



OFFICIAL REPORT
AITHISG OIFIGEIL

Social Security Committee

Thursday 21 March 2019

Session 5



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SOCIAL SECURITY COMMITTEE

8th Meeting 2019, Session 5

CONVENER

*Bob Doris (Glasgow Maryhill and Springburn) (SNP)

DEPUTY CONVENER

*Pauline McNeill (Glasgow) (Lab)

COMMITTEE MEMBERS

*Dr Alasdair Allan (Na h-Eileanan an Iar) (SNP)

*Jeremy Balfour (Lothian) (Con)

*Michelle Ballantyne (South Scotland) (Con)

*Keith Brown (Clackmannanshire and Dunblane) (SNP)

*Mark Griffin (Central Scotland) (Lab)

*Alison Johnstone (Lothian) (Green)

*Shona Robison (Dundee City East) (SNP)

*attended

THE FOLLOWING ALSO PARTICIPATED:

John Blackwood (Scottish Association of Landlords)

Sheila Haig (City of Edinburgh Council)

Stephen O'Neill (Scottish Government)

Alice Simpson (Homes for Good)

Shirley-Anne Somerville (Cabinet Secretary for Social Security and Older People)

CLERK TO THE COMMITTEE

Anne Peat

LOCATION

The Sir Alexander Fleming Room (CR3)

Scottish Parliament

Social Security Committee

Thursday 21 March 2019

[The Convener opened the meeting at 09:02]

Decision on Taking Business in Private

The Convener (Bob Doris): Good morning, and welcome to the eighth meeting in 2019 of the Social Security Committee. I remind everyone to turn mobile phones and other devices to silent mode, so that they do not disrupt the meeting. We have received no apologies, and I hope that we will shortly have a full house of members.

Agenda item 1 is a decision on taking items in private. Do members agree to take in private items 4 and 5, which are consideration of the evidence that we will hear during the meeting?

Members indicated agreement.

Social Security Support for Housing

09:02

The Convener: Agenda item 2 is the first evidence session in the committee's new inquiry into social security support for housing. This week, we will focus largely on private rented housing. I am delighted to welcome John Blackwood, who is the chief executive of the Scottish Association of Landlords; Alice Simpson, who is assistant director at Homes for Good; and Sheila Haig, who is a customer manager at the City of Edinburgh Council. I thank the three of you for coming. I know that you have a wealth of experience, so we look forward to hearing you put some of your views on the record. We will move straight to questions.

Dr Alasdair Allan (Na h-Eileanan an Iar) (SNP): Several committee members are interested in payments to landlords and the choices that now exist in that regard. Is the situation having an impact on how landlords view tenants or potential tenants who are on universal credit?

Sheila Haig (City of Edinburgh Council): With universal credit, the changes that were brought about by the Chancellor of the Exchequer's statement in 2017 probably made a significant difference, because citizens can now choose to have their rent paid direct to the landlord. Obviously, the Department for Work and Pensions would previously do that when there were vulnerabilities, but it is now a choice. That is very much like the Scottish choices process: if it is what people want, it will happen. Therefore, the potential for people to slip into debt could be removed.

We also have housing benefit run-on, which is for people who are transferring from housing benefit to universal credit. People can get a two-week run-on, which reduces the chance that they will go into arrears. There is no longer a seven-day waiting period for people on universal credit. Potentially, the situation is not much different from what existed under local housing allowance.

Dr Allan: Is there any evidence that private landlords are becoming wary, or are advertising wariness, about taking on universal credit tenants?

John Blackwood (Scottish Association of Landlords): There is certainly nervousness in the sector. We are on record as welcoming the flexibilities in Scotland, but they do not go far enough, as far as individual landlords are concerned. One concern that we have with new applicants going on to universal credit—which is of course happening piecemeal, as universal credit is

rolled out—is that although the Scottish flexibilities allow the applicant to pay the housing element direct to the landlord, that will happen only from the second payment, not from the first.

Landlords are now reporting issues to us. For example, we have heard from one landlord who, for years, has had the same tenant in a property, and that tenant has always been in receipt of benefits. There has never been a problem, but that person is now suddenly in rent arrears because they have transitioned and made a new claim to universal credit. That is a problem. We have rent arrears where they never existed before.

My concern is that the current situation is only the tip of the iceberg. Once people transition from housing benefit to full-service universal credit, we will see a huge amount of rent arrears. That is certainly what social landlords in England have found.

Alice Simpson (Homes for Good): About 75 per cent of our tenants access benefits for all or part of their income. We are finding that, in theory, the Scottish options are good. However, in practice there are tenants who have vulnerabilities who should have DWP alternative payment arrangements in place but for whom jobcentres are, when they instigate the universal credit claim, opting for the easier route, which is the Scottish options. Our feeling is that jobcentres are not seeing the impact, which is that tenants can cancel their Scottish option of money being paid direct to their landlord. That makes it harder to do third-party deductions and much more likely that a person's tenancy will be at risk. The most vulnerable tenants, who have been homeless and who have mental health issues, are most likely to be affected negatively.

Dr Allan: We appear to have a system in which the default option is not a direct payment to the landlord. Certainly, effort has to be made for that to happen. What do you feel about that in principle? For the groups of tenants whom you deal with, how much of an effort is it to change things so that payments go direct to the landlord? Is that functioning?

Alice Simpson: At the moment, we have a significant issue with one tenant—it has happened in a number of tenancies—who has always had safeguarded housing benefit and has moved on to universal credit. The tenant was put through for Scottish options, but four consecutive payments went to her, even though her journal said that payments would be paid direct to us. That has increased her anxiety levels, and she has fallen into rent arrears, because it happened around Christmas.

Another issue at our end is that instead of, in their administration time, providing tenancy

support and helping our tenants to make improvements to their lives through education and things like that, our staff are now spending all their time on the phone to call centres.

The Convener: Do you have any additional information on that, Mr Blackwood?

John Blackwood: I agree with everything that Alice Simpson has said: that is what we are hearing from our members, too. They are aware that their tenants are becoming increasingly disadvantaged because of the system. We have to remember that we are experiencing problems not because of the tenants, but because the system is creating the issue. That is our biggest concern. Although we welcome the Scottish flexibilities, there are cracks that tenants are falling into. They are the most vulnerable people in society, so we should try to support them, but the system does not do that.

Sheila Haig: I can talk about our experience with people who were in receipt of local housing allowance, prior to moving to universal credit. Figures that I have taken from the system show that, currently, about 90 per cent of people who are in receipt of local housing allowance receive it directly. I assume that they are paying their rent. Perhaps that is a different clientele. Our evidence is that local housing allowance has traditionally been paid direct to the tenant, which has worked well for a number of years.

John Blackwood: I am conscious that Alasdair Allan asked about direct payments to landlords. We welcome that approach—we think that it would be a positive step that would encourage landlords to take on new applicants who are in receipt of benefit, which would reduce by a lot the barriers that are out there. We call for that in our written evidence, and we hope that the Scottish Government considers it.

Dr Allan: I suppose that Scottish flexibilities are constrained by United Kingdom Government policy, but you will not find me disagreeing with that premise. I am interested to hear whether you think that tenants are aware of their options. What efforts are being made to make tenants aware of choices?

Sheila Haig: I think that the time that a job adviser has with the citizen for the initial meeting with Jobcentre Plus is only about 17 minutes. Potentially, problems are occurring at that point. If people could spend more time with their job adviser, it would be easier for the adviser to explain and go through the checklist of everything that is open to the citizen. However, the DWP is obviously under the same constraints as many other public organisations, so the amount of time that advisers can spend with people is constrained.

The Convener: Some of the arguments were rehearsed during our inquiry on in-work poverty, which covered universal credit, the working poor and low-income families.

One aspect does not sit easily with me. We talk about choice for tenants and about Scottish options. Payment of rent is not an option—it is a responsibility. The money might nominally be yours and sit in your bank account for a period before it is transferred to the landlord, but there is no choice: it is your responsibility to pay the rent. Put simply, should the money go straight to the landlords?

John Blackwood: I cannot disagree with that. I think that that should happen, whomever the landlord is—local authority, housing association or private landlord.

I think that, for some tenants who are experiencing difficulties in their lives—such as those that have been experienced by Alice Simpson’s client—paying rent becomes a much lower priority. We often find tenants saying, “Listen—I just need to know that my rent is paid. If I know that the roof over my head is okay, I can go and sort out the rest of my life.” That is an important empowerment in supporting tenants. However, that option was taken away years ago, so tenants no longer had the option to elect that the rent be paid direct to the landlord. The fact that they have that option back is a good step, but why not just pay landlords direct anyway?

The Convener: I want the other witnesses to flesh that out a bit. The committee will have to make recommendations one way or the other, which is why I am pushing a little forcefully on the issue.

The written submission by the Scottish Association of Landlords highlights that a big concern of landlords in the private rented sector is rent arrears and securing the guaranteed income that they should get from renting out property. There is an absolute guarantee available if, by default, the money goes straight to the landlord. Would that encourage more landlords to take on people who are in receipt of benefit?

John Blackwood: Yes, I think that it would. I do not think that there is any complete guarantee because, of course, a person could lose their entitlement to benefit, in which case money would not go direct to the landlord. There is always a risk—for example, the risk of a person losing their job and not being able to afford to pay the rent—but that is the business that we are in. However, at least paying the money direct to private landlords would give them some additional reassurance. By doing so, the system would be communicating directly with them.

