



The Scottish Parliament
Pàrlamaid na h-Alba

Official Report

INFRASTRUCTURE AND CAPITAL INVESTMENT COMMITTEE

Monday 24 February 2014

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Monday 24 February 2014

CONTENTS

HOUSING (SCOTLAND) BILL: STAGE 1	Col. 2665
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**INFRASTRUCTURE AND CAPITAL INVESTMENT COMMITTEE
6th Meeting 2014, Session 4**

CONVENER

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

DEPUTY CONVENER

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

COMMITTEE MEMBERS

*Jim Eadie (Edinburgh Southern) (SNP)

*Mary Fee (West Scotland) (Lab)

*Mark Griffin (Central Scotland) (Lab)

*Alex Johnstone (North East Scotland) (Con)

*Gordon MacDonald (Edinburgh Pentlands) (SNP)

*attended

THE FOLLOWING ALSO PARTICIPATED:

Lesley Baird (Tenant Participation Advisory Service Scotland)

Ilene Campbell (Tenants Information Service)

Jennifer MacLeod (Highland and Argyll and Bute Tenants Network)

Hugh McClung (Central Region Tenants Network)

Kevin Paterson (Glasgow and Eilean Siar Tenants Network)

Gil Paterson (Clydebank and Milngavie) (SNP) (Committee Substitute)

CLERK TO THE COMMITTEE

Steve Farrell

LOCATION

Burgh Hall, Dumbarton

Scottish Parliament

Infrastructure and Capital Investment Committee

Monday 24 February 2014

[The Convener *opened the meeting at 18:00*]

Housing (Scotland) Bill: Stage 1

The Convener (Maureen Watt): Good morning—I mean good evening, everybody. I am so used to saying good morning.

Good evening and welcome to the sixth meeting in 2014 of the Infrastructure and Capital Investment Committee. The committee welcomes the opportunity to meet in Dumbarton as part of Parliament day, and we appreciate the hospitality of everyone who has supported us in meeting here in the burgh hall. We have had a positive day and discussed housing issues informally with local tenants and housing associations. We look forward to hearing the issues that will be raised during this formal session tonight, when we will hear from groups that represent tenants from across Scotland.

I thank all the members of the public here for taking the time to come along tonight. We have set aside some time after the meeting for a question-and-answer session, to allow you the opportunity to ask questions. I notice in the audience some people whom we met this morning, but I am sure that there will be more questions this evening. If you think of a question that you would like us to address, please use the paper and pens to jot it down and pass it to the security staff. We will also be able to take some questions from the floor.

Before we start the meeting proper, I remind everyone to switch off their mobile phones, as they affect the broadcasting system. Sometimes some people consult their minutes and committee papers on tablets, but nobody has their tablets today.

Agenda item 1 is the Housing (Scotland) Bill and we will hear evidence from tenants' representatives on the provisions of the bill. I welcome Ilene Campbell, director of the Tenants Information Service; Lesley Baird, the chief executive of the Tenant Participation Advisory Service Scotland; Hugh McClung, chair of the central region tenants network; Jennifer MacLeod, chair of the Highland and Argyll and Bute tenants network; and, last but not least, Kevin Paterson, chair of the Glasgow and Eilean Siar tenants network.

Gil Paterson is going to start off the questioning.

Gil Paterson (Clydebank and Milngavie) (SNP): I am really pleased to start this session, since I am doon the watter from Clydebank, which is in my own constituency. It is good to be down here with my close neighbours and colleagues: people who work closely together, being involved with West Dunbartonshire Council. As I said, being the member for Clydebank and Milngavie means that it is especially good to be here.

I will start off by asking about the Government's vision for housing in Scotland. The Government's aim is:

"that all people in Scotland live in high quality, sustainable homes that they can afford and that meet their needs".

To what extent could the bill's provisions support that vision?

Hugh McClung (Central Region Tenants Network): Thank you for inviting me to the committee to give evidence. It is something that has been on the cards for quite a while in terms of the work that the regional networks have been doing.

There is much to welcome in what is a wide-ranging bill, including its aspects on sustainability and protection for tenants as well as landlords. There are also provisions on social sector allocation and the private rented sector, which is an aspect that is much needed. We can discuss that later.

The networks have been pleased with the extensive consultations that have been on-going since 2012. My colleague, Jennifer MacLeod, and I were delighted to be part and parcel of one of the working groups that were involved in the bill's development. We particularly welcome the proposals to abolish the right to buy. That will have a great effect on protecting council stocks and also help tenancies.

The Convener: Do any of the other panellists have any comments on the general provisions or whether the bill meets the Government's vision?

Ilene Campbell (Tenants Information Service): I, too, thank the committee for the opportunity to give evidence.

The Tenants Information Service is a national training and support organisation. Over the past few months, we have, working with TPASS, organised a number of seminars and events throughout the country to find out tenants' views. This evening we are hoping to provide feedback on their views, as well as those of our members.

The bill is wide ranging. I agree that its separate aspects have been subject to a lot of consultation. We are pleased to see that there is a lot of support for the abolition of the right to buy. The tenants

very much welcome the steps to ensure the supply of the much-needed social rented housing and that houses will not be lost. I think than an estimated 14 houses—

The Convener: I suggest that we keep the detail until later and just cover the general aspects of the bill.

Ilene Campbell: On the whole, we welcome the provisions on the right to buy and the private rented sector and the proposals on how tenancies will be managed with regard to the social rented sector.

Lesley Baird (Tenant Participation Advisory Service Scotland): I also thank the committee for the invite. It is always good to come along to give evidence.

As Ilene Campbell said, TPASS and TIS have been across Scotland gathering tenants' views. The bill gathers together not only many of the hanging threads but good practice, of which there is a lot in Scotland. There was a lot of misunderstanding about the housing practice. Some parts of the practice were misinterpreted, although better interpretations of that practice were also offered. The bill has done well to pull the strands together to clarify the practice. That will help many tenants to have a better idea of their status and of housing practices.

Jennifer MacLeod (Highland and Argyll and Bute Tenants Network): First, thank you for having me.

When I first read the vision for housing a number of years ago, I thought how wonderful that would be. We are moving towards that vision, and it is indeed a wonderful vision for the people of Scotland to have satisfactory housing and that they should be happy where they are.

The Convener: Gil Paterson has a question. *[Interruption.]* I am sorry—I see that Kevin Paterson wishes to speak.

Gil Paterson: I am sorry to cut across you Kevin—I thought that you were going to let that question go by.

Kevin Paterson (Glasgow and Eilean Siar Tenants Network): Before we go any further, you should realise that I never let anything go by.

I thank the committee for inviting me to give evidence. I agree that the bill is wide ranging and ties up a lot of loose ends, although a lot of those loose ends should have been tied up a long time ago. The bill falls short in a number of categories and places, which I will come on to later when we discuss the detail. The bill is by no means a fait accompli and a lot of work needs to be done, especially as the aim is to head for that overall housing vision.

Gil Paterson: An issue that the witnesses were quick to raise in their contributions was about the process. I wonder whether the process that was put in place for the organisations was the right way to go about it. Was the process set out in a way that allowed you to engage fully? At this stage, I am interested in hearing about the process; we will question you on the issues that you raised later on.

The Convener: You are asking about the consultation process.

Gil Paterson: That is correct.

Ilene Campbell: There has been a lot of consultation on aspects of the bill. In the past few years, tenants have had the opportunity to be consulted. However, lots of other issues have arisen at the same time, such as welfare reform and the Scottish social housing charter. Our experience is therefore that there has been a lot for tenants and residents organisations to respond to, but consultation has taken place.

