



The Scottish Parliament
Pàrlamaid na h-Alba

Official Report

INFRASTRUCTURE AND CAPITAL INVESTMENT COMMITTEE

Wednesday 20 June 2012

Session 4

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INFRASTRUCTURE AND CAPITAL INVESTMENT COMMITTEE

12th Meeting 2012, Session 4

CONVENER

*Maureen Watt (Aberdeen South and North Kincardine) (SNP)

DEPUTY CONVENER

*Adam Ingram (Carrick, Cumnock and Doon Valley) (SNP)

COMMITTEE MEMBERS

*Malcolm Chisholm (Edinburgh Northern and Leith) (Lab)

*Alex Johnstone (North East Scotland) (Con)

Gordon MacDonald (Edinburgh Pentlands) (SNP)

*Margaret McCulloch (Central Scotland) (Lab)

*Aileen McLeod (South Scotland) (SNP)

*attended

THE FOLLOWING ALSO PARTICIPATED:

Kay Blair (Scottish Housing Regulator)

Michael Cameron (Scottish Housing Regulator)

Sandra White (Glasgow Kelvin) (SNP) (Committee Substitute)

CLERK TO THE COMMITTEE

Steve Farrell

LOCATION

Committee Room 2

Scottish Parliament

Infrastructure and Capital Investment Committee

Wednesday 20 June 2012

[The Convener *opened the meeting at 10:00*]

Decision on Taking Business in Private

The Convener (Maureen Watt): I welcome everyone to the 12th meeting in 2012 of the Infrastructure and Capital Investment Committee. I remind everybody to turn off their mobile phones and BlackBerrys because they impact on the broadcasting system. We have received apologies from Gordon MacDonald; Sandra White is here as his substitute.

The first item on the agenda is a decision on taking business in private. I seek the agreement of the committee to take in private agenda items 7 and 8.

Members *indicated agreement.*

Scottish Housing Regulator

10:00

The Convener: The second item of business is the Scottish Housing Regulator. The committee will hear evidence from the regulator on its recent consultation on the regulation of social housing in Scotland, and on its proposals for engagement with tenants and landlords. I welcome the witnesses—Kay Blair is the chair of the Scottish Housing Regulator and Michael Cameron is its chief executive. I thank them for their written submission, which is paper 2 in our large pack of papers for this meeting.

Aileen McLeod (South Scotland) (SNP): Good morning. The Scottish Housing Regulator's regulatory framework, "How We Regulate", was published on 29 February 2012. Can you explain its key features and how it differs from the previous regulatory framework for social landlords?

Kay Blair (Scottish Housing Regulator): First, I thank you for inviting us. We were keen to have this opportunity to engage with committee members. Any opportunity to inform people better about what we, as a regulator, are doing is welcome.

The new regulator was set up as a result of the Housing (Scotland) Act 2010 with a single statutory objective—it is helpful for a regulator to have a sole objective—which is to protect, promote and safeguard the interests of tenants and others who benefit from and use the services of social housing in Scotland. That is a large group of people—about one in five households in Scotland uses the services of a social housing landlord, so it is an important sector. That the regulator has a sole statutory objective is a key difference, because it focuses us on putting tenants and other customers at the heart of our regulatory framework. Their interests—and safeguarding and protecting those interests—are key.

We spent a great deal of time in our transitional year engaging with all sorts of stakeholders throughout Scotland. We spoke to about 1,600 people in person and we engaged with others to help to develop our risk-based and proportionate regulatory framework; we identified the key risks that the sector faces and will ensure that our response is proportionate.

Three key priorities underpin the framework. One is good governance; effective governance is absolutely key in terms of good management, so we are very focused on governance.

We are also very focused on the financial health of the sector. Although there are individual cases in which there have been financial challenges, on the whole it has been a financially stable sector to date. However, we are all aware of the economic circumstances in which we now operate and the huge financial challenges that we all face—including in this sector—so financial health is absolutely critical in delivering good outcomes for tenants.

With the new Scottish social housing charter we are keen to make sure that the performance of the sector and the outcomes for tenants are clearly monitored and measured to ensure that tenants and others are getting a good service from their landlords. At the moment we are consulting on the indicators that we will use for measurement.

Michael Cameron (Scottish Housing Regulator): I emphasise the point that Kay Blair has made on the importance of the statutory objective that has been set for the regulator. That gives us absolute clarity of purpose. Our independent status also ensures that we are able to focus completely on that statutory objective. For me, that is probably the principal and most important difference from the previous frameworks.

Aileen McLeod: I am conscious that the regulation plans are based on the Scottish Housing Regulator's assessments of registered social landlords and that each RSL falls into one of three broad categories of engagement: low, medium or high. A regulation plan is published for each RSL with which the housing regulator needs to have a high or medium engagement. How do you decide the level of engagement with social landlords? In particular, how do you identify levels of risk?

Kay Blair: We undertake a very thorough assessment of each and every RSL, and we look primarily at the risks to good outcomes for tenants and others. For instance, we look at the landlord's size, turnover and exposure in respect of both public and private funding, and we look at the landlord's situation within the community and at community dependence. A risk-based and proportionate approach is taken that puts the tenant and other customers at the heart of our assessment.

Currently, one RSL falls into the high-engagement category and about 50 are in the medium-engagement category. There are a number of reasons for that; for example, the RSL's size and complexity are considered. The others fall into the low-engagement category.

Sandra White (Glasgow Kelvin) (SNP): Good morning. I thank the panel for coming to the meeting and for answering earlier questions.

