



OFFICIAL REPORT
AITHISG OIFIGEIL

Local Government and Communities Committee

Wednesday 30 January 2019

Session 5



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LOCAL GOVERNMENT AND COMMUNITIES COMMITTEE
4th Meeting 2019, Session 5

CONVENER

*James Dornan (Glasgow Cathcart) (SNP)

DEPUTY CONVENER

*Alex Rowley (Mid Scotland and Fife) (Lab)

COMMITTEE MEMBERS

*Annabelle Ewing (Cowdenbeath) (SNP)

*Kenneth Gibson (Cunninghame North) (SNP)

*Graham Simpson (Central Scotland) (Con)

*Alexander Stewart (Mid Scotland and Fife) (Con)

*Andy Wightman (Lothian) (Green)

*attended

THE FOLLOWING ALSO PARTICIPATED:

Michael Cameron (Scottish Housing Regulator)

Kirsten Simonnet-Lefevre (Scottish Government)

Kevin Stewart (Minister for Local Government, Housing and Planning)

George Walker (Scottish Housing Regulator)

CLERK TO THE COMMITTEE

Peter McGrath

LOCATION

The James Clerk Maxwell Room (CR4)

Scottish Parliament
Local Government and
Communities Committee

Wednesday 30 January 2019

[The Convener opened the meeting at 09:46]

Decision on Taking Business in
Private

The Convener (James Dornan): Good morning, and welcome to the fourth meeting in 2019 of the Local Government and Communities Committee. I remind everyone present to turn off their mobile phones.

Agenda item 1 is a decision on whether to take agenda item 7 in private. Do we agree to take that item in private?

Members indicated agreement.

“Scottish Housing Regulator
Annual Performance Report and
Accounts 2017/18”

09:46

The Convener: Agenda item 2 is consideration of the Scottish Housing Regulator’s annual report and accounts for 2017-18. I welcome from the Scottish Housing Regulator George Walker, who is the chair, and Michael Cameron, who is the chief executive. I invite the chair to make brief opening remarks.

George Walker (Scottish Housing Regulator): Thank you very much for inviting us here to present the regulator’s annual report and accounts for 2017-18. I have some remarks to make, following which we would be very pleased to take your questions about the report.

I will touch on three important things from the report and, indeed, from our current work, which I am sure that you will have thoughts on.

First, it is important that I draw to your attention that registered social landlords and local authorities continue to perform well against the Scottish social housing charter standards and outcomes. As you are likely to know, last August, we published our fifth national analysis. We again found that landlords continue to perform well in the service areas that tenants tell us matter most to them. The good news from the analysis is that tenant satisfaction now sits at more than 90 per cent. I think that we would all consider that to be a good outcome. That is due in no small part to the many voluntary governing body members, who work tirelessly to achieve that outcome for tenants. They are to be congratulated on that.

Secondly, I want to acknowledge that we have, again, had to use our statutory intervention powers in the past year. I will set that in a wee bit of context. Since 2012, we have intervened in 12 cases with RSLs, which we did to protect the interests of tenants of those landlords. Last year, we took time to think and reflect, and we published a lessons learned report on our early interventions. The report highlighted that the failures that led to interventions can have serious implications for RSLs, including potentially significant costs, and we are mindful of that. That makes it all the more important that governing bodies assure themselves that their landlords are well run, that the landlord focuses on the right things and that the landlord manages risks and delivers good services at a price that tenants can afford. Doing that will help landlords to avoid getting into a position in which the regulator needs to intervene. The main thrust of the changes in our new regulatory framework, particularly in relation

to self-assurance, is aimed at getting landlords to do just that.

The third matter on which I will touch is our new regulatory framework. As the committee might know, we are coming to the end of a major consultation on the framework. Through the framework, we are promoting a culture of assurance, openness and transparency right across the sector. As I mentioned, our aim with the new framework is to support landlords to be well run and to deliver what tenants, people who are homeless and other service users need and want. To be clear, our statutory objective and functions have not changed, but we are refreshing the tools that we use to regulate.

The new framework will be the culmination of a year-long process and discussion with tenants, landlords, representative bodies and, of course, funders. We have had good feedback and lots of engaging discussion through the consultation. We have had round-table events across the country, including 10 events for tenants. For us, it has been an inclusive and highly worthwhile listening process. As members might know, the consultation closed on 14 December, and we plan to publish the new regulatory framework and guidance by the end of February, with the new framework coming into being from April this year.

Sitting alongside that new framework, we have made what we think is an interesting and important proposal to work with the sector to develop what we call an advisory toolkit to support landlords and, in particular, governing body members to ask the right questions and ensure that their governance and the assurance that they get are as good as they can be. It is all about supporting responsible landlords to do the right things for their tenants, those who are homeless and other service users.

I am pleased to say that the first-cut analysis of the consultation responses shows broad support for the new framework proposals. We will publish an independent review of the consultation responses by the end of February. If members are at all interested in the responses, the 90 or so that we have received can be found on our website.

As you know, a key role for us is to help to create an environment in which lenders are confident to invest in RSLs. That flow of money is important.

I will wrap up in one minute, convener. Is that okay?

The Convener: Yes.

George Walker: We were therefore pleased with our engagement with and feedback from UK Finance, which is the representative body of

lenders and which said in its response to the consultation:

“Funders to Scottish RSLs take great comfort from the current approach of the Scottish Housing Regulator, which is risk-based and proportionate.”

In fact, it has been suggested that that approach leads to up to £40 million of annual savings in interest payments for Scottish RSLs.

I will wrap up now, to keep this brief. We are grateful for the uplift that we have received in our funding for 2019-20, which will help us to implement the new regulatory framework. However, I need to say to the committee that we are encountering real frustration around the pace of recruitment and the increasing demands that are coming our way. My board is concerned about our capacity to keep responding to new areas of work or problem regulatory cases that might arise as a result.

I realise that time is short, and I do not wish to hog the floor, so I will happily hand back to you, convener. We will answer any questions that you have for us.

The Convener: Thank you.

Andy Wightman (Lothian) (Green): Mr Walker, you talked about the new regulatory framework that you will introduce later this year. Will you say a little more about what outcome you intend to achieve and what is most likely to change, from your perspective and from a housing association or tenant perspective?

George Walker: That is a good question. In considering our proposals for the framework, we put a lot of thought into what we have learned from our experience over the past five years. We are looking to achieve a high-level focus on assurance, openness and transparency across providers and of course we want to enhance that focus in our organisation, too. In particular, we are looking to support board and governing body members in getting the assurance that they need from their management teams that individual landlords are doing the right things in managing risk and some of the other things that I have talked about.

Why is that? It is about the fact that, as our report, “Lessons from Statutory Intervention—December 2018” demonstrated, in the cases in which we have had to intervene the issue has, in the main, been governance failures—in some cases, financial failures, as well. You can therefore see the theme that runs through what we are doing.

A key element—I might ask Michael Cameron to say more about it, if you would like him to do so—is a move towards annual self-assurance statements, which are signed off by the governing

bodies and chairs of boards. The approach gives governing bodies and chairs permission, if you like—I have used the word “permission” in many round-table discussions—to ask for the assurance that they need from management teams; we want them to feel able to ask those questions and to feel comfortable about doing so. The annual self-assurance statements are all about identifying where governing bodies are compliant with the standards, identifying areas where bodies fall short and helping them to plan in that regard.