A couple of areas in the bill have not been consulted on, including the powers of the Scottish Housing Regulator. All our consultation events have highlighted that that issue requires further consultation.

Hugh McClung: Much consultation has taken place. A number of network representatives have been involved in sounding boards and working groups with the Scottish Government, and they have highlighted issues that should be considered in relation to the bill. Notwithstanding that, the public consultation process—on the right to buy, for example—was a great step forward. It gave local people the opportunity to choose whether they supported the proposals. The Government did well on that, and I commend it for that.

Lesley Baird: There has been extensive consultation. One of the most important things was to try to excite people about the issues, to entice them to come to events, and not to make the bill sound as if it was a done deal about a dry and dusty subject. We have worked hard to let people know that the Parliament is a listening and doing organisation and to give people evidence of how the Parliament has changed its mind after listening to people who receive services such as housing services. By stressing that the bill was not a done deal and that tenants' views would count, we encouraged a lot of people to come forward who might not have done so in the past.

Kevin Paterson: I agree that the consultation has been good, but the Government consulted only tenants on a bill that will also affect potential tenants. Quite a number of people who are on housing lists and homeless lists have not been consulted, although the bill will affect them. The consultation fell short by not encouraging people

who are on those lists to give evidence and get involved in the consultation process. That was a weakness. The bill will affect people who are on housing lists, so they should have been consulted a lot more.

Gil Paterson: I asked about the process. The question that follows is whether you think that you have influenced the bill. Did the Government take account of and react to what you said?

Jennifer MacLeod: I feel that we have been listened to and that changes have been made as a result of what we said, but some issues and suggestions from tenants, which they felt were important, have been missed out completely. There are two ways of looking at the outcome, but we welcomed the consultation.

Hugh McClung: I concur with my colleagues. The process was structured, but the thoughts from the tenant perspective about probationary tenancies and a public sector housing panel, for example, were disregarded and those measures were not included in the bill. A significant number of responses to the consultation exercise on probationary tenancies said that the bill should provide for those tenancies, but that was not taken up.

I commend the processes to initiate thoughts; we were listened to and what we said and suggested was heeded. Some comments fell by the wayside, but the majority were heard.

Kevin Paterson: The involvement goes deeper than that. I was involved in the housing policy advisory group when the issues were discussed with Alex Neil back in 2009 and 2010, so we have been involved from the start. The issues that Hugh McClung raised were discussed by that group and included in the consultation, but there was a great deal of debate—shall we say—about whether putting them in the bill would be appropriate.

The involvement started early. The Government has been very good at involving the tenants movement in its decision making and, most of all, in its planning for future housing projects. As long as that continues, things will go from strength to strength.

Gil Paterson: Thank you for that.

18:15

The Convener: We move on to part 1 of the bill, which is about the right to buy. Mark Griffin has some questions about that.

Mark Griffin (Central Scotland) (Lab): Yes, I have a range of questions about the right-to-buy proposals. First, could you outline what you think the advantages and disadvantages of the right to buy have been for landlords and tenants?

Kevin Paterson: The tenants movement has been against the right to buy since the moment it was first envisioned. It has ripped the heart out of social housing in Scotland right from the Highlands to the Borders, and it has meant a tenfold increase in waiting lists. We are pleased to see it ending—it is about time—but we do not see why we will have to wait for three years. We do not know why that is.

At the moment, the level of right-to-buy purchases is falling off, but as the economic situation gets better it will creep up again. We think that we are missing an opportunity to keep houses that we will lose during the next three years. Those losses could be stopped if we stopped the right to buy straight away.

Lesley Baird: I agree with Kevin Paterson. We feel that three years is too long, although I know that we have to make sure that people who have that right have the time to make up their minds.

At some of our sessions, some people expressed concerns about there being a spike in right-to-buy purchases if the right is going to be taken away, while some thought that it might just die out naturally. However, the majority of people said that they thought that action should be taken now, not in three years. There were also some people who had issues with the idea of unscrupulous companies offering to buy houses for people.

Therefore, one or two people thought that the right to buy could just be left to die out, but the majority of tenants at the sessions we held were absolutely behind stopping it now and not in three years. Someone suggested giving tenants a week to exercise their right to buy, but we thought that that was too short a time. There are certainly very strong feelings about the issue.

Pressured area status is there for a reason, and the majority of tenants felt that, if someone does not have the right to buy now, they should not be given the right to buy. There was some suggestion that that restriction could be lifted, but it was not a popular suggestion.

Hugh McClung: I answer Mark Griffin's point by reiterating that we welcome the positive measure of ceasing the right to buy. As Kevin Paterson has said, tenants up and down the land have been given a significant boost because landlords have protected stock and, with that, landlords will see a better influx and be able to plan ahead for their financial structures and rent accounts. They will be able to look at how best to preserve that stock.

I cannot answer the point about the difficulty with pressured area status. That is something for your legal representatives to work out. I do not know whether someone will launch a legal challenge once the period has elapsed. I cannot

see it, but that is my personal view. The network does not believe that there will be a challenge to pressured area status, but that is not to say that there will not be.

By and large, landlords will see an advantage to the protection of their stock, and tenants will have a better choice of home. I also agree with my colleagues that the three-year grace period is too long. Within the European convention on human rights, there is leeway about lengths of time, although it does not stipulate a length of time. I accept that people who have the right to buy have certain rights, but I cannot agree that it should remain for three years; one year is sufficient.

Jennifer MacLeod: I agree with one year. I was in two minds about the right to buy at the outset. I chose not to buy, but my family members took up the opportunity. In fact, one of them did a swap with somebody and moved to another house because it was more like the type that she wanted to buy.

Although I was happy for them and for many others, in a short time I could see the reduction in the number of houses that were available for rent. We have a right to rent as well as a right to buy. Over the years, the right to buy has done great damage to the amount of housing stock that is available, and I am glad that it is finishing. As Hugh McClung said, one year is enough notice.

Ilene Campbell: There is a great deal of consensus on the issue, and I agree with almost everything that has been said.

The two key points are supply and the impact on people who chose to buy but were not able to afford the maintenance and improvement. We see the massive issues that have resulted from the right. There is therefore real support for the abolition based on the considerations of supply and protection for people who do not want to be in that position, but it should be abolition for everyone at the same time. The critical point about the right to buy is that it is so complex that it must be clear when any change will happen and the right will end.

Most other witnesses are saying that the notice period should be a year, but the feedback that we got in the consultation that we carried out was that it should be 18 months to two years—certainly, shorter than three years. The main concerns are about forward planning for landlords at a time of recession and that people might feel under pressure to seek funding to purchase a property that they cannot actually afford. There is real support among tenants for abolition as long as it is clear for tenants who still have the right to buy what the bill means.

Mark Griffin: You touched on some of the difficulties with removing the right to buy in areas

that have been designated as pressured areas. When the bill comes into force, it will not prevent any local authority from applying for pressured area status for any area. It is not inconceivable that the whole of Scotland could be designated as having pressured area status in the three-year period over which people will lose their right to buy. Do you have any thoughts on that measure being available to local authorities while the three-year period runs its course?

Hugh McClung: I would welcome pressured area status across Scotland for 100 years. I do not want one more house to go to the open market. It is a headache for landlords as well as tenants that tenants cannot get a home, to which they have a right, as is the Scottish Government's stated aim.

Similarly, people who have a preserved right still have the right to buy. They have the right to a court challenge if they so wish. However, I do not think that there will be a big rush to buy in the three years after the bill receives royal assent—it does not matter whether the period is one year or three.

