



OFFICIAL REPORT
AITHISG OIFIGEIL

DRAFT

Finance and Public Administration Committee

Tuesday 29 October 2024

Session 6



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FINANCE AND PUBLIC ADMINISTRATION COMMITTEE
29th Meeting 2024, Session 6

CONVENER

Kenneth Gibson (Cunninghame North) (SNP)

DEPUTY CONVENER

*Michael Marra (North East Scotland) (Lab)

COMMITTEE MEMBERS

Ross Greer (West Scotland) (Green)

*Craig Hoy (South Scotland) (Con)

*John Mason (Glasgow Shettleston) (Ind)

*Liz Smith (Mid Scotland and Fife) (Con)

*Michelle Thomson (Falkirk East) (SNP)

*attended

THE FOLLOWING ALSO PARTICIPATED:

Stephen Lea-Ross (Scottish Government)

Shona Robison (Cabinet Secretary for Finance and Local Government)

Hannah Taylor (Scottish Government)

CLERK TO THE COMMITTEE

Joanne McNaughton

LOCATION

The Robert Burns Room (CR1)

Scottish Parliament

Finance and Public Administration Committee

Tuesday 29 October 2024

[The Convener opened the meeting at 09:30]

Interests

The Deputy Convener (Michael Marra): Good morning and welcome to the 29th meeting in 2024 of the Finance and Public Administration Committee. We have received apologies from the convener, so I will chair today's meeting in his place. We are joined by Audrey Nicoll, who, in the convener's absence, is attending as a substitute member.

I am pleased to welcome Craig Hoy as a new member of the committee. Before I invite him to declare any relevant interests, I record the committee's thanks to Jamie Halcro Johnston for all his hard work on the committee.

I invite Craig to declare any relevant interests.

Craig Hoy (South Scotland) (Con): I have no relevant interests to declare.

The Deputy Convener: Excellent—thank you.

Subordinate Legislation

Scotland Act 1998 (Specification of Devolved Tax) (Building Safety) Order 2024 [Draft]

09:31

The Deputy Convener: Agenda item 2 is subordinate legislation. An evidence session with the Cabinet Secretary for Finance and Local Government on the draft Scotland Act 1998 (Specification of Devolved Tax) (Building Safety) Order 2024. The cabinet secretary is joined by Scottish Government officials Hugh Angus, lawyer; Hannah Taylor, building safety levy team leader; and Stephen Lea-Ross, director for cladding.

I welcome our witnesses to the meeting, and I invite the cabinet secretary to make an opening statement.

The Cabinet Secretary for Finance and Local Government (Shona Robison): Thank you. In our 2023-24 programme for government, we announced that the Scottish Government would seek the devolution of powers to introduce a building safety levy in Scotland that would be equivalent to the United Kingdom Government's building safety levy for England. As the Scottish Parliament cannot legislate for a new national tax in Scotland without the consent of the UK Parliament, the Scottish Government requested the transfer of powers from the UK Government under section 80B of the Scotland Act 1998.

To inform the UK Government's decision on that request, the Scottish Government and the UK Government launched a joint consultation, which ran for six weeks, from 8 January 2024 until 19 February 2024. Respondents were asked to provide evidence that devolving the power might have a disproportionate negative impact on UK macroeconomic policy or impede the single UK market in house building in any way. They were also asked whether the powers for a building safety levy in Scotland should be devolved to the Scottish Parliament.

As both Governments agreed that the consultation had surfaced no evidence to prevent the transfer of powers from proceeding, the UK Government confirmed that it would proceed to legislate for the transfer of powers, but that process was interrupted by the general election. However, we have since renewed the agreement to legislate with the new UK Government Administration, and the order will be considered by the UK Parliament this week.

The draft order before us today sets out high-level criteria for the new devolved tax. It provides that a Scottish building safety levy must be

charged at a point in the building standards process and that revenue that is raised through any levy must be spent on building safety expenditure. In doing so, the order, in effect, matches the powers that were taken by the UK Government in the Building Safety Act 2022, which was the UK Government's intention in drafting the order.

The order does not make any further specifications and, provided that it is approved, decisions on all other aspects of the devolved tax policy will be set out in the building safety levy bill, which the Scottish Government intends to introduce as part of its year 4 legislative programme. In line with our new deal for business and framework for tax, the Scottish Government has commenced a consultation and programme of engagement with stakeholders, including people who operate in the residential property development sector, on the design of a Scottish levy, and I look forward to speaking to the committee on the design of the levy as part of its consideration of the bill.