There are other elements to the statutory framework, of course, but that is our high-level aim—it is what we are looking for in a perfect world. We want to work effectively alongside governing bodies, with the toolkit that I mentioned in my opening remarks, to see the number of interventions that relate to governance fall, but we recognise that that will take time.

Michael Cameron (Scottish Housing Regulator): The only thing that I will add is that specific new requirements will be introduced. George Walker mentioned the requirement on landlords—local authorities and RSLs—to provide us with an annual assurance statement, in which the governing body or relevant committee of the local authority confirms that it is assured that it is meeting all the regulatory requirements and standards that are applicable.

We will also produce and publish an engagement plan for every landlord, which will set out exactly what we expect of and will do with each landlord. For the bulk of landlords, that might be nothing more than a requirement to provide us with the normal statutory returns, but it is an important way for us to contribute to the transparency that George Walker talked about.

A final and major change that we are looking to introduce will be a regulatory status for every RSL, which will set out our view of the RSL’s compliance with the regulatory requirements and standards of governance and financial management.

Andy Wightman: That is helpful, because last year I asked you what evidence you had that tenants were using the charter to hold housing associations effectively to account, and you said that governance failures were the principal reason why problems arise.

Another question that I asked last year was about tenant participation in housing associations. Castle Rock Edinvar Housing Association, for example, has 6,247 units, but only 169 tenants were members of the association last year and the number has dropped to 145 this year. Only 18 tenants turned up to the annual general meeting. Sanctuary Scotland Housing Association has 6,600 units, and four people attended the AGM.

Rural Stirling Housing Association has 561 units and 270 members, which is good. I understand that 37 tenants came to the AGM.

As I understand it, housing associations are not, in law, required to facilitate their tenants being members, although in practice many tenants are members, through limited companies with no share capital or registered societies. Obviously, local authorities cannot have that relationship.

If we want governance to improve, how important is it to increase the legal participation of the tenants themselves, so that they can hold the housing association to account and effectively drive through the governance changes that would help to ensure that we do not have failures?

10:00

George Walker: At a high level, we use the term “tenant voice”, which is really important and has been at the forefront of our mind. The term is peppered throughout the proposed regulatory framework.

On your specific point, we wanted to listen to tenants, so we attended tenant events on the consultation across Scotland—from Lerwick to Stornoway to Moffat, and major cities in between—to listen to what tenants were looking for in the new framework. That seemed like a sensible place to start. The short answer to your question is that it is very important that tenant voice is heard.

One thing that came through strongly in the consultation was that tenants really liked the idea of annual assurance statements. During the round-table meetings—board members, including Michael Cameron and I, were at all those meetings—a number of tenants said that it can be quite difficult to engage with the annual return on the charter. There is a lot of stuff in that and it can be overwhelming, even for scrutiny committees that review the annual return for tenants, so tenants welcomed their getting involved and engaged with annual assurance statements.

We encourage engagement with tenants across the board, but Andy Wightman is right to say that that is not set out in statute. Different RSLs and bodies have different corporate structures—some do not require membership and some do—and we work very hard to encourage a level of engagement. However, we have seen examples of times when tenants have been perfectly happy with the service that they have been getting and, unfortunately, they have chosen not to engage. That is not to say that it is not very important that engagement should be encouraged. Indeed, I probably bore RSLs to death at conferences, because I talk so much about tenant voice. That is

very important to us, which is why it is in the framework.

I do not know whether Michael Cameron wants to add anything about the legislative aspect.

Michael Cameron: I do not have anything to add specifically about the legislative aspect. Clearly, it is important that landlords give opportunities to tenants who are interested in participating in decision making. There has been success in the sector through the development of tenant scrutiny panels, which provide a formal structured approach for tenants to look at landlord performance and engage with landlords to identify ways of driving improvement. That approach has generated quite a bit of interest from tenants who want to participate on those panels, rather than through the more formal governance structures. However, as I said, it is important that landlords provide tenants with opportunities to engage with those structures, too.

Andy Wightman: I have an example. The housing association of a constituent—I will not name names—has insisted, based on a new interpretation of Scottish secure tenancies, that they make changes to the way that they manage the property that the tenants live in. One of the tenants went to the AGM, but the housing association is remote and they just got brushed off. Given that we always need to improve governance, I am worried that governance will not be improved in an environment in which stakeholders—I do not like that word—or tenants do not have the opportunity to have an effective voice to challenge, to explore, to inquire or to contribute to new strategies and so on.

I understand that the issue is not really a question for you, because you are a regulator, but you have put your finger on the point about governance failures. When there are governance failures in energy or in any other sector, there are broadly similar things that we can do to make governance better. I know that that was not a question.

George Walker: I can certainly make a comment. I could not agree more about the importance of listening to and hearing from tenants; that is absolutely right. There is language in the new framework about the use of complaints and about complaints being an opportunity for management teams and governing bodies to hear from and listen to their tenants so that they can identify themes. Andy Wightman's example involved, in effect, a complaint, and it sounds as though it was perhaps not heard as well as it could have been. We agree on that point, which is why we talk about the issue in great detail a lot of the time.

An example of that is that another board member and I are jointly running a session and speaking at the Scottish Federation of Housing Associations chairs conference this Friday. Engagement with tenant voice and how that relates to the proposed new framework will be quite a big theme. I agree with you on that point and it is certainly front and centre of the regulator's thinking; indeed, it is why we have a tenant on our board and why we are going through a recruitment process to add to that board so that we have a strong tenant voice on our own board.

Graham Simpson (Central Scotland) (Con): It is a big thing for a housing association when you step in.

George Walker: Yes.

Graham Simpson: When that happens, there are costs involved and we need to ensure that there is value for money. We have had a submission from the Glasgow and West of Scotland Forum of Housing Associations—I do not know whether you have seen it.

George Walker: Yes, we have.

Graham Simpson: The forum expresses concerns about the costs that are passed on to housing associations when you step in. It describes some of the costs as "crippling". It talks about consultants being brought in and it says that there should be greater transparency over the daily rate of consultants. It highlights one case—Wellhouse Housing Association—where there were

"direct costs of £222,000 for the statutory manager spanning three financial years"

but Wellhouse Housing Association has only 800 tenancies. There was another case where the cost was £750,000—it does not name the housing association, but it has only 330 tenancies. At the end of the day, it is the tenants who pay the bill. What do you do to try to keep those costs down? Where is the transparency?

When I read that you were bringing in consultants, I thought that it would be easy to find out who was appointed and what they were paid, but I could not find that information anywhere. Where is that information? Who have you appointed and what have you paid them?

George Walker: I will start and I will get Michael Cameron to pick up on some of the specifics. That is an important question. Indeed, Michael Cameron and I sat with the chair and director of the forum to discuss this as recently as December, I think.

What pleased us is that the forum is certainly not raising concerns about the importance of robust regulation and, at times, the need to

intervene. Indeed, even in its submission, it made the point that it is not questioning the need for intervention.

The costs of intervention are not lost on us, which is why we would prefer not to intervene if possible. Equally, however, Parliament has given us some powers and the responsibility to protect the interests of tenants—those who may become homeless and other service users—and that is what we try to do.