I think you mentioned that financial health is number 2 or number 3 in your key priorities. How will you ensure that a proportionate approach that is not too bureaucratic for social landlords is taken? Will the approach impinge on their financial health through their having to report back and so on? As a small addendum to that, a number of RSLs have boards that are made up of tenants. How will those boards be affected? Will there be year-long or longer appointments?

Kay Blair: I can answer the second part of your question; perhaps Michael Cameron can answer the first part of it.

We are very aware of and welcome the fact that boards are diverse in their make-up: tenant input is critical at board level. We also have tenant input on our board, which is fantastic, as it gives us a key insight into what matters to tenants.

Every board has a responsibility to deliver good service and outcomes, and to manage prudently and responsibly. Therefore, we have put good governance at the heart of our regulatory framework. That means having the necessary skills, experience and knowledge around the table, and providing proper training and induction for every board member to ensure that they feel well equipped and well supported to deliver what they must deliver as board members.

We are also keen that there should be performance appraisals of board members, which is good practice, and that there is effective succession planning, because we are aware that tenants who serve on boards for many years may want to step down, as all board members do. Again, such planning is good practice. It is a matter of having around the board table the necessary skills and expertise, from wherever they may come, and ensuring that there is good governance. Given issues in the financial sector—and even in the sport sector—in Scotland, I am sure that we are all aware that good and effective governance is critical.

Sandra White: I am sorry, Mr Cameron, but I would like to follow up on that point. Ms Blair mentioned good governance and that tenant representatives may want to stand down. I would like to clarify that point. Is there anything in the paper that states a timescale for which tenants would be able to serve?

Kay Blair: No—there is nothing at all on that. We are keen to have effective succession planning. You may be aware that, in our consultation, we proposed limited tenure on the boards, as is accepted practice in most other sectors. There is a well-established view that board members tend after a time to lose their ability to challenge, and good governance is about effective challenge around the board table. We

were keen that our consultation should be a true consultation in which we listened to all the views that came back to us, and a number of people said that that proposal would not be appropriate at this point, but that there are other ways of refreshing boards and ensuring that the challenge is effective: there are other ways of succession planning and of providing more effective induction and training. Therefore, we have concentrated on those areas and have not introduced timescales. It was a true consultation and we acknowledged what people said to us and some of the challenges that might present themselves.

All board members—tenants and others, irrespective of their backgrounds—may at some point decide that they have been on the board long enough and so will step down. We are keen to have effective succession planning so that gaps around the board table, whether from the tenant perspective or from another perspective—financial, legal or whatever—are addressed. I hope that that answers your question.

Michael Cameron: I will go back to our approach to assessing financial health. We take a proportionate approach to that in that we look for each RSL to provide us annually with a basic level of financial information. We subject that to a risk assessment that covers eight key risk areas, which are not necessarily fixed but reflect what we are seeing in the broader environment and the stresses that may exist.

If we feel, when we have subjected that information to those tests, that we require further assurance, we will follow the matter up with the RSL and perhaps require it to provide us with additional financial information, which could involve its giving us its 30-year cash flows and its business plans. That will happen only if we have identified a need for that additional assurance. That is how we build proportionality into our approach.

Sandra White: You mention eight key risk areas. Forgive me if you have told the committee before—I am here as a substitute—but can you give us those eight key risk areas?

Michael Cameron: I will try to remember them off the top of my head, but I may not get all eight. When we analyse the financial information, we consider the information that is provided by the landlord and the broader context. We look at things such as whether the RSL is under any financial stress at that point. For example, we might feel that it is operating in deficit or that, over the longer term, its cash flow suggests that there may be challenges to its on-going viability.

Pensions are a big issue at the moment, so we would consider the RSL's exposure to pensions liabilities and how it would handle that over the

longer term as an emerging issue. The level of public funding and private lending of which the RSL is in receipt is also an important factor that we take into account.

There are a number of other issues about the amount of development and new-build activity that the RSL is engaged in, and we look at whether it is a significant operator in the care sector, which can bring additional financial challenges. Those are some of the critical areas and risks that we will look at. We will test RSLs' exposure and their financial capacity to handle the risks.

10:15

Sandra White: We are debating whether measures are too bureaucratic for social landlords because to produce that amount of paperwork would impinge on their financial health. That is certainly what many RSLs come to me and other members about. If you are asking them to produce the papers, do you expect them to do so timeously? Does that apply to every social landlord? Have you asked in the consultation whether there is a knock-on financial effect of producing documents?

Michael Cameron: I first stress that the information that we require all landlords to submit to us is information that their own governing bodies should be receiving; nothing we ask for is additional to the financial information returns that an organisation should already be receiving, considering and using to manage its business. We get the annual accounts, which every RSL is obliged to produce; its financial projections—which, again, every RSL should have and should consider as part of its management information; and information relating to loans and lending arrangements, which is also information that is in existence. None of the financial information that comes to us has to be produced specifically for the regulator.

Kay Blair: The new regulator was keen to reassess the information that it requires because we want to ensure that our regulatory approach adds value, and that we are not asking for lots of information that is not relevant to our purpose. I hope that most of the information that we are asking for is, as Michael Cameron has said, information that each RSL has anyway, for effective financial management and governance. We have said that, wherever possible, we will streamline our approach because we do not want to increase the regulatory burden and cost for the sector, so we are mindful that we take that approach where we can. The charter indicators are one area that we looked at and in which we asked what information we really need and how to streamline it to make it much more practical for the sector.

The Convener: As a result of the process, are we seeing social landlords coming together more and forming bigger organisations than they might have done before because they are perhaps under more financial stress?

