities have gone through their consultation process and have been able to set out what the different rent levels will mean. They have been able to get in touch with the tenants they know to be most in need of support, offer them advice and do income maximisation. Our websites have been updated to signpost people to relevant support networks and agencies. Our local authority members have been pretty proactive in making sure that tenants get advice and support.

Carolyn Lochhead: I will just add that, because of its emergency nature, the legislation moved very quickly. That meant that the ability to provide people with robust and clear information was limited. We worked with our members to provide them with a template letter for tenants, and we worked with the tenant representative organisations on that, too. Again, particularly because of the timing, it was quite confusing for people, who might say, "I'm being consulted on my rent level for next year, but I've read that there is a rent freeze. What's going on?" Because of the very fast nature of the legislation, it was difficult to give people clear information.

David Bookbinder: I had every sympathy for tenants because of that moot point: "You're asking me about the rent rise, but I thought there was a rent freeze." I had a lot of sympathy for social housing tenants.

Marie McNair: My last question is one that I asked of the previous panel—it has been touched on slightly, and some good suggestions have been made. Are there any further measures that the Scottish Government, councils and landlords could take to support tenants through the cost of living crisis?

David Bookbinder: I might hazard that the Government should take a slightly longer-term view, because the cost of living crisis will be with us for a while, particularly in relation to fuel. I think that the best mitigation that we can come up with, for the Government and as a sector, is public subsidy of retrofit measures for energy efficiency. We have to get the fabric of the property right, because we do not want to be putting more expensive electrical heat pumps and other things into leaky houses. We have picked the low-hanging fruit, and now it will cost more proportionately to get the fabric of social housing to that point. It costs a lot more, proportionately, to go from an energy performance certificate C rating to a B rating, for instance, in the existing energy efficiency standard for social housing standard. The more that that can be the subject of public subsidy, the more we take pressure off rents and help to lower fuel bills.

Carolyn Lochhead: Absolutely. I would also say that we want to see the Scottish Government continue the investment that it has made already in things such as the food insecurity and fuel insecurity funds, which get targeted support directly to the people who need it, taking a cash-first approach.

It is probably worth saying that there are also measures that we need the UK Government to take to protect people from the energy price increases that we are seeing. We have called for a social tariff for the most vulnerable customers, and we would like to see issues with pre-payment meters being addressed. Both Governments need to take action.

Marie McNair: Sherina, is there anything you want to add?

Sherina Peek: I reiterate what David Bookbinder said. Retrofit is crucial. We need our homes to be improved to reduce the energy costs for our tenants. That would definitely be one of the measures.

On the point about pre-payment meters, we know that they tend to be much more expensive and in the homes of the tenants who can least afford them.

Those measures would help to put a little bit of money back in tenants' pockets, so that they could take care of their other needs. Those are the asks from ALACHO members.

The Convener: Mike Callaghan wants to come in.

Mike Callaghan: On what has just been said, local authorities have been very proactive. There is a wide range of initiatives across councils to support people, including tenants, during the cost of living crisis. One of those, which I mentioned before, is energy poverty funds that help people to pay the bills. There are other initiatives as well, such as hardship funds and other funds that should augment the social welfare fund.

I agree with the points about the need for help and support from the Scottish Government on the energy efficiency of homes as well as support from the UK Government, as Carolyn Lochhead mentioned, on pre-payment meters. The other outstanding issue that we have is the number of empty properties right across Scotland. Addressing all those issues would assist us in the housing sector in Scotland.

The Convener: Thanks. I have an additional question. You have all talked about the need to retrofit your existing housing stock, and Carolyn and Mike have mentioned the need for UK Government support with regard to pre-payment meters. However, it has come to the committee before—we might even have been in

conversations on this—that retrofitting property attracts 20 per cent VAT. You might not have the figures off the top of your head, but 20 per cent VAT on top of anything that you are paying for a retrofit is a big amount to add to the bill for that work. I am interested in your thoughts on that issue. What could we be doing? Working out how we might get the UK Government to open up and review VAT on retrofitting is a piece of work that the committee is considering.

David Bookbinder: The importance of that has often come up in relation to the on-going issue, where there is mixed-tenure stock, of looking to owners to pay their share for repair and improvement works—and, of course, energy efficiency works are coming down the line. The imposition of 20 per cent VAT makes that job even harder. Owners are often just not in a position to make such capital payments. I have been in the sector in Scotland for 30 years, and I remember writing letters in the 1990s to chancellors about repairs and improvements and about the gulf between that situation and the situation with new-build housing. That might be something to revisit.

11:30

I do not know whether our exit from the European Union changes or, perversely, increases the chances—if we are not tied to the EU on it—but a VAT reduction would certainly make a huge difference. I think that retrofitting would generate much more work anyway, so the revenue could, I hope, be rescued in that way.