We see intervention as the last resort. In a minute, I will get Michael Cameron to talk about what happens before that, because I think that that gets a bit lost. We work very hard to make sure that a lot has happened before we reach the point of intervention. We see ourselves as a strong, robust but proportionate regulator.

I referred in my opening statement to the lenders telling us that their levels of comfort with the regulatory approach in Scotland saves RSLs about £40 million a year in interest costs. We understand that there is a flipside—that costs are associated with stepping in and intervening. Indeed, the forum talks about increased interest rate costs, so there are two sides to that.

We have proposed our framework—I will not rehearse my answer to Mr Wightman—to get governing bodies digging in and assuring themselves. If we can get governance to an even higher standard, we very much believe that the number of cases in which we need to intervene should drop.

We are very aware of costs—we discuss the issue at our board and we publish it in reports. The best way to avoid the costs involved in intervention is to engage with the regulator at an early stage to sort out the issues before it comes to an intervention. If there is an intervention, proper engagement means that it can come to a conclusion quickly.

The overarching point is that the costs of intervention are not lost on us, but the costs of a catastrophic failure or an RSL going broke, which of course we want to avoid, would be significant, too. Michael Cameron may like to comment on some of the specifics, in particular on the work that takes place before intervention and that is “invisible”, if that is the right word.

Michael Cameron: It is important to set out how we operate as a regulator. In the first instance, we engage with a landlord we have identified or who has been brought to our attention as having significant issues. We look to the landlord to improve on those issues without our having to use our statutory intervention powers.

It is only when we judge that the landlord is either unable or unwilling to address the issues

that it is appropriate to use our intervention powers. As George Walker said, that is very much a last resort. In almost all our statutory interventions to date, there has been significant engagement with the landlord prior to us starting to use our intervention powers. We are aware that there can be costs to the organisation as a consequence of statutory intervention, although I am always reminded of the organisation that had been through a statutory intervention and which pointed out that the costs were not those of intervention, but of putting things right—that is important to bear in mind.

Graham Simpson: Nobody is questioning your right to step in and do things, but the question is about transparency and I do not think that you have answered it. A submission to the committee says that the costs of bringing in statutory managers, which you have to do, can be “crippling”. I have been trying to find information on who has been appointed. We have some evidence that you are bringing people from the south of England, with the costs of flights and accommodation. Where can we find out who you have appointed, why you have appointed them and what scores and weightings were given for various factors in that process? I cannot find that.

Michael Cameron: I will say two things. First, when we conclude a statutory intervention, we publish a report that has the direct costs of the intervention, including those of any statutory appointees. The figures that you have quoted for two organisations are drawn from those published reports.

Secondly, we have published a list of statutory managers who have been put in place through an open selection process. It is safe to say that the market for that type of person with the necessary skills and experience is more developed at a United Kingdom level, so it is not surprising that a number of those who have been successful in the process come from outwith Scotland. We use people from within Scotland as well: it is about having the right people with the right skills available to us. We will re-run that exercise in the coming year, which will be an opportunity for anyone in Scotland who has the necessary skills and experience to apply. The publication about statutory managers sets out the day rates that each individual works to.

Graham Simpson: Where is the list?

Michael Cameron: It is published on our website. We can get the appropriate link sent to you.

Graham Simpson: It is not easy to find.

George Walker: We will get the information to you.

We accept that the user experience of our website could be better, if I am honest. It is looking a wee bittie dated now, although our staff can point to where to get information. We have a process under way, alongside our framework review, to revamp the website and make the user journey much more visible. We will take on board your perfectly fair point about raising the website's visibility. We will also get that information to the committee if you would like to have it.

10:15

Graham Simpson: The GWSF also urges you to consider alternatives to statutory action. Have you done that? Are you able to do that?

Michael Cameron: As George Walker has set out already, that is how we work at the moment. We have had this conversation with the GWSF and the type of things that it suggested that we might want to consider are what we do just now. We have used our statutory intervention powers in 12 RSLs since 2014, but we have had significant levels of engagement with more than that through a non-statutory route.

The key thing is the judgment that we have to make about the organisation's willingness and capacity to address the issues that need to be addressed. The onus is on us to make that judgment and, when we judge that the organisation is not able or willing, and the issue is of significant importance, that is when we would look to use our statutory intervention powers.

Kenneth Gibson (Cunninghame North) (SNP): I want to follow up Graham Simpson's question and some of the information that we have received. Transparency is a significant issue in the submission that we received from GWSF. Graham Simpson asked about flight and accommodation costs. Most housing associations in Scotland are very well run, so why is it difficult to find the right people with the right skills here in Scotland? Tenants will have to pay, on top of any consultancy fees, those extra flight and accommodation costs that will, I imagine, be higher for people who are being flown up than people who are here in Scotland. Can you respond to that?

On a related issue, the GWSF has said:

"It is generally acknowledged that SHR's use of statutory powers has been very necessary in the great majority of the cases".

Later, in paragraph 4.7 of the submission, the GWSF then asks

"whether the statutory action was necessary in view of the alternative remedial plan proposed by the association".

What happens in a case in which there is such a dispute? Do you just say that you have to take

action, regardless of what the association thinks? Paragraph 4.7 mentions an on-going case of 800 tenants being burdened with

"an additional £2.6 million over the next 10 years because of a low interest loan which has been repriced by the lender after statutory action was triggered."

George Walker: You made a point about people flying up to Scotland, and you are right to say that the majority of housing associations in Scotland are well run. We agree with that.

There is, however, an issue with the number and size of bodies in Scotland, and the experience that is around. For example, if you are the chief executive or director of a well-run housing association, you might well have the skills to help another association or be the statutory manager, as we would call it, but you will also have a full-time job. There is an issue around that push and pull. That is why Michael Cameron talked about the marketplace being a bit more developed UK-wide than it is Scotland-wide, and why we will be looking at that again during the coming year and re-tendering. We have certainly been encouraging Scottish individuals and organisations to get involved with that because those costs are not lost on us. There are issues around the availability of skill sets and the time available when the intervention comes up.

Michael, do you want to add to that, then we will touch on the example that Mr Gibson gave?

Michael Cameron: The important thing to say is that we conducted an open selection process and we assessed those who came forward. Particular skill sets are needed for people who are able to go into failing organisations to stabilise them and start to develop the necessary improvement plans.

It is important that we have such skills available to us, so that we can act quickly and effectively when we need to and so that such individuals are able to keep the duration of any intervention as short as they possibly can, thereby minimising the cost.

Kenneth Gibson: Are costs a factor in such selection processes?

Michael Cameron: Yes.

Kenneth Gibson: So, you might think, "We will bring in this guy from down south, but he might cost £20,000 or so more," and that might militate against his recruitment.

Michael Cameron: Absolutely. We would take that into account when we looked at who we would appoint to which role—both availability and price are factors in such considerations. If George Walker does not mind, I will also pick up on your point about the £2.6 million.

You asked what happens when there is a dispute about our intervention, as there was with the particular association that you referred to. We have an appeal process. That organisation made an appeal, which was heard just before Christmas by two of our board members and an independent panellist. The appeal panel upheld the decision to intervene. There is an appeal route that organisations can take and, in that instance, the organisation took up that option.