I welcome pressured area status. If every local authority in the land continues it for 100 years, I will be more than happy.

Kevin Paterson: That says it all, really.

Mark Griffin: If the bill goes ahead and the right to buy is ended, what responsibility will the Scottish Government, registered social landlords, local councils and organisations such as yours have to provide tenants with information about that and to advise them on how to exercise their right to buy if they choose to do so in the three-year notice period? What is the best route to make them aware of that?

Jennifer MacLeod: I feel that the houses were built for renting and not built to be sold. If somebody wants to buy a house, they can look for one and buy it. That might be more difficult for them but, as far as I am concerned, there should not be a right to buy—full stop.

Ilene Campbell: We recommend that guidance should be given on the right to buy—on key issues such as when the process will start and end and where people can get information locally. Tenants will have to contact their landlords to ensure that they know what rights they have. As an information organisation, we would like to have guidance, so that we can be clear about the information that we are sharing with tenants and landlords throughout Scotland. I recommend that the Government should issue guidance.

Lesley Baird: There is a responsibility to get information out quickly, before the mythology begins to take on a life of its own and before the insurance companies start knocking on people's

doors to say, “We’ll buy your house from you and we’ll give you a fortnight in Spain. Just send it back to us again.” We really need to have the facts and guidance laid out clearly. At one of our sessions, we were asked how long an application that was lodged within the three-year or one-year period would stay live. For example, if I applied to buy the day before the period stopped, would I still have the right to buy in 10 years’ time?

We need to be absolutely clear with people—with no mythology, but just the straight facts—and that guidance needs to come out quickly. Whoever takes on that responsibility—I imagine that the Scottish Government would do that in the first instance and that it would go down to landlords—we would be happy to give people factual information to stem and scotch some of the rumours.

Kevin Paterson: I agree with Lesley Baird that getting the correct information out quickly is the way forward.

I will expand on Mark Griffin’s question. Many registered social landlords rely on right-to-buy receipts for their business plans. That is another thing that will come back to members when the right to buy is ended, because many RSLs will come screaming for compensation to the Scottish Government and will ask why the Parliament has taken away something that was written into their business plans and agreed when they took over the stock. That is another aspect of the right to buy that members will probably become aware of. Many RSLs will want to get the information out there because they will want to get right-to-buy receipts as part of their business plans. That is a warning shot across the bows.

Information to tenants must be correct and timely and in a form that they can understand. That is imperative. As for timescales, if somebody applies for the right to buy, it surely cannot be the case that they can hold it for longer than three months.

The Convener: On Kevin Paterson’s first point, it is interesting that we have heard RSLs welcome the proposal because it means that, when they go to the banks for finance, they will be more likely to get it, because their housing stock will be stable. Perhaps there are two sides to the argument, but you make an interesting point.

There are no further questions on the right to buy, so we shall move on. Paragraph 42 of the policy memorandum to the bill indicates that the Scottish Government is

“committed to supporting home ownership in other ways, including ... the Low-cost Initiative for First-time Buyers”.

Do you have any comments about the range of schemes that the Scottish Government offers to

support home ownership? Are they appropriate for tenants who might no longer have the right to buy and might now use those other schemes?

Kevin Paterson: A range of properties must be available to tenants, and there must still be a home ownership aspiration among tenants if we want to free up tenancies further down the line. Shared equity fills a gap in the market for people, but factoring legislation has caught a lot of people out when buying shared-equity flats. We have had a number of tenants who have bought LIFT properties with a 20 per cent share held by the Government and who have suddenly been hit by factoring charges that they do not understand. Sometimes, those factoring charges are as much as their mortgage payments.

There has to be a range of products, which must be the right products to allow people to fulfil their aspirations. We in the tenants movement see nothing wrong with people aspiring to buy houses; we just do not want them to buy social housing. If the Government wants to make proposals that will help them, as long as it does not use money from the housing revenue account or housing receipts that RSLs have brought in, that is fine by us.

18:30

The Convener: The point about people not being made aware of factoring costs was brought up in a recent inquiry by the Justice Committee.

Hugh McClung: Funding for assistance with mortgages is broadly to be welcomed, as those who wish to buy in the private sector can get an initial leg-up—forgive the terminology. The trouble is that the private sector housing market is volatile. We have seen boom-and-bust regimes in recent years with regard to house prices and so on, and the much-maligned mortgage-to-rent schemes came into play because people could no longer afford their mortgages. I would welcome any scheme that is brought in to help people to purchase their own homes if they wish to do so.

Ilene Campbell: I agree with the points that have been made. The key thing is that people understand what they are purchasing and buying into. The key lesson of the right to buy was that people must understand fully the responsibilities that go with the option. No one would deny people the right to choose to purchase, but information has to be available about what exactly is meant by terms such as “shared equity” and what the implications are of getting involved in such schemes.

The Convener: Part 2 is about social housing, on which Alex Johnstone has questions.

Alex Johnstone (North East Scotland) (Con): I will ask about the allocations policy. My first

questions will give people an opportunity to express their views. What do you think about how social landlords allocate their housing? Do they need greater flexibility? If so, why?

Kevin Paterson: We in the tenants movement believe that allocations should always be needs driven. Taking into account other aspects of people's lives is fair enough, but the tenant's need should always be a paramount concern when it comes to allocations.

Hugh McClung: We have to think about tenants' aspirations for their lifestyle and their family commitments. A young couple starting out, who might aspire to have a family and who might not be able to afford private ownership or renting, can always look to a social landlord for rented accommodation. The bill goes some way towards ensuring that that can happen and that the social aspect—whether someone is homeless or is living in underoccupied accommodation, for example—is taken into account. If we can take that approach, while ensuring that it operates alongside the support packages that are in place for first-time tenancies, we will go a long way towards doing things right.

Lesley Baird: I agree with flexibility in allocations, as do many of the tenants to whom we speak across Scotland. I do not know whether the committee wants to get into detailed consideration of the issue, but there are concerns about considering age in relation to allocations. The proposal is wonderful. However, people still think that sheltered housing is for old people only, whereas it is for people who have a specific need. There is a worry about young people continuing to be excluded from housing because they are seen as a problem, rather than as part of the solution. Whatever we do, we need to ensure that young people are not excluded from allocations.

We welcome the opportunity to take age into consideration. We used to be able to put together people of a particular age or ability and people who had lifestyles that did not clash. We must be aware of sensitivities around lettings. The more flexibility, without excluding people, the better.

Ilene Campbell: When we ask tenants about the allocations policy, they often tell us that they do not understand the legislation and how it applies in practice. Some of that might be based on people's experience, if the allocations policy has not resulted in them getting the house that they want. However, we often work with groups that tell us that they find the system to be inflexible. Tenants say that they would welcome more flexibility.

Probably every witness has a different view on the age issue. The tenants whom we spoke to welcomed the ability to take age into

consideration, for a number of reasons. People talk about the past, when decisions were taken to avoid lifestyle differences and to put people of certain ages in appropriate and suitable houses. The key thing about flexibility is that it must be clear that it is being used to meet housing need and not to discriminate. Most tenants and residents say that they want an allocations policy that is common sense and flexible and which results in sustainable communities. Creating sustainable communities is at the heart of the issue.

We welcome the new requirement for consultation on any changes to an allocations policy. As a result of the bill, allocations policies will change, so we welcome that as a positive step.