Carolyn Lochhead: We would support anything that would make the enormous bill that we face for retrofitting slightly less enormous and more achievable, so it is well worth looking at.

The Convener: Does anyone who is online want to come in?

Mike Callaghan: Obviously, we would take a political decision on that, but it is likely that we would concur with what has been mentioned by the other panel members and be supportive of something that would allow us to retrofit more houses within our large housing stock across Scotland.

The Convener: That concludes our questions. Thank you so much for giving us evidence and clarity on what is happening in your sector. I will now suspend the meeting to allow for a change of witnesses.

11:31

Meeting suspended.

11:34

On resuming—

The Convener: We are joined by our third and final panel of witnesses this morning. They are Fenella Gabrysch, who is a member of Living Rent; Emma Saunders, who is the national organiser of Living Rent; Gordon MacRae, who is the assistant director at Shelter Scotland; and Colin Stewart, who is the chair of the North of Scotland Regional Network of Tenants and Residents. Before we continue, I ask Colin to declare his interests.

Colin Stewart (North of Scotland Regional Network of Tenants and Residents): Thank you. I am on the board of the Scottish Housing Regulator, but I am here today as a tenant and as chair of the North of Scotland Regional Network of Tenants and Residents.

The Convener: Thanks very much. I welcome everyone to the meeting. We will try to direct our questions to a specific witness where possible, but if you would like to come in, please indicate that to the clerks.

I will start with a couple of questions. I am interested to hear to what extent you agree with the Scottish Government's decision to expire the social sector rent cap provisions, in light of the voluntary approach with social landlords to implement below-inflation rent rises. Does that approach balance the need to keep rents affordable during the cost of living crisis with allowing social landlords to maintain and invest in their services and stock? I will start with Gordon MacRae.

Gordon MacRae (Shelter Scotland): Thank you for inviting us. For us, the social dimension of the Cost of Living (Tenant Protection) (Scotland) Act 2022 never really had teeth. It did not address the scale of arrears or the reality of rents. We have heard already today that it was injected into the sector at a time when other activities were ongoing, so in that light it makes sense to expire it and to continue the collaborative work that has been going on.

However, I would not want to say that all is good and well in the social sector. Plenty of social tenants are facing considerable rent increases. Although the majority of social tenants have below-inflation rent rises, there was certainly consultation happening on some quite high rent increases. However, we understand why that is happening. A great deal of it is because of the additional costs that are being laid on social landlords at a time when the costs of developing new homes, Passivhaus standards and all those other things keep being landed on the social housing sector. The money has to come from somewhere.

Our main concern with the social housing dimension of the 2022 act was that it was unfunded. If we freeze rents, that pushes a cost on to the sector. We welcome anything that stops people losing their homes and that keeps costs low, but it should have been a funded act so that funding continued and development plans would be maintained.

The Convener: Thanks very much. Could we have someone from Living Rent next? I do not know whether you both need to answer that question. I will leave it to you both, throughout the meeting, to choose who answers.

Fenella Gabrysch (Living Rent): We provided evidence in October, so thanks for the opportunity to offer some further evidence today.

I will give a reminder of the broader context. On average, tenants continue to have lower household incomes and higher levels of poverty, and to be more vulnerable to economic shocks. The cost of living continues to push people into crisis, wages continue to be stagnant, and workers are facing real-terms pay cuts and resorting to strike action. Inflation remains in double digits and energy bills have doubled in less than 18 months and are set to increase again. Poverty and inequality continue to go hand in hand and to disproportionately impact women, children, the disabled and black, Asian and minority ethnic communities. People continue to be at breaking point.

Living Rent believes that the Cost of Living (Tenant Protection) (Scotland) Act 2022, which came into force in October 2022, remains both proportionate and necessary. We disagree with the proposed rise of 3 per cent in the private sector, given that, before the legislation was introduced, many tenants and our members had already experienced unaffordable rent rises of 10 per cent, 20 per cent, 30 per cent and above. That rent rise might mean that people who experienced a rent increase in the summer of 2022, when the pinch was already starting, never really experienced a rent freeze.

In the social rented sector, we disagree with the average rental rise of 6.1 per cent, as that is a voluntary and average agreement that might leave tenants facing greater increases and a lot of the poorest people being squeezed with rent increases and no benefits. That is exacerbated by the fact that grants for tenants who are struggling are running out. Eleven councils have already run out of the tenant grant funds that were set up during Covid times. We need to ask what will be put in place for tenants to cope with those rent rises, and we need to ensure that the funds are well advertised and appropriately topped up or we will have tenants entering notably more and more debt.

