



OFFICIAL REPORT
AITHISG OIFIGEIL

DRAFT

Local Government, Housing and Planning Committee

Tuesday 28 January 2025

Session 6



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LOCAL GOVERNMENT, HOUSING AND PLANNING COMMITTEE

3rd Meeting 2025, Session 6

CONVENER

*Ariane Burgess (Highlands and Islands) (Green)

DEPUTY CONVENER

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

COMMITTEE MEMBERS

- *Meghan Gallacher (Central Scotland) (Con)
- *Mark Griffin (Central Scotland) (Lab)
- *Fulton MacGregor (Coatbridge and Chryston) (SNP)
- *Emma Roddick (Highlands and Islands) (SNP)
- *Alexander Stewart (Mid Scotland and Fife) (Con)

*attended

THE FOLLOWING ALSO PARTICIPATED:

- Cedric Bucher (Hearthstone Investments Ltd)
- Robin Blacklock (Dowbrae Ltd)
- John Blackwood (Scottish Association of Landlords)
- Dr John Boyle (Rettie & Company Ltd)
- Lyndsay Clelland (Age Scotland)
- Aoife Deery (Citizens Advice Scotland)
- Donryn Dewar (Landlord Panel)
- Timothy Douglas (Propertymark Ltd)
- Dr Farhad Farnood (Landlord Panel)
- Ruth Gilbert (Living Rent)
- Cameron Gillies (Scottish Land & Estates)
- Natasha McGourt (Tenant Panel)
- Nikita Mickevics (Tenant Panel)
- Sai Shraddha S Viswanathan (National Union of Students Scotland)
- Dan Wilson Craw (Generation Rent)

CLERK TO THE COMMITTEE

Jenny Mouncer

LOCATION

The David Livingstone Room (CR6)

Scottish Parliament

Local Government, Housing and Planning Committee

Tuesday 28 January 2025

[The Convener opened the meeting at 09:32]

Decision on Taking Business in Private

The Convener (Ariane Burgess): Good morning, and welcome to the third meeting in 2025 of the Local Government, Housing and Planning Committee. Emma Roddick MSP is joining us online today, and I remind all members and witnesses to ensure that their devices are on silent.

The first item is a decision on taking business in private. Do members agree to take item 4 in private?

Members indicated agreement.

Housing (Scotland) Bill: Stage 2

09:32

The Convener: Item 2 is an evidence-taking session as part of our scrutiny of the Housing (Scotland) Bill. In October, the Minister for Housing indicated to the Parliament that he would seek to lodge stage 2 amendments to the rent controls aspect of the bill to effectively create a maximum rent increase within rent control areas. Those amendments were provided to the committee last week and in this morning's evidence session we will explore witnesses' views on them.

We have two panels this morning, reflecting both tenants' and landlords' perspectives, and I welcome our first group of witnesses to the table. We have an hour for the discussion, so I would be grateful if we could keep questions and answers as succinct as possible.

We are joined in the room by Lyndsay Clelland, who is policy officer at Age Scotland; Dan Wilson Crow, who is deputy chief executive of Generation Rent; Aoife Deery, who is senior social justice policy officer at Citizens Advice Scotland; Ruth Gilbert, who is a representative from Living Rent, and Natasha McGourt and Nikita Mickevics, who are members of the tenant panel.

We are also joined online by Sai Shraddha Viswanathan, who is president of the National Union of Students Scotland. You can help me out with the pronunciation of your last name, Sai—apologies if I have mangled it.

Before we turn to questions from members, I should say that we will try to direct our questions initially to a specific person, but if you would like to come in, please indicate as much to me or the clerks. There is no need for you to turn your microphones on and off—we will do that for you. It is one less thing for you to think about while you are trying to think about your responses.

Some of what we will talk about is a bit technical, but I would like to open with a question to allow you to gather your thoughts. I think that this question is for everybody, but you can build on it or add something new if you think that it has already been covered.

The Scottish Government states that its proposed amendment

“strikes a balance between increasing protections for tenants with appropriate safeguards for landlords”.

I am interested in hearing whether you agree that the appropriate balance has been struck. Who would like to start?

Natasha McGourt (Tenant Panel): I do not feel that a balance has been struck at all, and no balance will be struck until the onus to challenge a rent increase is removed from tenants and the duty placed on landlords. Landlords typically have superior resources, such as agents and lawyers—sometimes both—and that can be incredibly intimidating for tenants. Tenant advice services are limited, are often restricted by funding criteria and are at capacity. I have suggested previously that landlords should have to apply to rent service Scotland to justify a rent increase in the first place, whether the justification be an increase in mortgage rates, costs of refurbishment, installation of energy-efficient measures or whatever.

There is currently £5.4 million in unclaimed tenancy deposit money. That is tenants' money, and it makes sense that it should be used to support them. It could be used to extend the scope of the work carried out by rent service Scotland so that it could offer that sort of service. During an evidence-taking session on 10 September, which I observed, Emma Roddick put that idea to the Minister for Housing. Unfortunately, she did not get an answer of any real substance.

I appreciate why the amendment has been proposed. Overall, I feel that consumer price index plus 1 per cent is a fair offer. My biggest concern with the proposals is that rent control areas will be similar to the rent pressure zones of 2016, and they will not work. They will not be declared by local authorities, not because there is no need—evidently, we need some form of rent control—but because accurate data is not available to enable them to make a fair determination. That could leave them open to legal challenge.

Tenant and landlord panels will agree that reliable data is lacking, but the plan to impose a mandatory duty on already stretched and cash-strapped local authorities to gather such data, in my opinion, is unduly harsh and will be time consuming. If I am being totally honest, I think that it is quite cheeky, and it is lazy not to consider alternatives.

The Convener: I just want to come in at this point, because you have brought up a lot of things and broadened the discussion beyond the cap, which is good.

I am getting from what you are saying that, yes, there is a rent cap, but there are issues that make it problematic, one of which is the lack of support for tenants and the fact that they will be required to challenge rent increases. You are asking that landlords justify why they are increasing the rent. That is one part of what you are saying.

Your other point was about the deposits, and you suggested an interesting approach in that respect. Then you made the point about the lack

of data. You said—and I am going to paraphrase you—that data gathering was challenging for councils, and that there could be alternative approaches. You also hinted that you have some ideas about how we could gather that data and who should gather it.

Natasha McGourt: Rent service Scotland could gather it. Market rent is currently determined by advertised rents, not actual rents. Plenty of tenants, including me, are paying significantly less than market rent, but there is no data on that. If landlords were to apply to rent service Scotland, it would effectively create a rent register of sorts, which is needed.

An increase of CPI plus 1 per cent is a fair offer overall, but there will be cases in which rent has risen extraordinarily, so even a small increase will be unjustified and will push families into poverty and, possibly, homelessness.

The Convener: Thanks very much for that.

I am just going to put the next question out there and see if others want to answer it. I would be interested in hearing people's thoughts, if there are any, on the fact that the Government has gone for CPI rather than RPI.

Natasha McGourt: I have to be honest—I do not actually know what RPI is.

The Convener: Okay—that is fine. I will bring in Aoife Deery, then Ruth Gilbert.

Aoife Deery (Citizens Advice Scotland): I just point out, for context, that the citizens advice network provides advice to both tenants and landlords. Last year, we provided about 58,000 pieces of housing advice, about 20 per cent of which was on the private rented sector. Moreover, the advice that we give out on rents has increased by 45 per cent compared with last year. Clearly, there is a lot of strain in this area and a lot of people are seeking advice about what to do about their rent.

We think that the amendments are a positive step towards striking a balance. However, it is difficult to know what their exact impact will be until they are implemented, and we are keen for them to be kept under review once they are.

It should be acknowledged that, as I have alluded to, rents are already extremely high in some areas and people are struggling to afford them. Some landlords are struggling to meet their costs, too. Therefore, this is a needed step; we need to start making progress on the rent control approach for Scotland.

I also want to highlight that there might be quite a significant time lapse between temporary modifications to the rent adjudication system lapsing and any new rent control area coming into

place. In our view, the temporary modifications offer tenants some protection from high rent increases, if they are aware of them, know how to use them and can access them. I just wanted to sound a note of caution that the protections will lapse, that the gap will be quite large and that we expect many to face large rent increases.

Ruth Gilbert (Living Rent): Thank you for having us today. It is great to be here.

We would echo some of the comments that have been made. We welcome the minister's proposal to bring in a robust system of rent controls that are consistent across Scotland and which, crucially, apply between tenancies. However, we have serious concerns around the detail, particularly with regard to the formula being tied to CPI and its implementation.

First, we are very concerned that the formula could result in a rent cap that bakes in above-inflation rent increases. Secondly, we are concerned that the formula does not consider quality at all. Lastly, we are concerned about the enforcement of the formula, which has already been touched on, and the clear need for tenants to have transparent access to rent data to ensure that things can be enforced.

Perhaps I can expand on that briefly. The formula of an additional 1 per cent on top of CPI will lead systematically to rent increases that are above inflation. To illustrate that, Living Rent has projected that CPI at 3 per cent for five years, with a cap of 4 per cent over that time, would mean a total rent rise of 21.5 per cent. Inflation over the same period would be 16 per cent, which means that rents would increase by a third over CPI.

Additionally, tying rents to CPI rather than, say, wage inflation, as we have proposed, is punitive and will not protect tenants. The committee should ask why landlords can expect above-inflation profits year on year when workers' wages are not keeping up. For instance, the average wage increase in 2024 was 5.2 per cent. By contrast, the average rent increase was 6.2 per cent. So, any cap that is above inflation is clearly unfair in principle, but it would have the most acute impact on working-class renters and those in low-wage jobs, who are often not rewarded with inflation-based pay increases.

For example, a report that the trade union Unison produced in June 2023 on housing costs for public sector workers identified that 32 per cent of public sector workers

"in private rented accommodation spend 60% or more of their household income on housing".

At the same time, we continue to hear that the Scottish Government is committed to ending child poverty, but the negative effects of above-inflation

rent hikes on poverty levels are not difficult to predict. We need a serious answer to that question.

We also believe that the upper cap of 6 per cent is far too high, given, as other witnesses have mentioned, the decades of above-inflation rent increases that we have already had. Since 2010, rents across Scotland have gone up 61 per cent, which is 11 per cent higher than inflation during the same period. There are significant regional variations, with Glasgow and Edinburgh seeing rent hikes of more than 90 per cent during that time.

On quality, given that half of all private rented properties do not meet the repairing standard, not tying the formula to quality would be a missed opportunity to improve private rented sector stock overall. The formula must take into account the energy performance certificate rating of the property, or, failing that, there must be a clear mechanism for tenants to appeal any rent increase in line with the quality of their home.

Thirdly, and lastly, we are concerned about the lack of provisions in the minister's proposed amendments regarding enforcement and clear penalties for landlords who attempt to impose rent increases above the established caps. That needs to be outlined in detail. After all, tenants need to have power in that situation, and currently they do not.

Given that, we are asking the committee to make the formula fairer by tying it to wage inflation, with a lower maximum cap, and to remove the 1 per cent add-on, which is nothing but a gift to landlords. We also ask the committee to allow for rent controls that are explicitly tied to the quality of rented stock.

09:45

The Convener: Thanks very much for that clarity. I will pause at this point to bring in Emma Roddick, as she has a timing situation and I know that she has a question in this area. I will then come back to you, Sai.

Emma Roddick (Highlands and Islands) (SNP): Good morning, witnesses. It was good to hear Natasha McGourt mention the need for data collection and the availability of better data. I wonder whether she—and, I hope, other witnesses—would like to speak to why data would be important in the context of rent controls and deciding whether and where to implement them. Could the witnesses speak to whether that data collection would need to be included in the Housing (Scotland) Bill in order for it to be effective?

The Convener: Because Emma Roddick addressed that question directly to you, Natasha, I will bring you in. I know that others have not spoken in response to my question yet, but I call Natasha McGourt, first, and then Dan Wilson Craw to answer on the data.

Natasha McGourt: The market rate is currently determined mainly by advertised rents, not actual rents, which is why there is a need for an accurate national rent register. As I said, many tenants are paying far less. The way in which the market rate is currently determined almost acts as an incentive for landlords to reset rents at high levels during periods of void or when tenants change in flat shares. The ripple effect of that is that it makes it more justified for other landlords with current tenants to issue a rent increase notice and cite the market rent. It is worth noting that landlords do not have to cite any reason at all on the current form. Sometimes, they do, along with providing a covering letter or an email, but they are not actually required to do that.