Hugh McClung: We do not see younger people as the ogre. As Lesley Baird said, we need a measure of sensitive letting. We need to work with younger people, particularly on sustainability. The starting point when we work with younger people is how we best integrate them into society or local housing. As often as not, young people have short-lived tenancies, and they tend to move from pillar to post fairly quickly. To help them to sustain tenancies, it is better to have a properly integrated policy, which needs a bit of flexibility. We need to look at that.

Kevin Paterson: I can speak only for Glasgow, where the tenancy sustainability rate for 16 to 25-year-olds is 68 per cent—after a year, 68 per cent are still in their tenancy. That figure is not particularly low, and it is certainly not the case that most young people move on in that period. After the Heriot-Watt University survey in 2006 on how young people should be supported to go into tenancies and how tenancies can be sustained, along with the work of organisations such as Aspire and Ypeople, many young people in Glasgow have been brought into test tenancies and given the chance to have their own tenancy.

In the north of Glasgow, Aspire has test tenancies that allow young people to have their own home but to be supported in it and then to look into getting their own tenancy. Aspire and Ypeople have brought such tenancies on a long way. Ypeople shows young people not only how to keep their tenancy but how to join a community and get involved in decision making. It empowers them to get engaged in the community. Sometimes, young people are demonised, because we hear about the small number who do not keep their tenancies and who are involved in antisocial behaviour. However, we do not hear about the vast number of people who come through organisations such as Aspire and Ypeople and who go on to lead good and fulfilling lives.

The support that those organisations provide can last for between six months and two years, but the young people are not forgotten as they move into tenancies. If we want 16-year-olds to behave like adults, it is vital that we treat them like adults. I hope that the committee has received evidence on the bill from Aspire and Ypeople.

Alex Johnstone: Just to complete that, I have picked up a degree of positive reaction to the increased flexibility. Mr Paterson, are you saying that you are opposed to it?

Kevin Paterson: No, I am not opposed to flexibility in allocations; I am opposed to not meeting the needs of the people who need housing. If someone needs a house and the house is available, they should get it, regardless of their age or anything else. If someone needs support to keep a house, they should get that support.

If we give local authorities and RSLs flexibility and they do not have to give homes to young people, they will take the cheapest option. If they put a young person in a home, they will have to provide a support package, which will cost a lot of money, so they will see if they can use the flexibility in allocations to put in somebody else. I would hate to think that, in the end, the decision will come down to money—it should always be about housing need.

Alex Johnstone: We have talked about the idea of grouping people by age, but could the flexibility be used in any other way? Should we consider putting anything else in the bill to allow greater flexibility when needed?

Kevin Paterson: Grouping people together in sheltered housing is fair enough when people have needs and those needs are met in a sheltered housing unit. However, if we are talking about a mixed community, the flexibility in allocations can be used to keep that mix, but the need for housing should always drive the decision. A single person will not be given a three-bedroom family house and a family with three kids will not be given a single-bedroom tenement flat. There is always that flexibility in housing allocations. Houses are not allocated according to people's wants; they are allocated according to the needs of families.

Alex Johnstone: Yes, but there has been a certain lack of flexibility in the system over recent years. The bill proposes to bring back a degree of flexibility. Is there anything else that we should consider during the passage of the bill that would give the desired flexibility to allocations policy?

Kevin Paterson: Build more houses.

Alex Johnstone: There is not a section in the bill about that, but we will deal with that in other ways.

Jennifer MacLeod: We need to consider the different needs that people have for housing—we need to consider their family situation as well as their age. We must also consider the fact that it takes a long time for an estate to gel when a number of people move in. It takes a long time for cohesion to build up in how the residents or tenants work together. That does not happen right away.

It is important to be sensitive with letting, which is why I welcome the flexibility aspect. Someone could want a house fairly near an older person in the family. If they do not come right to the top of the list when a house is available near that family member, not just because they like the family member but because they need to help support them, that is a problem.

In other cases, people's support systems are around them in a particular area. It is unfortunate that some of the larger houses were sold off, because I know of a case in which a couple with seven children waited and waited in their three-bedroom house. They were offered a house quite a distance away but their support system was around them in our area. They eventually moved with their seven children into a four-bedroom house, but they had to wait and wait when there was an urgent need. Okay—maybe they should not have had seven children, but that is not part of the bill.

Alex Johnstone: We know what is in and what is out.

Jennifer MacLeod: When the couple were expecting the fifth and sixth children—twins—they were waiting to get a larger house. They turned down houses that were further away and they had seven children before they got to move. There needs to be more sensitivity, thought and flexibility. I welcome the flexibility aspect because of examples such as that one, in which children were involved and the family needed local support. There are also ill people or older people who need a bit of extra support. Houses are needed for their family members so that they can be close to them.

Hugh McClung: The issue is not what else you could put into the bill; it is how you allocate what you already have. In that respect, the bill is specific about certain categories. It looks at expanding how those categories are channelled into the allocation system. It is true that the allocation system is complicated, but if you can make it a bit more flexible, as the bill proposes, you will go a long way to doing what you need to do to ensure that people are housed correctly and that the community that they are involved in is sustainable. If you get that right, you will be doing fine.

18:45

Alex Johnstone: The bill also makes changes to qualifying periods for joint tenancies, subletting, assignments and successions. What are your views on those provisions? Do you agree with the Scottish Government that they will help social landlords to make the best use of their existing housing stock?

Lesley Baird: Absolutely. There have been concerns across communities about perceptions of queue jumping, particularly when it comes to assignments. The guidance will be all, because people have to know that if they begin to cohabit with someone, they will have to let the landlord know about their status so that the clock starts ticking, if you like. A lot of information will have to be given out, but we definitely support the proposals to change the qualifying periods for assignment and subletting.

As we have all said, housing is based on need and there have been some inappropriate assignments. It has been suggested that the option of assignment should be taken away from tenants and given to landlords. However, we still want tenants to have the ability to assign, but assignment has to be used a bit better.

Ilene Campbell: I totally agree with Lesley Baird's comments. The feedback that we have received is that people think that the provisions are fair and clear. However, not everyone is aware that the property has to have been their main residence, so that needs to be made clearer. The landlord must provide information that makes it very clear that the tenancy can be assigned 12 months from the point at which the property became the tenant's main residence. That issue was raised at almost every consultation event.

There is support for the provision that, if someone wants to assign a property, they would not be able to do so if it would result in underoccupation or they were not in housing need. However, on the whole there is support for the changes.

Kevin Paterson: I agree, too. This is probably one of the most important aspects of the bill as far as the tenants movement is concerned, because one of the complaints that we get as tenants' representatives is based on the perception that there is queue jumping. There is a perception that people move in with their parents and get the house assigned to them. With the right to buy, in particular, we noticed that older people were having younger people move in with them who would buy the property and move it on. We support the provisions.

Hugh McClung: I sound a note of caution. Although I accept—as do network representatives—that there is broad support for

the extension of timescales for assignments and so on, we have to be careful about how the determination is made.

For example, there might be a qualifying need for someone who is extremely ill. There might be mitigating circumstances in which the period of 12 months cannot be reached. Forgive me for suggesting this, but the person might be terminally ill. Do we have the flexibility to look at something else? The Scottish Government might need to give some kind of direction on that. I raise the issue only on the off-chance that such circumstances arise.

Alex Johnstone: We can probably raise that issue with the minister.

The Convener: As there are no more questions on lettings, we will move on to antisocial behaviour.