Kay Blair: There are undoubted challenges in the sector—we recognise that. At the same time it is not, as a regulator, our role to get involved in each RSL's specific model. In terms of good practice, housing associations are perhaps seeking opportunities for sharing or developing services. To be honest, however, that is not our regulatory role. We are not getting involved in that; it is perhaps more for our public policy to encourage such participation.

Michael Cameron: The sector has undoubtedly of late been looking at opportunities for sharing services and for constitutional partnerships between different bodies. That is as a consequence of broader changes in the economic and policy environment, rather than of our regulatory framework.

The Convener: We want board members to upskill and be financially competent. As a result, are fewer people coming forward to take on the role, or has that not had an effect?

Kay Blair: To be honest, I do not have the figures. Encouraging people to participate on boards will always be a challenge, regardless of the sector. As far as I am aware, there are still lots of opportunities and people are still applying. At this stage, I do not know whether the economic, financial and business challenges for board members will mean that it becomes even more difficult to attract people to the role. We are encouraging the sector to ensure that it is engaging and that it is offering more opportunities for people to get involved through training and induction. However, getting people on boards is always a challenge.

The Convener: Will you explain the process and timescales for social landlords to report on progress, if you find that things are not up to scratch?

Michael Cameron: That will very much depend on the issue that is identified. Our regulation plans will set out the type of engagement that we have with a landlord when we have identified that improvements are required. As part of that, specific timescales would be set out for the landlord. Unless there was an overwhelming requirement for us to intervene immediately to protect tenants' interests, we would always give the landlord the opportunity for self-improvement. The sequence tends to be that we identify the need for improvement, we work with the landlord to develop an improvement plan and then we monitor progress against that improvement plan.

We would start to consider the use of our statutory powers only if we felt that the improvement plan was not delivering the necessary change.

The Convener: Does Sandra White want to follow up on that?

Sandra White: Yes, thank you. I want to ask about the Scottish social housing charter. How will the information that social landlords provide on how they are achieving the charter's outcomes and standards fit in with other aspects of the regulatory framework?

Kay Blair: The charter is critical not just for looking at the performance of individual landlords, but for enabling tenants and other users to compare landlords' performance across the sector, so it gives a good baseline for benchmarking. Now that the Parliament has agreed the charter and its outcomes, we are consulting on it.

Prior to publishing our consultation, we engaged with various stakeholders to bounce ideas off them on what would be meaningful indicators. We have talked with the associations, local authorities and RSLs to get their feedback on our initial proposals. We have honed and refined those, and we are now in the middle of a three-month consultation. As it is a consultation, we are keen to engage, to get feedback and to listen to that feedback, so that we will have meaningful indicators that we can use to measure each landlord's performance.

In October, we will indicate to the sector what the measures will be. We will give landlords six months to get their processes up to speed, and they will start to measure their performance from 2013. Our first assessment against the charter indicators will be in 2014, once landlords have had a year to put together the information and to prepare it in the format that we require.

The charter information—some of which will stand alone—will be a key component that we will feed into the other regulatory strands of our work to ensure that we have a holistic impression of each RSL and what they are delivering. The charter will be one of the three strands that I mentioned earlier; the other two are governance and financial health. Those three strands will be critical to our regulatory assessment of each landlord and will form part of next year's regulation plan.

Margaret McCulloch (Central Scotland) (Lab): I have a short question. If social landlords do not adhere to the criteria and do not make the improvements that you suggest, what authority or power do you have to implement the changes?

Michael Cameron: We have a range of statutory powers that enable us to effect change by a particular landlord. One of the consequences

of the 2010 act was that it gave us a wider and more graduated range of intervention powers. For example, we can now serve an enforcement notice on a landlord and can set statutory improvement targets for landlords. Our powers go from being able to put special managers in and put appointees on boards of housing associations and co-operatives all the way up to effecting a transfer of engagements, which effectively means removing housing stock from a landlord and giving it to another. That is the ultimate sanction available to us, but we now have a broad sweep of powers.

Sandra White: That was an interesting answer; I am glad that Margaret McCulloch asked that question.

Kay Blair said that the charter is critical, and that landlords' performance can be compared. Does that involve a checklist that includes, for example, fair rents, fair service charges, easy-to-understand and transparent billing systems and easy access to the landlord? Are those all considered for each landlord?

Kay Blair: We are consulting on a value-for-money indicator. It is always challenging to identify and define value for money. This is work in progress for us, but we are keen to be able to divide up each pound that is spent and see how much is spent in each area. In the consultation, we are also testing the kind of report that we will give to tenants to show them how their landlord is performing in key areas and how each landlord is performing in context, so that the tenant can assess their landlord's performance. We are keen to give tenants meaningful, clear information about issues such as value for money and the landlord's response to antisocial behaviour.

Michael Cameron: We will expect landlords to take account of issues such as those that Sandra White raised when they consider their own performance. I am thinking in particular about how they involve tenants and other service users in assessing their performance. We will complement landlords' work in that area with the activity that Kay Blair has just outlined, so we will provide tenants with good information that enables them to come to a view on whether the landlord is performing in the way that the tenant expects them to.

Sandra White: In reply to Margaret McCulloch's question, you said that you have strong powers, but I was trying to get at something else. A fair rent system is covered by legislation, and tenants can see whether rent is fair. However, social landlords might not put up rent but will put up service charges, which means that tenants pay more money without having a rent increase. Are service charges or depreciation charges covered by legislation, or are tenants just given information

about what their landlord charges? Is there any legislation that you could use to ensure that there is not such a wide range of those charges by social landlords? Is there anything that you can do to bring fairness into such charges?