Colin Stewart: Thanks for the opportunity to speak today. I echo what Gordon MacRae said about the fact that the rent freeze did not affect social housing tenants, because all social housing landlords put the rent up on 1 April—bar one, which puts it up at a different time of the year. Therefore, it should be expired because it has not done anything.

However, on the 3 per cent cap for private rent increases, the north-east of Scotland has a different situation to the rest of Scotland. Since the oil industry collapsed, private rental prices have dropped and dropped, so social housing is now more expensive than some private rentals. Now, social landlords are putting up their rents by 6, 7 or 8 per cent and private rental increases will be capped at 3 per cent, which will only exacerbate the problem that we have in some areas.

The Convener: Thanks for that. It is an interesting piece of region-specific evidence.

You have touched on my next question, which is specific to you. How well, in practice, are social landlords mitigating against cost increases to help protect their tenants through the cost of living crisis?

Colin Stewart: There is not much that social landlords can do. They are restricted. Their only income is from rentals so, if the rent is not coming in, they will not be able to protect tenants to a great degree. They are doing what they can but that means that they have to stop the refit for the bathroom or kitchen, for example. Any legislation that reduces the amount of rent or income that they have affects the landlords. They are talking to their tenants, helping them through the situation and not evicting people but they are stuck in what they are able to do.

The Convener: We move on to questions from Miles Briggs on the private rented sector rent cap.

Miles Briggs: Good morning, panel, and thank you for joining us. What impact has the rent freeze had on the ability of people who are furthest removed from the housing market to access a sustainable tenancy? What evidence do you have of it?

Gordon MacRae: Confusion has been a significant impact. The national messaging on an eviction ban and a rent freeze is simply not accurate for the majority of our clients because of the provisions on excessive arrears in the 2022 act. A landlord, whether social or private, tends to go through the necessary steps prior to eviction at the point of no contact being made or arrears being particularly high. We gave evidence before the 2022 act passed—albeit that we were more concerned about the social sector at that time—that it would make no difference, and we have seen no difference.

In our private rented sector casework through our law service and advice line, we have seen an increase—it is relatively low level but still an increase—in harassment by landlords, who try to say, “Look, this is going to come in. I will have to increase the rent when the opportunity comes. Maybe it’s time to start thinking about where you want to be.” They are starting to put that kind of pressure on. We also saw quite a few attempts to evict illegally. We had to intervene in a number of cases where private landlords sought to do that.

I caveat that by saying that we only see things when they go wrong. You would need other data points to determine how representative the volume is of the sector as a whole but, from a Shelter Scotland advice line and legal service perspective, there has been a direct impact of the way that the act was presented publicly and the lack of support for tenants in the private rented sector. When we look at the use of the tenant grant fund, we see that it did not go to people in the private rented sector at a level proportionate to the number of households in that sector. There was less support for tenants, often more confusion for tenants and landlords and a bit of a guddle, to be honest, in what the measure meant on the ground.

That is where we are working from now. Having said all that, there is a need to find a way of stabilising and, in the long term, lowering the rents in the private rented sector. Our other concern is that the 2022 act is another example of a short-term initiative in the housing sector that has long-term consequences elsewhere. There is a need to have sustainable, long-term planning and policy making that will make the long-term difference.

11:45

Miles Briggs: Have others had the same experience?

Emma Saunders (Living Rent): I will come in on that. As we said, just now it is more about private renting, and the issue is that those rents are extortionate. It is incredibly difficult for people who are further away from the rented market to access it because rent is extortionate. It is too hard for them.

Earlier, it was said that landlords will not take a chance on young people, but we are not asking for a chance or for charity; we are asking for rights and the ability to be able to access a home and pay for it. Long-term rent controls that work within a tenancy and outside of it are needed so that everyone can afford a new tenancy and so that they do not face new hikes in it.

A difficulty for joint tenants who might face relationship breakdown is that they are either trapped in their tenancy by a joint tenancy or they have to take out a new tenancy that is not covered

by the rent freeze and they face a rent hike. They are trapped between staying in a tenancy and continuing to pay rent while having a relationship breakdown, or the threat of that, and going into the market and facing new rents that are extortionate. That points to the need for rent controls and for a review of how joint tenancies work and how much protection they can give to both tenants.

If I may, I will jump back to the previous question, which was around social housing. We heard that the problem is that tenants are left to foot the bill because there has not been long-term investment by the Government into social housing. Right now, it is almost blackmail, because people either agree to a rent increase or do not get the retrofits that they need to have lower fuel bills. That feels totally unfair. We also see long-term disinvestment from the Government into new-build social housing and existing social housing, which also puts pressure on tenants.

