



The Scottish Parliament
Pàrlamaid na h-Alba

Official Report

INFRASTRUCTURE AND CAPITAL INVESTMENT COMMITTEE

Wednesday 5 March 2014

Session 4

© Parliamentary copyright. Scottish Parliamentary Corporate Body

Information on the Scottish Parliament's copyright policy can be found on the website - www.scottish.parliament.uk or by contacting Public Information on 0131 348 5000

Wednesday 5 March 2014

CONTENTS

| | Col. |
|---|-------------|
| DECISION ON TAKING BUSINESS IN PRIVATE | 2703 |
| HOUSING (SCOTLAND) BILL: STAGE 1 | 2704 |
| FORTH REPLACEMENT CROSSING (PROJECT UPDATE)..... | 2736 |

INFRASTRUCTURE AND CAPITAL INVESTMENT COMMITTEE

7th 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:

David Brewster (Convention of Scottish Local Authorities)

Tony Cain (Association of Local Authority Chief Housing Officers)

David Climie (Transport Scotland)

Patrick Harvie (Glasgow) (Green)

Jim Hayton (Association of Local Authority Chief Housing Officers)

Silke Isbrand (Convention of Scottish Local Authorities)

Councillor Harry McGuigan (Convention of Scottish Local Authorities)

Lawrence Shackman (Transport Scotland)

CLERK TO THE COMMITTEE

Steve Farrell

LOCATION

Committee Room 1

Scottish Parliament

Infrastructure and Capital Investment Committee

Wednesday 5 March 2014

[The Convener *opened the meeting at 10:01*]

Decision on Taking Business in Private

The Convener (Maureen Watt): Good morning, everyone, and welcome to the Infrastructure and Capital Investment Committee's seventh meeting in 2014. I remind everybody to switch off their mobile devices, as they affect the broadcasting system, although some committee members may access their committee papers on their tablets.

Under agenda item 1, does the committee agree to take in private item 4, which is consideration of a draft report on the proposed third national planning framework, and any future consideration of further drafts?

Members *indicated agreement.*

Housing (Scotland) Bill: Stage 1

10:02

The Convener: Item 2 is evidence from representatives of the Convention of Scottish Local Authorities and the Association of Local Authority Chief Housing Officers on the Housing (Scotland) Bill. This is the last stakeholder evidence session before the committee hears oral evidence from the Minister for Housing and Welfare next week.

I welcome from COSLA Councillor Harry McGuigan, spokesperson for community wellbeing and safety; Silke Isbrand, policy manager from the community resourcing team, housing; and David Brewster, senior environmental health officer. I also welcome Jim Hayton from South Lanarkshire Council and Tony Cain from Stirling Council, who are representing ALACHO. Patrick Harvie, who has joined us for the session, is welcome, too.

Adam Ingram (Carrick, Cumnock and Doon Valley) (SNP): Good morning, lady and gentlemen. The Scottish Government's declared vision for housing is

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

To what extent does the bill support that vision?

Councillor Harry McGuigan (Convention of Scottish Local Authorities): The committee will excuse me if I say a wee introductory piece that might help to clarify where we are coming from. I will then deal with the detail of the question, if that is required.

We are pleased to have and appreciate the opportunity to, we hope, help the committee in its deliberations during stage 1 scrutiny of the bill. The COSLA, ALACHO and environmental health teams that are here this morning are anxious to ensure that local government analysis of the bill is presented with clarity and objectivity.

My executive group at COSLA has followed and engaged in the process of preparing for the bill since early last year. The process that was undertaken before the bill was introduced invited and secured wide consultation from a host of stakeholders on particular issues that are relevant to a broad spectrum of housing matters.

The issues that the bill covers were identified, examined and fleshed out during the consultation process, subsequent to which the bill was drafted. We think that an effective, collegiate and productive way of working has been used. COSLA and other stakeholders have engaged fully and have made formal submissions to the relevant Scottish Government consultation process.

There is much in the bill that we believe to be very positive, but there are some omissions, which we feel should be raised and highlighted rather than becoming missed opportunities to address pertinent issues that are faced with increasing and frustrating regularity by housing stakeholders. Those omissions need to be addressed.