On the scale of the financial cost, it is probably important to say, first, that we need to be careful about what we say, as information—especially about on-going discussions between an organisation and its lenders—may be commercially sensitive. As George Walker said, where a landlord faces such a level of weakness, as shown by its governance failures and how it is being run, that there might be costs on the back of an intervention, we are very open about that being a reality. However, our assessment is that any potential cost to such an RSL's borrowing is likely to be considerably short of the figure that has been quoted.

Kenneth Gibson: I am sure that that will be a relief to the tenants, each of whom would otherwise be paying an average of £3,250 over 10 years.

George Walker: Can I add to that?

The Convener: Mr Gibson has another question, so please let him ask that first.

George Walker: I apologise.

Kenneth Gibson: That is okay. I just wanted to point out that the forum has said that the SHR

“needs to be certain that no other viable alternatives to statutory action are available”.

What do you do to ensure that? It has also suggested that

“where the immediate viability of an association is not in question, there could be some kind of ‘breathing space’ or ‘cooling off’ period which would allow measured decisions to be made”.

George Walker: I would say two things to that. As Michael Cameron has described, we already do that, but it is not public. There is a fine line between what we say and what we do. In some cases, organisations have come to us and said that they have an issue, and then discussions have taken place—sometimes over long periods of many months. I do not think that, at that point, any organisation would want us to wash its dirty linen in public by saying that organisation A, B or C has an issue and we are working with it on that.

Much of the work that we already do with organisations goes on behind the scenes and is not necessarily seen: the situation is just fixed,

sorted and done. The process for the early work that Michael Cameron described takes periods of months rather than weeks. We could certainly give examples in which we have signalled our involvement very clearly. If we look at the case about which the forum has raised concerns, my board was assured that that organisation was under no illusion that it had a period of time to work with us and try to fix the situation, failing which we might need to step in. That discussion took place over a period of months; we did not just announce to the organisation on a Friday that we would intervene on the Monday.

Secondly, we recognise the sensitivities of such matters. A proposal was made through the framework review—I have forgotten who made it, but Michael Cameron might be able to pick up on that—which said that to be more transparent we should apply an intervention notice to the effect that if a situation is not sorted in a week, a month or whatever, we will step in.

Indeed, the board had a discussion just last week about whether we could consider doing that. However, it comes back to the sensitivity issue. Lots of organisations have sometimes minor issues that they talk to us about, but do we want to post a notice that we are talking to them? We are debating whether we could do something there that enhances transparency, because we are all for that, and how we would avoid any unintended consequences.

Michael Cameron may have something to add.

The Convener: We need to move on as we have a lot of questions still to ask and a busy agenda ahead of us. If answers could be kept a bit shorter, that would be really helpful.

Alex Rowley and Annabelle Ewing want to come in on the points that the witnesses have been raising.

Alex Rowley (Mid Scotland and Fife) (Lab): If there is a shortage of statutory managers with expertise, will you take action to address that? Will you try to upskill people with training or whatever so that you have flexibility and more people available? There seems, at present, to be a lack of flexibility. Organisations seem to be saying that if you identify issues, they have the opportunity to bring in expertise themselves, which does not lead to what they describe as the “crippling” costs that arise from statutory intervention.

Michael Cameron: We are a regulator. We will absolutely look to rerun the open selection process: it might well be that that will mean that more Scotland-based statutory managers are available to us, which would be no bad thing. I question, however, whether it is our role to create the marketplace for that, but we will ensure that we run an open selection process, and we will

make it as widely known as we can so that we get as many people as possible coming forward to be considered for selection.

On your second point, our normal way of working is as you described it: that is what happens. We are engaging directly with a number of RSLs that are co-operating with us and bringing additional co-optees on to their boards, or bringing in additional management capacity to help them to make the necessary improvements, thereby avoiding the need for us to use our statutory intervention powers. That is our normal way of working, and we do that in more organisations than we use our statutory intervention powers in.

The Convener: Annabelle Ewing has a supplementary. She will go on to ask her substantive questions after that.

Annabelle Ewing (Cowdenbeath) (SNP): Good morning, gentlemen. On that point, what—in a couple of sentences—are the key components of the skills set for statutory managers?

Michael Cameron: One of the key things is the ability to go into an organisation and understand very quickly the challenges and difficulties in order to do what is needed to stabilise the situation. That involves looking at the situation with staff, the governing body and, crucially, the organisation's lenders.

Annabelle Ewing: To go back a step, when you consider an applicant's suitability, what qualifications or experience do you look for to demonstrate that they can perform the role?

Michael Cameron: You used the word "experience": experience is critical.

Annabelle Ewing: What kind of experience?

Michael Cameron: We look for experience of having turned around failing organisations. That is crucial. When we have to intervene, the organisation will have significant and deep-rooted problems. It would be wrong of us to consider such work as a development opportunity for somebody who does not already have the necessary skills and experience. If we did so, we would not be doing what we need to do to protect fully the interests of the organisation's tenants. Therefore, we are looking for people with the right skills and the crucial experience of having worked in similar situations. That gives us confidence that they will be able to go into an organisation and quickly start doing what needs to be done.

10:30

Annabelle Ewing: It is quite broad-brush work, so I struggle to understand why there is no one suitable in Scotland when we have skilled people here who have experience of dealing with

umpteen kinds of organisations and scenarios. Will you write to the committee to set out exactly what you specify when you make an open tender?

The chief executive said a moment ago that you are looking to rerun the open selection process. What do you mean by that? Are you setting forth a new tender?

Michael Cameron: Yes.

Annabelle Ewing: When will that happen?

Michael Cameron: That will happen over the course of the coming year.

Annabelle Ewing: For how long will that be in place?

Michael Cameron: The current one has run for three years, and that is what we will look to do again.

Annabelle Ewing: Given the committee's comments, I hope that you will find it important to do what you can to raise awareness in Scotland that people in Scotland can apply. You will have picked up the slight frustration among members of the committee that an awful lot of public money is being spent, perhaps unnecessarily, when there is good home-grown talent that you could probably find with a bit of focus and attention, and those people would do a great job.

I am getting a look from the convener, so I will turn to my next question.

The Convener: Please do.

Annabelle Ewing: On a different subject, in your annual report you are required to discuss the performance of landlords against the Scottish social housing charter standards and outcomes. How have landlords performed against the charter over the past year?

George Walker: There is a summary of that on page 5 of the annual report. I do not know whether you have it in front of you, but we can easily send it to you, if you would like that. It shows the 90 per cent satisfaction level that I mentioned, and that in the past year, of the 16 charter outcomes in the Scottish housing charter, 11 have improved and the remaining five have remained stable. None has gone backwards. That points to pretty solid performance.

I have been the chair for only 18 months, but I think that I am right in saying that, in the five years' worth of data that we have published, we see improving trends in compliance with a good number of the standards. As it stands, as I said, of the 16 outcomes, 11 improved and five were stable.

Annabelle Ewing: It is heartening that progress is being made. As you said, the level of

satisfaction generally is high, at 90 per cent, but if we look at satisfaction with factoring services, although it is fair to say that it has increased over the past year, it sits a bit lower, however, at 67.4 per cent. What is going on with that? What needs to happen for it to increase further? Factoring services are obviously an important part of the tenant's experience.

George Walker: I will ask Michael Cameron to comment on that, but first I want to point out that the 90 per cent figure that I mentioned relates to tenants only. I would not mislead the committee by suggesting that it is a global number that covers everything.