Miles Briggs: Do you have an example of anywhere in the world where a rent controls policy has delivered such outcomes?

Emma Saunders: You asked that question previously, and I answered that the UK has rent controls.

Miles Briggs: Looking at the impact that controls are having in Ireland, currently—which I raised during a previous session—do you think that there will be the same outcome in Scotland?

Emma Saunders: Do you mean the impact on supply?

Miles Briggs: Yes.

Emma Saunders: We heard an argument around supply of new builds and new homes, but our understanding is that supply is not about low regulation or high regulation. Instead, it is about what is happening in the work market and the fact that Brexit means that developers are struggling to get workers. It is about land banking rather than Government intervention. That is our understanding of what is happening to supply. The other issue is tackling short-term lets and second homes.

Miles Briggs: Thank you. I move on to the Scottish Government's proposed level of rent increases. To what extent do you agree with the differentiation around the cap of 3 per cent—6 per cent in certain circumstances—especially in relation to what we heard this week about the University of Glasgow, which has announced a 9.5 per cent increase in student rents? Why do you think the Government has allowed that in different sectors?

Emma Saunders: Our members do not believe that there should be a difference. All tenants deserve the same protections and a 9.5 per cent

increase is totally exorbitant—especially for students. That is our position.

Gordon MacRae: It is very stark that the tenants with the least rights get the highest rent increases.

When we talk about the power in the system, we are talking about students, who have relatively few protections, and the private rented sector, where people do not have security. There is a fundamental flaw in the act, which talks about equity and fairness between the social sector and the private rented sector, because there is no equity and fairness between the two.

Private tenants do not have the same level of protection or the same security of tenure. When we see some incremental steps in that direction, we then see them postponed and delayed. Today, we had the cabinet secretary talking about postponing the short-term lets regulations. Every single time there is a choice to be made, it is made in the interests of incremental change towards the private rented sector.

We have some good legislation, but it has not given us the ability to make the changes to the housing market, because it is undermined, and certainly unsupported, through other policy increments. Empty homes were mentioned, for example. We are still waiting for the legislation on compulsory purchase orders that was promised nearly three and a half years ago.

Colin Stewart: One issue that I want to bring up, which I have not heard about this morning at all, is service charges. In the social housing sector, people have their rent and their service charge. All the legislation has affected rent and not service charges. I heard yesterday of one social landlord who is putting up the service charges by 75 per cent. I have not had that confirmed, but that would be a huge hike in the price, which is not being talked about.

We need to stop talking about rent and start talking about the whole housing cost. It is not only your rent and your service charge; it is also your heating, lighting and council tax bills. Those are the things that affect tenants and that we need to be looking at, instead of looking only at their rent. Rent is, in fact, a very small part of the total cost.

Miles Briggs: That is a good point.

To go back to other points that have been raised, for the tenants associations that I have met in Edinburgh recently, the backlog of maintenance is also a key part of their concerns. A lot of people have issues that they were hoping would be resolved, but they are now being told that it is unlikely that there will be budget to do that. There is that wider concern.

The Convener: Willie Coffey has questions on the evictions pause.

Willie Coffey: Good morning to everybody on the panel. You might have heard some of the questions that we asked the previous panel. I offer you the opportunity to say a few words on your overall perspective on whether the pause on evictions has been beneficial or detrimental in the sectors that you represent.

Gordon MacRae: As I said, in the social sector, and for our clients, the measure has been largely irrelevant. It has not had the impact that the Government intended; it has had largely the impact that we forecast, because of the level that excessive arrears were set at. We certainly supported efforts to raise that floor.

The longer-term concern, which I share with the social landlords that mentioned it earlier, is that we have not yet grappled with the fundamental change in the Government's role in social housing that has come with this. A research project by the Joseph Rowntree Foundation, which is a couple of years old now, showed that the principal reason why low-income households in Scotland were financially better off after housing costs compared with similar households in England and Wales was the higher density of social housing in Scotland. Social housing reduces child poverty, and yet we are seeing a long-term decline in relation to such housing.

We are having this conversation on a day when the Scottish Government is proposing to take £112 million out of the social housing budget, in part because there are not the skills, capacity and ability to build. The legislation's long-term impact is yet to be understood, because it has shifted the relationships between independent social landlords and national Government in terms of Government setting its strategy.

Willie Coffey: Do Emma Saunders and Fenella Gabrysch think that the moratorium on evictions has been a positive thing?

Emma Saunders: We agree with Shelter's analysis that, in social and council housing, the level of arrears has been set too low—£2,250 is really low, given that most cases go to tribunal at about £5,000 to £8,000. However, the moratorium is really good for empowering tenants in the private rented sector to contest notices and to understand that they can stay. The understanding that people have the right to stay, contest an eviction and go to tribunal is incredibly important.