However, the purpose of today's discussion is to discuss the principles and practicalities of the devolution of powers, and I am happy to answer any questions that the committee has on that.

The Deputy Convener: Thank you, cabinet secretary. I will begin the questioning, before bringing in other members of the committee.

There was a mixed response to the consultation; I think that eight respondents were in favour of the proposal, six were against and two were of no position. I would like you to respond to a couple of the queries that were raised by members of the public. First, some people felt that the order might set a precedent for people to be taxed twice, and others believed that some house builders might be asked to pay when their work would not require remediation. How do you respond to those concerns?

Shona Robison: Those are similar issues to those that have been raised by the sector in England. Just last week, I had a meeting with a number of people who are involved in the sector and I would say, as I said then, that we are talking about orphan buildings for which there are developers who have responsibility. We would expect them to get on and remediate and meet the cost of that.

There is then the question of who pays for the remediation of buildings where no developer can be identified. It is not fair for that cost to fall on taxpayers and the public purse. It will, of course, require an element of funding from the public purse, and we have set out that we will meet our obligations there. However, a contribution from the

sector is important, given that those buildings will require remediation.

We have set out an indication of what revenue we think that the order will raise in line with what the UK Government has anticipated that it will raise, and whatever it raises will be only a contribution to the overall costs of orphan buildings. It will not meet the entire cost; it is a contribution. It is about balance. It is not unfair to ask the sector to make a contribution, as the public purse will make a contribution to the remediation of buildings where there is no developer that can take responsibility for them.

That is my top-line response. I can understand the issues raised, but our approach is about putting in place a proportionate response.

The Deputy Convener: Do you have a sense of how much work will be required for remediation, overall?

Shona Robison: A lot of work has been done on that. I can give you some high-level information and come back with some details. In 2021, an inventory data collection project was undertaken by the Scottish Government using information gathered from local authority building standards departments. That established that around 382 buildings above 18m and around 500 buildings between 11m and 18m required some level of remediation.

There is then the question of the required level of remediation. A UK Government publication back in 2022 estimated between £640,000 and £790,000 for full remediation, but partial remediation could be considerably less than that. The point is that that is why the single building assessment will be so important. Each building will be different, so the cost of remediating each building will be different. The legislation that will come into force next year will give the tools to make sure that a single building assessment is done for each building.

It will take a number of years to work through. We have prioritised and made clear that we want the priority to be the highest buildings and those that are most at risk, if you like.

The Deputy Convener: Were those figures from 2021?

Shona Robison: The inventory was done in 2021 and the figures are from a 2022 UK Government publication.

The Deputy Convener: How many properties have been completed since then?

Shona Robison: I can give you an update now, and supply some of the information to you in writing.

It was not possible to commission a single building assessment prior to the passage of the Housing (Cladding Remediation) (Scotland) Act 2024 and the publication of the technical specifications in June 2024. We ran a pilot project to establish the efficacy of the SBA process. It involved SBAs for 13 entries—ministers commissioned SBAs for 12 entries, and there was an entry in Glasgow for which an SBA had already been commissioned. There were a total of 107 entries in the Scottish Government pilot programme, and assessments were undertaken for 30 of those entries. Works to mitigate or remediate risk have commenced on five of the pilot entries, which include works to address either cladding-related risk or to impose urgent interim measures, such as a waking watch system.

Essentially, the pilot was an entity in itself that allowed us to test the process. I have given you the figures for the pilot and I can update the committee on that in writing, if you like.

The Deputy Convener: That would be useful. A response to a freedom of information request that was published on 19 September this year set out some of the figures that you have just provided and said that works to mitigate or remediate risk have started on five properties. Unfortunately, the work to remediate properties has not been completed on any of the 107 properties that are involved in the cladding remediation programme. I see that Stephen Lea-Ross may want to qualify some of that.

Stephen Lea-Ross (Scottish Government): Your point is correct: at this point, no building is to be regarded as having been remediated. That needs to be understood in the context of the passage of the 2024 act, which will come into force in January next year, as the cabinet secretary has set out. For one of those entries, we understand that no further work will be required. The SBA on that building has been commissioned and is due back with us before the end of the calendar year. The 12 further SBAs that have been commissioned, which the cabinet secretary has just referenced, will determine what onward remediation works are required for those buildings.

The Deputy Convener: I appreciate that.

Shona Robison: It is a long, difficult and technical process.