Michael Cameron: It is absolutely correct to say that there is a difference between the satisfaction levels of tenants and owners who receive factoring services from social landlords, which is why we carried out a thematic inquiry into factoring to help us to understand the key issues for factored owners. It is interesting that in many regards the key issues for owners are more simple and straightforward than the issues for tenants—they are largely about the responsiveness of the landlord and the management-fee level.

We have seen a modest increase in the satisfaction level at the same time as we have seen a modest decrease in the average management fee. It would require a bit more investigation to know whether there is a direct causal link between the two.

We will continue to focus on factoring services, given the disparity between the satisfaction levels of factored owners and tenants. The same can be said for the satisfaction levels among Gypsy Travellers who use services that are provided by social landlords on Gypsy Traveller sites—they, too, have a lower satisfaction level than tenants. That is another reason why we have a strong focus on what is happening on Gypsy Traveller sites.

Annabelle Ewing: That is good to hear.

On the figures, although the satisfaction rate with RSLs' factoring services has increased, the position on local authorities' factoring services appears to have been in decline over the past few years. Do you have a specific comment about that?

Michael Cameron: I have nothing specific to say about why that is the case. We understand that position. When we engage with individual landlords, we look at why such situations might arise. The figures are averages, and the position has improved in some local authorities, while it has not improved in others. We engage with landlords on such matters when they appear in our annual risk assessment as being critical. Beyond that, I have nothing to say.

Annabelle Ewing: Perhaps the issue merits more detailed engagement. If some local authorities have been tarred unfairly because of the gloomy position over past years, perhaps it would be appropriate and helpful to have a table of the 32 local authorities showing which are making progress and which need a bit more attention. That would be useful information, and it would improve transparency.

Michael Cameron: There are a couple of things to mention in that regard. Our engagement plans will set out whether we are engaging with a local authority on factoring services, so that will be transparent.

The data is all in the public domain; we put it out in open-data format. We will look again at how we present all the information, partly through our work on our website and partly through our other work on how we get the best information to people in the best and most usable way. That offers opportunities for even greater transparency for some information.

Annabelle Ewing: We will watch this space.

Alex Rowley: What has been happening this year with rents? Do you have any predictions on where they are going? Are rents still affordable? I realise that that is a relative question. Are we providing good value for money? Are you satisfied with the levels of engagement with tenants when rents are being set?

Michael Cameron: Generally, we believe that current rent for most tenants in most homes is affordable. However, we know from our work with the national panel of tenants and service users that future affordability is a major concern: more than two thirds of the panel's members identified it as a concern. The principal worries are to do with how changes to the benefits system will impact on people's ability to pay rent. Rent levels are of significant concern for tenants.

We know that over the period that is covered by our report, rents increased on average by 2.4 per cent, up to an average of £76 a week. The difference between RSLs and local authorities' rent is about £11 a week.

It is interesting that, back in 2013-14, when we started to measure rent levels, the planned rent increases by landlords was 3.6 per cent. We then started to engage with landlords to express our concern about continuing affordability of rents when planned increases were above inflation—and were certainly well above planned increases in tenants' income, whether the income was from earnings or benefits. The planned increases over the period then fell to a low of 1.9 per cent in 2016. Last year, we noticed that the rate had started to go up again; the average planned increase in

rents was 3.2 per cent, so we are again focusing on the continuing ability of tenants to pay.

It is worth saying that landlords all start at different positions on rent levels, and that some landlords might well have a bit of room to increase their rents while keeping them affordable. However, we will definitely keep a close eye on rent increases and affordability for tenants.

Alex Rowley: Thank you.

The Convener: You have published a report, "Housing people who are homeless in Glasgow". What were your key findings, and what progress is Glasgow City Council making on improving its homelessness service?

George Walker: It is fair to say that that was a significant piece of work that we did last year. Glasgow City Council was very engaged with the work. Indeed, when we shared the published report with the council, it accepted what we were saying, which was helpful and valuable—we have been talking about getting people to work with us.

There has been subsequent engagement with the council. In the final quarter of last year, there was evidence of a modest—but only modest—improvement. A plan was agreed. Michael Cameron will talk about the next steps: the next leg of all this starts quite soon.

Michael Cameron: It is worth restating what said in our report in March last year. We found that homeless people in Glasgow were waiting too long to get a house and were spending too much time in temporary accommodation. The council was not housing people quickly enough and it was not referring enough people to RSLs to enable it to discharge its statutory duty quickly enough. We found that some RSLs were making a good contribution to helping the council to meet its duties and that some RSLs could do more.

We made a series of recommendations to the council and to RSLs, and we have been monitoring the response of the council and RSLs to those recommendations and their implementation. We will go back to the council over the coming months to consider what outcomes are being achieved and delivered. What we find will determine our next steps, as the regulator, and how we engage with the council thereafter.

The Convener: For clarity, are you saying that the council took on all your suggestions and that you will go back in to see what the practical outcome has been?

Michael Cameron: The council agreed with all the recommendations. I guess that our principal concern is the pace of change. Are the changes happening quickly enough for the council to be able to demonstrate genuine, significant and

sustained changes in outcomes for homeless people? That is what we want to go in and test.

The Convener: I note that you are engaging with 19 local authority homelessness services. Are there common themes that need to be addressed for services to improve?

Michael Cameron: We have, indeed, engaged with 19 councils on homelessness over the past year. There are some consistent themes that tend to relate first to access to the service, and then to how quickly people are moved into permanent accommodation. The availability and quality of temporary accommodation is another significant issue, as is the advice and support that people are given as they go through that homelessness journey. Those are the main issues that led us to engage with 19 local authorities.

The work that we did with Glasgow City Council has given us a much clearer understanding of where the challenges lie in respect of delivering effective homelessness services. We are using that understanding to help us to direct higher levels of scrutiny at the areas of homelessness services where it is most needed. The focus will be very much on the individual's journey through the statutory homelessness process.

10:45

The Convener: Do you intend to do any other work on homelessness in the future?

Michael Cameron: Our work will be very much focused on picking up on the agendas that emerge from the Scottish Government in response to the recommendations of the homelessness and rough sleeping action group. In particular, the work of that group will result in a clearer position on the expected standards in temporary accommodation, and we will seek to adopt a monitoring role around that. Those standards are being developed at the moment and we will run alongside that process to ensure that we are able to report back effectively on whether those standards are being achieved.

Graham Simpson: I have a quick follow-up question to the convener's line of questioning. As you will know, the committee did a major piece of work on homelessness.

I read the Scottish Housing Regulator's report on Glasgow with interest; that report was easy to find. You said that the Scottish Housing Regulator will go back and work with Glasgow City Council again. Will there be a follow-up report and, if so, when will it be published? Will we be able to easily monitor whether and how improvements have been made?

Michael Cameron: We will publish that report. The timescales have not been finalised, but I

would expect it to be relatively early in the new financial year.

Alex Rowley: I will go back to the topic of benefits, which you mentioned earlier when we talked about rents. I recently saw a report in which Fife Council said that it had more than £1 million in housing debt that was a direct result of universal credit. Have you considered the impact of universal credit on RSLs?

George Walker: I will answer that question at the gross level. We should bear in mind that our reporting on the financials of RSLs and arrears is always a bit behind, given the nature of financial reporting.