Michael Cameron: There is no specific piece of legislation that empowers us to control rent and service charges. That is not within the suite of powers in the 2010 act. That said, if it was our view that a landlord was charging excessive rent or imposing excessive service charges, we would take that into account in our regulatory risk assessment.

One of the most powerful ways to address such issues is to provide tenants and other service users with clear and comparable information so that they are empowered to hold their landlord to account in those very areas.

10:30

Kay Blair: We have not been given the powers of an economic regulator, so it is beyond our remit to intervene on price. However, as Michael Cameron said, we hope that tenants and others will get much more valuable, meaningful and comparative information so that they will be able much more effectively to hold their landlords to account. I am sure that that is what you hope to achieve through the social housing charter as well.

Alex Johnstone (North East Scotland) (Con): Earlier in the year, when we took evidence on the draft charter, one of the issues that jumped out was that of tenant and service user involvement. I have two or three questions on that issue.

What role do you expect tenants to play in the self-assessment process for social landlords?

Michael Cameron: We have made clear our expectation that each landlord needs to set out clearly and agree with tenants the approach that it will have for involving tenants in the assessment of its performance. We have not been overly prescriptive in that regard, because we have to recognise the diversity of the landlords that we regulate and the fact that a one-size-fits-all approach to self-assessment would not be effective. However, we have a clear expectation that landlords should agree with their tenants how they are going to involve them, and we will look for the evidence that that is happening.

Alex Johnstone: I understand that you are developing a strategy on consultation involvement. Can you update us on what is going on in that regard?

Kay Blair: That is our own strategy. We are keen that we involve tenants in the way that we regulate. It is really important that we get that perspective. In asking us to develop a strategy,

the board also asked us to consider all the options. Yesterday, the board agreed our plans for involving tenants at every stage of our regulatory assessment, from the way in which we develop our plans to the way in which we assess a landlord.

We are aware that we live in a new age in terms of communication and we want to reach out to a wide and diverse community of tenants, including reaching the hard-to-reach groups. The board was adamant that we give effective resource to that area and we have agreed to develop a panel of tenants, using a lot of new media, while bearing in mind that some people are not au fait with new communication methods. The panel, which will be quite large, will give us constant access to tenants, which will enable us to carry out ad hoc studies and ask specific questions.

As you may be aware, we have tenant assessors who help us, and we are keen to build on that approach. We are also keen to develop joint ventures with organisations that deal with homeless people, for example, and have more access to some of the harder-to-reach vulnerable groups. That will ensure that we have as wide a constituency as possible in our engagement with our users. As I said, the board considered all the options yesterday and agreed what we were going to do. We have asked the executive team to put the strategy into action.

Alex Johnstone: It sounds as if you have recognised many of the difficulties with consultation. The Parliament and its committees have been involved in consultation for a significant number of years, but we always find ourselves consulting the usual suspects. Our challenge is to find a way to get to the people who do not want to be consulted. I cannot ask you whether your system will be fool proof, because every system has difficulties, but are you at a stage where you believe that your system will allow you to consult people who do not necessarily want to be consulted?

Kay Blair: Yes, I sincerely hope so. I absolutely recognise what you are saying. Throughout the consultation, it struck us that we tended to meet the same people in different groups, so we were very keen to go outside that normal community. Will it work? I sincerely hope that it will, but we will ask for continual updates, to make sure that if we have to tweak or refine our policy to get to harder-to-reach groups, we will do that. The board's intention in that regard is certainly very strong.

Alex Johnstone: My final question goes back to the relationship between landlords and their tenants. In these difficult times, when landlords are under financial pressures, there is a danger that they may let that relationship slip. What powers do you have to ensure that landlords continue to

explore and develop their relationship with tenants?

Kay Blair: Fortunately, adherence to the charter and the good outcomes in it is mandatory. Landlords do not have an option; they have to deliver. We will make sure, through our engagement with them, that effective attention is given to each area. The tendency may be to concentrate on some of the harder financial aspects, but we will impress on landlords our statutory objective to deliver good outcomes.

Alex Johnstone: Do you think that it is an area for the big stick approach?

Kay Blair: Well, sometimes you need a stick and a carrot. You have to know when to use each appropriately, to get the best outcome.

Alex Johnstone: Thank you.

Margaret McCulloch: What information will you publish for tenants and service users?

Michael Cameron: On 1 June, we published a consultation document that set out the range of indicators that we want to collect from social landlords to help us report on progress towards achieving the charter. In that document we set out a prototype tenant report, in which issues of key interest to tenants will be identified, and which will try to present information in a way that is accessible, helps tenants to compare their landlord with others, and gives a sense of the landlord's direction of travel over time. We have tried to keep the prototype in a format that is accessible to tenants online but which is also available in other ways, as we recognise that not every tenant will have the capacity or understanding to engage in the digital arena. We are keen to get meaningful information to tenants in a way that they can use to hold their landlord to account.

Margaret McCulloch: You may have already answered this question, but perhaps you could expand on what you have already said. Can you explain the circumstances in which tenants can report concerns about a landlord's significant performance failures direct to you, and what action you will take as the regulator?

Michael Cameron: That is a significant new part of our framework. The 2010 act required that tenants should be able to report issues of significant performance failure directly to us. There is quite a challenge in that for us, as a regulator, because we are not empowered to deal with individual tenant complaints. That power rests with the Scottish Public Services Ombudsman. We will enable tenants to report to us directly when they identify a systemic failure on the part of their landlord, when the landlord is consistently failing to deliver an important service or to involve

tenants appropriately in decision making, for example—when something fundamental goes wrong with the landlord. We have set out the route for tenants to follow, which we have published. We have given examples of circumstances that might constitute significant performance failure, but, again, we have not been prescriptive. We do not want to set out an exhaustive list because I suspect that that would be too restrictive in many respects. When there is systemic failure on the part of a landlord, we want tenants to have a route to report it directly to us.