The Convener: From what I can see, we are not really doing tenants any favours by telling them that they have a choice, given that paying the rent is their responsibility. Some individuals might like the idea of having the money and being empowered to give it to landlords, and some might not care either way; I do not know. However, we are not doing them any favours, because when a person is at crisis point, paying their rent might be one of the first things that hits the buffers. A crisis can arise for various reasons that could affect any of us. Therefore, would it be in the best interests of probably all tenants to have the money go straight to the landlord?

Sheila Haig: I tend to disagree. It is probably not appropriate to assume that just because a person is on benefits they will not pay their rent. I have already mentioned that, in Edinburgh, about 90 per cent of people who are in receipt of local housing allowance receive it directly. There is evidence that people are paying their rent.

Somebody who is working and is on a really fantastic salary might not pay their rent because people make choices. It is probably unfair to single out benefit claimants as being rent non-payers.

09:15

The Convener: To be fair, I note that I did not single them out. That should be clear on the record. If you go back and listen carefully, you will hear that.

Maybe I should put it another way. Is it a price worth paying, that all rent payers in society pay for the default option to be that the money goes straight to the landlord, because that protects vulnerable tenants? We have no way of effectively screening for vulnerable tenants so that we can make sure that they are protected.

There is no suggestion that the vast majority of people who are in receipt of benefits do not pay their rent: they do. However, it is absolutely clear that rent arrears have increased significantly since money started going to claimants rather than being paid direct to landlords. Is the idea not reasonable, Ms Haig?

Sheila Haig: Money has always gone to tenants through LHA. Universal credit has not changed that.

The Convener: Absolutely.

Sheila Haig: I am unfortunate enough to be able to remember when LHA was first introduced: the same statements and assumptions were made at that time but, in reality, it did not happen and the world did not cave in when local housing allowance started.

It is really important to protect vulnerable people—that the DWP identifies them at the point of the claim being made and makes decisions that are in their best interests. There must be advice right at the beginning to support people to make the right decisions, because people might make other choices for various reasons. If I was to recommend anything, it would be to get support in right at the beginning so that people make informed choices.

The Convener: That is really important. Thank you for putting that very clearly on the record.

Mark Griffin and Jeremy Balfour want to come in, but before they do, does Alice Simpson want to add anything?

Alice Simpson: I agree that tenants who are accessing benefits are just as likely to pay their rent as tenants who are working. I personally have set up direct debits to come out of my bank account the day after I get paid, so that I do not have to worry about it all month.

It would be cost effective if all payments went direct to landlords because they are for housing costs, so that would reduce the amount of administration at our end and at the tenant's end.

In addition to that, some of our tenants have extremely limited budgets. We are also a provider of food bank vouchers: we have had to increase the amount that we hand out by 400 per cent in the past year. A person having had placed in their bank account a significant amount of money, which they must then give to somebody else, is much more likely to make the person decide to use it for something else, and it becomes very hard for a person who has a very small income to come back as soon as they are two months in rent arrears. That can end up with them going into the homelessness system.

It is therefore a no-brainer that if a payment is for housing, it should just go to housing.

The Convener: Okay. There is variation in views, but it is important that we get them all on the record.

Mark Griffin (Central Scotland) (Lab): I will come back to the subject of choice. At the moment, payments are, by default, made to the tenant, who has the choice to switch to direct payments. Could there be a system in which payment to the landlord was the default option, but with a choice for the tenant to opt out from that?

The Convener: There are some nodding heads.

Alice Simpson: The biggest issue for us has been that when payment is meant to come direct to us, it has gone to the tenant and they have not been clear about that, which is what has led to arrears. The fact is that the Scottish option does

not kick in until at least the second claim. If the default was that the money would go direct to the tenant and the tenant could choose to manage their funds themselves, that would be fine. The problem is that the administration system for universal credit is not fit for purpose.

The Convener: We might come on to that. Ms Haig—would that be a reasonable compromise?

Sheila Haig: I do not know that I have a passionate view one way or the other. If we were to mandate that all payments be made to landlords, there would be complexities, because not everyone receives 100 per cent of their rent through universal credit. That has been a real issue for councils that have had managed payments and alternative payment arrangements; they do not know exactly how much the amount will be, unlike the situation with housing benefit, in which they could rely on receiving the same amount every month.

The situation is different with universal credit, because of its nature. We might find ourselves collecting multiple income streams: there might be an alternative payment arrangement, a managed payment for arrears and a discretionary housing payment, if the person has a shortfall in their rent. On top of that, there might also be a contribution from the tenant. There are situations in which it would be easier if the tenant received the money and then gave us the whole payment, rather than us having to manage multiple income streams.

The Convener: Would it be worth piloting the system that Mark Griffin has suggested in one local authority area—perhaps not Edinburgh, given your slight reluctance—to see how payments being made direct to the landlord by default goes?

Sheila Haig: A pilot would give us good raw data, but there would have to be a satisfactory mix of tenures. I am more than willing to say that a pilot would be good, as long as it was not in Edinburgh.

The Convener: I accept that the private rented sector dynamic differs greatly among local authorities, so views among local authorities might vary across the country, depending on that dynamic.

John Blackwood: I think that it is a very sensible idea for direct payments to be made to landlords, for a number of reasons, two of which are especially important. First, it reduces the rent arrears that tenants can build up. Secondly, it can avoid homelessness. Those are two major issues that need to be taken into consideration. It is the system alone that is creating rent arrears and homelessness, and we need to avoid that as much as we can.

However, I agree that we should not make assumptions about people who are in receipt of benefits. As has already been pointed out, many of them are more than capable of paying their rent, like anybody else. They should not be differentiated in any way: the choice should still be available to them. If they feel that they want to take control of their rent payments, for whatever reason, they are more than entitled to do so, and I think that that should remain the case.

The Convener: We might be approaching a very balanced position.

Alice Simpson: We are doing a housing first pilot with the city ambition network in Glasgow. We have tenants who were rough sleepers and who have multiple and complex needs. Support workers have taken them to banks to open accounts, as well as to jobcentres. When they have gone to jobcentres, it has been suggested that they go on to Scottish options instead of the DWP's alternative payment arrangements. They are the most vulnerable people, and they should be put straight on to the alternative payment arrangements.

The Convener: Thank you for putting that on the record, which allows me to put on the record the fact that I had the privilege of going to the Glasgow emergency night shelter last week, where I saw for myself the immediacy with which people there were offered housing first options. It was interesting to visit that extremely worthwhile pilot.

Jeremy Balfour (Lothian) (Con): Good morning. I want to explore two points that have come up. These questions—which show my ignorance—are for John Blackwood. Does not the two-week transition payment help the people whom you represent? Why does it work for local authorities but not for private landlords?

John Blackwood: Local authorities and registered social landlords have access to the landlord portal, so they are provided with additional support and assistance by the DWP. That is not available to private landlords. Private landlords do not know that the two-week payment exists. It is part of our job to get that information out there. There is a lack of information and support. I am representing private landlords, so I am talking about the support that is available to them, but there is also a lack of support for private tenants.

It is a new system, so it will take time to bed in. The fact that nobody likes change is also an issue. You will know from our written submission that a big part of the case load that we get from landlords is about the fact that nobody communicates with them. They send emails, but they do not know who to phone. They try to help tenants, especially

the most vulnerable. Landlords are willing to help, but they are not empowered to make the calls. To just be told, "Oh, we can't speak to you," or to not receive a reply to an email is not acceptable.

Part of our work is to try to engage with the DWP to make such issues much easier for landlords and tenants to deal with. We are building good relationships with the DWP, but it is an uphill struggle. We feel that it is the system that is creating that problem and it is disadvantaging the very tenants whom we are all trying to help.

Jeremy Balfour: If landlords knew about the two-week transition payment, would that help?

John Blackwood: It would help them to know that it exists, but that does not mean to say that they would get the money. Many tenants are experiencing hardship and they might have priorities in their lives other than paying the rent. I am afraid that when it comes to it, although we all might think that the most important thing is to keep a roof over your head by paying your rent or your mortgage, other priorities in life might come up and it might well be that the landlord never sees that money.

Jeremy Balfour: Just to follow the logic of your argument—

The Convener: Jeremy—I apologise for interrupting. I will let you ask that next question but, first, Sheila Haig wants to respond to your previous question.

Sheila Haig: The two-week run-on is automatically awarded when we get a housing benefit stop. That is for people moving from housing benefit to universal credit. Because of the changes in 2017, when people receive universal credit, a full advance can be given in that first payment, so people should not experience that hardship.

Again, I know that the issue is about how we get that money. The contract between landlord and tenant is a relationship. The difficulties that people have with contacting the DWP are due to the fact that someone being in receipt of universal credit is a personal matter, and that data cannot be shared without the tenant's permission.

I am aware that there are more stringent controls for universal credit than perhaps for current schemes. With universal credit, a mandate lasts only for that one question. With housing benefit, if we had a mandate to discuss matters with a landlord, that would hold until it was withdrawn.

Those controls have been put in place by the DWP. I can see why they have been put in place, but it would improve things for tenants who need support if the mandate lasted longer and the conversation was better.

The Convener: Okay. That is helpful.

Jeremy Balfour: I want to push John Blackwood a bit on this, because I feel slightly uncomfortable about some of the answers and questions so far.

To follow the logic of your argument, in order to guarantee that the rent is paid, should a landlord be able to go to an employer and get the money before it goes into the tenant's bank account? We are making an unfair distinction between those who are on benefits and those who may be working and paying rent. The logic of your argument is that the landlords whom you represent could go straight to the Scottish Parliament and take my rent out before I am paid. Why are we drawing a distinction between one set of people in Scotland and another? I just feel slightly uncomfortable about some of the answers. Can you clarify that point?