I thank the committee for allowing us to come here today. I believe that this is your penultimate evidence-taking session on the bill, and it allows us to comment on some of the other submissions that have been made.

In response to your question, the provisions in the bill on the general housing issues are sound and are consistent with what we have been working for in local government and COSLA, along with stakeholders, for a long time. We want to continue to make that happen in a productive and useful way.

Do you wish to ask us about any specifics in relation to that?

Adam Ingram: My colleagues will certainly follow up on that. Does anyone else care to comment on how well the bill's provisions promote the Scottish Government's vision for housing?

Jim Hayton (Association of Local Authority Chief Housing Officers): Before answering that question, I say for the record that I no longer work for South Lanarkshire Council. I did until a few years ago; for the past couple of years, I have been fully employed as a policy adviser to the local authority chief housing officers.

I beg your indulgence and ask you to repeat the terms of the vision to which you referred.

Adam Ingram: Surely. It is

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

Jim Hayton: In common with COSLA, ALACHO, in its response to the consultation, gave a broad welcome to the terms of the bill. In essence, it is about existing houses, the way in which they are allocated and some of the issues that affect the people who live in them—with the possible exception of the proposed abolition of the right to buy. In common with many other organisations, ALACHO has welcomed that as a measure to increase the supply of affordable housing, which we view as the major pressing issue in Scottish housing today.

There is a fair bit in the bill that will help to achieve the vision, not just in the social sector but also in the private sector, particularly the private rented sector, which presents many pressing challenges. The bill helpfully sets out some measures and provisions that will help us to

improve the situation in that sector. ALACHO gives the bill a broad welcome.

Tony Cain (Association of Local Authority Chief Housing Officers): I make a simple observation about the vision: in so far as it goes, nobody would argue with it. The major policy gap at the highest level—at United Kingdom level and Scottish level—seems to be a detailed articulation of what a stable and properly functioning housing system looks like and of what policy actions are required to ensure that it remains stable in the longer term. In particular, that means directly answering the questions of what we mean by the term "affordable" and what an appropriate balance in tenure mix ought to be across the system.

Adam Ingram: I am sure that some of my colleagues will get into more of the detail.

I note from your opening remarks, Councillor McGuigan, that you appear to be content with the consultation process that the Government adopted for the bill. Does anyone have any issues with that consultation, or are you quite happy with it?

Councillor McGuigan: We think that that is the correct way to work, rather than having a situation in which issues emerge in the bill; that could delay the process and cause considerable frustration.

Consultation is the best way to work. We have asked for that approach to be taken with regard to some of our work with the Scottish Government, and the dividends that we are seeing are good.

Jim Hayton: From ALACHO's point of view, prior to the bill there were several strands of consultation on the right to buy and the options around that. There was a lot of detailed consultation on potential changes to housing allocation systems—a big group of about 15 interested parties looked at the options there. There was detailed consultation on the proposal to have a housing tribunal for dispute resolution. Last but not least, there was detailed consultation on measures for the private rented sector.

It was very helpful to have all that done in the past year and a bit. We did not get everything that we sought out of the consultation. I have set out in our submission areas in which we think that the bill could have gone further. The committee may wish to question us about that later. However, in broad terms, as we point out in our submission, we were pleased with the format of the consultation and its inclusive manner.

The Convener: We move on to specific sections. Alex Johnstone has some questions on the right to buy.

Alex Johnstone (North East Scotland) (Con): You have all made it clear that you are in favour of the abolition of the right to buy. What benefits do

you see that bringing to social landlords and their tenants?

Councillor McGuigan: We think that the abolition of the right to buy is absolutely necessary if we are to be able to meet the requirements and demands for housing in our communities. We feel that the timescale for that—the bill proposes three years—can and should be shortened to a more reasonable length. There is some nervousness that the timescale could result in a gallop towards homes being purchased before the deadline. However, there is no evidence that that happened when right to buy was abolished in relation to pressured area status.

We welcome the abolition of the right to buy. We have to find a balance between the European convention on human rights and the desperate need in our communities for affordable social housing.