We agree about rash behaviour by landlords, with more harassment, threats, evictions and so on. That points to a need for greater regulation and greater standards. We discussed the landlord register earlier; there is not that much bite to it or to most enforcement mechanisms for tenants'

rights in the private rented sector. In the new deal for tenants, we need more in the way of clear and well-resourced enforcement mechanisms.

Willie Coffey: What does Colin Stewart say?

Colin Stewart: I do not have much to add on evictions. Landlords have behaved admirably on evictions, even before the legislation came in. It takes a lot of effort to evict a tenant, and nobody wants that. A tenant who is evicted becomes homeless, so they go back on to the list again. That is a circle that we would not want to get into. It is a matter of providing support to help people to hold on to their tenancy.

Willie Coffey: You have touched on some points that I will raise about unintended consequences and landlords perhaps trying to evict tenants illegally, which Gordon MacRae mentioned. Do you have any other views on unintended consequences?

Gordon MacRae: With regard to illegal evictions and so on?

Willie Coffey: Yes.

Gordon MacRae: Before providing written evidence, we pulled together people from our internal law service, our advice helpline and our four community teams in the four largest cities. We found that there was a level of harassment from landlords. The sense was that, because landlords did not have their normal levers to pull, they were resorting to intimidation, including soft intimidation. It is not necessarily unfriendly to get in touch with a tenant to say, "Just to let you know, when this ends I will be putting up the rent so, if you can't afford that, you would be well advised to start looking now." People act early because they are scared about competing in the overheated housing market, but then they enter into new tenancies with a rent that is already higher. One unintended consequence is that, ironically, some people have been choosing to leave a tenancy where the rent cannot go up to take a higher rent with another tenancy in the hope that, in the longer term, that will be more affordable than the tenancy that they are in.

I return to the point that that is what happens when we pull one strand of the housing system without giving due consideration to the rest. We have spent an awful lot of time talking about a high-profile but low-impact element of housing and less time talking about the low-profile, high-impact bit, which involves a steady supply, financing for homelessness services and access to information and advice. Those things are unsexy, but they make the big difference.

Willie Coffey: Do Emma Saunders and Fenella Gabrysch have views on unintended

consequences that may have occurred as a result of the measures?

Emma Saunders: It feels a bit weird to talk about unintended consequences if that means landlords unintentionally breaking the law. As people who write the law, you should be thinking about how to punish people who do not respect the law, rather than thinking, "Let's not write this law, because people might not follow it." That is the general position of our union. Let us ensure that the law provides for proper enforcement, so that there are proper consequences for people who break the law, rather than fear of making a law based on the possibility of unintended consequences.

We have always argued that controlling and regulating the private rented sector has enormous consequences for the whole housing sector, housing benefit bills and so on. There is something to be said about how money can come back to local government or national Government through control of rent in the private rented sector and how that means that more money can therefore be invested in genuinely affordable homes, which the private sector does not often provide.

12:00

Willie Coffey: Does Colin Stewart have anything to add?

Colin Stewart: No—I have nothing to add.

Willie Coffey: I thank everyone for their contributions.

The Convener: Does Fenella Gabrysch want to come in?

Fenella Gabrysch: On unintended consequences, I currently do not have anywhere to live. I am an auxiliary nurse in the national health service and I work as a senior youth worker, so I have two part-time jobs. The daily barriers that we face in trying to access property are horrific, if I am honest.

I live in Glasgow; I have just moved there from Sutherland in the Highlands. The barriers are sometimes insurmountable. I have applied to private lets and letting agents and have had letting agents scream at me down the phone. One of the barriers is that you need a guarantor, who has to live in Scotland, work full time in Scotland and own property in Scotland. Lots of people do not have those people in their lives, so lots of people in those situations become homeless. I applied for mid-market housing and got refused because, as an NHS auxiliary nurse, I am in a staff bank and on a zero-hours contract, so I cannot be accepted into mid-market housing. I am also 26, which is just beyond the point of being a young person.

Those realities mean that we need rights when it comes to renting because the system is broken, from my perspective. I left Glasgow four years ago to live in the Highlands and, on returning to Glasgow, I found that I could not afford any of the rents that were on offer. When I can afford a rent, it feels as though people are bidding all the time and the property is gone within the hour. You have to be on the phone all the time, which you cannot do if you are working a 12-hour shift. The situation that we are in as prospective tenants or people who are looking for a stable home, which is what we want, does not give us many options.

In my experience, the homelessness service is also in crisis. The situation has become a real barrier to people living their lives as they should do. We need a long-term solution.

The Convener: Thank you for being willing to share your personal experience so powerfully.