The Deputy Convener: It is, and I understand some of that. The information that has been published gives a figure 1,482 buildings, which is quite a large number. Of those, some work has been done on five buildings. If we compare that to the figures that have been published for the rest of the UK—in Wales, work on 37 buildings has been completed, and is under way on a further 86 buildings; and in England, remediation work has

been started or completed on 1,608 buildings, which is 42 per cent of the stock—it is pretty clear that the numbers in Scotland are significantly behind those for the rest of the UK. Will you set out why you think that that might be the case?

Shona Robison: One of the reasons is the single building assessment. Officials may want to come in, but there have been questions and concerns about the detail of the remediation that has taken place in some of the buildings in England. One of the reasons why we have gone down the single building assessment route is so that we can reach a single point of truth about what needs to be remediated. Some aspects of the buildings in England have not been remediated, and there are what could be described as on-going disputes about whether or not remediation has taken place satisfactorily in a number of those buildings.

We want to get it right first time, and the single building assessment is a thorough process, which is now being looked at elsewhere. It will help us to ensure that the work that needs to be done is done comprehensively, and that the outcome for buildings for which no work is required is that those buildings are recognised as safe. Those buildings will then go on to a register, which was established by the 2024 act, and homeowners and others will be able to use the information on it for mortgage purposes. It is important that the buildings that require no remediation or a limited amount of remediation can be put on that register quickly.

The act will come into force from January, which will mean that there is more pace with the single building assessment process and that the process can be forced in cases in which, for example, there is a lack of agreement among homeowners. It will also ensure that there is a process by which the data from the single building assessments will be available to help people to move on for mortgage purposes or if they want to sell their homes that they have not been able to sell for many years. Therefore, getting it right is important.

Stephen, do you want to add anything?

09:45

Stephen Lea-Ross: As the minister said, one thing that we have tried to do through the pilot programme is to put the foundation—the building blocks—in place. That has necessarily meant that progress, by some measures, has been slower than it might have been elsewhere in the UK. However, it is important to understand that, in the context of the Housing (Cladding Remediation) (Scotland) Act 2024, we needed to deal with a fundamental difference in land tenure in Scotland as compared with other parts of the United

Kingdom. In essence, in general, we have no single building freeholder and therefore could not proceed with taking forward a programme that is built in the same way as the English programme, which, principally, is delivered through grant funding to a building freeholder. We needed the legislation in place in order to provide ministers with the necessary powers—those come into force in January—to proceed with commissioning assessments and remediation for buildings with no single building freeholder, even in cases in which there is an absence of consent among the home owners or residents.

The legislation was passed in June, and the technical assessment specification was published in June. Pending the legislation coming into force next January, we proceeded with commissioning the 13 SBA entries from our pilot programme. Those are buildings for which there is no linked developer at this time or any other building freeholder that we are aware of, and that we understand to be in scope as they meet the minimum height requirements in the legislation. Thereafter, we would expect the pace of progress with regard to the process of commissioning SBAs and onward remediation to increase throughout 2025 to 2026.

The Deputy Convener: Pace is a concern, is it not, minister? Are you concerned about the pace with which this is being carried out?

Shona Robison: I want people to have their buildings remediated and to be able to move on with their lives as soon as possible. However, getting it right is also important, as is Stephen Lea-Ross's point about freeholders. If there is a single freeholder, as is the case in England, it is much easier to get agreement. However, in Scotland, there might be 100 home owners in a building and they must all be in agreement. That requires a different process, and the legislation will really help to push forward with SBAs when there is no agreement.

The Deputy Convener: It is seven and a half years since the tragedy at Grenfell and all those lives being lost and people have been living with concerns since then. It does not feel as though we are moving at great pace. I understand the challenges in passing the legislation and wanting to get the framework right. However, you released figures on 9 September saying that the Scottish Government has spent £9 million on cladding remediation work. Is that correct?

Shona Robison: That is correct, but all money that has been allocated to cladding—every penny of all consequentials—will be used for remediation. However, we can remediate only what we know needs to be remediated and in what way. The single building assessment will determine that. That is needed before money can

be spent. The money will be spent but only after SBAs are carried out.

The Deputy Convener: In 2020, I think that the Government received £97 million of Barnett consequentials for remediation. You are saying that that money is still available for the work?

Shona Robison: Yes, of course—

The Deputy Convener: Nearly four years has passed since then.

Shona Robison: —and we will undoubtedly have to add significantly more than that. We will do that at the pace at which the single building assessments are carried out.

Developer remediation is also taking place, and they are getting on with the buildings for which they are responsible. Here, we are talking about buildings for which no developer is responsible. Work is on-going in many buildings that developers are responsible for themselves, and it is quite right that that should be the case.