The Convener: Do you have anything to add on that, Dan?

Dan Wilson Craw (Generation Rent): At Generation Rent, we have had a look at what data exists. One development that has already happened at a United Kingdom-wide level is that the Office for National Statistics is now publishing monthly rent data at a local level, which gives us a bit more oversight. That is quite helpful, particularly in Scotland, because the data that we are getting from Scotland is for new tenancies, so we can see in real time what is happening in the Scottish market, and one of the limitations is that the data are only at a local authority level. So, when designing a rent control zone, it will be hard to use that data to identify neighbourhoods.

Another interesting source of data, which we have seen only since April last year, has come through rent service Scotland. There have been more than 800 cases of people challenging rents through that system, so you can see what rent officers are looking at in a street-by-street level process. That could potentially be quite helpful when looking at a very local level, but the trouble is that those 800 cases have been prompted by the current temporary protections. Before any of the protections came in, in 2021 and 2022, we saw about 100 cases going through rent service Scotland in a 12-month period, which is not really enough as a status quo kind of case load. Once the temporary protections lapse, as Aoife Deery mentioned, we will not have as much data to go on.

We would like the landlord registration system in Scotland to have a process for recording rents every year, so that authorities, whether local or national, will have real granular data to work from.

The Convener: Can I clarify something? You said that the ONS publishes rent data but that it is limited to data at the local authority level, making it difficult to design a rent-controlled area, and that we need more detail and more granularity. Is that what you are saying?

Dan Wilson Craw: Potentially, but it depends, because broad rental market areas are used for the purposes of housing allowance. For example, Edinburgh is within the Lothian BRMA, but there will be rural parts of that area where rents might not be rising so quickly. There may be enough data for authorities to work from, but my sense is that there are still limitations, even with the extra granularity that we have had for the past year or so.

The Convener: Aoife Deery wants to come in on the specific issue of data.

Aoife Deery: I will say this quickly, as I know that we have a lot to get through. In short, we need better data collection for better policy making. We need to understand how rents are going up if rent control areas are working, but the only way to do that is to collect actual rent data. We have the framework and infrastructure in place, but we probably need extra resourcing. The landlord registration system, rent service Scotland, or a combination of both, should give us the ability to collect the necessary data to make good policy.

As I said, we must keep any rent control area under review to understand whether it is working and to be able to change course if it is not. Once again, only real data can give us that understanding.

The Convener: I will bring in Sai to answer my original question, which was about striking the balance between increasing protection for tenants and having appropriate safeguards for landlords. Do you agree with the Government statement?

Sai Shraddha S Viswanathan (National Union of Students Scotland): Just to clarify, my surname is pronounced Viswanathan.

The Convener: Thank you.

Sai Shraddha S Viswanathan: I speak from a student perspective, and we do not agree with the statement. I do not think that the formula strikes the right balance. Time and again, we have welcomed the housing bill as it is, because it is a good step towards tackling the housing emergency, but the formula undermines the effectiveness of the bill in tackling that emergency because rents are already too high and must be significantly brought down.

Rents are currently too high, and the average student does not find rents affordable, which is causing poverty and forcing full-time students to work as well as study. There are different

demographics within our student body. Some home students are working about 40 hours a week, which is more than the recommended amount of work to undertake while studying. There is a 20-hour a week cap on working hours for international students, so some cannot afford to pay their bills on time because of that.

We were clear about that when we gave evidence previously, in June 2024, and we advocated for rent controls to be strong enough to bring rents down to affordable levels. Since then, there has been more evidence that high rents are causing student suffering. A third of students in Scotland—34 per cent—have had difficulty in paying their rent in full, a figure that is significantly higher than the UK figure of 26 per cent. There is a big, big gap between 34 and 26 per cent. Almost three fifths—57 per cent—of those who have had difficulty in paying their rent or meeting housing costs have skipped a meal; two fifths of them, or 42 per cent, have gone without heating; and 19 per cent have used food banks. We have established that 13 per cent of our students have experienced homelessness, of whom 21 per cent are international students, 27 per cent are estranged students and 25 per cent are care experienced.

Also, 70 per cent of students worry about their finances either all the time or very frequently. According to a Scottish Government-commissioned study on student finance and wellbeing, in 2023-24 housing costs was the highest category of expenditure for the majority of students in Scotland, accounting for approximately half of an average uni student's budget. I think—

The Convener: Thanks, Sai. It would be great if you could conclude.

Sai Shraddha S Viswanathan: Absolutely. To conclude, we do not really agree with the statement. I do not think that our point of view was ever considered in the first place, and I do not think that students were ever really included with regard to the bill.

The Convener: Thanks very much.

I will put my next question to the witnesses as well, as some of you have already started to cover it while responding to my question about striking a balance. My question is about the proposed amendments that will allow a rent increase in a rent control area of CPI plus 1 per cent, up to a maximum of 6 per cent. I am stacking up the questions for a few of you. Is a balance being struck? What are your views about the proposed formula?

Also, I would be very interested in hearing your views on whether the Scottish ministers should have regulation-making powers, subject to consultation, to change from using the CPI to

using another economic index and to change the specified percentages that are used in the rent cap formula. The Government wants the power to change the formula, but there would be consultation so that people could give a view on that.

I will bring in Nikita Mickevics, to be followed by Dan Wilson Crow and Lyndsay Clelland.

Nikita Mickevics (Tenant Panel): There is no balance. It looks to me more like a compromise, because the whole idea of not addressing the already high rents is very strange to me. Actually talking and doing something about the issue is a welcome step, but, at the moment, we are slowing down the price increase instead of decreasing the price of housing. Also, as Ruth Gilbert mentioned, the quality of housing is not being considered. Perhaps we can add that in and create some process that would reduce rent prices if properties did not meet certain standards, such as energy efficiency.

Dan Wilson Crow: The bill is a really positive step. Scotland is leading the UK in terms of improvements to the rental sector, and the bill will mean that it remains far ahead of other parts of the UK, which is very positive.

On striking a balance, the bill is broadly very favourable to tenants, but a lot of things could be improved, including protections when tenants are being evicted so that the landlord can sell up, for example.

On the formula for the rent cap, we have long advocated wage growth as a measure of what is suitable. That is because having an affordable rent is a key part of having security in your home and, of course, of finding a new home should you need to move. The proposal to bring in limits on rent increases is very welcome, but CPI plus 1 per cent would still leave many tenants vulnerable to an unaffordable rent increase that could push them out of their home and make it harder to find another home in their local area, which might mean that they have to move away from work or social connections. We propose that the measure be the lower of wage growth and CPI, to make sure that, whatever the economic conditions, tenants are able to continue to pay their rent.

10:00

An increase of CPI plus 1 per cent, as well as creating unaffordability issues, does not really reflect landlords' costs either, even if that is the underlying philosophy. Any maintenance and costs that might be affected by CPI will actually form quite a small part of a landlord's costs. His Majesty's Revenue and Customs data suggests that maintenance makes up around 12 per cent of a landlord's turnover, compared with interest,

which is not directly affected by CPI. That could be much more, but it will also affect only a minority of landlords who have a mortgage. Many different things affect a landlord's costs, so CPI is probably a crude measure from that perspective.

Another concern that we have is with the timing of rent control zones. As Ruth Gilbert mentioned, there is a concern about their being brought in too late to arrest the rise in rents. Given the time that it takes to identify a problem, consult and introduce a rent control zone, we could see quite dramatic rises being locked in. Once those rises are locked in and capped at CPI plus 1 per cent, you could see natural market rent increases tail off and renters then stuck with caps above wage growth and above natural rent growth. In Glasgow, rent inflation fell about two years after rents started rising, so there is a risk that, if the scheme was in place in Glasgow, rents might not be rising in the market but renters could still face a rise of CPI plus 1 per cent.

The Convener: Thanks for that—there was a lot in there.

You are saying that the formula that is advocated by Generation Rent—I think that others have identified this, too—is related to wage growth, but I think that you also said something about a connection between CPI and wage growth. That is what I want to clarify. Can you describe that a bit more?

Dan Wilson Crow: Whichever was lower would be the cap. That is what we would see as fair and as guaranteeing affordability for most tenants.

The Convener: Whichever was lower in what instance? Do you mean on an annual basis, at the very start or whatever?

Dan Wilson Crow: Under the proposed amendments, as far as I understand them, the CPI measure that would apply in a rent control zone would be the latest CPI figure that was published nationally. In any given month, you will have wage growth and CPI figures published by ONS, and we would see them as the yardstick to use.

The Convener: Thanks for that. Lyndsay, did you want to come in?

Lyndsay Clelland (Age Scotland): At Age Scotland, we represent both older tenants and older landlords, so we appreciate the clarity that is being brought to this. There is a lot of uncertainty around general rent controls, with nothing specified. CPI is a fair measure in context, although I echo other people's comments that it could increase what are already unreasonably high and unaffordable rents. We have seen how some rents have risen even in the past year or so. In the Lothians, for example, there have been increases of 14 or 15 per cent above inflation, and

such a move could increase already unaffordable rents if certain mitigations were not put in place to reduce rents or give more flexibility.

We appreciate that the CPI approach keeps any increases in line with state pension income triple-lock protections, which gives the stability to older renters that their rent will not increase massively above increases in their income. Again, though, their income might already not be adequate to meet any further rent increases. We have highlighted as an example how a maximum increase of 6 per cent could, in some areas, mean an increase of up to £80 a month. That might not seem a lot to some people, but that is an entire attendance allowance payment—or pension age disability payment, as it will become. That could be quite a lot of someone's income, and it could mean that they are not utilising that money to meet their care needs or for the further adaptations to their home that they require.

We also echo the earlier point about tying the formula to the quality and condition of homes. Around 65 per cent of older renters live in a home that is in disrepair and does not meet the required standards. That is shocking and worrying, considering that older people are more likely to suffer from health conditions, cold weather and issues arising from inadequate homes. Tying that into stuff that may come through in the Housing (Scotland) Bill and the heat in buildings bill around energy efficiency requirements, and including other repairs that are being made to homes such as adaptations, would be fairer in relation to what the increase is doing for the tenant as well as for the landlord.

To wrap up, we echo a lot of what the other witnesses have said.

The Convener: Super—thanks very much.

I will bring in Meghan Gallacher in a moment. We have 25 minutes left in the agreed time slot. I have just checked with the clerk, and we can probably go over by around 15 minutes, which I hope is okay with the witnesses.

I want to dig into the wage connection that some of you have brought up, and then I will bring in Meghan on the quality aspects that you have started to talk about. I hope that our other questions might go quite quickly.

I am not asking you to look into a crystal ball on why the Government chose to link the cap to CPI rather than wage growth. Our report mentioned that Living Rent proposed linking the cap to wage inflation. Have you come across in your work any reasons why the Government chose CPI rather than linking to wages or, as Generation Rent proposes, choosing the lower of the two? Has anybody done that thinking?

Dan Wilson Crow: There is a statement in the Scottish Government documentation on the reasons why it chose CPI. I believe that the choice relates to its regularity and the fact that it is easy to understand. The Government makes a link to landlord costs that I do not feel is justified, which I addressed a few moments ago. That is as far as my understanding goes.

Ruth Gilbert: My understanding from the amendments as set out in the committee papers is similar. The logic of the minister's proposal on CPI is to treat landlords as commercial providers, and relates to their materials costs but, obviously, from a tenant's perspective, that cannot hold. If tenants are to be treated as customers in that situation, that again brings in the huge importance of tying rent to quality. If you are living in a flat that has had six months of chronic disrepair and your landlord has done nothing to fix that, why should they be able to increase rent by 6 per cent?

As we have said, the formula should be tied to a far more stable and representative increase such as wage inflation. If we are being treated as customers, which we do not think is correct, we will face that as customers and say, "Absolutely not—that is not fair." Why the hell should a landlord profit from someone living in a damp and mouldy property?

We need a mechanism that allows tenants to truly challenge that at tribunal. As others have touched on, fuel poverty is a massive issue that is exacerbated by poorly insulated homes and damp and mould. All those things need to be seen holistically, but my understanding from reading the papers last week is that the link to CPI is to cover the costs of landlords' materials, which does not account for tenants as consumers in that situation.

Natasha McGourt: I will follow on from what Dan Wilson Crow, Ruth Gilbert and Lyndsay Clelland said. My first point is about landlords selling properties. Tenants know that if they were to lose their current home, the chance of finding an alternative private let is low—it is pretty much out of the question. Therefore, landlord-to-landlord sales should be encouraged and incentivised to ensure that each party gets what they want and, most importantly, that the tenant remains in their home. I have previously suggested a tax incentive for landlords in that situation. I believe that the Scottish Government is due to review the land and buildings transaction tax in the spring, which would be a good opportunity to do that.