Mary Fee (West Scotland) (Lab): I will focus on antisocial behaviour and short Scottish secure tenancies. The bill contains provisions that are aimed at giving social landlords more tools to tackle antisocial behaviour, including allowing landlords to suspend an applicant from receiving an offer of housing, widening the circumstances in which landlords can use short SSTs and simplifying the procedure for evicting tenants. Can you give me a flavour of the impact of antisocial behaviour on the areas that you cover? What difference will the new proposals make compared with the current powers?

Hugh McClung: This has been a long time coming. Antisocial behaviour has been a bone of contention in excellent communities. When, a few years ago, the then Minister for Housing and Communities, Alex Neil, asked network representatives to look at the strategy on antisocial behaviour, a late colleague wrote a document called "Declining Communities" that was presented to Alex Neil and which expressed the view that what was wrong with the system was that it took so long to take up evidence. In respect of antisocial behaviour, there is a catalogue or diary of events, there are witness strategy proposals and there are applications to the courts. All those things take time and take their toll on communities.

I am not saying that everyone is a bad penny, however, or that every community is like that; that is not the issue. With regard to clear, defined antisocial behaviour, the bill takes us a long way from what the provisions used to be for identifying people. We welcome the proposal by which the landlord can suspend a Scottish secure tenancy by converting it to an SSST.

However, it is disappointing that, although tenants had proposed a probationary or initial tenancy to ensure that all new applicants would go

through a 12-month period under an SSST, that proposal was unfortunately not included in the bill. Network representatives felt strongly about it, given that, in a consultation exercise that was conducted by the Scottish Government in 2012, 67 per cent of the landlords and tenants who responded supported a probationary tenancy—or an initial tenancy, as the network likes to call it—which would have given landlords the time and wherewithal to identify problem areas. I reiterate that the conclusion was not that everybody would automatically be labelled an antisocial person, but the provision would have given landlords time to identify such people.

It is difficult for local landlords to identify people with antisocial tendencies. A 12-month initial tenancy would have given landlords time to find out whether a person was of that nature. If they turned out not to be of that tendency, they would revert straight to the Scottish secure tenancy, having gone through that 12-month probationary period.

Although I support and welcome the provisions in the bill under which landlords have the exclusive power to suspend a Scottish secure tenancy, I think that it would have been better to have a probationary tenancy.

The Convener: I suspect that we might not get agreement on that.

Kevin Paterson: That was an awful long time to spend on something that is not actually in the bill, but that is fine. However, I have to say that initial or probationary tenancies are unacceptable. They are an erosion of the Scottish secure tenancy and take away tenants' rights. We will fight to our dying breath to keep the Scottish secure tenancy. From the rent strikes of 1915 in Glasgow right the way through to the centenary of Mary Barbour's army in 2015, we will fight for the Scottish secure tenancy.

Why should everybody be tarred with the same brush? Why should people be accused of possibly indulging in antisocial behaviour? Would it be right to accuse somebody going into Marks and Spencer of being a possible shoplifter? If staff were to follow someone around all the time or not let them into parts of the shop, saying, "Sorry, you haven't proved that you're not a shoplifter, so you can't come into this part of Marks and Spencer until you have," that would be unacceptable. In my opinion, and in the opinion of the Glasgow and Western Isles tenants network, it would be totally unacceptable to bring in probationary tenancies, and we were pleased to see that they are not in the bill.

Jennifer MacLeod: There is closed-circuit television in Marks and Spencer, and there are a whole lot of security people watching the

customers. With regard to an initial tenancy, if everybody is on a level playing field or in the same boat—whichever way we want to look at it—nobody can point the finger and say that somebody only has a short tenancy because he or she is being watched to see how they behave. If everybody is in that situation, there will be none of that.

I know that people on short-term tenancies face difficulties with getting houses furnished and carpeted or whatever, but I am sure that something could come out of that and that the majority of people would look after their home, be a good tenant and be able to continue to a secure tenancy. I should say that I am very much in favour of initial tenancies, but not probationary ones. There is a lot in the wording.

Ilene Campbell: There is probably no consensus on the issue, and I probably support the point that, by taking people's rights away like that, you are almost saying that every new tenant could do something antisocial. However, if you asked tenants throughout Scotland, you would not find any consensus. When we checked, we found extreme and polarised views, depending on people's experiences.

TIS would not advocate probationary tenancies, because we do not think that there is enough evidence at this stage to suggest that they would have a major impact on antisocial behaviour issues. Tenants will welcome anything that strengthens landlords' powers to deal with antisocial behaviour. Whatever we as a group of people here think, that issue is at the top of the agenda in every single community in Scotland, and is based on people's perceptions and the reality of what is happening.

The bill will simply tighten up provisions that already exist. However, although everyone will welcome that, I do not think that the measures in the bill in themselves will tackle the issue. The bill will not be the solution to antisocial behaviour in Scotland. Instead, we need the agencies to continue to work together and housing organisations to support agencies, the police and local communities. That is the central issue: people should work together. It is not the Government's role to resolve the antisocial behaviour issue.

Another critical issue is funding and ensuring that the resource and support services are funded on the ground and at the local level to do this work.

We welcome the provisions, which tighten up what already exists. Antisocial behaviour is a major issue for tenants, but the critical issue is funding to ensure that local initiatives and organisations work together.

Lesley Baird: I agree with just about everything that has been said, which leaves me on the fence. There was no consensus in any of our sessions; instead, there were strong views both for and against probationary tenancies. I think that it was agreed that the word “probationary” was unpleasant and that, if there were to be initial tenancies, that word should be taken out.

It was suggested that SSSTs could be extended. Others said that that was all well and good and although people could understand why the profession might want that, I heard the response, “You don’t have to live next door” a couple of times. We need to ensure that, whatever happens, the support and infrastructure exist and people work together.

There were issues about getting clarity on what antisocial behaviour means and clarity on the part of the bill that mentions convictions. What convictions are we talking about? After all, a person can be convicted of dog fouling. In a lot of these matters, guidance is required on where an SSST would be offered and it is important that there is absolute clarity in those areas.

People were keen for tenants to receive a lot of support throughout their tenancies to help them to sustain them. It was really good that nobody played the youth card or said, “Oh, it’s all young people.” However, tenancies need to be sustained, which will cost a lot of money, and there was a fair bit of scepticism about the funds required to do that. People said that it would simply not happen.

In the main, although there was no consensus on probationary tenancies in any of our sessions, there was absolutely consensus on providing support and helping people stay in their homes.

The Convener: It is interesting that you said that about money, because earlier today we heard that an eviction could cost between £25,000 and £32,000. Preventing evictions and keeping people secure in their homes is a matter of spending to save.

Kevin Paterson: It is indeed about putting in place multi-agency support.

I go back to probationary tenancies, as I want members to understand who would be caught up in them. Anybody who changes or transfers property will get a new tenancy with their landlord, so they would have to go on to a probationary tenancy. They could be somebody who has been in their house for 30 years without a blemish on their character and who may have to move to downsize. If they took on a new tenancy with their landlord, they would have to go on to a probationary tenancy, which does not seem fair. We cannot envisage any point at which a probationary tenancy would work. When there has

been antisocial behaviour, the tenant could revert to a short secure tenancy but we cannot see the merit of tarring everybody with the same brush.

19:00

Mary Fee: For a person whose application has been suspended, the bill will introduce a right of appeal to a sheriff. Is that the right way to go? Will it be beneficial?

Kevin Paterson: I go back to why we would have liked to see a housing panel for social housing as well as for private rented housing. We believe that there should be a more simplified way of going about things and that there should be a first-tier tribunal that people can go to instead of having to go to the sheriff court all the time. However, there has to be a right of appeal, and if that right of appeal is to the sheriff, so be it.