The Deputy Convener: I will take some questions from committee members now.

John Mason (Glasgow Shettleston) (Ind): Will you go back to the basics of why we are doing this? Will you explain why the UK Government could not legislate for the whole of the UK and why we are having to do so separately in Scotland?

Shona Robison: We had quite a lot of discussion about that. My initial view was that that would have been the quickest and easiest route, but there was no agreement to do that.

There are some complications. Stephen Lea-Ross alluded to a major difference with regard to the legislation on ownership, freeholders and all of that. I think that it would have been possible to legislate for the UK as a whole but there was no agreement. Therefore, we had to craft legislation that was in line with UK legislation but that could take account of the differences. UK legislation might have been quicker and easier, but we are where we are.

John Mason: That is helpful, thank you. Some respondents to the consultation suggested that it would be helpful to have a single central national collection agency for the levy. I understand that, in England, the levy is collected in a piecemeal way, council by council. What are your thoughts on that?

Shona Robison: We want to reflect on those operational issues. I am open-minded about what approach to take. We want to collect the levy in the most efficient and effective way possible, but we want to consider the approach further.

John Mason: We will see that in due course. Some of the respondents—in England, Scotland

and everywhere—were against the idea of a levy altogether. How would you respond to them?

Shona Robison: I have just met with respondents and I listened to those concerns. We could not have a situation in which developers contributed to the cost of remediation of orphan buildings in England and Wales but not in Scotland. I would find that difficult to defend. Michael Marra made the point that developers might feel that they are being taxed twice. However, someone has to pay for the remediation of buildings where there is no developer, and it is not fair that that falls exclusively on the public purse. It is important that there is a developer contribution in recognition of the fact that there is a problem and that a solution must be found to remediate those buildings.

I also made the point that developers' contribution is just that—a contribution. It will not fund the programme for remediating orphan buildings. That will still require a significant investment of taxpayers' money—public money.

John Mason: Do you have a breakdown of the percentage cost that would be contributed?

Shona Robison: We need to work through that a bit more. On the basis of what the UK building safety levy will bring in, we have estimated that around £30 million a year will be contributed. I guess that that will last for as long as the programme lasts for. We discussed whether the levy would continue once all the identified buildings had been remediated—that is a legitimate question. I see the contribution very much as funding the programme, so the levy would need to remain in place for as long as is required to do that, and it will need to be kept under review.

Another question was about what would happen if it turned out that the work was not as expensive as expected and a lot of buildings did not need the expected level of remediation. We can review the levy if that turns out to be the case, but I suspect that that will not turn out to be the case, given the scale of the problem.

John Mason: Does that mean that you do not yet know whether the levy would be set at the same level as the levy in England?

Shona Robison: Our judgment is that it should certainly be set at the same level initially, and the figure of £30 million is the amount that it would raise on that basis. Those issues need to be discussed in more detail, but we want to set the levy at the same level initially.

Liz Smith (Mid Scotland and Fife) (Con): The joint response to the consultation from both Governments made it clear that the levy is not

expected to have any major impact on land prices. On what basis was that judgment made?

Shona Robison: I will bring in my officials to respond to that question.

Hannah Taylor (Scottish Government): Your question is about impacts on land prices—is that correct?

Liz Smith: Yes. There were concerns in some of the written submissions that, because of behavioural change, the levy could have some impact on land prices. However, it was made clear in the Governments' joint response that that is not the case. What evidence do you have that it will not have any major impact?

Hannah Taylor: We will have to write to you to clarify that.

Liz Smith: It is an important issue. The nature of taxation is that there are behavioural changes as a result of any tax change, and elasticities to go with that. From what you have set out, cabinet secretary, I am not particularly opposed to the tax, but I think that the committee would like to see the evidence on which statements are based. If the change is not to have any major impact, we would like to see the evidence on that.

Shona Robison: I will come back to you on that point specifically.

Although the issues that stakeholders raised with me included an element of the impact on land value and also whether behaviour will pass that on to house prices and whether that would then be a deterrent, their main issue was the cumulative impact—it not just about one impact, but what it looks like when it is all added up together. I said that we were very cognisant of that and were mindful that, if other things were to impact on the sector—on land value and house prices—we had to think of it in that context.

However, we will come back to you on your specific point.

Liz Smith: I understand your point. However, the joint response notes that the modelling for the building safety levy in England suggests that, rather than impacting on property prices, it will impact on the price of land. The two countries are different, for the reasons that Stephen Lea-Ross set out. We do not have the same set-up of land ownership. Again, from the committee's angle, the more evidence that we have, the more helpful that is for our decision making.