I now bring in Miles Griffin, who joins us online.

Mark Griffin: It is Mark Griffin.

The Convener: I said "Miles" again! What is going on? Somebody must have put something in my water this morning.

Mark Griffin: We have talked about the evictions moratorium. I want to go through the witnesses and ask whether it is necessary to extend that until September.

The Convener: We will start with Colin Stewart, for a change.

Colin Stewart: I do not think that it is necessary to continue the evictions moratorium. Social landlords have strict rules on how to evict, and the process is long. The odd tenant might take advantage of that, but they are few and far between. Social landlords behave accordingly, follow the guidelines and evict only when there is an on-going and serious problem. I therefore do not think that continuing the moratorium is necessary.

Fenella Gabrysch: We consulted our members and 200 people responded. When we asked whether the rent freeze and eviction ban had brought a greater sense of security to people in their home, 88.9 per cent of the 200 people who responded said that, yes, it had given them greater security. From a tenant's perspective, there is a sense of security that you will not get evicted if you cannot cope with the rising cost of living. There are also crises that happen in life that we do not foresee, such as a family member falling ill, which means taking time off work to support them. The moratorium on evictions really supports tenants by giving us a sense of safety in our homes as well as a sense of security about our rights in our homes.

Gordon MacRae: Although we never set out to campaign for an evictions ban or a rent freeze, we broadly welcomed them, as we would welcome anything that reduces the likelihood of homelessness. However, what we would like to see, coupled with any continuation, is preparation for what will happen at the end of this, because there has not been any meaningful impact on homelessness.

Fenella Gabrysch touched on the crisis in the homelessness system. What is the purpose of the freeze? Is it to get the system right so that homelessness is brief, rare and non-recurring? Just a couple of weeks ago, the Scottish Housing Regulator—a relatively sober contributor to public debate—talked about there being a risk of “systemic failure” in Scotland’s homelessness system. We are in the middle of a crisis right now.

Our concern has always been about the opportunity cost of choosing to do this and not doing other things. The people who do not have a voice are the record number of children in temporary accommodation who have nowhere to go and the people in the record number of households that are trapped in temporary accommodation.

We already know what the answers to that are. The Scottish Government set up a task force, which made its interim recommendations before the new year—they were to take a different approach to securing the homes that Scotland needs and to take a different approach to funding homelessness services. Shelter Scotland would certainly add the recommendation to have a different mindset on how we use the homes that we already have. That is about leadership, priorities and not accepting that homelessness is inevitable.

Should the measure continue? Yes, but as part of a bigger plan to make the existing safety net more robust and more able to help people. That is the bit that we do not see happening. The fear is that we will come to the end of the next moratorium with a whole load of eviction cases opening in the tribunal and the courts being overloaded and still no proper plan for dealing with the housing emergency.

The Convener: Thanks for that. I will jump in with a quick supplementary. You said that we need to have a different mindset on how we use the homes that we already have. What would that different mindset be?

Gordon MacRae: I am thinking about short-term lets and empty homes. How do we use the pre-action requirements in relation to evictions in the private sector? Why do we evict people because the landlord wants to sell? That is madness, especially when some of the people

who are most likely to get a mortgage are buy-to-let landlords. We are creating systemic homelessness because we have not used those requirements.

I am not saying that we should run completely roughshod over property rights and get these things dragged into the courts. However, there are relatively straightforward ways to deal with the issue that have already been mentioned. Where is the compulsory purchase order legislation? How about compulsory rental orders for social homes?

The one thing that is good news is the change to land and buildings transaction tax for properties that were purchased for social housing from the open market, so that local authorities and social landlords do not have to pay that tax on top of other things. However, we have to think carefully about what needs to happen now.

One reason why social housing has been targeted for a funding cut and why a strategy has not been put in place—it has been more than two years since “Housing to 2040” was created, but there is still no strategic group to pull housing policy together as a whole—is that our housing ministers are spread too thinly across other portfolios. Do we need a dedicated housing minister who can take on a leadership role? There is an opportunity for the incoming First Minister to put housing policy at the heart of their plans for the future of Scotland and to give housing a full-time seat at the Cabinet table.

Mark Griffin: We touched briefly on Shelter Scotland’s concern about what substantial arrears are and whether £2,500 is actually substantial, especially as the cases that end up at the tribunal involve arrears of more than that. Can we say that we have a moratorium on evictions in the social housing sector when the substantial arrears level has been set to start from £2,500?