Jim Hayton: As with almost all aspects of housing policy, the right to buy is a decision about competing priorities. There are some difficult decisions to be made. As we said in our submission, we fully acknowledge that there are trade-offs there. Many people in Scotland—perhaps the majority—still have legitimate aspirations to home ownership, but that has to be balanced against what we see as some fairly pressing needs on the affordable housing side. From memory, I think that Scottish Government statistics record that there are about 140,000 people on waiting lists.

We came to our view by weighing up the pros and cons of retention versus abolition of the right to buy and concluded that, in the current climate, having available in perpetuity a supply of affordable rented housing that would otherwise be lost to the sector outweighed the legitimate aspirations of some people—going by sales in the past few years, a significantly reduced number of people—to owner occupation. We think that that was a rational decision, based on an assessment of the competing priorities.

Tony Cain: In terms of the operation and strategic planning of the provision of housing services, one of the key issues with the right to buy is that it makes it almost impossible in the longer term to be clear about the asset base and the long-term income streams that are available in managing that stock and developing services. In particular, with regard to meeting housing needs in rural communities, if people cannot be certain that the provision that they have put in place today will still be there in 10 years' time, they cannot be certain that they will be able to meet those needs in the longer term.

There are settlements in my area in which, 20 years ago, I would have argued very clearly that

we had met the housing need and that there was a sufficient supply of affordable rented housing. That supply is now almost entirely eroded and it will be difficult to go back into those rural communities and find suitable sites for the provision of additional affordable housing. As long as the right to buy remains in place, there is a substantial issue with regard to long-term strategic planning for investment stock and meeting housing needs.

10:15

Alex Johnstone: Jim Hayton said that abolishing the right to buy would increase the supply of affordable housing, but in reality the people who tend to buy their council houses would tend to remain as long-term tenants anyway. For every 100 people who are denied the right to buy when they want to, a very small proportion—perhaps as few as 1 or 2 per cent—would be likely to vacate the property as an alternative to buying it. Abolishing the right to buy would not therefore free up much property in the first instance, would it?

Jim Hayton: Our analysis is a wee bit different: we contend that abolition would free up significantly more than 1 or 2 per cent of properties.

Alex Johnstone: Are you suggesting that people who would wish to buy their properties will, once they are denied that right, vacate the houses that they currently occupy?

Jim Hayton: They may do, depending on the state of the housing market and how strong their aspiration is. Several things are affecting the right to buy, not least the significant change in the past few years in the discount provisions, which has resulted in demand tailing off significantly. We took those factors into account and concluded that in a majority of authorities—although, as with most things, there would be some differences—the advantages would lie in abolishing the right to buy.

Alex Johnstone: You see the effects on the affordable housing supply as long term rather than short term.

Jim Hayton: Yes.

Alex Johnstone: Does anyone else have a view, or a different view, on that point?

Councillor McGuigan: There are many people in our country who opposed the right to buy at the outset because—as we stated clearly and categorically—only certain types of property would be bought. We now find ourselves in a situation in which people who bought their homes through the right to buy are indeed moving into other homes and using the ex-council house for collateral. In our view that creates a situation that is grossly unfair, because stock that would have been

available for ordinary people who cannot afford to buy their own home has been lost and is simply being taken over by people who can afford to buy it. That is a dangerous precedent to set in our country.

Alex Johnstone: There is plenty of statistical evidence that suggests that the right-to-buy policy was withering on the vine in Scotland and that the numbers in recent years are a tiny fraction of what they were at their peak. I believe that fewer than 1,000 houses a year are now being bought by their tenants.

The proposal to abolish that right is, ironically, likely to cause a spike in the number of tenants who take up the right to buy. We heard anecdotal evidence from a housing association representative at our meeting in Dumbarton last week that there had been a significant increase in the number of applications and expressions of interest that had been received. Statistical evidence has also appeared in the past week that shows that the number of expressions of interest is already 50 per cent up on what it was at the same stage in recent years.

By proposing the abolition of right to buy, are we making the problem worse rather than better? Will we lose a large section of our available affordable housing stock in the process of ending the right to buy?

Councillor McGuigan: It is interesting that you say that the information is current and has come out just this week. We would say that there is no strong evidence that there is a housing spike and that people are rushing to buy before a particular deadline.