Mary Fee: We have heard evidence that RSLs should be able to go to the first-tier tribunal, which is something that we will look at.

Are there any other views on that before I move on?

Hugh McClung: I would support appeals going to a first-tier tribunal. The more important point in what Kevin Paterson has just said relates to the long-winded court process, if I may say so. The bill proposes a first-tier tribunal to look at disputes, antisocial behaviour appeals and suchlike. Lord Gill, an eminent member of the judiciary, has suggested that that should not be considered at all and that courts should deal with threats of eviction and suchlike. I would say to Lord Gill, “Sorry, that’s not on. It takes too long, it’s not high on your agenda and it costs local authorities thousands.” Therefore, we welcome that provision. However, if, at the end of the day, appeals have to go to before the sheriff, so be it.

Jennifer MacLeod: When we, along with many others, came up with the idea, our thinking was that it would be something like the tribunal for people who believe that they have been unfairly dismissed. Their peers—people who understood their situation—would deal with their case. As it is, not only money but hours and hours of staff time go into an eviction—time that staff could spend doing other work that would benefit tenants. If a case gets to a sheriff who happens to be very much against evictions, it just gets thrown out. It is one person’s decision.

I am not pro- eviction; I would rather that evictions were avoided. I would prefer something like a panel or tribunal, which would look at all the different aspects, with a multi-agency approach taken to solve the problem, rather than going for eviction. Of course, eviction is such a costly affair that it is usually an action of last resort.

Mary Fee: That certainly mirrors some of the evidence that we have heard today about the length of time that it takes to get to the point of eviction. Quite often, when a case gets to a sheriff, if the sheriff is not supportive of eviction it does not happen and the landlord and the tenant are back to square 1, as are the tenant's neighbours.

Govan Law Centre told the committee that

"Tenants do not want to lose their homes."—[*Official Report, Infrastructure and Capital Investment Committee*, 22 January 2014; c 2464.]

It also said that more support should be available for tenants and that agencies should work more closely with tenants who are involved in antisocial behaviour. Do you share those views? Do you have any views on other protections that there should be for tenants who are on an SSST?

Jennifer MacLeod: There should be more support, which I realise would be costly. However, we must also consider the fact some people have mental illnesses that cause them to behave differently from the norm—whatever that is. Nothing is really going to fix the problem for a person who suffers from a mental illness. We need to do a lot more thinking about that, because evicting such people is not the answer. I think that support from different areas is needed.

Mary Fee: Especially given the cost of evictions.

Jennifer MacLeod: Aye, and the fact that the person has to be re-homed. Someone who is seriously mentally ill is not fit for eviction and cannot cope with homelessness. We need to think about that.

Lesley Baird: I agree that, to help people sustain their tenancy, a lot more support is required, and that support should be at the level that they need. Eviction is always a last resort, because landlords want to keep tenants, not throw them out. If there was such a panel, it should be a panel of peers—in that sense, it would be a panel of experts. We have heard of cases in particularly remote rural areas where a visiting sheriff comes from one of the cities, finds the case very trivial and says, "That would never happen in Glasgow," or wherever, so the person is allowed to stay in the tenancy. A more cohesive approach—one that is understood—is required. It would certainly be very expensive, but we would like to see more support put in to help people sustain their tenancies.

Kevin Paterson: A multi-agency approach is vital, but RSLs must have strategies in place to deal with antisocial behaviour. A lot of the onus is on RSLs to have support agencies on their books so that they know where to go to when such things happen.

I am going to shout about Glasgow again—I can speak only about Glasgow as that is the area that I represent at the moment. Our tenant sustainability strategy has an antisocial behaviour section that shows the sort of support that will be given not only to victims of antisocial behaviour but to people who are behaving in an antisocial way and who sometimes do not even know it. It is about finding out the reasons for the antisocial behaviour. However, the fact is that there are times when, no matter what we do or what support we put in, people will continue their antisocial behaviour until we evict them.

With a housing panel, there would not be the fear factor that there is with the sheriff court. A panel would involve a lower tier of judiciary for both tenants and landlords. A lot of the people with whom I work find the sheriff court letter terrifying. There is nobody there for them when that letter comes through. There should be support available for people when they get a letter saying that they are being evicted or accused of antisocial behaviour. We should support those people, as well as the victims.

Ilene Campbell: There are lots of really good initiatives. You probably heard about them over the past few weeks when you heard from other organisations. Most local authorities and housing associations now have staff whose focus is on being the tenancy sustainment officer. Such officers try to ensure that people are able to stay in their home and are able to afford it. Obviously, given the welfare reform proposals, there are critical issues for the future of social rented housing in Scotland. A lot of work is already taking place. If a tenant is suffering from antisocial behaviour, that is the most critical situation that they can experience. However, the landlord must adhere to the legislation and good practice, so such situations are a real challenge.

However, as I said, a lot of good work is happening out there, and it really just has to be developed. An extended short Scottish secure tenancy of 18 months with support in place could be positive for a tenant who just needs a bit of support to be able to stay in their house. There is always going to be a balance between supporting the person who is the victim of antisocial behaviour and supporting the person who is causing the problem. That is why antisocial behaviour is always such a controversial issue.

Hugh McClung: It is fair to say that it is not really necessary to put something else into the process to reduce an SST to an SSST. Colleagues around the table have already stipulated the support measures that are required.

That said, there is a long process before we get to that stage, which we all know about. Within the support mechanism, we could avoid reaching the

stage at which an SST is reduced to an SSST. I know a lot of landlords who do that already. They tell the tenant that if they continue with their behaviour, they will lose their home or the right to a secure tenancy. If we stay with the approach of clearly explaining that and building up support measures, it will be fine.

Mary Fee: So it is about support and intervention.

Hugh McClung: Yes.

Mary Fee: That is fine. Thank you.

The Convener: Does anybody else have questions on antisocial behaviour?

Jim Eadie (Edinburgh Southern) (SNP): I want to return to the theme that Ms Campbell identified, which is the constant challenge of balancing the right of tenants to a secure tenancy—which, as Kevin Paterson said, was hard won over many years—with the need to tackle antisocial behaviour. I think that Hugh McClung made that point effectively when he said that the process often takes its time and takes its toll on the families that are affected. I would like to know from each of the panel members the extent to which the bill has got that balance right. I am referring specifically to section 15, which seeks to simplify the eviction process in very serious cases of antisocial behaviour.

The Convener: Who would like to go first on that?

Hugh McClung: We have already talked about simplifying the process. For example, we could look at having professional witnesses, and some landlords have identified members of staff for that purpose. There is often no corroborative evidence, or perhaps people are unwilling to give evidence. If we could simplify the process by reducing what is required to identify an issue and if we could have a support mechanism, I would agree that we could then go to court—but only as a last resort; nobody wants to support evictions.

Jim Eadie: So you support the bill's proposals.

Hugh McClung: Yes.

Kevin Paterson: Are you talking about housing allocations?

Jim Eadie: No. I am talking about antisocial behaviour and the proposal to simplify the eviction process, as set out in section 15.

Kevin Paterson: Right.

We agree that antisocial behaviour is a problem for both the victim and the person who is being antisocial. However, we also want to be quite careful about the erosion of rights. In addition, although antisocial behaviour might be prevalent

in a household, the whole household might not be involved in it.

Jim Eadie: What conclusion have you come to on the proposals, or have you still to reach one?

Kevin Paterson: I have still to reach one. When flesh is put on the bones at stage 2, it will be a lot easier to see what the direction is in that regard. That is my honest answer.