John Blackwood: I am quite happy to come back on that. I do not think that it is logical to draw that conclusion, because you are not comparing apples with apples. We are trying to encourage people who are private landlords to take tenants who are in receipt of benefits when we know that those tenants, in some cases, struggle to access the money to pay the rent. That is a different scenario from one in which somebody is working in an everyday job.

Tenants should still have the right to take control of their own money in the same way as people like you or me, who are earning a salary. However, in effect, we are trying to encourage the sector to take some of the most vulnerable and most disadvantaged people in our society. The landlords whom we represent, who have been renting to people who are in receipt of benefits for years, are saying that they have no problems with the tenant and that, over the years, they have built good relationships with them. It is the system that is failing those landlords, not the tenants themselves.

Rent arrears are on the rise; that is the stark reality of it. We know that that is happening—there are more and more rent arrears with universal credit than there ever were with housing benefit. That might be for a number of reasons. I am sure that we can work together to solve some of those problems and that there are many ways to achieve that.

A positive step would be to say to landlords, "If you are going to take somebody who is in receipt of benefits, we can mandate the payment direct to you". If we were the Government and had the power, that is what we would do. Then, tenants could choose whether that continued to be the case.

09:30

Alice Simpson: Our biggest issue is not that all our tenants who access benefits need the payments to come direct to us; it is that tenants who have asked for the payments to come direct to us or have had gambling and addiction issues such that it would not be beneficial to their health for them to receive the rent into their bank account are still receiving it. That is why I say that, if it would be simpler for the housing component to come to us, that would make sense.

The Convener: That is all very interesting. Sheila, do you want to add anything before we move on?

Sheila Haig: Yes. I think there has probably been a lack of engagement with private sector landlords. John Blackwood and I were talking about this before the meeting. The DWP has done a really good job of engaging with social sector landlords, because they are very accessible. We had some sessions for private sector landlords last summer, in advance of universal credit, and we used our landlord portal, but unfortunately something went wrong and only eight landlords attended the sessions. Going forward, we have John Blackwood's details, and the City of Edinburgh Council will be working really strongly with our private sector landlords. We are in a unique position compared with the rest of Scotland, given our size and our private sector case load.

Local authorities and the DWP have a lot of good work to do with private sector landlords, including a bit of myth busting and highlighting that DHP and rent in advance are available and that there is help with deposits and removals. Those things can obtain better outcomes for citizens. I am more than willing to work towards that with private sector landlords.

The Convener: Thank you. Jeremy, I will let you back in later if—

Jeremy Balfour: I have another issue to raise, but I will come back in later.

Pauline McNeill (Glasgow) (Lab): Good morning. The lack of engagement with the private sector is of concern to me, given my personal experience. Arguably, it is more important than engagement with the social sector, because I would be concerned about private landlords giving up on the idea of taking tenants who are on universal credit. I suppose that that is the basis of my question. Have you noticed any trends of landlords saying that they no longer wish to rent to tenants who are on universal credit? Have you seen any behavioural changes in that regard, or do you expect any?

Sheila Haig: I have not seen any evidence of that. Under housing legislation, it is actually not permitted to say, "I won't take you because you're on benefits." People might do that, but it is not the case that it is permitted.

Alice Simpson: We are noticing that there are landlords who are not willing to take the increased risk. Previously, if somebody was on housing benefit and we thought that we would be able to safeguard the rent, it was really easy to get landlords who wanted to work with us to accept tenants who were accessing benefits. With universal credit, it is a very different story. We are saying to people, "Move into this property without any money up front. In six weeks' time, you might get some rent, but you might not." That is a much harder sell. It is not to do with the tenants; it is about affordability.

John Blackwood: We are certainly seeing evidence of that—we have a postbag that demonstrates it. More and more landlords are saying that they will not take anybody who is in receipt of benefits, because of all the stories that they hear—let us face it, we always hear the worst stories in the media. Beyond that, however, we are now seeing landlords who for a considerable time have been offering tenancies to those who are in receipt of benefits changing their business model and saying, "I can't afford to stay in this marketplace anymore."

Quite frankly, wherever people are in Scotland, there is more and more demand on the private rented sector to provide accommodation, so there will be more and more people out there who are in work and are seen as—shall I be perfectly honest and use this expression?—a "better bet" to a private landlord, who will not need to worry about dealing with the DWP and understanding all the details of universal credit. That is the stark reality, and we are already seeing landlords shift their business models.

Pauline McNeill: At the moment, there does not seem to be an immediate solution to that, because of the five-week wait and the design of universal credit. Unless that changes, I cannot think of any solutions.

Sheila Haig: Housing benefit has always been paid in arrears to private sector landlords as well. It is paid at the end of the period. The advantage with universal credit, which might be a disadvantage to the tenant, is that the tenant can get that money up front. They can get a full advance. They might not want that, because that money would be deducted from their payments over the course of 12 months.

We highlight to tenants, because they are the people whom we deal with, that DHP is available to them and they can get rent in advance,

provided that the outcome would be better for them.

Pauline McNeill: That would solve a problem for the landlord and the tenant. However, the long-term issue with that is that debt builds up, and there is evidence that those on universal credit have higher levels of debt because of taking an advance payment.

Sheila Haig: DHP is not paid back, so if we paid rent and a deposit in advance, that is not claimed back. However, as universal credit is extended, that will put huge pressure on the DHP pot, and we would look to the Scottish Government on how to fund it.

The Convener: We might come back to you at some point on local housing allowance, which, separate from discretionary housing payments, could also solve that problem.

Pauline McNeill: On the shared-room rate for the under-35s—it used to be for the under-25s—are there any issues with landlords preferring not to offer shared tenancies? Is there any evidence of that market changing?

Alice Simpson: We do not have any issue with our landlords accepting shared tenancies, but there is an issue for socially excluded people such as those with mental health issues who are under 35 or care leavers who are over 23. They have to apply for DHP to make up their rent, because they do not have anybody to share with or because it would not be suitable for them to share accommodation.

John Blackwood: It is much harder now. I remember when the rule for the under-25s came in. We thought that it was unfair back then, and now the rule is for the under-35s. There is a big difference between the ages of 24 and 34—people are at different stages of life. Sharing with a stranger is a difficult and different prospect for a 34-year-old.

As landlords and letting agents, we are not in the business of renting rooms. We are looking for two or three people to come along who are willing to share and are all in receipt of benefits. That does not happen very often. It is harder for such tenants to find suitable accommodation, simply because of their age.

Pauline McNeill: I noted what you said earlier about universal credit causing rent arrears and creating more homelessness. You gave some evidence to the committee to suggest that the design of universal credit has destroyed the sustainable relationship between landlords and tenants who have been on benefits for many years. That will have an impact on society. It is a question not just of tenants being unable to rent in the private sector because landlords do not trust

the system, but of landlords having to change their business model. The overall impact is that society will have to pick up the pieces because of debt and homelessness. Do you agree?

John Blackwood: Yes, I do. Ironically, we are encouraging or creating a system in which some of the most vulnerable people in our society could end up in debt, which is fundamentally wrong.

You are right. There are landlords who have operated for many years by providing tenancies to people who have been in receipt of benefits, and that has been their business model. In some areas of Scotland, those are the tenants whom they deal with, and that has been how they have operated. Over the years, they have also built up good relationships with the local authority. Like the City of Edinburgh Council, other authorities engage well with the private sector. Relationships with local contacts are built up.

If a tenant had been struggling with their benefit payments, or if there had been a change in circumstance, they would have had a go-to person in the local authority who could have helped them to understand the system and given them or the private landlord the contacts and support that they needed. All those local support networks have gone following the changes by the DWP.

Previously, when landlords came to us and said that there had been a change in circumstance with their tenant, we would have gone to the council, which would have been really helpful and supported us through the process. If nothing else, landlords would be reassured that the issue would be sorted, so they would get the rent at some point. Following the changes by the DWP, from the word go, the tenant is told, "I'm sorry—we can't discuss this with you." I do not understand the system enough to be able to tell the tenant why the DWP cannot go into any details. As we detailed in our written submission, we can write emails, but there is a lack of communication.

As we know, there was the same situation in the social rented sector. The DWP then supported housing associations by providing them with the landlord portal, which has gone a long way towards reducing rent arrears, supporting tenants and helping them to avoid homelessness. The private rented sector does not have access to anything like that. Although I appreciate that a different system from that for social landlords would need to be created for private landlords, having a dedicated resource for private landlords, such as a helpline or somebody to speak to, would be helpful. I hope that that will happen, and we are working with the DWP to create such a system. However, I have outlined the problem that we have today.

Alice Simpson: I absolutely agree that having a point of contact would lead to the biggest change to the way in which our organisation was able to operate. We own a number of our own properties and, because tenancy start dates have been inputted incorrectly by someone in the jobcentre, for example, our tenants have accrued three months of arrears. If they had not been our tenants, there would have been a good chance that the landlord would have tried to evict them for rent arrears.

We are not able to see the information in the same way that we would have been able to see it under the housing benefit system. If we were able to see the information and had somebody to speak to, that would be perfect. For example, we recently raised 10 formal complaints in relation to claims that had started in one jobcentre. The complaints related to what had happened in the call centre, not the jobcentre. From that, we managed to get in contact with one person who resolved all 10 complaints, which meant that we could continue with those tenancies. Having someone whom we are able to speak to makes all the difference.