Margaret McCulloch: Thank you.

The Convener: Malcolm Chisholm has some questions on interaction with other regulators.

Malcolm Chisholm (Edinburgh Northern and Leith) (Lab): Section 18 of the 2010 act requires the Scottish Housing Regulator to seek co-operation between it and other relevant regulators, such as the Accounts Commission and the Office of the Scottish Charity Regulator. Will you explain to the committee how you are doing that?

Kay Blair: Yes, indeed. We have regular meetings with other regulators such as OSCR and we agree the roles and responsibilities of each regulator. In the case of local authorities, you will be aware that there is a shared risk assessment and shared scrutiny with Audit Scotland. When we engage with a local authority, we do so in co-operation with the other regulators. It is important that each of us understands who is doing what and what the respective roles and responsibilities are.

Malcolm Chisholm: Is there something called a joint scrutiny framework for the councils?

Kay Blair: Yes. Michael Cameron might want to comment on that.

Michael Cameron: We direct the entirety of our regulation approach to local authorities through the joint scrutiny framework, which means that all our activity in relation to them is managed through the shared risk assessment with Audit Scotland, Education Scotland and Social Care and Social Work Improvement Scotland—with all the scrutiny bodies that have a role. We take a single approach with those organisations to the identification of scrutiny activity and the co-ordination of that activity.

We are the lead regulator for housing associations and co-operatives, and that is recognised in our memorandum of understanding with the other scrutiny bodies that have an interest in those organisations, principally OSCR and the care inspectorate. As Kay Blair said, we have regular liaison to ensure that we avoid overlap but also that there are no gaps in the regulation of those bodies.

Malcolm Chisholm: Does that mean that, in practice, your relationship with local authority housing services is different in significant ways from your relationship with housing associations?

Kay Blair: Yes. In the case of RSLs, we have an annual regulatory assessment that determines whether they fall into the low, medium or high category, and then we have regulation plans for them. We have a different approach to councils, where, as Michael Cameron said, our work is done very much through the shared risk assessment.

Michael Cameron: It is also worth pointing out that we have a broader statutory remit in the case of registered social landlords than in the case of local authorities. We have a regulatory locus around the governance and financial health of registered social landlords, whereas we do not have that for local authorities.

Malcolm Chisholm: My next question focuses on an aspect of local authorities' work. The committee's inquiry into progress towards the 2012 homelessness commitment recommended that the new regulator should report on how it will ensure that temporary accommodation meets acceptable standards. The more general question is how you will scrutinise local authorities' homelessness services, and the specific question is how you will scrutinise the quality of temporary accommodation.

Kay Blair: That will be done very much through the Scottish housing charter and the indicators that we get through it. As the regulator, we can also conduct thematic studies: we can look at a particular issue and conduct a specific and focused piece of work on it. Given the importance of the issue, it might be one of the services that we pick up in the thematic reviews. However, scrutiny will primarily be done through the Scottish housing charter.

Malcolm Chisholm: I remember that, when we dealt with the charter, there were issues about what it said about homelessness. I think that the wording was changed in the final version. I wonder how carefully you will scrutinise the way in which the 2012 commitment is being implemented. Perhaps you can remind me what the charter says about that, as I cannot remember exactly.

10:45

Michael Cameron: You are right that the statement of the outcome in the charter is relatively broad. I think that the specific wording of the outcome does not mention temporary accommodation in detail. As Kay Blair said, we will gather a range of information to use in our assessment of risk. On homelessness, we will use not only the information that we collect directly from councils, but the wide range of information

that the Scottish Government collects. That will give us a clear sense of whether there are risks that temporary accommodation is not of satisfactory quality. Where we identify such a risk, we will engage in further scrutiny. That might be with a specific local authority or through a broader review of the sector's approach to temporary accommodation through thematic studies.

We anticipate having, as one of the charter indicators, a satisfaction measure for people who have been in temporary accommodation. It will be important for us to focus on that to identify whether there is a likelihood of the quality not being what it should be. I stress that that is just a way for us to get into the issue; it is not the end of our scrutiny of that activity.

Sandra White: In Glasgow, we do not have any local authority housing. I am interested in your point that RSLs and local authorities are treated differently. How does that impact on the work on homelessness? How does your engagement with RSLs compare to that with local authorities? If the answer would be too long, you could send the committee a written reply.

Michael Cameron: I will attempt to give an answer. You are right that, where there have been stock transfers from local authorities to registered social landlords, the local authority retains the statutory duties on homelessness but no longer has its own stock with which to discharge those duties and so has to put in place arrangements with other providers to enable it do so. The member might be aware that Glasgow City Council has a number of protocols and agreements with RSLs to provide accommodation so that the council can discharge its duties on temporary accommodation. In the first instance, our scrutiny would be directed at the local authority, as it is the body with the statutory duties. However, we will look to ensure that registered social landlords co-operate appropriately with councils to ensure that they can discharge those duties.

Adam Ingram (Carrick, Cumnock and Doon Valley) (SNP): I want to return to the notion of holding landlords to account. Obviously, the provision of information to tenants is the main string to your bow in that respect, but you also have inquiry powers. Can you give us a little more information on the nature of those powers and how you intend to exercise them?

Michael Cameron: The inquiry powers are relatively broad ranging. They enable us to require the provision of information, and extend all the way to the power to do what might traditionally be categorised as an inspection. The powers enable us to do that full range of engagements with landlords. We can use that suite of powers, following our risk assessment, to get further

information from landlords so that we are properly assured of their performance or to hold them to account publicly should we feel that the performance is not as it should be. The powers are broad. We have set out in our framework the way in which we will deploy them.