Based on our annual reports on the past couple of years, there is not yet evidence of any significant increase in arrears. However, there is anecdotal evidence that some organisations—Mr Rowley named one—are seeing a different pattern. Some would say that there are particular patterns where the various pilot programmes of universal credit have been in place. However, overall, there is not yet any evidence of significantly increased rent arrears, which would be a signal of the impact of universal credit, albeit that pockets in the RSL and local authority community are flagging it as an emerging issue. Given that only a modest number of pilots have taken place in Scotland, some would say that the real impact of universal credit has not yet hit. We are certainly paying attention to the issue.

Michael, is there anything that you would like to add about what the team is seeing day to day, which might go beyond the published evidence and be more up to date?

Michael Cameron: We will get the new set of figures early in the new financial year. We will pay close attention to whether any evidence of the impact of universal credit is starting to come through in the reported level of rent arrears.

The mitigating action that the Scottish Government has taken has partly addressed some of the potential impacts that there could have been up until now. We expect to see an impact. Exactly when it starts to come through will be shown by the figures, but, as you just heard, we are definitely getting anecdotal information from landlords that there is starting to be an impact. That is particularly the case with those who are in the vanguard of the roll-out of universal credit and the associated sanctions.

Earlier, I touched on the fact that, through our work with the national panel of tenants and service users, we were getting a strong sense that that group of people are particularly concerned about the future affordability of rent.

Alex Rowley: Are there any other major challenges, risks or uncertainties facing social landlords?

Michael Cameron: Yes. Every November, we publish a statement of the key risks that we will focus on. We have touched on a number of them already today. We have managed to get through this session so far without mentioning Brexit but, perhaps unfortunately, I am going to do so now. We are extremely aware of some of the risks that there could be for social landlords as a consequence of Brexit, particularly with regard to supply-chain disruption and the increase in cost that might come from that, and issues with labour supply, particularly in construction and maintenance. A significant number of European Union nationals live in homes that are provided by social landlords, and there are uncertainties over what their position might be and what impact that might have on a landlord's level of lets and income stream.

Unquestionably, the lending market is becoming more competitive, which presents challenges for landlords. There is the potential for increasing costs to landlords as a result of that. We are also seeing more landlords venturing into the capital markets rather than using traditional lending. That can bring opportunities but also challenges and risks. We will make sure that we monitor the impacts of those kinds of developments in the sector.

Alexander Stewart (Mid Scotland and Fife) (Con): Mr Walker, you talked earlier about managing the risks and the costs. We have talked about your budget and, in your report, you highlight the demands on it and the capacity that you are trying to deal with. The report says that 80 per cent of your costs relate to staff and that the staffing complement has reduced from 80 to 50. Can you give us an update on the budget and expand on the concerns that you have about staff vacancies?

George Walker: I can give you a sense of where the SHR has been and where it is now. Like the rest of the Scottish public sector, we are having to tighten our belts—that is appropriate in this environment. Our budget went from £4.7 million to a low of £3.7 million, and the staff complement fell as a result of that. We got a modest increase for the current year and the coming year, which we were grateful to receive.

Because, as you say, 80 per cent of our costs are staff costs, the ability to trim fat is limited. We have moved the location of our office, which saved around a third of our costs. We are in the process of realigning ourselves and organising ourselves differently internally to align with the new framework.

Last week, the board had a discussion about recruitment. The concern about recruitment is twofold. First, there was a recent pause in recruitment by the Scottish Government—obviously, although we are an independent regulator, our recruitment goes through that source. The pause was because of Brexit and was therefore understandable, but it put us on hold.

Secondly, the recruitment process is challenging at times for us. It took us 11 months to recruit someone to fill a certain post. That is because, as you might guess, as a regulator, we have to go through an internal recruitment process before looking externally. However, some of the skill sets that the regulator is looking for are quite rare, which means that we will struggle to find them within the civil service. That process is very elongated, and it means that there is a pause. Because of that, the board looked at the matter at last week's meeting, starting to assess how we can get ready for the new framework for internal reorganisation if we cannot recruit to those posts and looking at how we would handle that and what we would hold back on doing.

My message is that resources have gone down, which is fine and we have managed that, and we have absorbed an increase of about £500,000—at the last count—of unfunded costs, with which I like to think we have coped admirably. We are now signalling that, having received enhanced resources, for which we are very grateful, we have to pick up the pace of recruitment. That is proving challenging, partly because there is a lot going on in the Scottish Government. There is Brexit preparation—we all get that—but there has also been a lot of focus on recruitment for the new tax authority, the social security agency and so on. There have been slim pickings, if I can put it that way, among the candidates we can attract internally, so it matters that we can go externally. We are signalling that recruitment is a worry for us, but we will manage it. The board is on it, and we will look at what contingency plans to put in place if the challenge becomes greater. Does that help?

Alexander Stewart: Yes. You identified that you have had a programme of efficiency savings, which has helped you to deal with some of the challenges and demands that you face. Are you getting to the stage of thinking that there is a risk that you will not have the capacity across the organisation to tackle all the demands that are challenging you?

George Walker: I can hand over to Michael Cameron to provide more detail, but I will say a couple of things at a high level. One is that we are at the stage with our resources where the extra that we have been given by the Scottish Government is really helpful. Without that it would

have been a challenge, but we made a case for the resources and they are very valuable.

Two things would prove to be a challenge: one is the pace of recruitment continuing to be slow and the other is the number of interventions going up. Interventions suck up a lot of resource, which is why the approach to the new framework has been around self-assurance and getting organisations to self-identify. We are not daft; we know that the situation will not change overnight. We are working with landlords on things such as the toolkit that we mentioned, because we would like to see the resource that is needed for interventions to come down.

By managing effectively the two challenges that we identified—our resources and our ability to recruit—and trying to manage down the levels of intervention, we hope to be in a good place. What we worry about would be the perfect negative storm—if that makes sense—of not being able to recruit and fill our vacancies and being hit with a significant number of more complex interventions. Although we are flagging concerns, I assure the committee that the board is very much sighted on that and planning for it.

Alexander Stewart: So you will manage to cope with any difficulties that may arise. You have made efficiency savings already. Are you able to make any further efficiencies? Do you see any scope for that, or is there none?

Michael Cameron: We have taken somewhere between 30 and 40 per cent of the costs out of our organisation over the period of change. Our staff account for about 80 per cent of our budget. As of today, we have a 15 per cent vacancy rate, largely as a consequence of the recruitment challenges that George Walker touched on, which makes it challenging for us to keep delivering at the current level.

We have extraordinarily committed and professional people working in our organisation and they do what needs to be done. However, I have a duty of care towards them and their wellbeing. If we can get to the place where we do not have that vacancy rate and there is no significant change in the level of demand on us, I am confident that we will be able to deliver what we are asked to. Those two sides to the coin are the challenge, which I recognise is no different for a range of other public bodies, given some of the challenges that there are in that field.

Annabelle Ewing: Do you feel that you are in tip-top shape to deal with the slight changes to the SHR's powers, further to the reclassification of RSLs as private sector bodies by the Office for National Statistics?

George Walker: I think that we feel that we are ready to handle it, although I will ask Michael Cameron to comment.