Sheila Haig: Universal credit means that landlords will need to have a more direct relationship with their tenants. If the tenant is sitting with them, landlords can deal with the tenant and the DWP. If they use the phone that is registered, they can contact their case worker directly, which means that they get to the person whom they need to speak to. Such facts are little known, but we will work hard to get that information out to the private sector. Some of the problems have solutions, and the important thing is that we resolve them.

The Convener: I am glad that you have put that on the record. There does not seem to be a sole reason for a reluctance to engage in the private rented sector, but, when we join all the dots together, we realise why there is a growing reluctance to engage with benefit claimants. However, some of those problems can be dealt with and solved.

Shona Robison (Dundee City East) (SNP): I hear what the witnesses are saying, and I know that landlords can take those steps. However, it is quite a big ask for landlords to sit, sometimes for long periods of time, and try to help a tenant to negotiate complex issues with the person on the other end of the phone. Some landlords might be prepared to do that. However, my worry with building a system around landlords being willing to do that is that if landlords feel as though their having to spend hours on the phone, with many tenants, is part of their standard landlord obligations, and par for the course, that could be yet another reason for landlords being reluctant to take on universal credit tenants.

09:45

Sheila Haig: I think that similar things would happen with housing benefit, because it is not a million miles away from universal credit in terms of data protection. If a landlord does not have a mandate and buy-in from their tenant, they will not get the information.

As a responsible organisation, we would ensure that we would take that information and do something with it. I do not know whether the DWP would do that to the same extent. If rent arrears are declared, we immediately put a stop on housing benefit and contact the tenant. I assume that there would be the same obligations with universal credit, because fraud and error cannot be allowed to enter the system.

Shona Robison: Landlords are not saying that they had to do that under housing benefit; they are saying that the system requires them to act in a different way. Therefore, there must be something different about the way that the universal credit system operates compared with the housing benefit system, otherwise landlords would not be raising those concerns and there would not be a rise in arrears.

Sheila Haig: That is probably to do with the loss of local contact. There used to be a virtual service centre, so people could phone and speak to somebody in Wales or the north of England, but that has been changed, and there is now a dedicated service centre in Dundee for the area. The local knowledge will therefore be wider, and that will start to come through.

It is very early days, and housing benefit was never perfect either. It is much easier to have local knowledge, local contacts and a go-to person in an Edinburgh-to-Edinburgh situation, but that becomes difficult when the net is widened. Somebody might never speak to the same person twice. However, a person will speak to the caseworker if the citizen is with them and uses the device that they have registered for their claim. They will get through directly; the hanging on the phone that people complain about will not happen.

The Convener: Is that the caseworker in the jobcentre?

Sheila Haig: It is the caseworker in the service centre.

The Convener: Okay. I know from visiting jobcentres and having conversations about the matter that there are sometimes communication issues between jobcentre caseworkers who are work coaches and the service centre. The DWP is trying very hard to resolve that, but the Public and Commercial Services Union has told us that there are simply not enough staff to deal with the matter.

John Blackwood: I back up everything that has been said. The job is different from what it was before, and that is fundamentally wrong.

On what landlords tell us that they have to do now, the practical issue is that, if a person moves from housing benefit to universal credit, the landlord is unlikely to know when that is happening or whether it has happened if they have not been receiving the money directly. The majority do not, and they will be completely oblivious to that. The first time that they will know is when their tenant does not pay the rent on a particular date. They will go to the tenant, and tenants often say that there is a problem with their claim. There could genuinely be a problem with their claim, but maybe they simply do not understand the system. Of course the landlord, who will already have received money as part of the migration process, will not know, so there is confusion and muddle.

We say to landlords that they can try to get in touch with a secret person at the end of the phone, but they will need to use the tenant's phone because that phone number will be registered—that is assuming that the tenant has a phone or internet access in their home. We are therefore encouraging landlords to use their own smartphones and to go online. However, we did not have to deal with all those issues before.

Alice Simpson mentioned the mandates issue. Before, we would have got a tenant to sign a mandate to allow us to communicate with the local authority, but with universal credit such a mandate is no longer acceptable. People have to get one done every time that they want to make a call, and that is impractical.

We seem to be creating a system that is so bureaucratic that it is not helping the people who are in need or encouraging landlords to take tenants in the first place.

Alice Simpson: We put person-centred tenancy support at the heart of our organisation, and you would struggle to find a housing association or private landlord that has a closer relationship with their tenants. However, we are finding that a tenant will be notified of something in a journal and phone us in a panic; our tenancy support team will take two hours out of their day to try to resolve the issue, and will have to do it again for the following two days. If you add in an hour's worth of travel time to go and see that tenant, you can see that that is completely unsustainable. We cannot spend that much time going out to see people. Previously, we would have received a letter from housing benefit about a change in circumstances, and we would have phoned the tenant to reassure them and let them know the ins and outs of the situation, but that is no longer the case, and that causes our tenants anxiety.

John Blackwood: I just wanted to back that up. Homes for Good is a professional landlord that deals with many such cases. As well as Alice Simpson's organisation, I represent individual landlords who have just one property. How can they afford the time? How can they gather the knowledge and expertise that Alice Simpson has?

The Convener: This is positive, because we are having a conversation that illuminates the issues for the committee.

I will let Sheila Haig in in a moment, but I am conscious that Shona Robison may wish to ask a follow-up question.

Shona Robison: No, it is fine.

Sheila Haig: From 1 April, citizens advice bureaux will support people who are making the transition to universal credit. Personal budgeting support formerly sat with local authorities, but it was really not a great offering. The funding was poor and it did not allow for the adaptation and growth of a service that would offer what people on universal credit needed. When that support goes to CABx on 1 April, it will make a remarkable difference for citizens, who might trust a CAB more than a local authority. People will get support to make a claim and support through the transitional period. CAB support for citizens on universal credit is a move in the right direction.

The Convener: That is helpful to know. My experience—it will be the same for other MSPs—is that I quite often refer people to CABx for help and support. Sometimes CABx are so overworked that they send people to me, to see what representations I can make. Additional resource from April is absolutely welcome—the committee should look at that.

Keith Brown (Clackmannanshire and Dunblane) (SNP): Thank you for the evidence so far. The dilemma about direct payments was discussed earlier. To return to a point that was made about benefit recipients and others, the taxpayer has a right to know that the resources that they are supplying towards a particular end are being used for that purpose. Perhaps the default position should be direct payments, and a person can choose whether they want to do that. Having said that, many veterans are very content, because it is all that they have ever known that their rent was paid directly, before it came to them.

Leaving that aside, we have heard recently that there is increasing use of food banks; Alice Simpson talked about a 400 per cent increase in distribution of food bank vouchers. There are also increasing rent arrears and an increase in the number of people presenting as homeless. At least two of the panellists have said that that is to do with the system—it might be transitional issues, or it might be that the system itself is causing the

issues. It seems as if you—and both Governments, I imagine—are all trying to sort out the problems with the system. Our inquiry is on social security support for housing. Instead of trying to plug the gaps in universal credit or, previously, housing benefit, has anyone looked holistically at the issue of guaranteeing that people have safe and secure accommodation? Are you aware of any systems that do that much more effectively, perhaps in other countries?

Alice Simpson: Finland is one example. However, that needs the system to work around it. Finland has been really successful at using housing first to wrap support around people and try them on several different tenancies. Finland has basically eliminated rough sleeping.

I strongly believe that we need rapid rehousing and housing first in order to accommodate people. However, landlords have mortgages on their properties, so if we put the most vulnerable people into properties and wrap all the support that they need around them but their rent does not come in, they will simply go back into temporary accommodation and back into that cycle. It is just creating a massive chaos index.

The Convener: That is really good questioning, Keith, but I am conscious that we are doing an inquiry on social security support rather than on homelessness. We need to know how our witnesses would change the social security system to deal with the issue, because we will be making recommendations on that, rather than on homelessness. What would you do differently in the social security system?

Alice Simpson: I would give landlords a portal, increase communication and give better training to people in jobcentres and service centres. In my company, if somebody has been in work for only a week or two, I can accept that they have made an error because they are new but, after this length of time, we cannot say that the people in the universal credit service centres do not know what they are doing because it is a new benefit. The issue is affecting people's lives and making people homeless, and it needs to be fixed.

The Convener: I apologise for cutting across you, Keith. Do you want to come back in?

Keith Brown: When I asked my question, I mentioned that it was in the context of social security support for housing, and homelessness is one example of how that does not seem to work. All three of our witnesses are in organisations that are trying to make the system work. It seems that you keep looking for fixes because those are needed to help people, but I wonder whether a more holistic approach to social security support for housing might yield a better outcome. Maybe that is not the case—perhaps the incremental

approach of coming across a problem and then finding a solution to it is the way that you have to go.

I suppose that, over time, that is what happened with housing benefit, so the business model has changed. When housing benefit came in, there were the same problems, in that people were refused accommodation because they were housing benefit recipients. Is the current approach, in which the different organisations that are involved, such as central Government in both its forms, local authorities and providers, endlessly try to fix issues, better than looking at the whole system afresh?

Sheila Haig: My personal opinion is that the Scottish Government, the UK Government and local authorities need to work more collaboratively. We all know what the problems are but, when we feed them back, the UK Government says that universal credit is about test and learn. There is no doubt that it is one of the biggest changes in the welfare system in 40 years, and that it will not happen overnight. The test and learn approach has a significant impact on people—it can ruin their whole lives—but the time for campaigning against it has gone, and we really need to work collaboratively to solve the problems.