The Convener: My question is specifically on the link to wages. Are you going to come on to that? We have many other questions to get to.

Natasha McGourt: No, but my point follows on from what has just been said.

The Convener: Yes, but my question is about the link to wages. We are short of time. I am sure that you have good things to say, and perhaps other questions can surface that.

At last, I will bring in Meghan Gallacher.

Meghan Gallacher (Central Scotland) (Con): Thank you, convener. Good morning, everyone.

Ruth, you touched on the quality of homes, incentives to improve quality and the 2028 deadline for decarbonisation of homes that landlords have been asked to meet. Do you believe that the maximum increase of 6 per cent is sufficient to enable private landlords to invest to decarbonise their homes?

Ruth Gilbert: At the moment, a landlord can evict a tenant in order to carry out repairs and can charge whatever they want. There is already an incentive for landlords to do that and to up the rent, but it is simply not happening. That needs to be tied to quality and to the property so that landlords cannot exploit that between tenancies.

Aoife Deery: You ask a really good question on a pressing issue, which I am sure that our landlord panel will give a lot of consideration to.

The issue goes beyond rent. In our eyes and our experience, many landlords do not want to raise rent. That is especially the case in rural areas, where stock is generally at the lowest EPC level. As many landlords do not think that it is appropriate to raise rents to a very high level in order to help them to meet the cost of reaching net zero, I think that other measures need to be in place to support landlords to get there. It should not fall at the feet of tenants to pay for the upgrades that are necessary to achieve a better EPC level as part of the overall journey to net zero. More support is needed as an alternative to relying on rent.

Lyndsay Clelland: We would echo that. There is already an incentive for landlords to improve homes for their tenants in the hope that they will remain there for a longer period, which will help to maintain a stable income. A landlord also has an incentive to upgrade their home if they want to sell that asset.

However, I agree with Aoife Deery that more support needs to be provided for landlords. At the moment, to be eligible for the warmer homes Scotland grant programme, the tenant needs to meet certain eligibility requirements, which are often very low levels of income. For example, if an older person is just above—by a matter of pence—the pension credit limit, they would not be eligible for that grant funding, which would mean that their landlord could not apply for it. The existing schemes need to be expanded to better

support landlords to improve their properties for their tenants.

We are often told that homes in rural areas are the oldest and most inefficient homes, but they also tend to have the lowest rents. That is because there is no reason to increase them at the moment, which is useful. However, if the proposed legislative measures come in, landlords in those areas will need to increase rents. Given that the highest levels of fuel poverty are in rural areas, support will need to be provided for tenants and landlords in dealing with the increased costs of making such improvements in rural areas.

Nikita Mickevics: The idea of passing on the cost of improvements to the tenant is one that I find interesting. If being a landlord is a business, no business can guarantee that it will get a 100 per cent return and make a profit. There are always risks. To me, the idea of passing the cost on to customers—in other words, tenants—seems very weird. If a property does not meet the energy efficiency requirements or any other standards, perhaps we should consider giving the tenant the opportunity to pay less rent, to pay half the rent or to get a rent exemption until the relevant standards have been met. At the moment, people have to keep paying for an unsatisfactory property and nothing is being changed.

Dan Wilson Crow: I echo everything that has just been said, but it is important to recognise that a poorly insulated home is bad for both the tenant's health and their finances. Given how many people are in fuel poverty, it is no good simply to require the landlord to improve the energy efficiency of the home. The bills might fall, but the landlord could then just whack up the rent by the same amount, which would leave the tenant facing the same dilemma of whether to put the heating on more or to save money.

10:15

There is a really important role for grants as part of that process, and we have to recognise that there is a welfare issue at play. Part of that involves decarbonisation, which is a society-wide challenge, and there is also the issue of fuel poverty, which the Government needs to think about how to resolve through its budget. Tenants need to have the incentive to apply for things that they are eligible for without there being the risk of the landlord taking the grant, capturing its benefit, improving the property and selling it on.

Meghan Gallacher: The issue is really interesting because, as it stands, landlords will have to meet the target by 2028. We also know that the Government has announced an EPC review, which will conclude by next year. My concern is that the costs, depending on the

situation, could be in excess of £40,000. I am sure that we all agree that adhering to the correct EPC rating is in the interests of tenants living in a property, but how on earth will landlords be able to pay that amount of money?

Is there a significant risk that, as a result of that cost, landlords will leave the market completely? What would happen to the tenants in a property who find themselves without a home? That is a huge concern, because of the actions that the Government has taken. I know that that is a huge question.

Ruth Gilbert: I know that that issue is not covered in the amendments, but just to answer the question on supply, as Living Rent has stated multiple times in the consultations, if a landlord leaves the sector, they are not taking their home with them. The property is transferred to another landlord, who buys it up, or a first-time buyer.

Our union is considering whether, in that situation, local authorities could use compulsory purchase orders and have the right of first refusal to purchase properties when landlords want to sell up. There are alternative mechanisms that need to be considered as part of that process, but landlords leaving the market is not something that is being borne out in the data.

The Convener: I am going to stop there, because that question goes beyond the narrow focus that I asked members to stay on. Alexander Stewart has questions on clarity and certainty.

Alexander Stewart (Mid Scotland and Fife) (Con): Good morning. It would be good to talk about whether the lack of clarity and certainty has a potentially negative impact on investor confidence in the rental market. Given that background, does the proposed amendment provide sufficient clarity and certainty to secure continued investment in the rented housing sector?

Dan Wilson Crow: Can I clarify whether you mean investment in new homes or existing homes?

Alexander Stewart: It is existing homes as well as new ones. There is talk that this whole process will have a negative impact. Do you believe that to be the case?

Dan Wilson Crow: Over the years, there has been a similar trajectory in rents in England and Scotland, although Scotland has had a greater level of regulation than in England. If you compare the two over the long term, there has not been much difference in rents. We should be interested in whether more landlords are buying properties or exiting the investment space and allowing first-time buyers in. When we worry about the affordability of homes, we need to be looking at

the rents, and there is not much evidence of a big difference between England and Scotland in that regard.

It is possible that the proposal to have CPI plus 1 per cent has been introduced to dispel worries about certainty for investors, whether they are building new homes or investing in existing homes. It is for landlords and other investors to answer whether that proposal is suitable for them but, from our perspective, the offer is generous for landlords.

Part of the underlying pressure on rents in Scotland is the lack of available homes. Building more social housing and council housing will be a big part of the answer to that, as it will help renters who are the least well off to come out of the private sector and rent properties that are more suitable and more affordable. The Government needs to make an effort to provide new homes and to rely less on the private sector or, at least, the model of private sector investment that we have been used to over the past two decades.

Natasha McGourt: I hope that the proposed amendments will encourage investment and provide clarity. I agree with the proposed exemptions for mid-market rent and build-to-rent developments. Big institutional landlords probably will not feel the need to charge extortionate rents. Looking at the bigger picture, the more of those properties that there are, the less demand there will be on the other side of the sector, which is made up of smaller landlords. In theory, that should stabilise rents and could potentially bring them down, which is positive. I have no concerns about build-to-rent or mid-market rent exemptions.

Lyndsay Clelland: I hope that tenants could have a bit more financial stability and security. Older tenants may be downsizing and doing the right thing by moving somewhere more appropriate so that a house can be rented to a family. Those tenants would be looking to stay in their rented property for a long time; potentially, it could be the last home that they would want to move into. I hope that the landlord would see that, because the tenants could afford to stay in the home for a long time, they would invest in it with their own upgrades. The landlord would also be more likely to invest in the property, because they would know that they would not have to find new tenants. The existing tenants would be unlikely to hand in their notice, so the landlords would not be left without income for months on end.

On the build-to-rent and mid-market rent sector, there needs to be an increase in housing supply as part of the process, as well as more investment in the affordable housing supply programme so that more social housing can be built, which would reduce the pressure on the private rented sector.

Ruth Gilbert: I echo what others have said about the increase in homes for social rent and genuinely affordable housing. I know that exemptions will be a focus of the spring consultation and that there is no time to discuss that in this meeting, but I will touch on it briefly. We do not think that new builds or mid-market rent homes should be exempt from rent controls.

A vast range of rents are charged for mid-market rent properties, whether they are managed by the private wing of a housing association or private developers have built them. If mid-market rent properties were exempt from rent controls and the rent was higher than was being charged in the PRS, that could lead to a challenge from PRS landlords, which would put the entire bill at risk. We need a serious definition of mid-market rent, and greater stock of affordable homes at social rent so that tenants in the private rented sector can move into them. The definition in the bill is a little bit woolly. I know that that will be handled in the consultation, but it was important to mention it now.

Willie Coffey (Kilmarnock and Irvine Valley) (SNP): I have a couple of questions. Do you anticipate any differential impact, either positive or negative, on rural private rented markets because of the proposed amendments? Aoife Deery, do you have a perspective on that?

Aoife Deery: Yes, I do. Thank you for asking that question, which is timely because our colleagues in Argyll and Bute Council have recently published an insightful research report into the challenges that private landlords are facing in a rural context. It was interesting to find out the differences between how rural and urban PRS landlords operate. The report found that the majority of landlords in Argyll and Bute are small-scale landlords who are private investors and tend to own a small number of properties each—it is usually one or two. Most knew their tenants personally and had a positive relationship with them. As a result—I touched on this earlier—in recent years, many have been reluctant to increase rent and have tried to be as flexible as possible in relation to their tenants' circumstances. We are, therefore, concerned about the fact that, as the report highlights, those landlords are potentially less financially resilient, and we believe that they will need specific support.

That is the perspective from the rural context—the report dealt only with Argyll and Bute, but it gave us some interesting insight into the potential impact of the measures. The concern is that, because those landlords have not been raising the rent for several years, they might be constrained by what is being proposed.

Willie Coffey: Those landlords do not have to apply the conditions and ceilings and so on, so

what has been happening? In your experience, have rural landlords been keeping the rents pretty flat?

Aoife Deery: In our experience, that is what has been happening. Some of them have been keeping the rent pretty flat for years on end, often because they have a close personal relationship with their tenant and have not wanted to put them under financial pressure. With Covid, the cost of living crisis and subsequent things that have happened, they just have not wanted to charge their tenants any more rent. That is not the case for all landlords, of course, but that was an interesting insight that came through in the research.

Willie Coffey: They do not have to apply the measures if they do not want to, but do you see the measures—the CPI plus 1 per cent rise, with a ceiling of 6 per cent—being an attractive thing for landlords in the rural sector to grab on to and apply? Are you saying that they might feel compelled to apply them?

Aoife Deery: That is possible, and that is what we think will happen. However, we cannot always predict the behaviour and motivations of landlords. Especially if different support is available, they might choose to continue to not apply a rent increase. Alternatively, if, for example, Argyll and Bute became a rent control area, the fact that there would still be the ability to raise the rent by a small amount or proportion would give them a wee bit of breathing room, and they might be able to increase the rent slightly to relieve their own financial pressures but not do so by an amount that would put their tenant under financial pressure. Avoiding putting that pressure on their tenants is a motivation of many rural landlords who were interviewed during the research.

Willie Coffey: Are there any other perspectives on the rural angle? Has anyone picked up any different messages or impacts that we might expect in the rural setting?

Dan Wilson Crow: The only thing that we have looked at is the impact of short-term lets in rural areas. Without good local-level rent data, it is hard to know what effect the measures that the Scottish Government has introduced in the past few years are having on the local market and on bringing homes back from the short-term let market into residential use. That is another reason why it would be good to be able to collect rent data through the landlord register.

Willie Coffey: My other question is about the measures—the CPI plus 1 per cent rise, with a ceiling of 6 per cent—applying between tenancies. What are your views on that? Is that a good thing or a bad thing? Should there be more flexibility between tenancies?

Ruth Gilbert: It is crucial that they apply between tenancies, as we have seen from the previous emergency legislation. The gap in that legislation allowed landlords to increase rent between tenancies, which incentivised bad landlords to abuse the system. I am someone who suffered personally from that, as I was evicted from a flat because it was due to be sold, but then it was put back on the market at a 66 per cent rent increase. Our members see that week in and week out, and that loophole needs to be closed.

If landlords are willing to abide by the rules, they have nothing to worry about in that respect. Right now, the loopholes in the system incentivise landlords to evict in order to hike rents. Also, they mean that repairs are not being done, and that is not dependent on rent hikes. We need to see that tightened up. A bill without rent controls tied to the property is not a bill worth having. It will cause more harm than good.