Gordon MacRae: As I said, we cannot say that for our clients. It was interesting to listen to representatives of RSLs talking about how relaxed they were about the £2,500 figure continuing, because it is not really having an impact. To be fair to RSLs and some local authorities—although it is more of a mixed bag with local authorities—there has been significant investment in approaches to prevention and engaging with tenants who have levels of arrears that we used to think were relatively manageable but which the Scottish Government has decided are substantial. We want that engagement to continue.

One of our concerns is that setting the figure to start from £2,500 has created a new floor for eviction that was never best practice in the first place. We do not want that to become normalised as the level at which eviction proceedings begin.

I emphasise one difference from the evidence that we heard from RSLs and local authorities. Our law service would not exist if every local authority sought to evict tenants only when there had been no engagement and after the authority had followed the rules. Things go wrong. Sometimes, front-line workers are under so much pressure because there is a lack of resources and a lack of homes to move people into that they make the wrong decisions or they give people the wrong advice, which is where the safety valve comes in. However, we have added a new, lower expectation of the amount at which it is reasonable to start eviction proceedings.

We updated some old research that shows what the cost of a social housing eviction is to a taxpayer. It is somewhere between £8,000 and £25,000—that depends on an individual's support needs. Although that is a broad range, it is certainly higher than some of the arrears levels that landlords have taken action on.

Annie Wells (Glasgow) (Con): Good afternoon—it is afternoon already.

The legislation requires that the Scottish ministers ensure that tenants who are affected by the rent cap and the evictions moratorium receive appropriate information, advice and support. What is your view on how effectively the Scottish Government has provided information, advice and support on the legislation? Does anything need to change?

Gordon MacRae: We saw some website pages and some social media promotion on the changes, but I would question whether that information reached people and whether tenants knew about it.

The test for us is to look at the tenant grant fund and where it went. If that funding had reached people equally, based on need rather than on who their landlord was, we would have seen those funds going to people in proportionately lower-income households and at that level of tenure. However, that was not the case. PRS tenants have been the least likely to access those funds in most areas, if not all.

To give credit where it is due, it is an incredibly fast-paced environment, and the need to turn something around and get it out there made it very difficult to do that. However, the expectation that councils, which have no relationship with private sector tenants, would be a useful communications vehicle for getting that information to them has been proven to be a false premise.

12:15

We would certainly tell people to use advice agencies. Landlord registration has been

mentioned. Although that is a bit of a wet blanket in many respects, it gives us the address of every private tenancy in the area, so people could write out and make sure that every private tenant knows what their rights are.

I keep going back to the question of what the business case is for helping people to keep their home. There is a moral case, but there is also a business case, and it would have been an awful lot cheaper to send that information out than to face a few evictions. We hope that those lessons are learned and well understood.

We probably need communications people to lead the communication rather than policy people putting more policy online.

Colin Stewart: I am part of Regional Networks, which was set up back in 2008 to be a conduit for information to go back and forth between the Scottish Government and tenants. With the legislation, there was nothing coming through from the Scottish Government for us to give to tenants. We had to get the information down to tenants. There was a big gaping hole of information during that period. Yes, it was emergency legislation and things moved fast, but we were not getting the information to give to tenants.

Emma Saunders: I do not have much to add on the information aspect, but I note that knowing something does not mean that you can enforce it. You knew that the rent increase was illegal, but what could you do? You could not go to a tribunal with it, so there was sometimes a sense that knowledge is not enough. We can say, "Oh, tenants just need to know their rights better" if their rights are good, but if their rights are insufficient, knowing those insufficient rights will not change anything.

Marie McNair: I thank the panellists for joining us this afternoon. I have asked previous panels this question, although I have slightly amended it. Could the Scottish Government take further measures to support councils and landlords to assist tenants through the cost of living crisis?

Gordon MacRae: We have to make a decision about what the priority is. We have mentioned the homelessness crisis. Is the priority to stop people becoming homeless because that system is on the brink of failure, to mitigate the impact of the cost of living crisis on already hard-pressed households, or to retrofit existing properties to reduce long-term costs? It is clear that all those things cannot be done at the same time.

To be uncharitable about the act, it has the hallmark of something that must be done—and here is something. We need long-term strategy, commitment to on-going investment, and clarity about what success looks like.

We certainly think that the short-term pieces of work should involve thinking about buying more properties rather than building. We have already talked about some of the other levers that Government can pull. There is the question of how we directly fund homelessness services in places where there is a particular crisis, such as Edinburgh.

My challenge back to Government would be: make a choice about what your priority is, and then bring the housing sector, the third sector, tenants groups and everyone else together so that we can make that happen. Right now, everyone is spread thinly—and that is before we talk about what will happen when the boats with Ukrainian refugees have to depart and we add another 2,000 to 3,000 people into the system.

This is not a good time in housing. That is why it is simply so incredible to us that we are choosing to cut the budget today. At this rate, we will be back here in a year's time having similar conversations.