Adam Ingram: We started by discussing the engagement between the regulator and various social housing providers. Do you have a traffic-light system that would trigger an inspection of the type that you talk about?

Michael Cameron: We do not have a traffic-light system but, through our annual risk assessment process, we determine a landlord's exposure to the risks that we look at, which covers their performance against the charter. If we feel as a consequence of an assessment that we need to engage with a landlord, we will determine through that process whether an inspection or another form of inquiry is the right tool to use to follow through. That will be set out in our regulation plans for RSLs, or in the assurance and improvement plans for local authorities that are put in place jointly with the other scrutiny partners.

Adam Ingram: Is the use of such powers routine or a more extraordinary intervention?

Kay Blair: I would hesitate to say that the use of such powers was routine. If we identify issues, I hope that we have the landlord's co-operation to address and improve the situation, because of our engagement. We always give landlords time to undertake self-improvement. However, if we see that issues are not being addressed, we have different levels of powers to use, which can in the end involve putting in interim managers or taking a much more drastic approach, to ensure that the outcomes that we want are delivered.

We hope that our engagement is sufficient at the initial stages to encourage an RSL to co-operate and to address the issues that we have identified. However, if it does not do that, we have no hesitation about using our powers boldly to ensure that outcomes are delivered.

We are aware that the economic challenges will grow. We are all aware of welfare "reform" and of huge issues in relation to accessing private finance and lending, different demographics and population diversity. The challenges for RSLs will increase.

Regulators are often seen as quite draconian. We are keen that our stance as a regulator should be to share good practice and to use case studies so that we can communicate effectively with the sector and say, "These are some of the issues that are arising, and this is how some people have tackled them." We try to provide encouragement and support, too.

Adam Ingram: In that vein, we are familiar with other inspectorates undertaking themed investigations. You mentioned that homelessness and the quality of temporary accommodation will be the subject of a themed inspection that you will undertake.

Kay Blair: That may be the case.

Adam Ingram: Will you give more thoughts on your use of the themed approach?

Kay Blair: I mentioned welfare reform. We have discussed its impact on sustained revenue streams for social landlords. We might want to investigate that a bit more, to ensure that landlords are profiling accurately all their tenants and other users so that they are sufficiently in tune with the individual challenges that such people will face, which relates to maintaining revenue streams. I am sure that members are all aware of the huge issues and challenges in relation to financial capability, access to basic bank accounts and so on. As a board and as a regulator, we will want to take more interest in that.

I ask Michael Cameron to speak about other areas for consideration.

Michael Cameron: We will look to the use of thematic inspections or studies as a way to focus on particular issues, such as welfare reform, as they emerge and to explore those areas of performance that lend themselves a little less to performance indicator-type review. I am thinking of tenant participation, equalities and diversity—issues that require a more qualitative assessment. They will probably also feature in our programme of thematic work.

Adam Ingram: I take it that you will not overload your people with too many of those things early on. Are you planning the process carefully?

Kay Blair: Absolutely. Effective planning is critical. We are conscious of the fact that we have fewer than 60 people to regulate the whole sector. Like other public sector organisations we also face significant reductions in our budget, so we must ensure that we use our resources in the most cost-effective way, and most of our resource will go towards addressing our three key priorities, which we have mentioned. There are all sorts of things that we would like to do in addition, but we must be pragmatic and sensible about concentrating our resources on those key areas to deliver the outcomes that we want.

Sandra White: Can we go back a bit, to an answer to a question that Alex Johnstone asked about tenant participation? You said that you will establish a tenants panel. I would like some more information on that. Will that be a panel for tenants' representatives from throughout Scotland,

taken from each RSL, and will there be any money involved? Will RSLs have to contribute to it?

Kay Blair: We gave the go-ahead to establish the panel yesterday and we will develop it because it is really for us, the regulator, not for RSLs. Its aim is to ensure that we get to more remote people, younger people and more diverse groups. It will mainly use new technology, but with the caveat that not everybody whom we want to reach uses new technology. It will be a sounding board for us, through which we will reach people more easily using a method and location that they are more comfortable with. Expecting people to come to us or the venues that we recommend is sometimes challenging. We are keen to get to people where it suits them best and we do not want to overload them with requests for information. That will be a challenge because, as has been said, not everybody is lining up to speak to the regulator—that is not always the first priority on people's list of things to do. We know that it will be a challenge, which is why we are keen to engage.

Lots of people are of the generation—although I am not—for whom mobile phones and apps are easy to use, and we are keen to make use of new technology wherever we can. We have revamped our website and are keen to make it much more interactive. We are also keen to use Twitter—I have never used it myself—and such things to reach different types of people. As has been said, we tend to talk to the same people and we are keen to get beyond them, while recognising the value that is brought by the people who are more experienced at dealing with us.

The Convener: Thank you for coming to speak to us. We will all be interested to see, further down the line, how the regulator has improved the lives of tenants in social rented housing.

Kay Blair: Thank you very much.

The Convener: I suspend the meeting briefly to allow the witnesses to leave the room.

10:59

Meeting suspended.