Shona Robison: We will come back with that.

Liz Smith: Thank you.

Hannah Taylor: May I come back in? I understand that the concern is about there being an impact on house prices rather than land prices.

Liz Smith: It is about what was said in the Governments' joint response.

Hannah Taylor: I believe that the rationale for considering that the levy will impact on land prices is that new build is not the only housing stock. Property prices are set by the market value, which reflects both existing stock and new-build stock. For that reason, the levy is potentially more likely to impact on land prices.

Liz Smith: I absolutely understand that. I am asking—

Shona Robison: —what lies behind that.

Liz Smith: Exactly, cabinet secretary. If the arithmetic is slightly different in England from what it is in Scotland, we need to understand why, because that is the important point to consider when, as a committee, we make any decisions.

Shona Robison: We will come back to you on that specific point.

The Deputy Convener: That would be appreciated, cabinet secretary.

Craig Hoy: Good morning, cabinet secretary. To go back to the figures, in March 2020, you received £97.1 million in Barnett consequentials for remediation. The response to the freedom of information request from March this year, which has been referred to, said that £16.9 million had already been spent. I want to delve a little deeper into the remaining £80 million. Do you have that money at hand to spend if there should be an accelerated period of remediation?

Shona Robison: All £97 million has been received. What we will spend is dependent on what is required. Some of our spend is on the immediate safety measures that have had to be put in place—for example, waking watches—but the big spend will be on remediation after SBAs have been completed.

Inevitably, there will be a lag in the increase in spend, but every penny of the consequentials that we have received will absolutely be spent, and we will have to add to that.

Craig Hoy: Fine. Given the in-year budget pressures that the Government faces this year, and that it will probably face in future budgets, is there a risk that the remediation process will go only as fast as the Scottish Government can afford, in-year?

10:00

Shona Robison: We need to ensure that the funding is in place and that the funding profile will meet the needs that are there.

A lot of work is going on in the background on that. As you can imagine, with an analysis of how

many SBAs are going to come through, we will be able to see the balance between full remediation, partial remediation, no remediation required or a green light to say that the building is fine. We will be able to profile what the required spend will be over five, 10, 15 or 20 years as things begin to ramp up.

It is difficult to give an absolute analysis now, but the funding will be put in place. We are not going to embark on a remediation process for orphan buildings and then not see it through to completion as quickly as possible. However, the SBA process will take time. It requires high-level specialist technical skills, and that has proven to be a bit of an issue. Apologies that I cannot remember the exact specialist roles involved, but the engineers are looking at how they can bolster that and ensure that the skills are there. My worry is that it will take time if we have a backlog of SBAs that are all waiting for the same people to come in and do the assessment.

Stephen Lea-Ross: We are doing a number of things to manage pace and flow. Our budget profiling, which is going on now for 2025-26, takes into account commencing remediation works on all buildings for which we have already commissioned a single building assessment. That profiling also puts into place an upper estimate of the maximum number of SBAs that we could commission in 2025-26. As things stand, that is around 100 SBAs, but the number might change. The figure is based on our upper estimates of the capacity of the market, as Ms Robison outlined.

To increase the flow, we have worked with fire risk assessors to increase the number of people who are available in our framework contracts. Broadly speaking, from the point at which an SBA is commissioned, it takes between nine and 12 months for the building to have onward remediation works commissioned. The assessment is quite intrusive and takes upwards of three months to complete.

Craig Hoy: What would be the cost of remediation work on those 100 properties?

Stephen Lea-Ross: I cannot give you a figure until we have the SBA assessments back. As I said, that is an upper assessment on the maximum number of SBAs that are likely to be commissioned in 2025-26. I am not specifying that it will be exactly that number. The other thing is that we will be commissioning assessments on orphan buildings only. As part of our process, we have to determine whether a building will be developer-led or if there is another single building owner.

Broadly speaking, we attempt to allocate remediation moneys based on the mean cost estimates that Ms Robison outlined at the

beginning, with an additional measure for inflation, because those figures were published in 2022. Some buildings will be significantly more expensive to remediate, with some entries in the £10 million to £12 million-plus range.

Craig Hoy: Cabinet secretary, you were asked about the balance between what the public purse should pay for and what the levy should raise. Do you have a formula for that? Is there a risk that, as the public purse gets increasingly overstretched, the Government will lean more on developers?

Shona Robison: There is not a formula. As I mentioned, the estimate is that the levy will bring in £30 million a year. My gut tells me that that will be nowhere near enough to remediate all the buildings to the level that will be required once the SBAs come in. We will have to keep it under review, but what the sector wants is certainty. Last week, it asked whether we would just keep changing the levy every couple of years.