Ilene Campbell: Our consultation has shown that there is tenant support for simplifying the process. There is support for mandatory eviction and for the process of seeking repossession to be made easier when someone has gone to court and been given a sentence. I think that the right of appeal means that there is a balance. The conversion of a Scottish secure tenancy into a short secure tenancy can also be appealed. Rights of appeal are covered from a human rights perspective.

When I checked the committee's previous evidence sessions, I saw that, because of people's right to appeal, the legal profession is very wary of a knee-jerk reaction when it comes to changing the law to make the process easier. Our view is that tenants support making the process simpler and a right of appeal to support people. However, there is a dilemma when there is a mandatory eviction but no reasonableness test, which means that there is no detailed consideration of whether it is reasonable to evict. Although a person would still have a right of appeal, there is a bit of a contradiction there. How would that work out?

However, on the whole, I think that there is support for the bill's proposals on simplifying the eviction process.

Lesley Baird: We support them, too. On the issue of reasonableness, as I said, we need to be clear about types of conviction. However, I think that that will become clear at stage 2.

Jim Eadie: So you support the proposals, subject to further clarification.

Lesley Baird: Yes.

19:15

Jim Eadie: Would Jennifer MacLeod like to say something?

Jennifer MacLeod: No, I just happened to be looking at you. [*Laughter.*] Gazing in wonder.

Jim Eadie: I do not know whether to be flattered or concerned by that statement.

Do you happen to have a view on the bill?

Jennifer MacLeod: I agree with a lot of what has been said. That is about the best that I can do for you. I can think of instances that we could talk

about, but the people would be able to identify themselves, so I would be better not doing so.

The Convener: If there are no more questions on part 2, I will move on.

We have already mentioned private rented sector tribunals, but I think that Alex Johnstone might have a related question.

Alex Johnstone: A short question needs to be asked. There is a proposal for tribunals for the private rented sector. Earlier today, we spoke to someone who is very keen on tribunals being extended to the social rented sector. What do you think of that suggestion?

Hugh McClung: I fully support that suggestion. Tribunals should cover disputes in the social rented sector, impacts on social housing tenants, resolution of disputes, long waiting periods before disputes are heard and so on. Problems arise when people go through the judicial system: the sheriff does not want to know; it is his lunch time; or he is having a hard day with a murder case or something like that and the housing case is not a priority.

The proposal should have been included in the bill. I have it on the authority of the Minister for Housing and Welfare that it might be included in the bill at a later stage. However, regional network representatives would like it to be included now. Further, we would prefer it if there were a team of housing experts and lay people who could deal with the matter in the public sector.

Alex Johnstone: We have got that message loud and clear.

Hugh McClung: Good—thank you.

Ilene Campbell: We came across the same level of support for the proposal, but a lot of tenants do not know what it would cost and what the implications would be. It is essential that there is consultation on the matter in the social rented sector so that people are fully aware of the costs and the benefits.

Jennifer MacLeod: Although there has been no consultation specifically on the matter, I believe that, in the consultation that did take place, landlords and tenants suggested that such a tribunal would be a good idea.

Lesley Baird: We support the idea. There was great disappointment in our consultation responses that it was not in the bill.

Kevin Paterson: I agree. That was the biggest disappointment about the bill, for me. However, I agree that there should be consultation about how the housing panels will work. Tenants need to be clear about how the housing panels will be made up and how they will work.

The Convener: Some of that is in the bill, but I am sure that it will be much more detailed in secondary legislation.

Part 4 of the bill concerns letting agents. Gordon MacDonald has some questions on that.

Gordon MacDonald (Edinburgh Pentlands) (SNP): Are you aware of any problems in your area arising from rogue letting agents? Do you support the bill's proposals? What benefits do you think that they will bring to tenants and the wider community if they are introduced?

Hugh McClung: I am aware of problems in my area. I live in Stirling, which is not far from here. I could relate a couple of stories about letting agents who are somewhat cagey in their operations, shall we say.

The bill proposes to legislate for a register of letting agents. It is a common, if misguided, belief that that will allow letting agents to police themselves. For example, in a situation in which there were three letting agents in a town, two of which were registered and were behaving impeccably and one of which was not, the other two would ensure that the one who was not behaving properly came into line. However, that will not happen. There must be clear, proper and full regulation, including compliance with all the legislative processes, and we need to monitor and observe how they are operating. Letting agents should have a set of professional standards or a code of conduct. The bill proposes that, but you must look at the checks and balances of how it will operate.

Kevin Paterson: In the consultation, we said that we were worried about where the resources for enforcement would come from and what shape the enforcement regime would take. We are worried that local government resources will be used to chase private landlords. The bill is a positive step forward, but perhaps it does not go quite far enough.

Gordon MacDonald: How would you strengthen it?

Kevin Paterson: First, I would not only make what is proposed mandatory but set it down in law so that people know exactly what they have to do and what the standard is. I would go as far as to say that we should control the rents in the private sector by making them a certain percentage above social rents within certain areas.

The quality of some of the private rented housing in Glasgow leaves a lot to be desired. We visited houses in Govanhill and in the Gorbals in Govan during our consultation, and the way in which some people are treated is absolutely ridiculous. It should not be happening in a modern Scotland. People wait weeks and weeks for

repairs to heating systems, they have water switched off because letting agents want them to move out, and things like that. We have to crack down on some of the letting agents. Whether the bill works will all be in the enforcement.

Ilene Campbell: I totally agree with all the previous points. We whole-heartedly support a statutory code as a minimum standard, which is still to be consulted on. Kevin Paterson raised people's concern that it is great to have a code, but it has to be enforced, and there are questions about who would have that responsibility. We would welcome a code, but it would be helpful for the advisory groups to have more dialogue and debate with tenant representatives post the bill.

Gordon MacDonald: I have one last question about private letting. Are there any other problems with the existing legislation? Are you aware of any other issues with the private landlord scheme, the deposit scheme or whatever?

Kevin Paterson: The number of illegal evictions that are taking place and the lack of follow-up on them is worrying. Landlords in the private sector seem to think that they can just chuck people out when they want to, or when they want to put the rent up. A negative aspect is that people are left with nowhere to go when those things happen. They do not get their security deposit back and they are more or less forcibly evicted from the property. That is a problem in Glasgow, and we really have to look at bringing criminal charges against some landlords, taking them to court and putting them in prison for illegal evictions and the methods that they use against their tenants.

Hugh McClung: Another issue that I have come across in recent months and years is that, since the introduction of the scheme whereby deposits go to a third party, which we welcomed, there have been suggestions that letting agencies have been charging for the production of a lease or tenancy agreement. That is quite extraordinary. It is really outlandish behaviour.

There are good landlords out there. They may own only one property or they might own 100. They go through a letting agency to do the recruitment process, but the letting agency does not bother its backside other than to sign somebody up. It is not interested in the repairs mechanism or whether the tenant is satisfied with their home—all of that goes by the wayside. The process that is proposed in the bill will go a long way towards reducing that problem, but it needs a little bit more.

Ilene Campbell: To reiterate what Hugh McClung said, we get a lot of calls from private rented tenants about things like not being able to get their deposits back. That is a challenge for students and younger people, in particular, who

are vulnerable because of that. People also call about the poor quality of repairs. Anything that the Housing (Scotland) Bill can do to ensure a higher standard of repair in the private rented sector would be welcomed by everyone.

Lesley Baird: Most of the codes that are in place for the private rented sector are voluntary. The sector is a huge part of our society because a huge number of people live in private sector properties, so anything that will make those codes statutory and give them teeth is important and would be welcomed by tenants throughout Scotland.