In my opening statement, I mentioned the removal of the right to buy from areas with pressured area status. The spikes did not materialise in that situation as many people thought they would. I can say only that the information that we have does not concur with the information that you have.

Alex Johnstone: So you feel that there is no danger that we will see teams of young men going into council estates, knocking on doors and offering to lend people the money to buy their property while the opportunity is still there, which is what happened in the housing market in the past?

Councillor McGuigan: We would certainly hope that that does not happen.

Alex Johnstone: I, too, would hope that it does not happen. However, I have grave concerns that, by moving to abolish the right to buy, we are accelerating all that is negative about it in an attempt to prevent all that is positive about it.

Councillor McGuigan: No, I do not think that we are. We are sending out a clear message about the priorities that we are addressing in our communities, where there is a desperate need for affordable housing for people to rent. That is what we are aiming to do.

You will have people coming to your surgery who are in dreadful situations, and that misery has to be dealt with. We have to maximise the housing resources that will be available for use. We have to build more houses too, but abolishing the right to buy is an important step in the right direction. I do not think for a minute that we will see teams of people going round housing estates chapping on doors and asking people to buy their houses—that is a dramatisation of the reality.

Alex Johnstone: A dramatisation is potentially what I am talking about. I am looking into the future to see what would happen, and my concern is that, although by ending the right to buy in this way at this time we may be saving 20 or 30 houses throughout Scotland to be re-let in any one year, we may in doing so see 10,000 houses sold to their occupiers.

Councillor McGuigan: No, I do not think so.

Tony Cain: With regard to strategic planning in public sector housing, we manage our stock and investment over a 30-year period, and we are currently planning—or assuming—that we will sell something over 10 per cent of our total stock over that time under the right-to-buy policy at the current levels of sales. It may well be more than that, depending on how the mortgage market and other things change.

It is possible—although we cannot predict what will happen—that there may be a rise in right-to-buy sales in the next 18 months to two years or however long the sunset clause is for the right to buy. However, it is preferable as a way of extracting ourselves from a policy position that has definitely had its day—whatever its relative merits were in 1980—to take the risk and go through that process to get to a place where it is possible for us to plan the provision of housing over the long term.

Alex Johnstone's point about buyers not necessarily moving on immediately is fair. However, it is clear that something up to a third of all the properties that have been sold under the right to buy are now in the private rented sector and that the right to buy is, in the longer term, driving the growth of lower-quality private renting in many already pressured communities, which is problematic.

Silke Isbrand (Convention of Scottish Local Authorities): We are all aware that there has very recently been information in the press about an anticipated 50 per cent spike in sales. However, we have been following the issue for quite a

while—Councillor McGuigan has outlined our mechanisms, such as the executive and task groups. Only a couple of days ago I received evidence from Perth and Kinross Council that there is no expected spike or rise in sales, and we also have the evidence from the move to pressured area status. The evidence that we have certainly contradicts what has been in the press only a couple of days ago.

The Convener: Where do you think that the press might have got the idea that there is a spike?

Silke Isbrand: I do not know.

Councillor McGuigan: We do not think that that idea can be substantiated. Alex Johnstone says that it is profitable for gangs to go round chapping on doors and asking people to buy, saying, “We’ll provide the money,” and so on. Of course it is: that happens and will continue to happen right up until the moment that the legislation is approved. However, it is wrong that it should be happening and that there are situations in which a landlord can buy up to three, four or five ex-council houses in North Lanarkshire. There is something seriously flawed in accepting that as good, sensible housing policy. It is an abuse, in capital letters. Tenants are not only buying their own home, but arrangements are made whereby in certain circumstances an individual can buy their auntie’s or mother’s house. We should tackle those things directly, and with fierceness.

Alex Johnstone: One other issue that I need to ask about and which you have not covered is the three-year period, which was mentioned earlier. What is your view on that and on how we could do things differently without contravening the human rights of individuals?

Councillor McGuigan: That has to be looked at in the light of trying to find a balanced position between the rights of an individual and our need to retain and grow an affordable housing stock. As far as pressured area status is concerned, there were no ECHR referrals at all. If we handle the matter properly—and with sensitivity, because some people will face disappointment—and in a sensible timescale that tries to find that balance, we think that it will be manageable. That is the right way to go about it.