Craig Hoy: But do you have an indication? Is it 50:50, or is it two thirds to one third? I am just trying to get a rough idea.

Shona Robison: I will bring in Stephen Lea-Ross on that. It is really difficult to say. I cannot tell you what the global cost will be of remediating all the buildings, because we just do not know the extent. A partial remediation of a building could cost £300,000 and a full remediation could be upwards of £800,000, which is at least a £500,000 difference. We just do not know at the moment. Indeed, some buildings might require no remediation. As things stand, until the actual technical assessment is done, it is really difficult to assess that.

I have told the sector that I understand the point about certainty. I would not want a situation in which the rate of the levy constantly changes. We are working with the sector to try to have a period of stability, and we have set out the amount that we expect to receive from the levy. We can factor that in and maybe have some points of review, where we take stock of the actual SBA remediation costs annually and where the levy sits in relation to that. As you can imagine, I want to give the sector a bit of certainty in the initial phase.

Stephen Lea-Ross: As the minister set out, the modelling is subject to significant changes pending the remediation works that are required on individual entries. As things stand, and on the basis of the figures that were quoted in the consultation, it is expected that more money would be invested via public funds into remediating buildings than would be raised through the building safety levy over the 10-year period. On that basis, the levy would raise less than half the anticipated spend.

Craig Hoy: We are talking about public safety and people's financial security in relation to their properties. Just for clarity, I assume that the £17 million or so was spent in-year and that, moving forward, you intend to fund the remediation works out of future budget settlements. Is there a risk that the process could slow because the Scottish Government did not have sufficient funds in-year to fund the accelerated pace of remediation work?

Shona Robison: That is very topical, given that the UK budget is coming tomorrow. I hope that we get an improvement in the capital position, as has been alluded to. If that is to be believed, I would certainly welcome that, because it would help us with certainty and with being able to invest what we need to invest.

The other important issue is multiyear settlements. The indication is that the spending review for both resource and capital will conclude in the spring. That will give the Scottish Government a multiyear line of sight on capital expenditure, which will be helpful in the building safety space, as it will enable us to plan what we think will be a reasonable allocation to ensure that the pace can be kept up. The last thing that we want is to have the single building assessments completed but for people to then be waiting for the remediation work. We do not want any delay to that. Once the SBAs are completed, we want the remediation work to be got on with as quickly as possible. We absolutely appreciate that people want to be able to move on with their lives. At the centre of this are worried householders who have been waiting a long time, so we want to be able to get on with this.

Craig Hoy: I have two quick questions on the impact on the housing market. We know that there is an affordability issue in the Scottish housing market relative to income. We also know that certain developers have had their margins squeezed intensely and that, for example, the Stewart Milne Group has gone to the wall. What assessment have you made of the effect on the price of, let us say, a £250,000 starter home? Based on your discussions with developers, how much of the levy will they pass on to house buyers?

Shona Robison: Those discussions are ongoing. We are cognisant of the fact that Scotland has a larger small and medium-sized enterprises developer sector than is the case elsewhere. Those SMEs have been very important for the affordable housing sector.

When it comes to developers who will be required to contribute to remediation, we are talking about those that have a turnover of more than £10 million. Stephen Lea-Ross might want to say more about that.

Stephen Lea-Ross: The cabinet secretary is referring to the developer remediation contract, which will be a contract for developers to lead on the assessment and remediation of buildings that they have developed. At this time, we are only asking developers that have post-tax profits in specified years—I cannot recall the years exactly, but I think that we are talking about the three years from 2019—of more than £10 million to sign that contract. That is commensurate with the position in England.

Part of the approach would be not to seek to ask smaller developers to sign the developer remediation contract at this time, given the overall potential impact on their business, and to seek to recover funds via the levy.

Craig Hoy: Some developers are quite good at setting up several different corporate entities. Is there a risk that developers will simply go down that route? By having regional development companies, they could get round the £10 million profit limit.

Stephen Lea-Ross: We are talking about specified profits in years past, and the developers that we are asking to sign the developer remediation contract have already been invited to do so.

Craig Hoy: So a new developer would be exempt.

Stephen Lea-Ross: We would need to specify future years' profits, but because, in practice, we are looking at the remediation of buildings that have been developer led and that have been put up between 1992 and 2022, as specified by the legislation, a new developer, by definition, would not be caught.