Willie Coffey: Okay—that is very clear. Are there other views on the position between tenancies? Should the measures apply in the gaps between tenancies or not?

10:30

Lyndsay Clelland: We would agree with the previous comments. Our research showed that around 37 per cent of older renters still had a rent increase even when the emergency measures were in place. They were almost afraid to challenge that, as they did not know how to go about accessing rent service Scotland or the First-tier Tribunal for Scotland housing and property chamber, so many were forced either to accept the increase or to face the threat of homelessness. That might have happened because, in between tenancies, they were living with a partner who had unfortunately gone into care or had passed away, and landlords were then using that as a reason to amend the tenancy and hike the rent, which then became unaffordable for the renter on a single income. It is a vital protection across the board, but particularly for old people, who are more likely to live alone on a single income or face having to move.

Willie Coffey: I turn to Natasha McGourt. Are controls between tenancies good or bad?

Natasha McGourt: I could not agree more with Ruth Gilbert and Lyndsay Clelland. It would be disastrous if rents were tied to the tenancy rather than the property.

Let us rewind to when the rent freeze and 3 per cent cap were in place. That was tied to the tenancy and not the property, which arguably encouraged some landlords to reset the rent at ridiculous levels. Other landlords then saw what was being advertised across the road or down the

street and issued rent increase notices. That has created a volatile market, which is quite sad. As Lyndsay Clelland said, the vast majority of those rent increase notices go challenged. That could be because tenants are simply not aware of how to challenge them or they do not have the confidence to do so, or they could be fearful of retaliatory behaviour—namely, eviction; that cannot be underestimated.

Ruth Gilbert: I will come back quickly on that point, because it is linked to the imbalance of power that we have already discussed. We need to tighten the loopholes, but the key consideration for the committee in that regard is to empower tenants who are at the sharp end of that. When landlords are trying to do these things—break the rules, abuse grounds to evict and hike rents—we need to have in place key mechanisms to stop that from happening.

First, we need clear penalties for landlords who break the law—in this instance, those landlords who set rents that are higher than the formula allows. Secondly, we need clear penalties for landlords who try to coerce tenants into accepting rent increases that are higher than under the formula, as we saw happen through the period of the emergency protections, and as continues to happen. Thirdly—this is vitally important—tenants must have access to the previous rent data. All that is currently quite vibes based; we do not have accurate figures. We need that data, as it will be crucial in ensuring that those rights can be upheld and that unreasonable increases can be challenged, because those things are happening week in, week out across our cities and rural communities. Most people cannot even see that that is happening—it is largely invisible. We need to ensure that those powers are weighted towards tenants, because they are not, currently.

Willie Coffey: Are there any other views on the position between tenancies?

Dan Wilson Crow: I will be brief. I echo everything that has just been said, particularly Ruth Gilbert's point about the availability of rent data.

One other point—we are not quite sure how much of a risk this is—is that if a home is new to market, as set out in the explanatory notes to the bill, the rent can be set through the open-market process. There is a chance that, in some places, if there is a rent control zone, the rent could be higher than the regulated rent affecting homes that have already been on the market.

That will require monitoring or exploration with the Scottish Government before that provision comes into force, in order to understand what the likely effects of that will be. There might be a chance that landlords could see a higher return

from properties that are new to market and that that could affect their behaviour—for example, with landlords selling to other landlords and colluding on how to maximise rent and evade the system that will be brought in.

Willie Coffey: Thank you for that. As there are no other comments on that topic, that is me, convener.

The Convener: Thank you, Willie. I will now bring in Fulton MacGregor to ask question 7.

Fulton MacGregor (Coatbridge and Chryston) (SNP): I have a very general question. You will be aware that, during the committee's stage 1 scrutiny, concerns were raised about the public's awareness and understanding of the legislation on private rented housing. Is the new proposed system for tenants and landlords easy to understand? I accept that that is a broad question, and I apologise if you have already touched on it, particularly before I arrived.

Lyndsay Clelland: I would say that it might not be the easiest to understand. We already know that, with older renters, almost 40 per cent—indeed, more than 40 per cent—do not know what rights they have; a quarter do not even know what tenancy type they have. That is the situation that we are in right now: people do not understand their rights as private renters.

In the system of rent controls that will be brought in, things will not be the same as before. For example, where a national cap applied to everyone, the new system will be very much about areas within local authorities. It might mean that someone's neighbour who lives in the same property type as them three streets down might be in a rent control zone, while their rent is being hiked. That could be really confusing for both in trying to understand why things are being done on such a granular basis, when their circumstances are the same: they both cannot afford their rent and are perhaps living in properties that are exactly the same or are in similar levels of disrepair. That could be confusing for people.

Also, people might assume that the process will be as it was before, with a national applied cap, and not realise that local authorities must apply to have rent control areas and have to collect the data. How all that works could be quite confusing for people, too.

If the new system comes into place, there must be support so that tenants and landlords understand how it will work, and how they can either apply for an exemption, if they are a landlord, or take matters to rent service Scotland, if they are a tenant. There should be more general support for both parties on all this. As I have said, many people do not understand how their current

protections work, and adding in this other layer will perhaps complicate things even more.

Fulton MacGregor: That was helpful. It seems that almost everybody wants to come in on this question, so I will just move along the panel. Obviously, please keep your comments to something new that has not already been said.

Aoife Deery: I echo a lot of what Lyndsay Clelland said. The rent control and CPI aspect will not be immediately understandable to the average renter or landlord, so strong communication from the Scottish Government will be needed to ensure that everyone understands what it means for them, particularly for those in rent control areas. Efforts must be made to ensure that clear information is set out in layperson's terms and that it is widely available through a variety of channels—and that cannot just be digital, given the extensive evidence that we have of digital exclusion among renters.

We should also reflect on the activities that have been undertaken to raise awareness over the past five years, such as writing to all landlords and tenants. That approach really supported the development of the rent calculator tool, which explained the temporary modifications quite well and helped people to understand what rent increase they were likely to face. We need to reflect on how we make what is coming as clear as possible in the information that is available to those who will be affected.

It is also critical that the advice sector be appropriately resourced to enable people to access their rights. This has already been mentioned, but I again highlight the importance of a strong rent adjudication system. Rent service Scotland experienced higher demand when renting rules changed last April; we expect that to happen again this year, and it will no doubt play a larger role in the months and years to come.

I want to highlight a key issue with rent service Scotland. The 21-day deadline in the bill will not, in our experience, give people enough time to access advice, get their affairs in order and make the application to rent service Scotland. We would like that period to be increased to at least 30 days to enable more people to access support. There is so much that is going on in a person's life when they receive a rent increase; they are often having to deal with other debts, and there might be vulnerabilities in the household. It is not the only thing that is happening, so people need time to deal with rent increases and to go through the rent service Scotland process, often with the help of agencies such as ours.

The Convener: Before we go to Natasha McGourt, I will bring in Sai Viswanathan as she has not spoken for a while.

Sai Shraddha S Viswanathan: Thank you, convener. From a student perspective, information about our rights in education and in the renting sector is inaccessible. Also, consultations that go through the Government are mostly buried deep down within links, websites and webpages. As colleagues in the room have rightly pointed out, so much goes on in an individual's life, especially when you add the pressures that come from the higher education sector or when they are in further education, that they do not have the time to dedicate to get to know about the information that is out there.

We would definitely like the Government to work not only with other organisations in the sector but with student associations that are working hard to get that information out to different students and different demographics of students. The education sector has a variety of students from different backgrounds who are seeking education and they have diverse needs, so we would like our student associations to have a seat at the table, along with NUS Scotland, to cater for the diverse amounts of issues that students have.

The Convener: That is definitely a good call-out for communication with students.

Natasha McGourt: It is not just a case of raising awareness of tenants' rights. What is needed is easy access to lay representation. Despite what the Minister for Housing's team has said, in my professional experience, it is not easy for those who need it to obtain legal aid, and someone having a friend or relative present at a tribunal is absolutely not the same as having a lawyer or an experienced lay representative present.

Some advice agencies will check notices and read the tenant the rights, but actual representation might be restricted because of funding, and potentially because of staff training. I am not sure, but I think that that is absolutely what is needed. I also agree with Aoife Deery about the deadline for applying to rent service Scotland.

I have checked a document that I was sent recently, and the wording is slightly confusing—again, forgive me if I have read it wrong—but it looks as though the amendments say that the tenant has 21 days to notify the landlord that they intend to challenge, and then a further 21 days to apply to rent service Scotland. That might not be correct, but that is certainly how I have read it, and I would like clarity on that, if possible.

The Convener: Great. We will get that. Thank you for raising the issue.

Nikita Mickevics: I agree that the proposed plans are quite hard for the general public to understand, but that is not a reason for slowing down or cancelling the plans. The problem with

communicating rights with the tenant is that it is all very disjointed. At the moment, we have rent service Scotland, local authorities, citizens advice bureaus and charities, and it becomes very confusing for an average person to understand where to go for advice or information. It is important to have a unified centre to go to for any issues.

The issue of deposits was brought up in the tenants panel that Natasha McGourt and I went to. One of our recommendations is to utilise deposits to better communicate with and inform tenants of their rights, of how to challenge a rent and what can be expected. It is hard to communicate, but that does not mean that implementing rent controls is a bad idea.

Dan Wilson Crow: Those are all really good points from Nikita. I would add that the landlord registration system has a lot of potential to identify properties within rent control zones and send everyone in the area the information about what a tenant's new rights are with regard to the rent control zone. Also, is there a way of encouraging renters to check their landlord's compliance on the website and, when they do that, to get a reminder of their rights that says something like, "Thanks for visiting the search engine. Just make sure that you are aware of your basic rights as a tenant in Scotland"?

The Convener: That is a useful idea.

10:45

Ruth Gilbert: Other witnesses have covered the need for good communication in quite a lot of depth. I echo a lot of that, particularly the points on the extension of the time limits. Good communication between tenants and landlords is key, but—I am sorry to labour this point—all the good communication in the world will not be enough if there are not clear mechanisms to incentivise compliance. We need to make sure that we communicate to tenants so that they know what their rights are and how to materially access those rights, and what enforcement measures landlords who do not follow the law will face. That is really key for us, alongside comms.

The Convener: I will go to Mark Griffin for a brief final question.

Mark Griffin (Central Scotland) (Lab): What are the panel members' views on keeping the proposed system of rent control under review? How should we review the impact of the proposed changes? How often should we do that and what should the mechanism be?

Ruth Gilbert: Again, that will be a matter of accessing proper data, because a lot of this hinges on the data. Any review needs to be done

within a reasonable timeframe. There is provision in the bill for rent control areas to apply for up to five years, so a period that aligns with that would make the most sense to us as a union. It would not be in landlords' or tenants' interests to see big local swings, instability and further recalculations of formulas more frequently than the period for which rent control areas can maximally apply.

Dan Wilson Crow: Those are all really good points. We are keen to understand, through the legislative process, how long we should expect it to take between identifying rent pressure and the introduction of a zone.

On the timescales, there should be a review every few years—five years seems sensible—to understand the effects. Looking at things such as overcrowding, homelessness rates and secondary effects will be really important to evaluate the policy.

Nikita Mickevics: I do not have anything to add.

Natasha McGourt: I do not have much to add, other than that it is obviously a sensible idea to review such measures to fully understand their impact.

Aoife Deery: I echo what has been said. I will just add that we need to be clear that the mechanism needs to keep rents affordable for tenants while supporting landlords with their costs, so it should be measured against that aim. In the absence of enough data, it is impossible to do that. I emphasise the point about data—that is how we should review how well the system is working.

Lyndsay Clelland: I agree with all that. I add that there possibly should be measures for ministers to impose earlier reviews if emergencies arise, such as extreme pressures or a housing crisis being declared, as we have seen happen in many local authorities. That would be just to see whether more could be done or whether, for tenants or landlords, the cap needed to be flexed slightly to meet housing needs in the area. We should not stick rigidly to a period of five years. It is sensible, but there should be an exemption within that to account for a crisis. Covid might happen again—I hope not, but things can happen that change the current circumstances, and we should be aware of that.

While we are reviewing rent control and affordability in areas, holistic reviews should also be done on the adequacy of income and support such as local housing allowance, to see whether income is keeping up with rent in certain areas, because one will impact the other.

The Convener: Thanks very much for making that link.