11:03

On resuming—

Subordinate Legislation

Road Traffic (Permitted Parking Area and Special Parking Area) (East Ayrshire Council) Designation Order 2012 (SSI 2012/137)

Parking Attendants (Wearing of Uniforms) (East Ayrshire Council Parking Area) Regulations 2012 (SSI 2012/138)

Road Traffic (Parking Adjudicators) (East Ayrshire Council) Regulations 2012 (SSI 2012/139)

Road Traffic (Permitted Parking Area and Special Parking Area) (South Ayrshire Council) Designation Order 2012 (SSI 2012/140)

Parking Attendants (Wearing of Uniforms) (South Ayrshire Council Parking Area) Regulations 2012 (SSI 2012/141)

Road Traffic (Parking Adjudicators) (South Ayrshire Council) Regulations 2012 (SSI 2012/142)

The Convener: Agenda item 3 is subordinate legislation. The committee is invited to consider a number of negative instruments. Although they appear as one agenda item in our papers, they have been broken down into the relevant topic areas to assist our consideration. The first six instruments relate to the introduction of a decriminalised parking regime in the East Ayrshire Council and South Ayrshire Council areas; they are set out in full on the agenda. I refer members to the cover note, which is paper 3. No motions to annul have been lodged in relation to the instruments. Does any member have any comment on the instruments?

Alex Johnstone: Do the instruments indicate that there is some problem with parking in Ayrshire that we have previously been unaware of?

Malcolm Chisholm: No, it happens in Edinburgh already.

The Convener: The responsibility has been transferred in Aberdeen, too.

Adam Ingram: One of the attractions of the exercise is that the local authority can gather a profit from it. Is that not the key aspect?

The Convener: I could not possibly comment. [*Laughter.*]

The system already exists in Aberdeen, Dundee, Edinburgh, Glasgow, Perth and Kinross, Renfrewshire and South Lanarkshire. The councils in those areas have decriminalised parking enforcement powers.

Alex Johnstone: There is no danger that it might spread to Aberdeenshire, is there?

The Convener: You never know.

Adam Ingram: I am pretty sure that the fines come to the local authority rather than being passed on, and that the local authority can establish its own parking scheme and charges—that is what it is all about.

The Convener: Is the committee agreed that it does not wish to make any recommendations in relation to the instruments?

Members *indicated agreement.*

A823(M) Pitreavie Spur Trunk Road (Variable Speed Limits) Regulations 2012 (SSI 2012/145)

M9/A90/M90 Trunk Road (Kirkliston to Halbeath) (Variable Speed Limits and Actively Managed Hard Shoulder) Regulations 2012 (SSI 2012/147)

The Convener: The next two instruments are regulations regarding variable speed limits on sections of the A823(M) Pitreavie spur and M9, A90, M90 Kirkliston to Halbeath trunk roads. The cover note for the regulations is paper 4. Again, members should note that no motions to annul have been lodged in relation to the instruments.

Is the committee agreed that it does not wish to make any recommendations in relation to the instruments?

Members *indicated agreement.*

Private Landlord Registration (Information and Fees) (Scotland) Amendment Regulations 2012 (SSI 2012/151)

Homeowner Housing Panel (Applications and Decisions) (Scotland) Regulations 2012 (SSI 2012/180)

Property Factors (Registration) (Scotland) Regulations 2012 (SSI 2012/181)

The Convener: The final three negative instruments are on the information to be provided and fees to be paid in relation to the registration of both private landlords and property factors; and to

the functions of the home owner housing panel. Members will note from the cover note, which is paper 5, that Scottish statutory instrument 2012/180, on the home owner housing panel, had yet to be considered by the Subordinate Legislation Committee when we got our papers. However, that committee has now considered the instrument and agreed that it does not need to draw it to the attention of Parliament.

No motions to annul have been lodged in relation to the instruments. Is the committee agreed that it does not wish to make any recommendations in relation to the instruments?

Members *indicated agreement.*

**Property Factors (Scotland) Act 2011
(Commencement No 2 and Transitional)
Order 2012 (SSI 2012/149)**

**Private Rented Housing (Scotland) Act
2011 (Commencement No 3) Order 2012
(SSI 2012/150)**

The Convener: Agenda item 4 is consideration of two commencement orders, on property factors and private rented housing, that are not subject to parliamentary procedure. The orders bring into force provisions relating to certain of the negative instruments that we considered under item 3. The cover note on the orders is paper 6.

Is the committee agreed that it takes note of the orders?

Members *indicated agreement.*

Petition

Transport Strategies (PE1115)

11:08

The Convener: Agenda item 5 is consideration of PE1115. The committee has previously considered the petition, which calls on the Scottish Government to look at the reopening of Scottish railway stations. Since our last consideration of the petition, the committee has published its report on the renewal of the passenger rail franchise in 2014. We referred in the report to the petition and to the Scottish Government's new station investment fund, which the petitioners may find of use in pursuing their objective. In view of the action taken, members may wish to consider whether they want to close the petition. I refer members to paper 7.

Does anyone have any comments?

Alex Johnstone: Having read the paper and considered the petition previously, I feel that it is appropriate that we now close the petition, with the proviso that the petitioners in this case, and any other petitioners with a similar case, should pay attention to what we said in the report on rail services for 2014 and that anyone who can build a business case should be confident about submitting such petitions in future.

The Convener: Yes. The new station investment fund should make a difference as well. Do members agree to close the petition?

Members *indicated agreement.*

Work Programme (European Union Priorities)

11:10

The Convener: Under agenda item 6, the committee will consider its approach to future European Union priorities. Paper 8 is by our EU reporter, Aileen McLeod. I invite her to speak to the paper.

Aileen McLeod: The EU priorities that are outlined in the paper were identified by the committee's previous EU reporter, Jamie Hepburn. Again, I put on the record my thanks to him.