John Blackwood: I agree that the housing benefit system was never perfect and that we had issues with it, too, but one of the biggest problems that we have with the current system is the lack of communication, which inevitably develops into a lack of trust. Ultimately, in the private rented sector, we are talking about individual private landlords with individual tenants, and it is important that there is a good relationship between the two. Both parties have a responsibility to make that work. In many of the cases that I have cited, that relationship has broken down as a result of the system. That system is based on change and, although change is always important, there seems to be a lack of communication with us.

At the end of day, that will mean that the private landlord will say, “Do you know what? I can’t be bothered with this.” They could do something else with their time or let to somebody who they feel would be more able to pay the rent. Sadly, that means that people who have been landlords for many years—despite all the problems with housing benefit, they kept tenants and maintained that business model—are now saying that enough is enough and that they cannot cope with it any more.

Back in January, I was invited to a round-table session on the issue with the Secretary of State for Work and Pensions, Amber Rudd. She was clear that she wants to listen to what we are saying and find solutions. Therefore, I hope that, despite the negativity from us, we will find

solutions, but it might be too late for some of those landlords and tenants, who will have racked up rent arrears and increased their chances of homelessness. As a society, we need to address that.

10:00

Alison Johnstone (Lothian) (Green): What we have heard this morning and what the written submissions say about the relationship with the DWP seems pretty damning. There is a submission from a letting agent that does not pull any punches and that suggests setting up

“a dedicated and pre-authorised line of communication between DWP and the relevant point of contact on the PRS end”

so that form filling is not required on every occasion. That point has been well made and is helpful.

However, it seems to me that, in many cases, the bottom line is that the cash is insufficient. We have spent a lot of time talking about the system but, last week, when we took evidence in Leith from individuals in the private rented sector and related organisations, one issue that came up was the impact of the benefit cap. We heard from young single parents who rely on DHPs to make up the shortfall. We heard about people being handed notice to quit because, from one month to the next, it became apparent that they were not going to receive enough.

I want to explore that impact with Sheila Haig. City of Edinburgh Council has spent £28.1 million on temporary bed and breakfast accommodation since 2016. I have no doubt that you would rather spend that money on something else—imagine the number of social rented houses that could be built. Last week, we heard evidence that some people constantly apply for DHPs and are living with real insecurity about whether they will get them. I would like to understand how that is working from your end.

Sheila Haig: In City of Edinburgh Council, the pot for DHP is significant—it is around £6 million. The effect of the benefit cap has been much less than we expected. We expected to have around 900 claims from people as a result of the benefit cap, but we are only at 300. We had more initially, but the figures have dropped. That is because people are adjusting by moving to other accommodation and things like that.

In the private rented sector, we use DHP to support people to move to cheaper alternative accommodation by covering rent in advance, deposits and removal expenses. That takes away any insecurity. However, we are also using DHP to support people to meet the shortfall in their rent because of the benefit cap. I make no bones about

the fact that, when the benefit cap came in, we were very prudent, because the effect was unknown. Had the figures panned out as we expected, we would have had a £1 million shortfall, but that turned out not to be the case. Once we got through the initial three months, we applied DHP for longer periods. Now, where the benefit cap applies, we aim to provide DHP for the year rather than for the short term. That is to take away insecurity, but it also helps the council to manage the issue.

Alison Johnstone: We heard from young parents who were concerned about having to move into cheaper accommodation because it might be further away from their family or support networks and other costs would be incurred as a result of losing that support. How easy is it to find cheaper accommodation in Edinburgh?

Sheila Haig: It is not easy. Rents in Edinburgh are much higher than those in Glasgow, for instance. That is why, when people have made reasonable adjustments and have looked for alternative accommodation, we support them with DHP if there is no alternative. Edinburgh is going through a significant social sector house-building programme, and the same applies with mid-market rent, although that is not accessible to people who are purely on benefits. That model may change in the future as the demand increases. We are conscious of the cost of accommodation in Edinburgh, and we use our DHP fund as much as possible. We are bordering on the generous when we look at people's expenditures and income. We always look for a way to pay DHP rather than a way not to pay it.

Alison Johnstone: Are you content that the funding that you have for DHP is sufficient?

Sheila Haig: I would like the normal hardship DHP to increase. We have sorted out underoccupancy—there is sufficient funding for that, and the Scottish Government has always fully mitigated that. The issue is to do with those who are facing real hardship; not necessarily people who are in receipt of full universal credit or full housing benefit, but the working poor, who might have partial housing benefit and are struggling to meet the gap because of their expenses. Those people—the ones who might not ask for help and are probably using food banks more than people in receipt of full housing benefit—are a forgotten sector of society.

Alison Johnstone: You said that you expected up to 900 people to contact you but that only about 300 have done so. Do think that everyone is aware of the fact that they can contact you for help?

Sheila Haig: We find out about the benefit cap through the DWP. We then approach the citizen

about their benefit cap and we invite them to apply for DHP. I am confident that I am reaching those I need to reach.

The Convener: Before I bring in Michelle Ballantyne, I want to check something. You mentioned the benefit cap, but there is also the issue of LHA levels. Those have been staircasing down, so the limit is now 30 per cent of the available commercial rents in any local authority area. Since 2016, the allowance has been frozen. You would have expected one, if not all, of several things to happen: the quality and variety of accommodation on offer to go down, the ability of LHA to cover the full payment—for those who are over 35, of course—to reduce, or more pressure to be put on discretionary payments. The exchange between Alison Johnstone and Sheila Haig seemed to suggest that LHA levels had not been putting additional pressure on DHP. Maybe I just misheard that, but this is an opportunity to clarify the position.

Sheila Haig: There would be huge pressure if the fund was not sufficient, but we are in the fortunate situation that it is significant enough. However, it is difficult to engage with people, to get them to apply. We have written to people three or four times, asking them to apply for discretionary housing payment—we make every effort to ensure that they do—but, for whatever reason, they are not doing that.

I agree that LHA is completely out of kilter with the Edinburgh rental market. I am on a group that meets the DWP at Caxton house, and I have made the point on every occasion—people are sitting and listening to me—that Edinburgh needs to have weighting in the same way that London does and that benefit caps should align in the way that they do in the London boroughs, so that the amount is greater in Edinburgh than in the rest of Scotland because accommodation is so expensive and difficult to come by.

The Convener: I thank Michelle Ballantyne for her patience. Does John Blackwood or Alice Simpson have anything to add before I bring her in?

John Blackwood: There is obviously an issue with LHA just not meeting the market demands, but it is designed not to meet the market demands for a number of reasons. Again, that is another disadvantage to landlords accepting tenants who are in receipt of benefits.

Alice Simpson: The situation is more extreme in Edinburgh than it is in Glasgow, but it still exists in Glasgow, where mid-market rents are being offered at rates higher than LHA rates by housing associations. At the same time, property prices are increasing, which makes it harder for people to buy.

The Convener: Maybe everybody else had already understood that point, but that has helped my understanding. Thank you very much for that.

Michelle Ballantyne (South Scotland) (Con): This has been a very interesting discussion. The clear message that is coming out of it is that, for private landlords, communication is key.

I want to explore and delve a little bit deeper into a few things that have come up during the discussion. My first question is about data protection. Obviously, that has changed significantly over the past couple of years, and I think that we are all struggling a wee bit with some of that. I assume that data protection has had an impact on some of the communication issues. Do you have any quick comments about how much the issues are to do with data protection? Do you feel that individuals have a right to the protection of their data, or should they forgo some of that protection if they fail to pay their rent, for example?

Sheila Haig: I do not think that you could change data protection laws because people had chosen to be in rent arrears.

For me, although housing benefit and universal credit are different, what has not changed is how protective we are of an individual's data. We always protected that data because, technically, it was always the DWP's data. Without a mandate, we would not have a discussion—not even about whether a person was in receipt of housing benefit. John Blackwood will have experienced that. I have worked in benefits for more than 25 years and that has never changed.

However, we like to make sensible decisions on the back of that. If someone in my team had, in a conversation with a landlord, said, "I'm sorry—I can't tell you anything," I would expect my officers to take action to protect the tenancy by looking at the claim and contacting the tenant.

Michelle Ballantyne: Why can that not happen now when a landlord rings up with a problem? Is the reason that they simply go to the centre rather than a local office?

Sheila Haig: I would say so. Such an approach has perhaps not been part of the DWP's culture whereas, because of the local relationship, it has been the culture locally.

Michelle Ballantyne: There is something about that.

John Blackwood: One of our fundamental issues is that we had good relationships before. I see no reason why that cannot continue, but the DWP is faceless and, when landlords ask where to phone, there is nowhere to phone—there is no number for the DWP, although there is one for City of Edinburgh Council.

We need to create channels of communication, which do not exist at the moment. As I said, the secretary of state is keen to develop those in the best way that we can, but we need them now, and perhaps we should have had them long before now.

Michelle Ballantyne: In passing, the witnesses mentioned using alternative payments—the DWP system—or Scottish options. It was implied that having two choices and having people going for Scottish options rather than alternative payments was causing issues and confusion. As alternative payments now exist, would it be better not to have Scottish options and for people to go straight to alternative payments? Alice Simpson seemed to imply that.

John Blackwood: I will jump in first. Scottish options apply only to the second payment, not the first payment, so the easiest and most sensible thing to do would be to let them apply to the first payment. In that way, we would not need to worry about the situation.