Kevin Paterson: It is about teeth and support, but it is also about the quality of the product. The letting agent is the go-between between the landlord and tenant and it is as much in the landlord's best interests for the letting agent to behave properly as it is in the tenant's. If the enforcement can be given teeth, that will really make a difference.

The Convener: The Scottish Housing Regulator has powers to direct the transfer of RSL assets under the Housing (Scotland) Act 2010. However, before it does so, it must consult, and have regard to the views of, tenants and secured creditors that hold securities over the houses of RSLs. Section 79 of the bill would create a narrow exception to the regulator's duty to consult, and have regard to the views of, tenants and such creditors in cases in which RSLs find themselves in financial jeopardy. Are you content that those proposals are proportionate and in the interests of tenants?

Lesley Baird is champing at the bit to answer that.

Lesley Baird: To say that it is unpopular would be an understatement. What is the regulator doing if we get to the stage at which we have to transfer properties without any consultation? How long does it take? There is absolutely no support at all for that proposal. People were horrified by it.

The Convener: Where do you think that it has come from? Why has the Government come up with it?

I will let you think about that. Perhaps Kevin Paterson has an answer.

Kevin Paterson: If I go back over my housing policy advisory group papers, I see that a number of RSLs were in deep doo-doo, shall we say, with their funders and there was a panic reaction when people looked at the situation and realised that they might not be able to put measures in place with the new housing regulator that was no longer part of the Government.

It has always been a slippery slope to self-regulation. When the Scottish Housing Regulator was made independent, we had worries about

that. Section 79 of the bill simply seems to be another erosion of tenants' powers over the regulator.

When the proposal came to the Western Isles forum of tenants and residents associations, there was absolute horror at it because, when we agreed to transfer, one of the parts of the transfer agreement was that, if anything ever happened that would create a problem with our RSL, the council would step in and take back the houses. That was also a thought for River Clyde Homes and other organisations that undertook a stock transfer. Then, suddenly, the Government has come along and trampled all over transfer agreements. There has been no support whatsoever for the Scottish Housing Regulator to have that power without consultation.

Hugh McClung: I concur totally with the two views given thus far. It would be abhorrent for the power to remove the assets and social aspects of an RSL without consultation with its tenants to be enacted.

Tenants are practically the stakeholders who have prime importance. Each one is encouraged to become a bona fide shareholder, albeit by a £1 membership fee or something like that, which gives them certain rights, such as a right to consultation on rent rises.

I realise that the bill mentions conditions relating to the removal of rights. However, the regulation inspection regime is clear, so it will be easily identifiable whether an RSL has viability problems. In addition, we have the Scottish social housing charter and the annual return on the charter, so it is easy to see at a glance whether there are problems that need further investigation. To say that an overnight removal of assets is warranted is absolutely abhorrent. We do not support that.

19:30

Ilene Campbell: Asking why it is proposed that a transfer of assets would take place without consultation is a good question. The issue has been raised not only by tenants but by the CIH. The proposal is completely out of sync with what currently happens.

TIS and TPASS provide independent tenant advice on mergers, stock transfers and constitutional partnerships all over Scotland. I have a scenario for you. At what point would the Scottish Housing Regulator make a decision that it was too late to consult? If the regulator is to make such decisions, we will be on a slippery slope.

Currently, if an organisation is looking to merge with another organisation, tenants have a right to a ballot. However, if the other organisation is subject to insolvency, or if there are other issues or an

inquiry is being undertaken, tenants still have a right to be informed and consulted. At most, the bill should say that the consultation process would have to be slightly quicker. However, tenants are due the right to an explanation of the reason for the landlord's situation and to look at the options, because it is tenants—not you or us—who will, through rents, pay for the decision and the valuation for years to come.

I cannot understand why such a change would be proposed, because it is completely out of sync and would muddy the waters. At what point would tenants not be consulted? With constitutional partnerships and mergers, the position in Scotland is confusing with regard to the point at which people have a right to be consulted and a ballot. The bill now makes proposals relating to insolvencies. If we were advising a group of tenants on the matter, they would ask why they were only being informed about the situation so late on in the day. In such a case, something would have gone wrong in the regulatory process, because there would have been lots of warning signs before the situation arose.

Our concern is that, if you erode tenants' rights on consultation, what would that say about tenants' rights in general? Given that the housing association sector across Scotland is looking at its long-term future, there must be consistency. Perhaps the regulator needs to answer the question why the provision is in the bill. I do not think that there are any circumstances in which that erosion of rights would be deemed appropriate.

Jennifer MacLeod: I agree. A housing association cannot just go downhill or down the drain overnight. The returns that are sent to the regulator, if they are put in honestly, are bound to indicate when something is wrong. There must be guidance somewhere along the line that allows people to pick up when something is going wrong, so that whatever help is available can be provided. If an organisation has to be dissolved or passed on to another housing association, the tenants must be consulted. Over the past 10 years, we as tenants have been given rights that we did not dream of having 20 years ago. The proposal is a backward step and, to be honest, I am appalled and amazed by it.

Kevin Paterson: Perhaps we need to look at the matter from a different angle and see it as a failure of self-assessment. Perhaps the Scottish Housing Regulator has seen, through his inspection regime, a weakness in the system that could be exploited because it is all hands off and desk-top inspections.

The Convener: The Scottish Housing Regulator is a she.

Kevin Paterson: Yes, the regime is cheap. That is what you get when you make the Scottish Housing Regulator work to a budget—

The Convener: You misheard. I said that the Scottish Housing Regulator is a she, not cheap. [*Laughter.*]

Kevin Paterson: I do not think that Michael Cameron is a she. When I met him last week, I am sure that he was a he.

The Convener: Okay—maybe I have got that wrong. I was thinking of Kay Blair, who is the chair of the Scottish Housing Regulator; Michael Cameron is the chief executive.

As members have no more questions, I ask the panellists whether there is an issue that we have not covered in our questioning that you want to raise.

Kevin Paterson: I am surprised that the change to the reasonable preferences has not been brought up. Does no discussion on that issue need to take place?

The Convener: I am not sure that I follow your point.

Hugh McClung: I thought that we had covered that.

The Convener: Are you referring to the allocations?

Kevin Paterson: Yes. I am referring to the changes to the Housing (Scotland) Act 1987. The matter is covered in part 2 and more meat needs to be put on the bones. We are worried about some of the reasonable preferences that are suggested, because the issue is about not only current tenants but future ones and how the bill will affect them. I mentioned earlier that future tenants were left in the dark a little bit in the consultation process.

The Convener: Have you covered the issue in your written evidence?

Kevin Paterson: Yes.

The Convener: We will make sure that we look at that.

I thank all the witnesses for their evidence, which has been very helpful. We had only that one item on our agenda so, after I close the formal part of the meeting, we will move to the informal question-and-answer session with members of the audience.

For information, next week, the committee will hear evidence on the bill from the Convention of Scottish Local Authorities and the Association of Local Authority Chief Housing Officers. We will also have a progress update from the project team on the building of the Queensferry crossing and

we will consider a draft report on the proposed national planning framework 3.

I thank West Dunbartonshire Council staff for looking after us and sustaining us with tea, coffee and food, and for making sure that we had a nice place to hold the meeting. As people will imagine, a huge amount of effort goes in to taking the Parliament out of its normal building, so I also thank the Parliament staff from the official report, broadcasting, security and media relations offices for their efforts. I also thank the clerks, who have undertaken a huge amount of effort in setting up the meeting.

Meeting closed at 19:37.

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