Shona Robison: On your point about the passing on of costs, that is a live issue that came up in our discussion last week. Developers said that, ultimately, they would have to put the cost on to house prices. Developers down south have said that, too. We will continue to discuss the matter with them. We certainly hope that any impact on house prices would be marginal, but we are keeping an eye on that. That will be part of the business regulatory impact assessment that we will undertake, which is the next phase.

The Deputy Convener: You are looking to move to 100 projects in 2025-26.

Stephen Lea-Ross: As things stand, according to our financial profiling, we will commission a maximum of 100 SBAs for 2025-26. I am not saying that that is the number that will be commissioned, because we will commission SBAs for orphan buildings, and, under the contract, we will expect developers to commission their own SBAs. We will also expect other single building

owners, of which there are a significant number, including local authorities and social housing providers, to commission their own SBAs. We are making that provision so that we are not caught in a position in which we cannot proceed as quickly as possible.

Shona Robison: So it might be an overestimate, but that is the case for good reason.

The Deputy Convener: We are talking about 100 out of 1,400 buildings. Will a figure of 100 be typical for years to come? You have talked about the work that you will be doing on pace and flow.

Stephen Lea-Ross: We hope that, once we are in a situation in which we have a delivery partner framework contract in place—part of what we are testing through the commissioning of the 12 SBAs is the onward delivery partner framework structure for players in the market—we will be able to keep up that sort of pace from 2025-26 and beyond.

However, again, the rate at which orphan buildings become known to us is critical. Our estimates are based on what we understand, at this point in time, to be the total amount of stock across all tenures that may require remediation. A proportion of those buildings will be orphan buildings. We will probably—although this has not yet been determined—need to match our data collection exercise with a suite of further open calls that would allow people to say to us, “We’d like you to assess our building.”

The Deputy Convener: So that figure of 100 for next year could be high.

Stephen Lea-Ross: Yes.

The Deputy Convener: You are being cautious—I understand that. However, on that basis, it could take another 14 years to complete the work. If we take the annual figure to be 100, which is a cautious number, it could be another 14 years before the work is completed. At that rate, we would get towards completing the full number of single building assessments 21 years after Grenfell.

10:15

Shona Robison: There are also the single building assessments that developers are taking forward, and the work that the public sector is taking forward on its own buildings. We are focusing on those buildings for which there is no ownership or responsibility. I think that the pace will increase and that a number of buildings will be rapidly assessed as being okay. Not every building will require the same input of time, effort and remediation. We will be able to clear those buildings and give them the green light, and then we will be able to focus remediation on the buildings that require it. I do not think that it is fair

to just say that 100 buildings a year would take 14 years. That is a very blunt tool.

The Deputy Convener: I am trying to understand it over the piece, cabinet secretary.

Shona Robison: Once we are up and running with the SBAs, I think that they will gather pace, particularly for more straightforward buildings. We want to be transparent about this and we will give regular updates on what the pace is once we have the systems fully up and running.

The Deputy Convener: So there are no further estimates of pace and flow beyond next year, in terms of completing the programme overall. You have not done that work.

Stephen Lea-Ross: We have done some modelling work to look at what our operating capacity would be, based on the constraints of the system. The biggest issue for us—

The Deputy Convener: What does that work tell you? How long will it take?

Stephen Lea-Ross: We will try to deliver it as quickly as possible, but we anticipate that the programme will take around 10 years plus to complete. That is based on the fact that the remediation of very complex buildings will require upwards of three to five years' work—that will be the case for some single entry sites—from the point at which the remediation is commissioned. I caveat that by saying that the estimates are subject to change, but that estimate is commensurate with what we understand to be the working estimates of how long the programmes will take to fully complete elsewhere in the UK.

The Deputy Convener: There is not that big a difference between another decade from now and 14 years. It would be good to see further detail on that, if you could provide that to the committee in writing.

Shona Robison: It is a very complex system, as it is in England and Wales.

The Deputy Convener: Of course it is.

Shona Robison: Some of the buildings are very complex and some are not. Some are straightforward and may require little or no remediation but, as Stephen Lea-Ross said, the ones that require extensive remediation could, in themselves, take up to five years to remediate.

The Deputy Convener: So, an extraordinary amount of time.

Michelle Thomson (Falkirk East) (SNP): Good morning. Thank you for joining us, cabinet secretary. I will pick up on some similar points. We already know that there are concerns that the number of so-called orphan buildings will increase, should disreputable or unethical builders choose

to liquidate themselves and re-establish elsewhere. That is a regrettable risk. What is your assessment of whether the introduction of the Scottish building levy could increase the number of orphan buildings? I am not suggesting that the introduction of the levy in and of itself would be the primary trigger, but it might overlay additional financial considerations. Have you considered that?