We are all hearing—although this is anecdotal—the advice not to go through the alternative payment arrangements for vulnerabilities but to go to the Scottish options, because they are easier to administer. We are getting that feedback, but that approach could mean that a tenant ends up in rent arrears—maybe only for a month or so—that would never have existed if the continuity of the protection of payments to the landlord had been maintained. We are talking about the most vulnerable people being in such situations.

Michelle Ballantyne: If the landlord is already being paid directly, does going with alternative payments mean that payments continue unabated?

Alice Simpson: The issue is that, if somebody changes from housing benefit to universal credit, the people who administer universal credit say that they do not have access to information showing that housing benefit has been safeguarded for the past 10 years, for example. I have no issue with tenants having options, and the Scottish options are good, but there is a jar because two Governments are administering the system—arguably, it would be easier if it was all run in Scotland. If just one Government ran the system, there would not be as much difference; the issue is that an option seems to be means tested before it is implemented. That is all to do with the system's administration.

Sheila Haig: If alternative payment arrangements run from month 1, that is probably easier than using Scottish options. At a confusing time, when people are moving from one benefit to another or have lost their job and are moving into the system, alternative payments should apply

from day 1 if the tenant agrees to that. Leaving that for a month perhaps creates a temptation that some people—I reiterate that the number is small—do not need.

Michelle Ballantyne: My final point combines a couple of things that I have heard from private landlords—I wonder whether you have heard the same things. A couple of landlords have told me that the changes to tenancy laws are making them rethink their modelling. The issue is not just with some of the benefit changes; it is about all the changes that have taken place around being a landlord. I am interested in your views on that.

10:15

My other question is about arrears. I have been looking at some of the numbers that I got yesterday from one of the councils in an area where UC has been rolled out for a wee while now. Arrears seem to be going back down to the level that they were at on the point of roll-out, and they have been falling year on year. When I talked to some of the landlords about that, they said that a lot of the arrears are cash flow arrears as opposed to permanent arrears, and their biggest gripe is that they do not know where the money is in the system. It sometimes seems to disappear between the DWP's allocating it and its arriving in the landlord's account in a way that means they can reconcile it and say that a tenant has paid. There is a huge difference between arrears caused by a tenant going out and just spending the money, so that the landlord never gets it or finds it difficult to get it, and its being allocated and paid but not arriving with the landlord. Cash flow is a huge issue for private landlords. Do you have any thoughts on that?

The Convener: Before you grab that question, because of time constraints, I want to give a time check. Witnesses will get one bite at answering the question, then Mr Griffin will ask a follow-up question, and I have a very brief question to finish off with. We need to be out within five to 10 minutes because of time constraints with the Thursday morning committee slots. I apologise for that.

Sheila Haig: Edinburgh's experience is that more than 90 per cent of people who go into rent arrears with universal credit had legacy arrears anyway. It is not necessarily the case that UC has caused an arrears problem, although it might have made it a wee bit worse because of when the payment is made.

We are new to the party in Edinburgh, because we went live only in November, but it is the experience of other local authorities that you see a spike in the first three months and then it starts to

settle down. The same pattern is being played out in most local authorities.

Alice Simpson: I welcome the new private residential tenancy. I think it is great. The only thing that it does is take away a no-fault ground for eviction. I have never heard of a landlord wanting to evict somebody when no other ground, such as antisocial behaviour or rent arrears, would apply. Given that, I have only ever taken one person forward for eviction.

We break up rent arrears into technical arrears and actual arrears. We never count a technical arrear as an arrear when we can work out where the money is, because we know that it will come in at some point. We have regularly found that there is a week or two's rent missing at the start of universal credit claims, especially if it is a new claimant who has not been on housing benefit previously. However, if we do not have the information and we cannot see what dates the arrear applies to, how can we know whether it is a technical arrear or an actual arrear?

John Blackwood: We have the new private residential tenancy. I am not aware of members contacting us to say that the issue is with the tenancy regime and our lack of confidence in taking tenants who are in receipt of benefits. There is an issue, of course, with one of the group—

Michelle Ballantyne: I am talking about tenancy generally, not just people who are on benefits.

John Blackwood: Sorry. In fairness, with the new tenancy arrangements, there is an issue with landlords being reluctant to go on rent arrears grounds, simply because there might be an issue with the administration of the benefits system, which would mean that they would be unlikely to get an eviction. That is a real issue for some landlords to pick up on, and I have heard from social landlord colleagues that that has been an issue for them, even if the arrear is not an actual arrear. In our sector, it tends to be an actual arrear, because landlords in the private rented sector generally charge rent up front and people pay in advance. Benefits have traditionally been paid in arrears, so, by the time a tenant has not paid the rent that they were due to pay, it is an actual arrear as well as a cash flow issue. However, I am more concerned about actual arrears that have accumulated as a result of universal credit.

The Convener: Pauline McNeill wanted to seek some clarity in relation to that.

Pauline McNeill: I note what Sheila Haig said about the 90 per cent having had legacy arrears anyway, and that that pattern is being played out across local authorities.

I just wanted to check whether, in your view, the issue of arrears caused by universal credit still applies. I noted John Blackwood's quite strong view on the matter; indeed, my own view is that there must be a certain level of built-in arrears, because, given the design of universal credit, people surely cannot catch up. Do you disagree?

Sheila Haig: Not entirely, but I would point out that the two-week housing benefit run-on for people who are transitioning gives an additional amount of money, and if they get their universal credit advance—

Pauline McNeill: Hold on a minute—did you say, “If they get their advance”?

Sheila Haig: What I mean is, if they choose to take it.

Pauline McNeill: Let us be clear about this. Is it not their choice to ask for an advance?

Sheila Haig: It is their choice to do that if they want to.

Pauline McNeill: Right, but most people will choose not to ask for it.

Sheila Haig: I have no evidence that that is the case.

The Convener: It would be quite helpful to get more information about that.

Pauline McNeill: We need some clarity about this. We both agree that taking the advance is a choice for the tenant, although we do not know how many people will do so. Do you also agree that, if they do not take the advance, the five-week wait will naturally result in a separate amount of arrears?

Sheila Haig: It will, yes.

Pauline McNeill: That is what I thought.

Sheila Haig: However, when people contact the Scottish welfare fund because they find themselves in dire straits by choosing not to take the advance, our first line is that they need to contact the DWP and take the advance.

Pauline McNeill: I understand that that is the advice that you give, but even those who take the advance might still be in arrears, because they have to pay it back.

The Convener: I am afraid that we are going to leave all that hanging. I see that Alice Simpson wants to get in, too. I will repeat this in a moment, but I ask that you send us a note setting out whatever you want to say on the matter.

Mark Griffin: We have already heard about how Edinburgh operates discretionary housing payments in respect of tenants who are affected by the benefit cap. Further to the convener's

questions, how does Edinburgh operate those payments for tenants whose rent is lower than the local housing allowance?

Sheila Haig: We apply exactly the same calculation. In other words, we ask people about their income and expenditure, and we add an allowance to cover things that they might have forgotten. For example, if they put down a small amount for food, we will question whether that amount is reasonable, and we might well make an adjustment.

We operate what I believe is a very fair process that takes account of people facing an emergency or some other unexpected cost in a particular week. I am pretty confident that our DHP system is operating as it should for everyone in general hardship, not just those who have been affected by the benefit cap.

Mark Griffin: You mentioned a year-long award. Does the same apply to those whose rent is above the local housing allowance? The experience in my region is that people are offered the discretionary housing payment for one or, possibly, two months to give them the time to find accommodation at the local housing allowance level, but after that they are left to fend for themselves.

Sheila Haig: Each case is looked at and individually assessed on its own merits. For example, we might ask whether the rent is reasonable or whether the person in question should move. If we think that it is reasonable, we would probably give the award for the year. I should point out that I mean the financial year, so it will depend on the point in the financial year at which they apply—and, basically, on how long the fund lasts.

If we think that the rent and the expenditure are unreasonable, we might make a shorter-term award, but the issue will be revisited. If the person comes back after three months saying that they cannot find anywhere else, we will review the situation.

Mark Griffin: That approach certainly seems to be more generous than what happens in my region. Do you know how other councils are operating discretionary housing payments?

Sheila Haig: Each council has the right to operate its discretionary housing payment fund as it wants, but Edinburgh's pot is significant compared with some others. It could just be that there is a constraint in your particular local authority meaning that the DHP fund that it has been awarded does not cover what it needs to pay out.

The Convener: We will have to explore that further. I reckon that our other questions can be

asked as part of this session, but, given the time constraints, the witnesses might have to drop us a note with the answers. I know that Shona Robison wants to come in.

Shona Robison: This is more a matter for Sheila Haig. People in Leith raised the issue of the cost of temporary accommodation. Some cited a charge of £1,900 a month, saying how unaffordable that was, particularly for people whom you have described as the working poor and those with unmet need. I cannot understand how someone who is working but who unfortunately ends up in temporary accommodation can ever afford such costs. How can those costs be justified?

Sheila Haig: The £1,900 a month that you have mentioned is for private sector leasing properties. It is a significant amount. Quite a significant number of people in homelessness are working—I think that the figure is 25 per cent. The homelessness team works closely with people on the affordability of those costs. We will never evict someone from temporary accommodation. Instead, we will work with them; the council has an obligation to protect the public purse, and if we need to recover moneys from people, we will do so, but we have to do these things in a sensible manner.

Shona Robison: It would be good to get some follow-up information on this—not least a breakdown justifying such charges. People have said that these properties are exactly the same as the ones next door, which are not labelled as being temporary accommodation, and no additional services are included for the money. As I have said, it would be helpful to get a breakdown of how that charge is reached.