I will briefly go online to Sai Viswanathan. You have not indicated that you want to come in, but do you have any comments on the review process?

Sai Shraddha S Viswanathan: Absolutely. I echo pretty much all the points that the other panel members have made. I do not have anything particularly to add, except that we need to consider the diverse needs and demographics of students. Not all students can access public funding or grants from the Government, and it is important to keep that in mind in any review. Also, we talk about including students in consultations, but we really need to keep the demographics of students in mind when doing that.

I add a point about including purpose-built student accommodation within rent controls, as I left that out at the beginning of the meeting. Our students are not just in the private rented sector; they also go into PBSA, for which the charges are exorbitant. Affordability is a big issue for students, especially when some students are being charged up to six months of rent up front, which is absolutely unfair. We receive the least amount of support, especially given the demographics, with many coming from overseas. Those are a few points that I would ask the committee to keep in mind in relation to the review.

The Convener: That brings this part of the meeting to an end. I appreciate you all coming—it has been very helpful for us to hear from you.

I briefly suspend the meeting to allow for a changeover of witnesses.

10:50

Meeting suspended.

11:00

On resuming—

The Convener: Welcome back. We have an hour for this discussion, although I imagine, given that the first session ran over time, that this one might, too, but we will do our best to manage the time. I would be grateful if we could keep questions and answers as succinct as possible.

We are joined in the room by Robin Blacklock, the managing director of Dowbrae Ltd; Dr John Boyle, the director of research and strategy at Rettie & Company Ltd; Donryn Dewar, who is a member of the landlords panel; and Cameron Gillies, who is the press and public affairs manager at Scottish Land & Estates.

We are joined online by John Blackwood, who is the chief executive of the Scottish Association of Landlords; Timothy Douglas, who is the head of policy and campaigns at Propertymark Ltd; Cedric

Bucher, who is the chief executive of Hearthstone Investments Ltd; and Dr Farhad Farnood, who is a member of the landlords panel.

I thank the two panel members who have done so for coming back—it is great that they want to continue in the process.

We turn to questions from members. We will try to direct our questions to specific witnesses as a starting point, but if you would like to come in, please indicate that to me or the clerks, and if you are online, please type R in the chat function. There is no need for you to turn your microphones on or off, because we will do that for you.

I will ask the first few questions. I imagine that everybody will want to come in on them, but if you have nothing to add, you do not have to speak, given the time constraints.

I will name Robin Blacklock as the person to answer first. I will do that so that you pay attention, or even more attention, to what I ask—I am sure that you are paying attention.

Some concerns about the rent control area provisions in the Housing (Scotland) Bill centre on lack of clarity and certainty, and on the potential negative impact on investor confidence in the rental market. I am interested in whether the proposed amendments provide sufficient clarity and certainty to secure continued investment in private rented housing.

Robin Blacklock (Dowbrae Ltd): Thank you for giving me the opportunity to come along.

The amendment to cap rent increases in a rent control area to CPI plus 1 per cent will provide a clear, transparent and reasonably understood process. It reflects the fact that rents fluctuate over time and do not necessarily increase in a straight line. The use of CPI plus 1 per cent also takes account of landlords' rising costs.

On the point about transparency, CPI is a well-understood mechanism for measuring inflation. It can be measured monthly, which provides a lot of flexibility when applying it. From a tenant perspective, a cap at 6 per cent will mitigate excessive increases during a period of high inflation. The mechanism is simple, up to date and universally accepted.

John Blackwood is far better placed to talk about rent trends over a longer period, but rents can sometimes flatline or even go down over a long period. However, based on a long-term average, they probably track CPI, so using CPI plus 1 per cent allows things to catch up during periods when rent growth is higher.

That is a relatively proven framework. The Scottish Government adopted CPI plus 1 per cent for rent pressure zones in legislation that was

introduced in 2017, and I believe that the UK Government has adopted that mechanism in the rent settlement for social housing in England. Across Europe, rent control mechanisms tend to track inflation.

In relation to tracking landlords' costs, I tried to write down the basket of goods that is used to measure CPI inflation, but I had neither the time nor the inclination to do that once I started to look into it. The point is that it covers a wide range of costs, and many of those costs would apply to a landlord, whether they relate to repairs, maintenance and upgrades, management or the statutory regulations around compliance. If you tracked CPI without the plus 1 per cent, the highest the landlord could ever get would be the midpoint of what all the costs are doing. If that were the case, any investor would be better putting their money in the bank or in gilts. CPI plus 1 per cent allows that little bit of flexibility to reflect their costs.

The Convener: Thanks very much for that.

John Boyle, you were named by Robin, so maybe you want to come in next. I will just check with colleagues online first—I do not think that anyone has indicated that they want to come in, but I want to make sure that we bring you in when you want, because that is sometimes harder when you are online.

Dr John Boyle (Rettie & Company Ltd): What the index should be is an interesting question. I think that there was some discussion with previous witnesses about whether it should be CPI, RPI, wage growth or an alternative measure. CPI is the official statistic that tends to be published. It is an annual statistic, but it is published monthly. It is also internationally comparable. That is why we moved away from the old RPI and towards the CPI a couple of decades ago. RPI is now, as far as I understand, not an official statistic. The Office for National Statistics compiles those measures, and it does not like the arithmetic formula that RPI is calculated by, and thinks that it overstates inflation, as a consequence.

As far as I am aware, CPI includes a measure of rent inflation, but it does not include owner-occupier housing costs, which would include council tax. Therefore, there has been some movement towards using CPIH as an alternative statistical measure. In fact, CPIH is now the ONS's official measure of inflation, and it has been for some years.

The Convener: What does the H stand for?

Dr Boyle: It stands for "housing". It includes owner-occupier costs including maintenance, as well as council tax. The inclusion of housing costs was the advantage that the old RPI had over CPI. Using CPIH is a way of getting a blend between

the two. I think that that is probably worth considering.

In the previous session, there was some discussion about whether the link should be to wage growth rather than CPI. The problem with that is that there is not a good measure of household income. We have the ONS stats from the annual survey of hours and earnings, which has a good measure of wage growth. However, there might be one, two or three salaries in a household, or maybe no salaries in a household. Some households are purely living on benefits, and in other households, there is a mixture of salaries and benefits. You need to get a measure of household income if you want to have a link to income as well as to inflation.

Back in 2018, the Scottish Government did a piece of work that assessed or calculated household income across all the Scottish data zones. You can aggregate that to carry out local authority area and regional area analysis. It was done in 2018, so it is now seven years old. I do not think that there is a commitment to update it every year, but it would be handy if that was done. However, I think that the measure should still be tied to CPI rather than to wages.

For an investor, a risk-free return is putting your money in an inflation-linked gilt. You do not have any real risk and you do not have hassle, such as managing property. Therefore, if we are trying to incentivise people—including large and small investors—to invest in new housing as well as in upgrading current housing, there must be something a bit more than CPI to incentivise them to do that.

The Convener: In the interest of time, I will slip in my other questions before I bring anyone else in—some of you are beginning to answer them, as well as some of my colleagues' questions. My first question is around the certainty aspect of the CPI formula. Then, I would be interested to hear whether you agree with the Scottish Government's assessment, when it states that its approach to stage 2 amendments

"strikes a balance between increasing protections for tenants with appropriate safeguards for landlords."

We have started to touch on that a bit. I will bring in Timothy Douglas, then John Blackwood, who are online, and we will see where we go from there.

Timothy Douglas (PropertyMark Ltd): Good morning, and thank you for the opportunity for PropertyMark to give evidence.

If we are looking at clarity and certainty, it needs to be put on record, again, that there is still widespread frustration and, almost, bewilderment, among PropertyMark members that, despite the

shortage of homes to rent, the housing emergency, a freezing of local housing allowance rates, the punitive taxes on landlords and the Scottish Government's raising of the additional dwelling supplement to 8 per cent in the recent budget—which means that, based on the average property price in Scotland, a landlord would pay more than £15,000 when purchasing a property to rent—the only policy intervention from the Scottish Government to tackle housing affordability remains to introduce rent control.

That said, the fact that increases would be capped at the level of CPI plus 1 per cent to a maximum of 6 per cent does provide clarity, because it means that the capped rent control areas will be provided more consistently across the country. Section 9(3), paragraphs (a), (b) and (c) of the bill are fairly ambiguous: local authorities could all use different things—be it a percentage, a range or a formula—across the country. Signifying that the cap will be introduced in this way provides clarity, because it allows for a more consistent approach across the country.

I agree with what Robin Blacklock and John Boyle have said on whether the approach provides certainty—it is not possible to say definitely, at this stage. However, we agree that, on the whole and from the feedback that we have had from Propertymark letting agents in Scotland, it will allow landlords to plan for the future under the legislation with a greater degree of certainty.

The Convener: Do you think that it strikes the balance between increasing protections for tenants and providing safeguards for landlords?

Timothy Douglas: In theory, a balance has been struck but, obviously, the policy has not been tested. Landlords almost know what the rental income will be over the lifetime of a rent control area, which will, to some extent, keep pace with the costs that they will incur, as has been said.

Costs for landlords will vary from CPI in some cases, but CPI continues to be the most useful and, I think, widely understood index for their purposes. Not having a relationship with CPI could weaken landlords' available financial capacity and harm their ability to maintain low-level maintenance on property and some larger upgrades that are needed.

Ultimately, the balance is that tenants will be protected from, say, unexpected increases, but in the long run properties being maintained could result in warmer homes, lower energy use and a better standard of property across the board.

The Convener: We stay online with John Blackwood.

John Blackwood (Scottish Association of Landlords): Good morning, convener. I apologise

for not being able to be with you in person this morning.

In the interest of time, I will not echo any of the points that have already been made, because I agree with them. It is very important to say that the Scottish Association of Landlords supports a system that gives stability to landlords and to tenants.

11:15

I think that the proposed approach strikes a balance. Obviously, we would prefer it if there were no rent controls whatever and if market forces were allowed to dictate such things, but we understand that the Scottish Government—indeed, the Scottish Parliament—wants a degree of stabilisation in rents, and we think that the proposed amendment will do that. We welcome the fact that the minister and the Scottish Government have listened to our concerns about the matter over the past few months.

There has been a lot of criticism about the CPI plus 1 per cent aspect, with landlords being able to raise rents above inflation, if we adopt the CPI approach. There is an assumption that landlords regularly increase rents, but we know that that is not the case; indeed, those are certainly the findings from our surveys of our members and from independent research, too. We know that landlords are not annually increasing rents.

There is now a trend towards doing that, as our surveys bear out. Just to give you an idea, though, I can tell you that, prior to rent control coming in, only 8 per cent of the respondents to our surveys said that they annually increase rents. That approach is now increasing dramatically, but it was not previously the norm. The situation in the marketplace now is that sitting tenants are paying considerably less than market rent. Indeed, the landlords who responded to our survey said that 60 per cent of their tenants are paying below market rent, while our letting agent members told us that 46 per cent of their tenants are paying below it.

Therefore, we know that there is a substantial market of people who are paying well below market rent. We need to keep up with inflation, but landlords who have not increased the rent for some time need to be able to add on CPI plus 1 per cent effectively. That will be very important in reassuring investors and keeping landlords in the marketplace.

I also want to emphasise that it is perverse to have legislation that would actually penalise landlords for not increasing their rents over a period of time. That is just nonsense; we want to encourage that, if we can. I think that the proposed

approach is much better balanced and is certainly something that we welcome.

The Convener: Thank you very much, John. I will bring in Donryn Dewar in a minute, but we are starting to creep beyond my questions and to go into Willie Coffey's, so I will bring in Willie to ask his questions on CPI plus 1 per cent, then Donryn can respond to whichever bit of the mix she wants.

Willie Coffey: There has already been a wee bit of discussion about the CPI plus 1 per cent approach and the 6 per cent ceiling. Do you have any other views—positive or negative—on those numbers and formula that you have not already expressed to the committee? I would be delighted to hear your input, if you have a different perspective.

The Convener: Donryn, please come in on whichever bit you want to come in on.

Donryn Dewar (Landlord Panel): I am coming at this from a more rural perspective, because I feel that the legislation is biased against rural landlords. There is a lack of understanding of what the rental figure means for us. If you are in an urban setting, rent is rent; for us, rent includes water, private sewage systems and so on. Last week, I had 14 houses taken out by storm Éowyn, and they are now without water. That is a cost for me, and it is funded by rent.

There is also the issue of electricity. In some cases, we are on a commercial electric supply, and because we came out of contract at the wrong time, we are now paying a rate of 63p per kWh. I am not passing that on to tenants—we are taking that hit. There is, from a rural landlord perspective, a lack of understanding of the margins.