Michael Cameron: The main change that has a most immediate impact is the change to our consent powers, which will end on 8 March. A couple of weeks ago, we wrote to all registered social landlords to flag to them that the change is coming and to set out what they will need to do in advance of that date, and afterwards. We are currently producing guidance for landlords, which will be available to them at the end of February, that relates to the situation that will be in place after the critical date of 8 March. We will use every opportunity to keep flagging the changes to landlords, so that both we and the sector are ready when the changes come into effect. We have done a significant amount of work to our information technology systems to ensure that they are ready for the switch from consents to notifications.

The Convener: On that positive note, I thank George Walker and Michael Cameron for attending today's session. I will suspend the meeting briefly to allow the witnesses to leave.

11:01

Meeting suspended.

11:03

On resuming—

Subordinate Legislation

Housing (Scotland) Act 2006 (Supplemental Provision) Order 2019 [Draft]

Housing (Scotland) Act 2006 (Modification of the Repairing Standard) Regulations 2019 [Draft]

The Convener: Agenda item 3 is consideration of two statutory instruments that seek to modify the Housing (Scotland) Act 2006. I refer members to paper 3. I welcome from the Scottish Government Kevin Stewart, Minister for Local Government, Housing and Planning; Simon Roberts, policy manager, housing standards and quality; and Kirsten Simonnet-Lefevre, solicitor.

The instruments are laid under the affirmative procedure, which means that the Parliament must approve them before the provisions can come into force. Following the evidence session, the committee will be invited under the next agenda items to consider motions to approve each instrument.

I invite the minister to make a short opening statement.

The Minister for Local Government, Housing and Planning (Kevin Stewart): Thank you for the opportunity to appear in front of the committee today to speak to the motions to approve the draft Housing (Scotland) Act 2006 (Modification of the Repairing Standard) Regulations 2019 and the draft Housing (Scotland) Act 2006 (Supplemental Provision) Order 2019.

For technical reasons, the amendments to the repairing standard are split into two instruments, because powers to make orders and regulations cannot be combined. Taken together, the instruments will improve the repairing standard that is required of homes that are provided by landlords in the private rented sector. That will meet a commitment in the programme for government to introduce changes to improve the condition of properties in the private rented sector and it follows our public consultation in 2017 on the changes.

There are several specific provisions in the instruments. First, there are measures that will come into force from 1 March 2019, which are intended to clarify existing duties under the standard. They provide that a house must meet the statutory tolerable standard, make it clear that the repairing standard does not apply to short-term holiday lets, and recognise that landlords are not

at fault if other owners refuse consent to carry out common works.

Secondly, from 1 April 2021, the duty to provide fire and smoke alarms will be removed from the repairing standard, because we are extending the standard that is currently required in the private rented sector to all tenures. From that date, the duty will be part of the tolerable standard that applies to all houses, so this change will not affect what is required of private landlords.

Thirdly, there are substantive changes that will raise and improve the repairing standard and will come into force from 1 March 2024, so landlords will have five years to bring houses up to standard. The changes will require private rented housing to have safely accessible food storage and food preparation space, safe access and use of any common parts in a tenement, secure common doors with satisfactory locks, devices to reduce the risk of electrocution and electrical fires, and a fixed heating system, which means that there will have to be a system or installation in houses for heating space and water. We are also adding “other fuels” to the duty requiring gas and electrical installations to be safe.

We will work with stakeholders to develop guidance to support landlords in those changes and the regulations specify matters that guidance may cover, which will also include the condition of pipes that supply water for human consumption.

Finally, from March 2027, the existing exclusion for various types of housing under agricultural tenancies will be removed from the repairing standard. That realises the commitment that was made by me and the Cabinet Secretary for the Rural Economy at the agricultural housing summit in Perth on 1 October last year that housing in this sector should meet the repairing standard in eight years. In 2019, it is unacceptable for tenants and families who live in housing under agricultural tenancies in Scotland to live in substandard homes that we would not accept if they were provided by a private landlord in our urban areas.

The instruments are an important contribution to improving the quality of our private rented housing. However, I recognise that more needs to be done. That is why, for example, I will give serious consideration to the final recommendations of the cross-party working group on tenement maintenance to drive a culture change to encourage proactive maintenance in tenements. Of course, we have separate work to deal with holiday and short-term lets.

The instruments will introduce a range of measures, which are supported by stakeholders, to meet our commitment to raise standards in the private rented sector, thereby helping to ensure

that private tenants are able to live in homes that meet a standard that they are entitled to expect.

The Convener: Thank you, minister. I invite questions from members.

Alex Rowley: I agree with the minister about the improvements that are being made, but the timescales seem a bit long: five years and, for agriculture, eight years. What are your thoughts on that?

Kevin Stewart: We need to allow a reasonable amount of time to carry out the work and to spread the cost, particularly when planned works will be needed across a number of properties. We sought views on implementation in our consultation, and there was overall support for the implementation period that we have put in place.

However, I encourage private landlords to begin the work now if they are not already meeting the standards that we are setting. I agree with Mr Rowley that there is always a fine balance to be struck, but I think that we have the balance right in allowing folk the opportunity to get the work done over a period. Again, I encourage all private landlords to move further and faster if they can.

Alex Rowley: If there is five years in which to do the work, there is a danger that people will wait to do it.

Where are you on energy efficiency standards in the private rented sector?

Kevin Stewart: The energy efficient Scotland route map, which was launched in May last year, confirmed that we would introduce regulations requiring private rented sector properties that have a change in tenancy from 1 April 2020 to have an energy performance certificate at band E, and that all such private rented properties have an EPC at band E by 31 March 2022. Properties that have a change of tenancy from 1 April 2022 will need to have an EPC at band D, and all such properties will need to have an EPC at band D by 31 March 2025. The consultation that accompanied the route map proposed that all PRS properties be required to have an EPC at band C by 2030

“where technically feasible and cost effective”.

We will publish draft regulations for consultation on minimum energy efficiency standards in the first half of this year.

Andy Wightman: I have a couple of questions. The changes that you propose—safe kitchens, fuel and doors and so on—are being introduced through the modification of sections 13(4A), 13(5) and 13(6) of the Housing (Scotland) Act 2006. Section 13(1) says:

“A house meets the repairing standard if—”

the house is

“wind and water tight”.

It also mentions

“the structure and exterior of the house”

and

“the supply of water, gas and electricity”.

What considerations were in your mind in choosing whether to include new criteria for meeting the repairing standard under section 13(1), which is an absolute—people must do those things—or under sections 13(4A), 13(5) and 13(6), which require people to have regard to these things? Having regard to things is obviously a fine judgment, but—

Kevin Stewart: Convener, we have had discussions previously at this committee on the use of terminology, including “have regard to”. I will ask Ms Simonnet-Lefevre to give the legalese about having regard to something and then I will respond to Mr Wightman’s general point.

Kirsten Simonnet-Lefevre (Scottish Government): We are adding certain criteria to the repairing standard that a house must meet. The conditions in sections 13(4A), 13(5) and 13(6) of the 2006 act provide guidance on how to determine whether a house has met that standard. That guidance is being replaced by regulation 3(3), which explains how to decide whether a house has met the standard.

Andy Wightman: Okay—I am with you. Thank you for that useful explanation. That makes sense.

My second question is on holiday lets. The policy note says that they are already covered by existing legislation, but the regulation on holiday lets clarifies that legislation and it will come into force from 1 March 2019. First, what is that legislation?