Emma Saunders: We have a similar concern about the long-term strategy and investment, and a fear of letting tenants foot the bill. If we want to retrofit their homes, that should be an investment from the Scottish Government, and if we want new-build properties, that should be an investment from the Scottish Government. We totally agree on the need for compulsory purchases and a first right of refusal for social housing, which we have called for. We also agree on the need for really effective measures around short-term lets and holiday homes. That is part of the comprehensive package.

In the very short term, it seems that something that could happen in the next two months is the stopping of the tenant grant fund. In many places, that no longer exists. Money has run out in supporting tenants to access it. As Gordon MacRae said, a lot of tenants do not know that it exists.

Fenella Gabrysch: Further to what Emma Saunders has just said, as someone who has just moved back from the Highlands and Islands and who was a member of the Highlands and Islands Living Rent group for the past three and a half years, I think that we also really need to prioritise the differences in different communities' perspectives on housing in their locality.

Where I have just moved from, there is no private rented sector; there are only short-term lets. It is incredibly difficult to get a property there, and it is incredibly difficult to get a job and find an affordable place to live there. When I initially moved there, I was asked to pay between £600 and £800 a month for a one-bed property. That was insane to me, and it was way above what I

could afford. Along with facing those kinds of challenges, isolated and rural communities on the mainland and on the islands face the exacerbation of other issues, as well.

When we are thinking about long-term solutions, we need to think about how we integrate communities' views into that, get consultations, and ensure that people understand those consultations.

Where I lived, there was a 52-minute drive to the dentist, and it took 45 minutes to get to the supermarket. Those costs exacerbate how hard it is to live your day-to-day life, on top of the lack of rental opportunities.

Colin Stewart: I echo what Gordon MacRae said. There is a lot of pressure on social landlords. There is "Housing to 2040". We need 110,000 houses built. We have net zero, decarbonisation and EESSH2 aims. Where is the money for all of that going to come from? Anything that is done to protect tenants in respect of their rents and affordable houses affects their landlords, which in turn affects the tenants.

The Scottish Government should think about not just rents. To go back to my previous comment, it should look at the total housing costs—rent, service charge, heating, lighting and council tax costs. If you take all those into account, you might be in a better place to help tenants.

Marie McNair: I have a final question. As we are pushed for time, I will ask it quickly, and I hope that your response will be quick. Do any of the witnesses have any comments about the impact of the legislation on student tenancies? Do you agree with the Scottish Government's plan to suspend the rent cap for those tenancies?

I put that question to any of the witnesses. You might not be able to answer it; if not, just say.

Fenella Gabrysch: The problem with purpose-built student accommodation is that it is too expensive. It is often a luxury product that most students cannot afford, so it really needs to be regulated, whether through a rent cap or other measures. Our members in Glasgow and Edinburgh have asked for affordable student accommodation to be built and prioritised rather than—

Marie McNair: The plan is to suspend the rent cap. Do you agree with that?

Fenella Gabrysch: No. As we were saying, the issue is when the rents are set. There is also the fact that PBSA is not included in the private tenancy regulations. We talked about mid-market tenures. We need to think through PBSA tenures so that student tenants have as many rights as normal tenants have.

Marie McNair: Thanks for that.

The Convener: That brings us to the end of our questions. I appreciate the evidence that has been given today. I have circled in my notebook “whole housing cost columns”. That has sunk in, and that is a good thing that we need to take on board. We need to take on board everything that we have heard today.

I suspend the meeting so that the witnesses can leave.

12:25

Meeting suspended.

12:29

On resuming—

First-tier Tribunal for Scotland Housing and Property Chamber (Amendment) Regulations 2023 (SSI 2023/6)

The Convener: The next item on our agenda is consideration of the First-tier Tribunal for Scotland Housing and Property Chamber (Amendment) Regulations 2023.

There is no requirement for the committee to make any recommendations on negative instruments.

As no one has any comments on the instrument, does the committee agree that we do not wish to make any recommendations in relation to it?

Members *indicated agreement.*

Public Petition

Scottish Landlord Register (Review) (PE1778)

12:29

The Convener: The final public item on our agenda today is to consider our approach to the continued petition PE1778, which calls on the Scottish Parliament to urge the Scottish Government to review the Scottish landlord register scheme. It is suggested that we ask the Scottish Government for sight of the draft statutory guidance and for a summary of the changes that it makes to the landlord registration scheme, in order to determine whether that addresses the concerns of the petitioners. Do members agree to the suggested action?

Members *indicated agreement.*

The Convener: As that was the final public item on our agenda, I close the public part of the meeting.

12:30

Meeting continued in private until 12:39.

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