For me, there is still uncertainty. Sixty-four per cent of my tenants have been with us for more than 10 years and, in that time, market rent has gone up by between 25 and 35 per cent—in some cases, by as much as 50 per cent—so that is the subsidy from rent. We are talking about pensioners and ex-employees: I have not been able to track the new levels of market rent, because my doing so would push all those tenants either into debt or out of their homes. By being a good landlord, I am going to be hit with a very big stick as a result of the legislation, and panic is setting in among my trustees. The question is this: do we push the rent up now? What do we do? We have put ourselves in a very disadvantageous position.

I would also like to pull in something that I heard from the tenant forum, which is the issue of energy performance—there is still uncertainty about what is coming, in that respect. Rural houses are hard to treat. Perhaps I can give you some numbers: I rent out a two-bedroom house that costs £575 a month. EcoT was paid £47,000, through the ECO4

grant scheme, to upgrade the house, and I put in a further £8,000. If I was forced to do that on CPI plus 1 per cent, it would not be achievable, and I would have no option but to sell the house.

There is still such a lack of clarity. For the past 23 years, we have been investors in houses, and we have brought back properties that do not necessarily have an economic return because it is the right thing to do for the community and the estate in which we live, as we are a lifestyle business. Yes—we need to make a profit, but not everything is about chasing the pound, so the impact on the community is considered. The bill will remove our ability to do that.

We have worked with people to keep them in their homes. For example, a person wanted a garage where there was not one, so I said, "Right—I can build you a garage if you want to do some workshopping, but I'll need a little bit extra for the rent." We have been able to enhance homes in agreement with tenants; it means that we can ask for more rent and they can ask for a wood-burning stove, for example. However, all those things have stopped.

Those are my concerns about the legislation.

The Convener: Great. We have a separate rural question, but thank you so much for mentioning those things. I want to clarify that this is about the rent cap in rent-control areas. Councils would have to figure out where those areas would be, then the Government would have to agree to them. Forgive me—I cannot remember what part of Scotland you are in.

Donryn Dewar: I am based outside Perth. It is about the lack of clarity. Having clarity as to what is ahead provides business with certainty, and we can make decisions on whether to invest. Without clarity, we do not invest. Historically, we have put 37 per cent of income back into the houses.

The Convener: Do you have a sense that there are rent problems in your area that would mean that it would benefit from a cap?

Donryn Dewar: Yes, there are problems. Pre-Covid, we had six applicants for every house: we now close the book at 70.

The Convener: Okay, that is good to hear. I will now close the door on rural. I see that Cameron Gillies also has his hand up, but let us come back to those who have not responded to the questions on clarity, certainty and striking the balance.

Willie Coffey has brought more clarity around the CPI plus 1 per cent formula into the mix, and I will throw in that the Government has put in a bit that allows it to use a different economic index. I am interested to hear your thoughts on that. Let us get more information on those things. Emma Roddick is in a time-sensitive situation, so I hope

that I will be able to fit in her question after that, and then I will go back to Willie for the rest of his questions.

Dr Farhad Farnood wants to come in.

Dr Farhad Farnood (Landlord Panel): Good morning, everyone, and thank you for inviting me to participate in this important committee meeting. I can see that several experts in the field are present—I have been fortunate enough to work with a couple of them in the past. I would have loved to join the meeting in person, but I am currently experiencing flu symptoms—including a terrible cough—and I did not want to risk spreading anything.

Putting aside the century-old debate about whether rent controls are a good policy, if we are going to have rent controls, tying them to CPI would seem to be a reasonable thing to do. It would, to some extent, take account of the rising costs that landlords face. At the same time, it would protect tenants from excessive and unexpected rent increases. CPI is generally a well-known and a well-published figure.

The Convener: I appreciate your succinctness.

Timothy Douglas wants to come back in. I imagine that you probably want to answer the question on CPI plus 1 per cent.

Timothy Douglas: Yes, I will give a quick answer to the question from Mr Coffey on CPI. As has been said, CPI broadly reflects the changing costs of living. It is increasingly used by Government departments as the link for welfare payments. We see that in the social rent sector and, as previously said, its use was proposed in relation to rent pressure zones.

We understand that the retail prices index includes housing costs, so it might be responsive to changes in interest rates, which can have an effect on landlords' borrowing costs. Hold that thought, however, because another issue is whether we look at wage inflation, which I understand was a historical benchmark for rent growth. That could be perceived as being fairer, but it could mask regional variations in wages or different wage growth in different sectors and might have a disproportionately negative effect on different groups or geographical areas.

As I said at the start, we cannot have full clarity or certainty about the proposals because they have not been tested. It might have been better if the Scottish Government had piloted the policy, and perhaps there is still time to do that, as was done for universal credit and for the right to rent checks in England.

We are trying to have a one-size-fits-all policy, but, as in the rural debate, we at Propertymark have long said that there is a lack of

understanding from and a real disconnect with the Scottish Government in relation to its proposals in the Cost of Living (Tenant Protection) (Scotland) Act 2022 and in the bill. It does not understand the costs and taxes that landlords and the investor community are paying. We have long said that the bill should be amended to commit the Scottish Government to reviewing the impact of all costs and taxes on private landlords within six months of its being passed, which would lead to a greater understanding of costs incurred by landlords. Would Mr Coffey be prepared to work with us to lodge that amendment?

The Convener: Thank you.

With apologies for not going back to Willie Coffey, I will bring in Emma Roddick because she has to go somewhere else quite soon.

Emma Roddick: I am keen to hear from Scottish Land & Estates, and any other witnesses, on the subject of data collection and the need for a full picture of what is actually going on across Scotland, rather than only of advertised rents. That would give us a full understanding of exactly what people are paying and where, so that the policy decisions that are taken on the back of that data can be as strong and as relevant as possible.

Cameron Gillies (Scottish Land & Estates): Thank you for the invitation to speak to the committee today.

I absolutely agree with the sentiment of the question: good data underpins good legislation, and we would like to be in a position where the data underpinning the bill is as clear as possible for both landlords and tenants. We had a previous discussion about data—the committee has discussed it at length before. The costs involved in getting the sort of microdata that would underpin the bill to the extent that Emma Roddick suggested would be exorbitant. However, using the tools that we have at the moment is probably not going to cut it to the extent that we would want. The bill does not explicitly deal with that, so that might be an area for amendment that Emma Roddick might like to look at.

The Convener: An interesting thing is happening. I ask the witnesses not to propose amendments to my colleagues at the moment. Do not put anyone under pressure—I do not want that to be a growing trend. [*Laughter.*]

We will hear from John Boyle in response to Emma Roddick's question, and then from John Blacklock.

Dr Boyle: There may be a cart before the horse aspect to all of this. The push for rent controls has been based on advertised rents rising, particularly since 2009, faster than wages and inflation, but we do not have a good measure of actual rents.

John Blackwood said something that has been verified in studies not only by the Scottish Association of Landlords but by sources such as the “Rent Better” study that was carried out on behalf of the Nationwide Foundation by Indigo House, on which I was a special adviser. That study also found that, in the majority of cases, rents did not go up within tenancies; they tended to go up between tenancies. We calculated that only about 10 to 15 per cent of stock comes on to the housing market each year. That is the flow, and any study of advertised rents measures the flow—it is not a measure of the stock.

I have likened studying a hot market—a market where demand is rising ahead of supply—to taking the temperature of the water by sticking the thermometer under the hot tap. Taking the temperature of the hot water that comes out is not the same as taking the temperature of the bath, which may be tepid—we cannot tell.

We need far better-quality data. As I think that I said at a previous committee meeting, we need to set up something like the Residential Tenancies Board in the Republic of Ireland, which is responsible not just for monitoring but for enforcement. That board collects data right across the sector on actual as well as advertised rents.

11:30

The Convener: Anything new to add, John Blacklock? *[Interruption.]* I mean Robin Blacklock—I knew that that would catch me out.

Robin Blacklock: Don’t worry about it. I have had a lot worse—trust me.

John Boyle has just summarised much of what I wanted to say. I would make two points here. The first is one that I have made before, but I think that it is valid. Rent pressure zones did not work because we did not collect the data. If we do nothing else under the bill but set up data collection, it will be a success.

Can we afford to do that? We cannot afford not to do it. Data underpins everything to do with the issue. No panel that has sat before you for these discussions has not highlighted the data issue, and we really need to get to grips with it.

We have landlord registration and rent service Scotland. There is a willingness from all responsible landlords to provide that data. The key task is to collect the data nationally in an open and transparent way, so that we can all use it and better understand the private rented sector. I have genuine deep-seated concerns that, if we do not, we will be sitting here in five years, trying to change the market again.

The Convener: Earlier, Cameron Gillies said that it would be exorbitant to get that microdata. How do we pay for it?

Robin Blacklock: That is what Government budgets are for, is it not?

Dr Boyle: The Residential Tenancies Board in Ireland costs £15 million to £20 million. I believe that that is a cost that the national Government incurs. Without that kind of comprehensive approach, you cannot really tell what is happening within the rental markets with any degree of accuracy.

There are sources, to which Robin Blacklock alluded. You could make landlord registration annual, and you could try to enforce the requirement on landlords to notify the register of changes. You need to ensure compliance and enforcement, however, and all of that has a cost, too. You cannot just say, “We want you to do that”; you need to have people who will monitor landlords to ensure that they are doing it.

Landlord registration was not resourced properly, and it has morphed into a big monitoring system that does not have many enforcement powers. Hence, only a relatively small number of landlords have ever been excluded from the sector because they do not meet the definition of a fit and proper person.

The Convener: If no one wants to add anything on data, I will come back to Willie Coffey for his other question.

Willie Coffey: I have two further queries, which I might as well roll into one.

First, would the witnesses broadly support ministers having regulatory powers that would allow them to change the index mechanism and the percentages? Secondly, on the idea of between-tenancy rises, should the controls remain in place between tenancies or not?

Are there any views on those two points?

Donryn Dewar: My single biggest concern with the bill is about change of tenancy, because we have so many tenants under let. I take an actuarial view, as they are generally longer-serving tenants or pensioners. If I get the increase on a new house that goes on the market, I am able to continue to subsidise the existing housing stock, knowing full well that, when it flips, I will be able to get it up to market. That is how I “subsidise” the rents.

I am very concerned about that because some rents are very low, and if we are not able to put the rent up should those properties come back to us, that would be a cause for sale, provided that the property was not in the immediate core of the estate. We have already identified such properties. We are not actively looking to take people out of

their homes, but if they were to give notice, we would sell the properties—and we have sold two such properties already. That has never been our strategy in the past. As I say, change of tenancy is our biggest concern with the bill.

Perhaps we could be told something like, “If you are 5 per cent under market, you cannot change your rent, but if you are 50 per cent under market, you can.”

John Boyle alluded to landlords who have not given a rent increase. We do give rent increases, but we have some that are so far behind that the increases are slightly bigger, but not so big as to push them out of affordability. They are increases, but they are just not big enough to get them to the market. For me, that would be the single thing that you could tackle in order to support continued investment.

The Convener: We will go to Robin Blacklock and then we will go online to Timothy Douglas. I realise that Cedric Bucher has not come in at all yet, and I want to make space for him as well. Please indicate when you want to come in, Cedric.

Robin Blacklock: The first question, on the powers in the bill to alter the mechanism, rings alarm bells for me. I have spoken to a number of investors and developers over the past year. I asked them what levers would help and what we could do to help things quickly. The first response was, “Fix the bill”; the second was, “Leave us alone”. That is a very flippant way of putting it, but over the past probably 15 years or more, between landlord registration, the tenancy deposit scheme, the rental reforms of 2016-17, the rent pressure zones, the rent freeze and then the bill that we have at the moment, there has been a near perpetual cycle of reviews in legislation. Going back to the earlier question, people do not have clarity and certainty if things are to be reviewed.

Although it might not be the intention, if there is a mechanism that landlords read as saying, in effect, “We have a mechanism, but if we do not like it and it is not working to our benefit, we will change it”, alarm bells ring for investors. That is priced in, and I think that it will be a constraint in relation to delivering more homes of high quality. There are real alarm bells about that. You need to choose a system, go with it and allow it to embed for a period so that we can get stability in the system.

On the second point, about controls between tenancies, our stance all the way through has been related to the three main headline points of inflation-linked controls, to fix controls between tenancies, and the collection of data. I have talked about the other two, so you have given me an opportunity to talk about controls between tenancies.