Sheila Haig: I can provide the committee with a breakdown from my colleagues in the team.

The Convener: That would be helpful, as would any additional information about the areas where the social security system picks up some of the costs if the person is entitled and those where the person has to pick up the costs themselves. The situation of the working poor who find themselves homeless and have to sofa surf with family members because they simply cannot afford the costs of temporary accommodation and the quite significant costs of storing furniture and the like is not unique to Edinburgh or Glasgow. We certainly think that there is money in the system that could be better used.

The question that I would like to leave hanging and ask the witnesses to come back on relates to a constituency case of mine that involves the deposits that are required for properties in the private rented sector. I know that different landlords have different rules in that respect, and

the social security system does not seem to offer much scope for some of those deposits to be paid. There are some really good tenancy deposit schemes out there that help people to build up deposits or which stand as guarantors for individuals and families. Is there any scope for the social security to step in and take a much more direct approach in paying deposits to appropriate landlords in the private rented sector, to bring back into the game landlords who might opt out at the moment? I realise that that is quite a substantive question on an area that we have not explored—and I really do not expect an answer now, given our time constraints—but I ask the witnesses to think about it and send a note back to the committee. We will want to explore the matter with other witnesses, and it would be good to have your views on it, too.

We managed to get there in the end, but I think that we could have continued for another hour. I think it important that we get an exchange of views—and, indeed, varying views—because the point of these evidence sessions is to hear the different perspectives. I thank all three witnesses for their time, and I ask them to follow the work of the committee on the inquiry. If things emerge in other evidence sessions that you either strongly agree with or strongly disagree with, or if you think that the evidence base that has been cited is weak, please tell us.

I suspend the meeting briefly before we move on.

10:28

Meeting suspended.

10:30

On resuming—

Immigration and Social Security Co-ordination (EU Withdrawal) Bill

The Convener: Welcome back. Under agenda item 3, the committee will take evidence on a legislative consent memorandum on the UK Parliament's Immigration and Social Security Co-ordination (EU Withdrawal) Bill from Shirley-Anne Somerville, the Cabinet Secretary for Social Security and Older People, and, from the Scottish Government, Colin Brown, solicitor; Stephen O'Neill, social security policy team leader; and Kieran Watson, migration and free movement of people team leader. I thank all four of you for being with us this morning.

Does the cabinet secretary have an opening statement?

The Cabinet Secretary for Social Security and Older People (Shirley-Anne Somerville): Yes. Thank you, convener.

The UK Government's Immigration and Social Security Co-ordination (EU Withdrawal) Bill aims to achieve three things. First, it aims to end freedom of movement and to bring European Economic Area nationals and their family members under UK immigration control. Secondly, it aims to protect the status of Irish citizens in UK immigration law once their European Union free movement rights end. Thirdly, it aims to create powers for UK ministers, Scottish ministers and the devolved Administration in Northern Ireland to amend, by regulation, retained EU law that governs social security co-ordination. It is the proposed conferral of that power to Scottish ministers that triggers the convention that UK ministers should seek the consent of the Scottish Parliament.

The social security co-ordination provisions can be viewed as a logical extension of the statutory instruments that were considered by the committee in January. The committee will recall that those instruments made the necessary technical fixes to allow retained EU co-ordination rules to operate effectively in a domestic setting. That means that people who are entitled to benefits by virtue of those rules will be protected in a no-deal scenario. However, the instruments were made under a single-use power, which means that the rules are frozen, with no mechanism to allow for revisions or updates. The powers that are proposed in the bill address that, and would allow the retained rules to be adjusted

for future policy development and to keep pace with any reforms of co-ordination at the EU level.

The bill proposes that, in addition to UK ministers, Scottish ministers and the devolved Administration in Northern Ireland get such a power for matters within devolved competence. Although having such a power might be a useful tool, we have no plans to exercise it. The UK Government's approach to co-ordination has been broadly positive—to the extent that it has committed to honouring the rules even in a no-deal scenario. The political declaration on the future relationship also makes reference to the desirability of on-going co-ordination in the future.

Therefore, in normal circumstances, the Scottish Government might have been minded to propose a consent motion. However, we do not live in normal circumstances, and fundamental constitutional issues are at stake here. The UK Government's decision to ignore the will of the Scottish Parliament and proceed with the European Union (Withdrawal) Bill has undermined trust in the Sewel convention. As the 2018-19 programme for government makes clear, until such time as the convention can be strengthened in a way that restores trust, the Scottish Government will bring consent motions only in the most exceptional circumstances.

As the memorandum explains, the powers that are proposed in the Immigration and Social Security Co-ordination (EU Withdrawal) Bill might well be useful at some undetermined point in the future, but the bill is not in any way essential to the delivery of the devolved social security programme. Therefore, the bill cannot be considered to present exceptional circumstances.

I close by saying a few words about the provisions that seek to end free movement. The memorandum acknowledges that the provisions fall within reserved competence, so they are not strictly relevant to the question of legislative consent. However, the evidence is unequivocal: ending free movement will profoundly harm Scotland's economy, its communities and its global reputation as a welcoming and progressive nation. Just one example of that harm is the already significant fall in the number of EU students at our universities.

It is also objectionable that the ending of free movement is presented in an EU withdrawal bill as though it is a necessary consequence of EU exit. As the alternatives that have been proposed by the Scottish Government make clear, that is simply not the case. The referendum result is being used as political cover for misguided and deeply damaging policy choices. This Government would therefore be failing in its duty to the people of Scotland, particularly those who are EEA

nationals, if it allowed the provisions to pass without comment.

I am happy to answer questions.

The Convener: Thank you for stating the Scottish Government's position on the matter, cabinet secretary. Do members have any questions?

Mark Griffin: I understand the Government's reasoning for not seeking to lodge a legislative consent motion. This is probably for a broader debate elsewhere, but are there any practical implications of not lodging an LCM?

Shirley-Anne Somerville: We cannot see any practical implications. At first reading, the power might appear quite wide but, in reality, we do not view it in that way. I gave an example. There is a great degree of overlap between immigration policy and social security and, obviously, the Scottish Government would not be able to make unilateral changes to social security without having due regard to what is happening at the UK level on immigration, which would have significant implications. Therefore, although the power seems quite wide, we should consider how the Scottish Government would use it practically and its overlap with immigration in particular. I do not see any practical difficulties in the decision that we have taken.

Mark Griffin: I thought that it was important to get that in the *Official Report*.

Shona Robison: I absolutely agree about not lodging an LCM given the damage that will be done, cabinet secretary. You touched on the fact that the co-ordination provisions are included in a bill that is principally concerned with immigration, which suggests a link between the two policy areas. Is there something that the committee should be more aware of in that regard?

Shirley-Anne Somerville: To be frank, it is difficult to say, because the Scottish Government was given very late notice that the social security aspects would be attached to the bill. What has happened has not been a great example of the due process that would normally happen for a Westminster bill that contained devolved social security aspects, and that is a matter of regret. My officials have been in close contact with UK officials since we were advised of the policy, which has devolved implications. Attaching those aspects to the bill is unfortunate, because it pins them to deeply concerning immigration laws that the UK Government wishes to put through.

Shona Robison: Were you given any reason for the delay?

Shirley-Anne Somerville: No.

Pauline McNeill: I concur with your statement about the importance of freedom of movement to Scotland. Let us not rehearse all the arguments, but you talked about the UK Government restoring trust. Was that a wider reference to the whole Brexit debate or to something else?

Shirley-Anne Somerville: It is very important that trust in the Sewel procedure be restored. That is a wider issue for the Scottish Parliament. I think that Michael Russell has written to the UK Government twice about that; in particular, he has made suggestions about how trust in the Sewel convention could be maintained and enhanced. That is a very important aspect that the Parliament will need to look at. There is an issue because of Brexit, but even if there is a resolution to the Brexit mess at some point, we will still need to look seriously at how we can have trust in the Sewel convention, as we used to have in the past.

Michelle Ballantyne: I want to check something for my understanding—this is a straight question that follows on from Mark Griffin's question. Does not having an LCM in place mean that, when we leave the EU, you will have to agree something subsequently, or are you saying that the co-ordination and co-operation are such that nothing will happen subsequently, but that you will have the power anyway?

Shirley-Anne Somerville: The Scottish statutory instruments that the committee looked at in January dealt with the no-deal scenario and what would happen in that scenario. The UK Government has had an open dialogue with the Scottish Government and the EU on ensuring that people will still have access to benefits in a no-deal scenario.

You ask about what will happen as a result of our not lodging a legislative consent motion. It is up to the UK Government to carry on with the bill as it sees fit. In other circumstances, the UK Government has not taken powers for Scottish ministers out of legislation. However, it is up to the UK Government to decide whether to take the same approach in this bill. I go back to my earlier point that I do not see any practical reasons why we should be concerned either way.

Michelle Ballantyne: If I am hearing you right, you are saying that if we do not lodge an LCM, the UK Government could choose to not embed powers for Scottish ministers in the bill, and that, if there were an LCM, those powers would be embedded in the bill.

Shirley-Anne Somerville: It makes no difference, because of the way that the Sewel convention is being interpreted. The UK Government can carry on with the bill as drafted whether we lodge an LCM or not.

Michelle Ballantyne: So you think that an LCM is just an irrelevant piece of paperwork.

Shirley-Anne Somerville: If these had been normal circumstances, I might have suggested that we lodge an LCM that the Scottish Government would support, but we are not in normal circumstances, which is why we are here today.