Shona Robison: The business and regulatory impact assessment will look at the impact on the sector. That will probably be more of an issue for developers that have sole responsibility for the remediation of a building, because that will be the bigger cost, whereas the levy will be a contribution to a bigger pot. We have talked about the £10 million threshold for developers that sign up for the remediation of their buildings, because we understand the position of SMEs that might not have the wherewithal to do that, as it would not be viable. That is why we landed on the £10 million figure.

Stephen Lea-Ross: I would not anticipate significant movement on the basis of the material effects of introducing the levy. In the context of the £10 million, the developers that were invited to sign the developer remediation contract and were issued with the draft contract in September—I forget the list of names, but the developers were specified—had previously signed the developer commitment letter in 2022. They are subject to formal negotiations on the terms of the contract with which they have been issued, and they have already signalled their intent to sign up to the scheme and to meet the remediation costs for their own developments. That is already the position.

Michelle Thomson: As we have all said, we will need to wait and see, because the matter is highly complex. There will be uncertainties about risks until the building assessments have been made, and I presume that there will be the same uncertainties about risk elsewhere in the UK, because the assessments have to be carried out.

Shona Robison: The issues are exactly the same, and the timeframe will be exactly the same, in England and Wales. It will be a 10-year programme. For complex buildings, it will take some time for the work to be completed; for others, it will not. For home owners who have faced a level of uncertainty, it is important that, through the SBA process, we are able to, I hope, give the green light and a clean bill of health to a lot of buildings, or say that only marginal remediation is required, so that people can get on with selling properties that are mortgageable again. Exactly the same issues are being faced in England, Wales and elsewhere.

Michelle Thomson: I am inclined to agree that the £30 million of revenue that it is proposed to raise will probably be too low. Given that we agree that the risks, the uncertainties and, potentially, the costs might be broadly similar, with some regional variations, are you concerned that the issue having had to become a devolved matter has meant that the risk of there being a much bigger bill, with £30 million not being enough, has been passed to the Scottish Government?

Shona Robison: There were arguments for this to be done on a UK basis, because some of the developers are UK developers and we felt that that would have made more sense, but we are past that point. Inevitably, the levy—whether in England, Wales or here—was never going to be able to cover all the costs of remediation; the public purse was always going to have to make a significant contribution.

Obviously, the levers that we have are the ones that we have. The levy will make a contribution but, without a doubt, we will need a line of sight of capital provision for remediation over the next few years to ensure that it is adequate and at a level and of a trajectory to meet the required SBA outcomes and remediation work. There is a significant requirement on the public purse but, at the end of the day, all Governments have to step in when it comes to building safety and public safety.

Michelle Thomson: This is a slightly technical point—and I might not be remotely right. The Chancellor of the Exchequer's recent change of heart on the fiscal rules will mean that debt will be recast as assets, particularly in relation to investment. Have you given any consideration to what that might mean in relation to whether what might have been seen as debts on a balance sheet, for the UK Government or the Scottish Government, could be metamorphosed into assets?

Shona Robison: That is an interesting question. It depends on how far the chancellor goes—is she talking about just financial assets or assets per se? I suspect that she will restrict herself to financial assets, such as those relating to the student loan book and so on. I would favour the rules being tweaked to enable us to have the maximum benefit and flexibility, with at least the cut to capital funding being reversed, but we want significant investment beyond that so that we have a line of sight to be able to invest in affordable housing and so on.

Michelle Thomson: That line of sight is vital.

The Deputy Convener: In relation to the timeline for the bill, you said that it would be in year 5 of the parliamentary session. Can you give us any more detail?

Shona Robison: It will be in year 4.

The Deputy Convener: Do you have a rough date?

Shona Robison: Do we have a date for the bill's introduction?

Hannah Taylor: I think that it is spring.

Shona Robison: It is May 2025.

The Deputy Convener: Thank you very much.

That concludes the questioning. The next agenda item is formal consideration of the motion on the instrument. I invite the cabinet secretary to move motion S6M-14473.

Motion moved,

That the Finance and Public Administration Committee recommends that the Scotland Act 1998 (Specification of Devolved Tax) (Building Safety) Order 2024 [draft] be approved.—[*Shona Robison*]

Motion agreed to.

The Deputy Convener: I thank the cabinet secretary and her officials for their evidence. We will publish a short report setting out our decision on the order in due course.

10:27

Meeting continued in private until 11:03.

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