We are pragmatic enough to accept that, such is the willingness of the Government and others to maintain controls between tenancies, we need to accept that that will be there. However, if it is there, it is about whether we can find some pragmatic tweaks and changes, either through exemptions or amendments, to make it work.

There are two main headline points, one of which has already been highlighted. In a situation where a previous tenant has been paying significantly below the market—say, 10 per cent or more—can we have the ability for that property to revert to market?

The second point—which I am sure will come up again—is that, if a landlord has spent considerably on improvements and upgrades between tenancies, that needs to be recognised in the new letting. There needs to be either an amendment or an exemption to reflect that, in relation to both the uplift in value that goes with an improved property and the ability of a landlord to recover that cost when the property comes back on the market. Without that, there is a real barrier to investment, and a real concern that we will not get homes upgraded to the standard that we need, or, indeed, the homes that we desperately need.

The Convener: I will ask a quick supplementary question about that. We are already talking about the difficulty of tracking data in general. How would we track things such as significant upgrades?

Robin Blacklock: How long have you got?

Very simplistically, I do not think that it is too onerous to request a landlord to show evidence and invoices for the work that they have done. There could be some form of before and after report, with details of the costs. I am sure that there could be further detail on what constitutes repair and maintenance, which would not account for those works, but work that includes new kitchens, bathrooms and heating systems, and energy efficiency upgrades, probably should count. There is detail that needs to be worked through, but I do not think that any landlord would object to providing evidence of that money being spent.

Timothy Douglas: I agree with what Robin said on both points.

I will start with the point about the rent cap being kept under review, which we must be careful of. Having said that, a key concern is that, if we are too rigid on rent regulation, we cannot adapt or align to unexpected economic changes such as high inflation or new energy efficiency requirements, which will impact on landlords' costs.

Robin has his points. One of mine is that, ultimately, this goes back to the Scottish Government having a greater understanding of the taxes and costs facing landlords. That would allow it to understand where the cap mechanism needs to be.

In the documents that I have seen—correct me if I am wrong—there are no timescales or consistency of approach for when a review is going to happen. The legislation is already inconsistent, in that there is no set time period under section 8(2) for the minister to report back once they receive a report from a local authority. If you are going to have timescales, they have to be consistent, and tenants, landlords and agents all need to know when the review is going to happen. Under section 8(2)(a), there is no statutory reporting back period for ministers, as the legislation is written, on the reports that they will receive from local authorities. There is none. Again, that does not bring clarity or consistency.

As Robin Blacklock alluded to, Propertymark's letting agent members remain concerned that the rent restrictions proposed in the bill will apply between tenancies. That gap is ultimately when the landlord will potentially incur their most significant capital expenditure, which could be anything from redecorating to upgrading, to get ready for an incoming tenant—that is the service that we provide. That is a big concern.

There is a fear that a rent control area could be in place for up to five years and then perhaps under review for 10 years. We do not want to see large areas of the country fall into dilapidation if, as previous speakers have said, landlords cannot get a return on their investment.

We surveyed our members—as we have also done in recent years—and the most common expenditure is replacing the heating system, which can cost up to £10,000. Putting in a new kitchen or bathroom can cost up to £20,000, and roof repairs and replacements—

The Convener: Timothy, in the interest of time—

Timothy Douglas: Let us not forget flood damage across the country. Those are all costs that we need to understand and have baked into the policy.

The Convener: Thank you very much.

Cedric Bucher (Hearthstone Investments Ltd): Thank you for having me here again. I want to take a step back. One of the challenges that we have is to increase supply to provide sufficient affordable rented housing. The question is, will the proposed amendments underpin investor confidence and attract new investment?

Overall, I agree with everything that has been said. The amendments are a significant improvement on what we discussed in June. CPI plus 1 per cent is the right metric. However, at the moment, the bill would still disadvantage Scotland in terms of investment compared to other parts of the world, because the rent controls will apply between tenancies. That is not the case in other parts of the UK, and it is also not the case in other European markets that have rent controls, as those apply to existing tenancies and not between tenancies.

I will give you a few numbers. The beneficiaries of the margins that we earn as investors and institutional landlords are people who earn a pension. The income on that type of investment is quite thin—3 or 4 per cent.

As institutional investors, what we do is quite similar to what was discussed in relation to rural markets. We tend not to increase rents by inflation for existing tenants. Across our portfolios, during the time of peak inflation, when it ran at 10 per cent, the increase in rents for our existing tenants was half of that, so 4 or 5 per cent. That means that we are running behind with properties that are under let. Our gross rent is not increasing with inflation, but our maintenance costs have obviously grown with inflation, so those margins reduce.

We do that to support our existing residents and people facing hardship and affordability pressures, because we want to keep them as our tenants for as long as possible. We want to spend the money on their properties. On average, we spend 35 per cent of our gross income on maintenance, but for properties with lower rents—below £800 a month—we spend up to 50 per cent on maintenance. At some point, we will need to be able to readjust those rents back to a market level. If that level is capped as well, the margins will start to dwindle and our investors will seek returns elsewhere.

11:45

Our big question is whether we can find a way to remove the cap from between tenancies, while—as with the rest of the bill—having some safeguards to ensure that there are no excessive rent increases either. We do not want that; we want to make sure that there is a fair deal for tenants and landlords.

The Convener: Thank you.

Cameron Gillies, please answer briefly, and then we will move on to Meghan Gallacher's question.

Cameron Gillies: I want to go back to Willie Coffey's first question about flexibility in relation to

the index links. The Government clearly identified the sector's concerns about the proposals. That is why the minister engaged so extensively with us to come up with the amendment—we would not be discussing how to amend the bill to alleviate those concerns if he had not done so. In terms of flexibility, the proposed amendment would provide some clarity to the industry, which is what was asked for.

The point about reviews is relevant: it would be unusual not to review at five-year intervals. However, having a level of flexibility about that could undo the work that the Government has done to try to deliver clarity for the sector.

The Convener: For clarity, that is in relation to the fact that ministers might be able to change the economic index.

Cameron Gillies: Yes.

Willie Coffey: If there are no other responses, I have finished with my questions, convener.

Meghan Gallacher: The Scottish Government's target date for landlords to decarbonise their homes is set at 2028. This morning, we have spoken about the proposed maximum rent increase of 6 per cent. Is that rent increase sufficient to allow them to decarbonise their homes by the target? Who wants to kick that one off?

Donryn Dewar: I will. No, it is not. Most of our houses are hard to treat, so the cost of getting them to the required EPC levels would be more than £40,000. Meanwhile, our rents are low because we are in a rural area.

Cameron Gillies: We have discussed at length with the minister the need to robustly rural proof policies such as this one. When there is an inequity, such as the one that Donryn Dewar has discussed at length, that is an appropriate point at which the rural proofing of policies and legislation should be introduced.

Addressing that inequality probably means treating rural properties in a different way in comparison with urban properties, where the input costs for meeting EPC requirements are lower and the maintenance costs are lower.

At the same time, the cost of renting tends to be lower in rural areas, so less money is coming in and more money is going out. There is an opportunity to consider including potential exemptions to the provisions in the bill.

Meghan Gallacher: Do you think that this is a good time to introduce rent controls, when landlords are facing pressures from other policies that are coming down the track?

Cameron Gillies: No.

Dr Boyle: It is worth making the point that the PRS stock in Scotland tends to be older and, as a result, it is less energy efficient, so the average cost of improving existing PRS stock will be greater than it is for other tenures. Having a rent control regime that is too strict will disincentivise that. If landlords cannot bring their properties up to the standards that are required, there will be questions about whether they can remain in the sector.

Cedric Bucher: We have always been clear with our investors that, when it comes to housing, there is always a conflict between the environmental impact and the social impact. We need to be very clear about that. Rent controls aim to have a positive social impact. We are not against them. However, we cannot have both: rent controls mean that less money is available to invest in environmental upgrades. Any rent controls will limit the amount that is available to upgrade properties from an environmental perspective. That is just the nature of how things are.

There are different ways to improve environmental standards in housing, which would not be part of this bill. Measures such as minimum EPC standards could work. However, one needs to acknowledge that the introduction of rent controls is not necessarily good for the environment, for simple cost reasons.

The Convener: No one else wants to comment, so I think that we have covered that topic.

We will move on to questions from Alexander Stewart. This subject has already been touched on, but we will let the witnesses have a run at it.

Alexander Stewart: You have mentioned the impact on and the knock-on effect for rural private rented markets, and the costs that might be involved. Do you anticipate that the proposed amendments will have a differential impact on rural private rented markets? Any such differential impact could be detrimental for the sector in rural areas. It would be good to get a flavour of that. There needs to be more clarity on the issue, because the proposals might well be another nail in the coffin for the rural sector.

That is the feeling that I have got so far this morning, but it would be good to find out whether you share my view on the impact that the amendments could have on your market. I put that to Donryn Dewar, in the first instance.

Donryn Dewar: I think that the amendments will have an impact on our market. For me, the issue is the lack of clarity on exactly what we will be asked to do on energy performance. Before Covid, in 2017, I saw that energy performance requirements were coming in and I started insulating walls. If we put in a new kitchen, we

insulated the walls. Under the new proposals, it is now the floor that has to be insulated. There is constant change, which requires investment.

My worry with all this legislation is cash flow. If you are unlucky and you get a lot of turnovers, you will have to spend the money on upgrades, and you will simply not have the cash flow. I have been trying to manage cash flow since the energy performance regime first came in. In fact, I started to do that before the energy performance regime existed, as tenants were leaving because oil was too expensive. I thought, "How do I keep them?" It is expensive when they leave, as you have to do lots of stuff. I thought that I would start by insulating. As a result of not knowing what is happening with the energy performance regulations and the bill, I am very nervous about how to invest.

In addition, a rural house is 30 per cent bigger, on average, than an urban house. On top of the fact that rents per square foot are lower, the cost of doing everything is much higher. What Cedric Bucher said about having an environmental impact or a social impact is absolutely right. You have to pick one, or you have to know exactly what is happening and find a balance between the two. I am not against improvements in energy performance. I think that everyone should be warm in their home—I want to be warm in my house.

However, there is a balance. Our return on capital employed is between 1 per cent and 4 per cent. That gives you an idea of the margins. I did not recognise the figure of 12 per cent for repair costs that was mentioned earlier. Our figure is 37 per cent, and that is before you take into account the cost of maintaining the roads. Most of the roads that lead to the houses are maintained by us. The latest storm had a devastating impact on us. The cost of repairing the damage to infrastructure is funded by the housing income. There are a whole load of costs lumped in there that are not covered as part of what would be a traditional urban rental figure. That is why I think that the bill will have a much more devastating impact on the rural sector.

Before all the regulations came along, I tried to build in abandoned houses. I realise that this is a slight diversion, but one of the biggest issues in relation to lack of supply is the fact that planning forces you to apply new-build regulations to old structures. The cost per square foot is much higher. I live very close to Perth. Half of Perth is empty; many houses are sitting empty. Planning should remove the developer contribution, because the numbers do not make sense.

We should make the process as easy as possible. If we had a system that was fit for purpose, that would allow those empty houses to

become homes. The whole situation would level out if there was more supply. We are trying to fix the supply issue by controlling rents, instead of by dealing with supply.

The other issue is getting services. In rural areas, SSE will put in overhead lines on your land, but, if you have to put something in, SSE will say that it has to go underground. The cost of that is prohibitive.

We have millions of abandoned buildings that we would love to turn into houses, which would lift the quality of the area. However, our challenges are the cost of planning, meeting the regulations and the cost of utilities. If there was a focus on that, we could reduce rents, because there would be more supply.

Cameron Gillies: I echo that. The primary driver of the housing crisis in Scotland is availability, not affordability. The evidence is pretty clear that Scotland's housing crisis disproportionately affects rural areas and rural communities. There is a recorded decline in private rental housing in 16 local authority areas that are primarily rural. For example, Highland Council has had a 7.5 per cent decline and Dumfries and Galloway Council has had a 4.5 per cent decline.

In our view, the bill should primarily focus on directly addressing the cause of the housing crisis instead of the symptoms, and the cause is higher rents, particularly in rural areas where we need more homes. The proposals to regulate the people who are providing those homes—the developers and the landlords—seem to be somewhat misguided.

That said, the minister has engaged with us extensively on the proposed amendments and they are a step in the right direction. They are proof that the Government is trying to listen to us. There could be robust exemptions, particularly for some of the situations that Donryn Dewar has discussed with us, such as long-term tenants whose rents have not risen in several years, as is often the case with farm workers and rural workers more generally. Sensible exemptions can be made that would allow us to try to address the supply issue rather than the affordability issue.