David Brewster (Convention of Scottish Local Authorities): Councillor McGuigan has highlighted the number of ex-local authority houses that become private rented houses. It would be fair to look at it the other way and say that a lot of the private sector homes are ex-local authority. That brings with it the variable standards of management that we know about in the private rented sector. Where benefits are involved, there is evidence to suggest that we are paying out

more in benefits where the same homes are in the private rented sector than we would have been when they were local authority or housing association homes.

The other practical thing that local authorities have to deal with is situations in which parts of buildings have been sold as private homes. In such cases, maintenance becomes considerably more complicated, and that was never considered in the original right to buy.

The Convener: Mary Fee has some questions on social housing.

Mary Fee (West Scotland) (Lab): Provisions in part 2 of the bill are aimed at increasing social landlords’ flexibility in allocating housing. They also make changes to reasonable preferences. Do you think that the changes proposed are the right changes, and what impact do you think they will have?

Jim Hayton: Our response to the consultation states explicitly that we broadly welcome the proposed changes. We are not certain that most of them will make a huge amount of difference, but they are adjustments to the system that should be helpful. That includes amending the reasonable preference category, which is a relatively minor change that adds underoccupying tenants to the existing categories, but it is helpful nonetheless.

Some of the other proposals are also welcome, such as the new duty on local authorities and RSLs to consult applicants and tenants. Being able to take age into account when allocating social housing is something that councils particularly welcome, as they have thought for some time that that is a commonsense change to the current arrangements that will enable councils to make decisions that help to promote sustainable communities. For example, they could designate certain blocks as suitable for older people and invest in the infrastructure and support services required to adapt the block and make it suitable for that group.

We fully accept that change needs to come with some safeguards about people’s rights, and we think that that can be done. We argued strongly that the ownership of property should be taken into account. It is not a frequent occurrence, but it does sometimes happen that people are allocated social housing when they already own a house. In the past there was limited latitude for councils to do anything about that, and the bill helps with that. Equally, there is provision elsewhere that allows us to grant a short tenancy to owners, to tide them over in certain situations where they may be trying to sell a house.

The other provisions relate to suspensions, and we are not at all unhappy about the Government clarifying that. We would be happy to work with

Government on the guidance and regulations that may support that. Suspension can happen in situations where applicants may have committed some antisocial behaviour or criminal offence in the past, and councils will want to ensure that there is time for people to reflect on the consequences before they are allocated housing. In broad terms, however, we are content with that too.

I guess that the answer to the question is that, in broad terms, we welcome the provisions and are happy to think about the guidance and regulation that will be needed to bring them into effect.

10:30

Councillor McGuigan: Just to add to that, it is very important that local authorities and registered social landlords are able to manage their housing stock in a way that is best suited to and well understood by the local communities. If special types of circumstances arise, it is grossly unfair if they are not recognised and given credence because an allocation policy is riveted in a certain fashion. We believe that subject to special cases, including age and income—that is another matter that we feel should be considered—we should be able to have the flexibility to manage our housing stock in the best possible way for all of the community. It is not about discriminating on the basis of age or anything else.

Jim Hayton: Quite sensibly in our view, a lot of the provisions come with the right of review or appeal for anyone who might feel aggrieved by them. We are more than happy to have such a provision as a safeguard and are content to work with the Government on how it would be implemented in practice.

Tony Cain: I just want to make a simple observation. The provisions strike me as a sensible modernisation of the law as it stands on the issues. The one point that I would make is in relation to taking into account the existing ownership of a property. I have regular conversations with tenants and applicants who do not understand why we would allocate a house to a home owner. They generally assume that we have done so either by mistake or because we have been duped. That impacts on the credibility of our allocation processes.

In any event, the practice results in an inefficient use of the overall stock and resources. We make landlords of tenants. In Stirling, about five or six owners a year, principally older ones, will be allocated a council house and will be left with their own property as well. It might not be a large number, but it is obvious and visible in the communities and it impacts on the credibility of the way in which we manage our stock.