Kevin Stewart: Just to clarify, the housing acts of 1984, 1988 and 2016 do not include holiday lets. Under the current rules, a holiday let is more likely to be regarded as an occupancy agreement rather than as a tenancy and is therefore not subject to the repairing standard. That is not changing. However, there can be a question of whether a particular let is an occupancy agreement or a tenancy, so it is not always clear for the owner whether the standard applies. We are clarifying that in the regulations.

Beyond that, as I said in my opening remarks and as Mr Wightman is very well aware, we are looking through our working group at the whole issue of short-term lets. They are governed by other regimes, but work is on-going on what we need to do to improve that situation.

What we have done is to make clear the distinction between a private tenancy and a short-

term let. I would have thought that Mr Wightman would be glad about that, given the lengths to which he has gone to say that there is a distinct difference.

11:15

Andy Wightman: There is. I have seen the language that has been used and think that it is useful, but what would be the situation with a property whose owner was absent for four or five months of the year, because they were working, say, offshore or in the middle east, and rented the house as a holiday let during those months? Would that be subject to the repairing standard?

Kevin Stewart: It is very difficult for me to answer such a hypothetical question. After all, I do not know what the agreement between the owner and a possible tenant or holidaymaker would be. If we are talking about a tenancy, the property would have to meet the repairing standard, whereas a short-term let would have to comply with other regimes. As I have said, we are taking an in-depth look at those other regimes.

Andy Wightman: That makes sense. If there is a tenancy in place, even for part of a year, the property has to meet the repairing standard.

Kevin Stewart: Yes. If it was a tenancy, it would have to meet the repairing standard.

Graham Simpson: All of this makes sense, but I want to ask about the background to the safe kitchens element of the proposal. The regulations seek to insert into the 2006 act a new provision with regard to safely accessible

“food storage ... and ... food preparation space”,

which, to me, could mean a fridge, a cupboard and workspace for food preparation. What evidence led you to take the decision?

Kevin Stewart: We know that people have had tenancies where they have not had adequate kitchen space, and the regulations will make sure that all tenancies do. As for what is required to create a safe kitchen, we will lay that out in guidance. I am quite happy to share that guidance as we move forward to ensure that the committee can see for itself what exactly we are proposing.

We are countering that small minority—and it is a small minority—of cases of folks not having the right facilities in the home that they are renting. We believe that they should have those facilities, and that is why we are moving forward on that front.

The Convener: As members have no more questions, we move to agenda item 4, which is formal consideration of motion S5M-15439.

Motion moved,

That the Local Government and Communities Committee recommends that the Housing (Scotland) Act 2006 (Supplemental Provision) Order 2019 [draft] be approved.—[Kevin Stewart]

Motion agreed to.

The Convener: The committee will report on the outcome of the instrument in due course.

We move to agenda item 5, which is consideration of motion S5M-15441. I remind everyone that only the minister and members may speak in the following debate.

Motion moved,

That the Local Government and Communities Committee recommends that the Housing (Scotland) Act 2006 (Modification of the Repairing Standard) Regulations 2019 [draft] be approved.—[Kevin Stewart]

Motion agreed to.

The Convener: Is the committee happy to delegate authority to me as convener to approve the report?

Members indicated agreement.

The Convener: The committee will report on the outcome of the instrument in due course.

That brings us to the end of our evidence session. I thank the minister, particularly in view of the fact that he has a cold—or whatever it might be—and I suspend the meeting briefly.

11:20

Meeting suspended.

11:20

On resuming—

Petition

Homelessness (PE1686)

The Convener: The next item on the agenda is consideration of public petition PE1686, by Sean Clerkin, on “Homelessness crisis in Scotland”. The petition calls on the Scottish Parliament to urge the Scottish Government to front load £40 million of the £50 million in the ending homelessness together fund that is allocated for the core homeless over the next five years, and for that to be used in the next year to build new homes and refurbish existing properties so that the core homeless have safe, secure and comfortable homes in tandem with support services in an expanded housing first policy.

We considered the petition at our meeting on 21 November 2018 and agreed to write to the Scottish Government to seek its views on the issues that are raised in it. We have received a response from the Scottish Government and a written submission from the petitioner, which are included in our meeting papers. Do members have any views?

Annabelle Ewing: I read with interest the note by the clerk, which clearly sets out the background to the petition and all relevant developments. The petition was lodged on 7 March 2018 and, since then, there have been a number of developments. In June 2018, the homelessness and rough sleeping action group—HARSAG—published its 70 recommendations. In November 2018, the Scottish Government published its high-level action plan, which set out in detail the actions to be taken in partnership with local government in relation to those 70 recommendations. Therefore, since the petition was lodged in March 2018, there have been developments and the Scottish Government has taken a number of initiatives.

I note from the papers that the Scottish Government does not support the petition. The Government points to the approach that it has set forth and those recent developments, including the £50 million fund over five years. Money from that fund together with a smaller sum from the health portfolio, amounting to £23.5 million, has been allocated for rapid rehousing and the housing first approach. Indeed, a pledge has been made on housing first. It appears that the petition is not supported by the Scottish Federation of Housing Associations or the Glasgow and West of Scotland Forum of Housing Associations.

To be fair to the petitioner, he came forward with ideas and they have been considered. The

Scottish Government has proposed a different route, but it picks up on many of the feelings that led the petitioner to lodge the petition. Events have overtaken the petitioner's objectives and therefore, in the circumstances, I feel that the petition should be closed. Obviously, the committee has a keen interest in homelessness and has done work on the issue, and it should continue to keep a close eye on the actions as they are rolled out and on what the Scottish Government is doing. I am sure that the committee will continue to keep the issue under close scrutiny. I suggest that we close the petition.

Andy Wightman: I broadly agree with Annabelle Ewing. The papers on the petition are all in the public domain. The Glasgow and West of Scotland Forum of Housing Associations, the Scottish Federation of Housing Associations and the Government have all made their views clear. The committee's job is to look at the evidence in front of us. I am not persuaded that homelessness would be better tackled by front-loading £40 million of the £50 million fund. I have not seen a route to doing that effectively.

I commend the petitioner for bringing forward the petition, because the homelessness crisis that we are facing is urgent and very real, as was reflected in the committee's inquiry on the topic last year. It is a matter of regret, but nevertheless fact or reality, that many of the proposals of the Government's homelessness action group cannot be instantly implemented but will take a bit of time. That is just an unfortunate fact.

Therefore, I am inclined to agree with Annabelle Ewing. I am not sure whether we have the power to close the petition or whether we have to recommend to the Public Petitions Committee that it do so, but, either way, there is not much to be gained by taking the petition any further.

The Convener: The power rests with us to close the petition, as it was handed on to us.

As members have no more comments, I assume that other members' views are similar to those that we have heard. Is anybody not minded to close the petition?

Members: No.

The Convener: Given what I have heard from the committee, it is clear that there is a unanimous decision to close the petition, on the grounds that the Scottish Government has made its position clear and does not support the policy set out in the petition, as it has its preferred approach to the matter, which is set out clearly in the letter that the minister sent to the committee. We should commend the petitioner for raising the issue with the Public Petitions Committee and with us, but, as members have made clear, things have moved on. We will keep a close eye on the homelessness

situation and we hope to see improvements in the next year or so.

That concludes the public part of today's meeting. We will now move into private session.

11:27

Meeting continued in private until 11:34.

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