Alexander Stewart: Does anyone else have a comment?

The Convener: I do not think that anyone does. It was good to spend a bit more time on the rural situation. I now bring in Fulton MacGregor.

Fulton MacGregor: Good morning—just, by four minutes. Thank you for your evidence so far.

One of the themes of the committee's stage 1 scrutiny was awareness and understanding of the legislation on private rented housing. I have a

general question. Is the proposed new system easy for tenants and landlords to understand?

If you were in the room during the previous panel, you will have heard me ask those witnesses the same question. To summarise their response, it was pretty much unanimous that the new system was difficult to understand, but there was also a strong view that that should not necessarily delay things moving forward—it is about supporting and helping people to understand it. Does anyone have thoughts on that? You can tie that in to what the previous panel said if you heard it.

I will not try to do what I did the last time and ask everybody to speak. I pass back to the convener to chair who wants to come in, given the time constraints.

The Convener: Thanks, Fulton. Who wants to pick that up to start?

Donryn Dewar: The First-tier Tribunal is a very strong body. There is a need for such a tribunal in England, where one does not exist. There is a resource constraint—that is where the issue lies. The tribunal gives tenants the ability take things forward.

Witnesses in the earlier panel said that there might not be legal support for tenants, but landlords do not like spending money on lawyers, either. I do not go to the tribunal with a lawyer in tow—I represent myself. It would be good if something were done to make things flow more smoothly for the little things, because the cases are all in one pile along with evictions and everything else. That would give tenants access.

I have been taken to the rent officer for a £5 rent increase over a two-year period. I have heard from tenants how they feel that it is difficult, but I have been on the flipside. I spent about eight hours and had to pay two letting agents to justify that increase, and the rent was massively under the market rate. There are two sides to every coin, and you can be unlucky.

One of my biggest concerns is that bad landlords are driving regulation. Regulation should be tackling bad landlords and not necessarily catering for bad landlords.

The Convener: We will go online, first to Timothy Douglas and then to Don Blackwood.

Timothy Douglas: I heard the end of the previous evidence session. The changes that have come through the cost of living legislation, where we are now with the transition period and the existing proposals for the bill will be confusing, and are already confusing, for a lot of tenants, landlords and agents.

We have had communication with the Scottish Government—its on-going communications

campaign is happening, and we will revamp. That campaign is mainly directed towards tenants so that they understand the changes through the cost of living legislation and the transition.

12:00

When we surveyed our members, just under half of them said that their businesses were adequately resourced to deal with the bill as a whole. However, what is more concerning than landlords, tenants and agents' understanding is the issue of resources at rent service Scotland, the First-tier Tribunal and local authorities. Although the emphasis is on enabling tenants and landlords to understand those changes, there are three key bodies that also need to understand them and must be adequately resourced, and our members do not think that that is the case.

My final point, which also goes back to consistency, is about section 2 of the bill, on "Report to Scottish Ministers following periodic assessment". There is no criteria for implementing rent control areas. Therefore, under the bill, different local authorities—all 32 across Scotland—can have an array of different proposals, whether they are street, ward or area wide. They can even apply to a cluster of houses. How the rent control areas are implemented will not be consistent geographically, which will cause confusion. I think that that point came out in the previous session.

John Blackwood: I have one point to add. It is important to recognise that landlords feel as confused about the legislation as tenants do, which I think was echoed in the earlier session. I do not think that it should stop us implementing new legislation; it is indicative of anything new that comes into the sector—it takes time to bed in, and proper guidance and support need to be given to everyone in the sector, landlords and tenants alike, to understand it. It will take some time for that to happen.

I think that all of the witnesses in this session would agree that there is a lot of confusion among landlords and agents as to how to increase rents and what the rights are. From our research of our members, we are really surprised as to how few tenants have challenged rent increases. Is that indicative of them not understanding their rights or that whole process? All that needs to be taken on board.

The Convener: Thank you. I will go to John Boyle.

Dr Boyle: When you look at rent control regimes internationally, you can see that they are all quite complex. If you look at the ones in Sweden, Denmark or Germany, there is not a lot of simplicity there, particularly when you get into

second and third-generation rent control. Therefore, it is important to have something that is straightforward, understandable and clear, and I think that having the link with cost of living plus 1 per cent ticks that box. However, as Robin Blacklock said, when rents have fallen behind market rents, it is important that they are recalibrated over time and that allowances are made for refurbishment and upgrades of the property. Unless you do that over the long term, it is not an investable proposition, either for a small landlord or a large landlord. We would then start to see declining provision of PRS properties, which leads to queues and shortages, a bit like you have where there are very strict and inflexible rent control regimes, such as in Sweden.

The Convener: Okay—that is everyone who wants to speak on that issue. I bring in Mark Griffin.

Mark Griffin: We have touched on whether ministers should have the ability to review the rent control mechanism, but how should we review the impact of the rent cap as a whole? How often should that be done, and what should we be looking at? I am thinking about any potential impact on supply, the number of landlords and investment. What should we be looking at in a review, and how often should we do that?

Robin Blacklock: My answer is very quick: collect the data. It goes back to the fundamental point that, if you get as much data as you can about what is happening in the market—how many new properties are coming on the market, how long it is taking to let and the number of new landlord registrations; the whole gamut of data that we talk about—that will give you much greater insight than you have at the moment.

I am sorry—that was a very flippant and off-the-cuff answer. John Boyle is far more educated in such things.

The Convener: It was a good answer. Do you mean that, if we collect the data, we will understand how often we need to review—that the picture is needed in order to understand the period?

Robin Blacklock: Without the data, the evidence is anecdotal. I appreciate that, as MSPs, you will all have people knocking on the doors of your surgeries to complain about landlords, but I am not sure that you often have people knocking on them to say that their landlord is great.

I do not doubt that the things in the stories and anecdotes that you hear frequently are happening, but we do not know the proportion of the market that that applies to—where is the evidence that shows that it is 2 per cent or 22 per cent, for example? Collecting the data on everything that we have discussed today will only underpin any

review of where rents are going, how long properties are taking to let, how long people are staying in properties, where the new provision will come from, how many properties are being lost to the market, how many are having their EPCs upgraded—I could go on.

The Convener: Great. A few people have indicated that they want to come in—Cameron Gillies, Timothy Douglas and Cedric Bucher. I have not seen anyone else indicate, so we will go with that and see whether anyone else needs to come in.

Cameron Gillies: The regional nuances that we have discussed also need to be reviewed. The effectiveness of the proposals in an urban area will not be the same as when they are applied in a rural area. That needs to be considered in any review.

We also need to ask whether rent controls improve the housing stock. That is a fundamental aspect of what the Government is trying to do, as well as increasing supply and affordability. The answer from the housing providers today has been that they do not, so the question certainly needs to be asked in any review.

Timothy Douglas: I agree with the points that have been made, so I will be brief, for once. PropertyMark has long said that, in the proposed legislation, the Scottish Government should commit to publishing an annual update on the state of the private rented sector. That could include all those things rather than simply an update on supply, size and location. Alongside the review of landlords' costs and taxes, that would give us a better evidence-based understanding and lead to better policy outcomes across the board.

Cedric Bucher: It is important for investors to have stability and continuity, so I strongly discourage continuous reviews and discussion. Let us get this right and run with it. We have already lost three or four years as a result of regulatory uncertainty, and we need to get the regulation out. Of course, let us review data continuously, but let us not debate and consult continuously, because that will just deter everyone.

The Convener: Thanks for that. It is great to hear a differing opinion. Does anybody else want to answer that question?

Dr Boyle: I have one quick comment. With a lot of this, we have been putting in place policy levers in the dark. As I said earlier, we do not know what is happening with actual rents. We have only a measure of advertised rents, and even that is partial because it depends on the main portals. The evidence is collected from letting agents and people who do not use letting agents are not on

the main portals, so we are not getting that measure of rent change either.

We also do not have any reliable measure of supply. Landlord registration is not a reliable measure of supply—Scottish Government statisticians have said so. That does not stop Scottish Government ministers using it sometimes, but the statisticians have said that landlord registration is renewed only once every three years.

People who have analysed landlord registration data—including me, although it was quite a few years ago when I did the evaluation on behalf of the Scottish Government—say that there are lots of duplicates and that the data set is quite unclean. If we are to analyse it, we need to do a lot of weeding out of the data set. It is therefore not a reliable measure of supply.

The only really good data source that we have is the Scottish household survey, but that is lacking because it is a survey, so there is a margin of error around its findings. The only other data that we have is on availability, but, again, that comes from the main portals, so it is also partial.

The great concern is that rents are rising too fast, but we do not know that. The other concern is that, if we introduce rent controls, supply will collapse, but, again, we do not know that. We cannot even baseline that at the moment.

The Convener: We are coming back to the need for data.

Dr Farnood: I echo Cedric Bucher's point about stability. The majority of landlords are unlikely to be supportive of any form of rent cap. The proposed policy might offer investors some stability and might encourage further investment in the sector, which is to be welcomed.

Stability has been lacking. There were several changes to taxation, and then came the Covid pandemic measures. What is needed now is a period of stability in which investors can make well-founded assumptions about their return on investment over, for example, a 10-year period. However, to achieve that, there needs to be a high degree of political consensus, so that a change of government does not mean a change of policy.

A further issue is that, if the purpose of the policy is to tackle unaffordability in the PRS, it is difficult to see how the policy would help, unless earnings were consistently running ahead of CPI. Other policies, such as the affordable housing supply programme, will need to address affordability.

The Convener: I have a final question, which emerged out of the evidence from the previous witnesses. In the interest of time, I will do a similar

thing and put it out there, and witnesses can come in if there is anything new to add.

The end of the temporary rent adjudication system at the end of March means that there will be a gap before any new rent control areas are implemented. The tenant panel was concerned that landlords might implement steep rises before then. Do you have that concern?

Dr Boyle: I can understand the concerns, but landlords cannot just hike up rents by 20 or 30 per cent between or within tenancies. If the rent does not correspond with the market and, therefore, does not correspond with people's wages in a particular locality, a landlord will be unable to let the property. They need to set the rent at a level that means that they can let the property out within a decent period, which is, typically, for most landlords, two to four weeks. Landlords cannot hike up the rent to whatever figure they like and not expect any consequences. If they cannot rent out the property, they cannot get income from it. The market acts as a kind of deterrent.

The Convener: What happens with gentrification, when the market starts to creep up in an area? It is possible, is it not, that if an area starts to become up and coming, rents will start to leap?

Dr Boyle: Yes, but people tend to renew their tenancies. On average, tenancies last about a year and a half to two years. You will not get that kind of massive uplift in the market over that period.

Donryn Dewar: I have found that, historically, there are two kinds of tenant debt. Some people get into debt and work really hard to try to pay what they can, and some people are overwhelmed when they get into debt and pay nothing. My concern with mass uplifts during tenancies is that that will push people into debt and that they will be overwhelmed, so I will not get the rent that I got before. I do not want a large debt book. I am always conscious of that in relation to asking for huge increases.

That said, given the shortage, people have said that they will give me £300 more than a property is advertised for if I give it to them. I have never taken such offers, but I assume that there are people who have.

We look for long-term tenants in order to build a community. I have found that, if you push the envelope of what you can get from the market, you start getting people who are temporary—they will pay the rent for a little bit, until they find something else, which does not work in your favour in the long term as a landlord—or who might be less suitable. If, as landlords, you approach the issue responsibly, you can find a balance. I accept that, when somebody says that they will pay you a

year's worth of rent, or a lot extra, some people take that, but that is not something that we would do. I am always conscious of tenants building debt.

The Convener: No one else wants to come in—we have run out of steam. I really appreciate the witnesses staying a bit longer than had originally been planned. Thank you for coming to the committee and sharing your perspective on this issue. We also gathered some other bits and pieces. On both panels, data shone out as a bright light to which we need to pay attention.

I briefly suspend business to allow our witnesses to leave the room.

12:15

Meeting suspended.

12:16

On resuming—

Subordinate Legislation

Local Government Pension Scheme (Remediable Service) (Scotland) (Miscellaneous Amendment) Regulations 2024

The Convener: The next item on our agenda is to consider a negative instrument. As members have no comments on the instrument, does the committee agree that we do not wish to make any recommendations in relation to it?

Members *indicated agreement.*

The Convener: We previously agreed to take the next items in private, so I close the public part of the meeting.

12:16

Meeting continued in private until 12:30.

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