Michelle Ballantyne: Presumably, if we lodged an LCM, it would be unthinkable that the UK Government would ignore it.

Shirley-Anne Somerville: The entire reason for the action that the Scottish Government has taken is that the Scottish Parliament voted by 93 votes to 32 to refuse consent for the European Union (Withdrawal) Bill, yet the UK Government went ahead. It is because we had that LCM and the UK Government took the decision that it did that there has been a breakdown of trust in the Sewel convention.

Michelle Ballantyne: In effect, you think that LCMs are irrelevant now.

Shirley-Anne Somerville: That is not a position—

Michelle Ballantyne: If we thought that they were relevant, we would still do them. Are you saying that we are not going to do them any more, because you do not think that we will be listened to?

Shirley-Anne Somerville: Legislative consent motions have been a very important aspect of the Scottish Parliament, which is why it is deeply concerning that the UK Government has written roughshod over the Sewel convention, and why it is important that, as a Parliament, we come together to ensure that trust can be restored.

The Convener: I have a couple of questions, the first of which is an observation. By its very nature, a convention is not a constitutional right or guarantee that this Parliament has. I think that that is pretty important.

As Mr Griffin ascertained, you can see no unintended consequences of not lodging an LCM. Although there are some reasonable aspects to the bill, do you feel that if the Scottish Government did lodge an LCM, it would be complicit in the aspects that will restrict freedom of movement and rights of European citizens in some areas?

Shirley-Anne Somerville: To lodge an LCM on something that, in effect, takes away the rights of our valued EU citizens would put the Scottish Government in an exceptionally difficult position. That is hypothetical, however, because of the situation that we are in. Once again, we are also concerned about the link between social security

and immigration that has been made through this bill, which is highly unfortunate.

The Convener: That said, my understanding is that the bill guarantees certain rights in relation to social security. The powers that would, in theory, be conferred on the Scottish ministers if an LCM were agreed to might lead to a variation in some of the technical aspects of those rights if the bill is passed. Would that be a correct understanding of what we are discussing today? We have all spoken in very general terms, and no one is looking at the detail of what an LCM would or would not do. Is that a reasonable, although very simplistic, perspective on the underlying legislation?

10:45

Shirley-Anne Somerville: Basically, the statutory instruments that the committee looked at dealt with what would happen in a no-deal scenario. They allow the reciprocal arrangements to carry on. That is very important, which is why I and the Scottish Government were supportive of those instruments. This legislative consent memorandum details a power that could be used in the future, if we wanted to make changes to the reciprocal arrangements. As I said, the link to immigration means that we would use them in only a very small number of cases.

Stephen O'Neill (Scottish Government): It might be worth adding another point to that. The scope of the Scottish Government's ability to exercise a power of the nature that is in the bill is also restricted by the reciprocal nature of how the rules work, if that makes sense. The exportability of benefits, for example, relies on all the EU states agreeing on that. Although, as the Delegated Powers and Law Reform Committee has pointed out, the power looks very broad, it focuses on immigration provisions, and there are restrictions based on how the rules work administratively. For example, if the Scottish Government wanted to bolt a new provision on to the rules that was not reciprocated across the EU, that would be a very difficult thing to do indeed. The Scottish Government would have to have in place bilateral agreements with all 27 EU member states, along with the rest of the social security jurisdictions in the UK.

The power could be used in a circumstance whereby the UK Government had decided to withdraw or restrict how it planned to execute the rules. I will again use the exportability of benefits example. In a world where the UK Government decided—there is no suggestion at all that this has happened—that it was not going to export a benefit and the Scottish ministers still wanted to do that, the power would theoretically allow the Scottish ministers to continue to export that

benefit. However, as the cabinet secretary pointed out, the UK Government appears to know the value of co-ordination of social security, and I do not think that the Scottish ministers have any objection to how the UK Government is planning to approach that.

The Convener: I take on board what the cabinet secretary and Mr O'Neill have said, but given that the DPLR Committee has raised concerns about the wide scope of the power, if this Parliament—not the UK Parliament—was to consider returning to the legislation, would it be worthy of a bit more consideration than it has been given? The UK bill was introduced only in December last year. Does it perhaps all feel a little bit rushed?

Shirley-Anne Somerville: The timing is exceptionally unfortunate. As I have said, the usual time that we—and, indeed, the Parliament—would have had to examine the legislation in detail has been greatly curtailed.

We might come back to it, but it is important to stress that, on this issue, the UK Government's approach to reciprocal arrangements has, overall, been positive. That needs to be recognised, because that negates the fact that we would take a different approach from the UK Government on this.

Dr Allan: I understand the Scottish Government's reasons for not lodging the LCM, given the implications that you have described for constitutional questions and freedom of movement. Has the UK Government given any indication that it understands those concerns? Has it commented in detail on them? Other members have mentioned the importance of getting to the bottom of the problem and finding whether faith can be introduced back into the Sewel convention process. Has the UK Government offered any commentary on your concerns?

Shirley-Anne Somerville: Michael Russell wrote to the UK Government on 6 December 2018—he also wrote to it on 12 September—detailing suggestions and proposals on how trust could be brought back to the Sewel convention. The letter dealt with one of the aspects that the convener mentioned: that the Sewel convention is just a convention. Michael Russell suggested strengthening the statutory protection in the Scotland Act 2016, for example. Those suggestions have been made to the UK Government and my understanding is that, as yet, there has been no reply to Mr Russell's letter.

Keith Brown: As the convener said, it is always useful to look at the detail, and it is our obligation to do so. However, if we pan out for a second, we can see that two sad things are happening. One is the diminution of the rights of EU citizens, which

the bill directly impacts. That should not pass without comment. The other is about the LCM, and I am interested in the cabinet secretary's view on this.

In 2010, if members remember, we were told that there was a respect agenda. After the 2014 referendum, we were told that the Scottish Parliament would be very powerful and its rights would be enshrined in law. Shortly afterwards, Lord Keen said in the Supreme Court that the convention was merely a “self-denying ordinance” on the part of the UK Government. Given what you said about the way in which the LCM is now viewed by the two respective Governments, is it a dead letter or is it retrievable? Do you see any signs that the UK Government will change its attitude towards LCMs and the rights of this Parliament?

Shirley-Anne Somerville: It is absolutely possible for the Scottish and UK Governments to get to a position of trust on this again. It takes both parties to redefine that trust, and it will take movement from the UK Government, as Mr Russell said in his letter, to ensure that it is embedded in law and is much more than just a convention.

It is an area to which all our committees in the Parliament—and the wider setting—will undoubtedly return, because, up until the European Union (Withdrawal) Bill, it was a very important aspect of how relations worked between the Scottish and UK Governments. We need to get back to that. There is certainly a will to do so in the Scottish Government, as shown by the letters that Mr Russell has written and the concrete proposals that we have come up with for how that could happen. It will take the UK Government to respond for trust to be built up. It is obviously an aspect that involves both parties.

Alison Johnstone: I fully understand and endorse the Government's view that it cannot recommend that Parliament consents to the provisions of the bill. It is incredibly sad—I have great regrets about the removal of the freedom of movement and the potential damage that it could do to our communities and services.

It is a serious matter. It might be said that the Sewel convention is simply a convention, but it is sometimes the softer things that build relationships and trust. Something should not be discarded simply because it can be and because people think that there are no consequences. That is far from being the case—there are consequences to this.

There has been a wider discussion on the LCM protocol. Will the cabinet secretary correspond further with her counterparts in the UK Government on this particular issue?

Shirley-Anne Somerville: I had a conversation about the bill the day before it was introduced in Westminster, when I was informed through a phone call that there would be social security aspects to it. Officials had had contact about it previously, and since then they have been in contact with their counterparts a great deal to stress the Scottish Government's position, its approach to legislative consent motions in general and that it would be unlikely that the Scottish Government would consent, which was the point that I made on the phone call.

Once the process has gone through the committee, we will put that in writing and raise our concerns about why we have got to this point. I do not do this light-heartedly and I am not unaware of the consequences. There is a wider aspect of LCMs in general that we must look at before any cabinet secretary can take a different position.

Jeremy Balfour: I have two brief questions. In principle, forgetting all the stuff about consent, do you have no problem with and welcome the power that the bill could give to the Scottish Parliament?

Shirley-Anne Somerville: We are not here because I am not recommending, objecting to or refusing consent to the power. We are here because of the wider constitutional aspects.

Jeremy Balfour: If the bill is passed and the provisions on the regulations that we are discussing are unamended, which is a decision for the Westminster Parliament, that power will come to the Scottish Government. Is that correct?

Shirley-Anne Somerville: Yes. It is up to UK ministers to decide whether that power stays in the bill.

Jeremy Balfour: Presumably, it is up to the Westminster Parliament.

Shirley-Anne Somerville: Yes, indeed.

Jeremy Balfour: Whether the bill becomes an act would be a decision for the UK Parliament to make.

Shirley-Anne Somerville: You are quite right. It would be a decision for the UK Parliament. I am sure that the UK ministers will have a view, but it will be up to the UK Parliament.

Jeremy Balfour: It is up to the sovereignty of Parliament.

Shirley-Anne Somerville: Yes.

The Convener: We have had a good airing of the issues. As there are no further questions, that concludes our consideration of the matter. I thank the cabinet secretary and her officials for coming to the committee.

We move to agenda item 4, which we previously agreed to take in private.

10:55

Meeting continued in private until 11:35.

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