The priorities were informed by the European Commission's work programme for 2012 and EU legislative and policy proposals that are under active consideration. I remind members that the specific EU legislative and policy issues that the committee is prioritising are: the review of state aid guidelines for broadband networks; Europe's digital agenda; the review of European public procurement rules; the trans-European transport—or TEN-T—networks; improving passenger rights in all transport modes; a new legislative framework for electronic identification, authentication and signature; smart ticketing, multimodal scheduling, information and online reservation services; a framework for future EU ports policy; and revising passenger ship safety.

Following the informal briefing last week on the Scottish Government's hydro nation agenda, I thought that an additional area was relevant. Page 4 of paper 8 mentions the European Commission's forthcoming proposals for a blueprint to safeguard Europe's water resources and its current proposal to create a European innovation partnership on water. We may want to consider such aspects when we scrutinise the sustainable procurement and water resources bills. As the Commission's water blueprint has been identified as one of the Rural Affairs, Climate Change and Environment Committee's EU priorities, I have suggested that we might wish to report back our findings to that committee. I was that committee's EU reporter when we identified the Commission's blueprint as one of its EU priorities.

The action that I have proposed that the committee may wish to take on the scrutiny of the identified EU priority areas is also based on the letter dated 17 May that we received from the cabinet secretary on how the Scottish Government plans to engage on each of the EU priorities and what it considers to be the particular implications for Scotland, as well as whether the priorities raise any potential subsidiarity concerns. I have tried to say where any of the EU priorities can be incorporated into any follow-up work that the

committee may take on previous inquiries, such as the review of state aid guidelines for broadband networks and further progress on the EU's digital agenda. We could look at those aspects in any follow-up work that we do on the committee's broadband infrastructure inquiry.

On the Commission's review of the European public procurement rules, I know that the committee briefly considered those rules before I was a member of it from the point of view of a possible breach of subsidiarity regarding the Commission's proposals for a single national regulator. The rules are now being discussed by the European Parliament's Internal Market and Consumer Protection Committee, and a report has already been drafted, which I think the European Parliament will vote on in December. I understand that the Scottish Government is submitting amendments to that report. Given where we now are in the EU legislative process, if there is to be any meaningful input from the committee, we could incorporate our consideration of the EU dimension as part and parcel of the committee's review of public procurement in Scotland and in the forthcoming consideration of the sustainable procurement bill.

On future EU investment programmes, such as the TEN-T programme, a draft report is currently before the European Parliament's Transport and Tourism Committee, the amendment deadline for which is likely to be 28 September. I am happy to keep the committee informed of discussions in that regard and on the proposed €40 billion connecting Europe facility. I think that the deadline for amendments on that to the European Parliament's Transport and Tourism Committee is 4 October. It is important that we know where the discussions are going in the European Parliament. The committee may wish to comment on that area in due course.

11:15

In other areas, I suggest that at present we simply monitor the development of the Commission's proposals, and the action that the Scottish Government takes in relation to its discussions with the United Kingdom Government and with the European Commission and members of the European Parliament, so that we can keep abreast of what is going on in case we wish to take any appropriate action in due course.

The one area that might require the committee's further attention is the development of a framework for the future EU ports policy. That is currently at a very early stage—no consultation has been launched and no legislation proposed—but I am happy to make contact with the Commission on the committee's behalf to assess the thinking at this stage, so that we have at least

some idea of the potential implications for Scotland's port sector and industry.

On page 5 of the paper, there are some recommendations for the committee to consider in deciding on the course of action that it wishes to take with regard to the EU work programme that I have just outlined. I put on record my sincere thanks to the committee's assistant clerk, Lewis McNaughton, for all the work that he has done behind the scenes to help us to pull the paper together: it was certainly appreciated on my part.

The Convener: Does anyone have any comments?

Malcolm Chisholm: We should thank Lewis McNaughton. I also acknowledge that it is great that we have such an expert in EU affairs on the committee.

My view is that we will have to prioritise a bit. Aileen McLeod is offering to do a lot of work on her own, but the committee should focus on the procurement issue because that is relevant to our legislation and has probably been the most controversial and interesting area.

Anything that we do will obviously be influenced by the procurement directive. A lot of issues already exist in that regard, and a new proposal is currently being discussed, so it would be sensible for the committee to focus on that, while not forgetting about the other areas.

I do not know whether the water proposal is likely to be problematic and controversial, which is a fair description of the procurement situation. It may need our attention if that is the case, but it may be not controversial and therefore may not need to be explored in such detail. I will be guided by Aileen McLeod on that, but I am keen to look into the procurement aspect as part of our work.

Margaret McCulloch: I support that.

The Convener: We will definitely have to keep an eye on procurement issues that are coming from Europe. There is a lot of stuff in the paper: if we had a lot of time it would be nice to delve further into some of those areas, but we will have to prioritise.

Aileen McLeod: I accept that point. We should keep an eye on other areas to ensure that there is nothing about which we should be overly concerned. We can look at those issues as and when; I am happy to keep the committee informed of the other proposals that are currently going through the EU policy process so that I can flag up any potential concerns. We should definitely look at the public procurement side.

The Convener: The ports issue may be important too, as ownership of ports in Scotland is

probably different from ownership in a lot of other places.

Margaret McCulloch: Broadband is important for the country too.

The Convener: Yes, in terms of how much money will come from Europe.

As members have no further comments, I invite the committee to agree a course of action under each EU priority. I invite members to delegate authority to Aileen McLeod, our EU reporter, to undertake inquiries and report back to the committee where appropriate, to write to the Scottish Government to confirm the committee's approach and to seek further clarification where the EU reporter considers it to be necessary.

Are members agreed?

Members indicated agreement.

The Convener: Thank you. That is the end of the public session.

11:19

Meeting continued in private until 11:38.

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