Mary Fee: Mr Hayton raised the issue of age. The bill will allow social landlords to take that into account. We have heard varying views both supporting and opposing that change. For example, Shelter and the Govan Law Centre are not supportive of the change, but the Chartered Institute of Housing thinks that it would be a useful measure. Shelter said in evidence:

“The fundamental principle of social housing allocation should be that it is based on a framework of need and ... circumstances”.—[*Official Report, Infrastructure and Capital Investment Committee*, 22 January 2014; c 2436.]

I take it from your comments, Mr Hayton, that you do not agree with that and that you are quite happy with the proposals.

Jim Hayton: Yes, I do not agree with that. Shelter does not manage social housing and does not necessarily have to deal with the fall-out when people perceive that councils have made decisions that are not in the interests of the folk who live in a particular block, for example. Councils would absolutely accept that the principle should be based on need, but that should not involve following a set of rules blindly without regard to the make-up of a community and what is likely to lead to sustainability and peaceful coexistence rather than the creation of friction. It is not social engineering; it is about allowing landlords to make sensible decisions in the interests of a sustainable community life. For that reason I would disagree with Shelter's view.

Mary Fee: Does anyone else want to comment on that?

Tony Cain: My observation is that, in preparing and approving allocation policies, local authorities are also required to prepare equalities impact assessments. To the extent that we are accountable for the EIAs through the statements and the challenges that can be made around them, the risk of discrimination is minimised.

Mary Fee: And of course social landlords have to justify objectively how they are allocating. Is that quite easy to do? Are there enough safeguards in that for you?

Tony Cain: Yes.

Jim Hayton: Yes.

Councillor McGuigan: Yes.

Mary Fee: Okay. That is a straightforward answer.

Jim Hayton: We would always expect to be accountable. I absolutely accept the right of organisations such as Shelter to hold us accountable. If they thought in future that there were instances when local authorities had been discriminatory, we would expect to be asked about them and to have to justify our decisions on

commonsense, sustainable community grounds. We would be happy to do that when the time comes.

Councillor McGuigan: For example, if we allocated to a family with four children a house in, say, a block of flats that had only one stairwell and which already housed 12 children among the families who lived there, that would be problematic. We need to manage the stock in a way that is sensitive to the needs of all the people who live in the estate, and sometimes it makes sense to say, "Look—we can allocate this house in a different fashion." It is not a matter of discriminating against anyone. Would you agree with that, Jim?

Jim Hayton: Yes.

Mary Fee: At our recent Parliament day event in Dumbarton, tenants and tenants groups told us that they would like to become more involved in the letting process and, indeed, the council's decision-making processes. Do you think that that would be a good thing? Should they become more involved?

Councillor McGuigan: Yes. I think that people and communities should become more involved in the decision-making processes that affect their lives. We welcome such involvement and try to engage constructively with tenants, residents associations and so on to ensure that their voices and ideas are heard. After all, they are the experts in their own communities. I am therefore 100 per cent behind that suggestion.

However, we also have to be a wee bit careful that we do not simply assume that everyone or every organisation that presents itself as the spokesagency, if you like, for a locality represents that locality. As you will have seen—and as I certainly have seen—it is very often a small clutch of people who purport to represent a whole area. They are well intentioned, but sometimes they, too, miss the point.

That said, I certainly want greater integration between the communities and the decisions that affect their lives. I think that we can work towards that aim—indeed, we are doing so—and that provisions in the bill will assist us in that respect.

Mary Fee: Do you think that the more involved local communities and tenants are, the less likely you are to have problems with flexibility, allocations and the age stuff?

Councillor McGuigan: We run a better chance of making people feel comfortable if they know why things happen and if such information is shared fully with them. We will also create more confident localities and neighbourhoods. That is the kind of subsidiarity that I like and for which I have campaigned all my political career.

Jim Hayton: I broadly agree that tenants and residents should be involved in the formulation of the policy; indeed, as has been pointed out, there is a new duty to consult applicants and tenants when reviewing allocation policies. That is the best place for tenants to be involved. I do not think that anyone is suggesting that we allow panels of tenants to decide who should be allocated housing; there needs to be a balance, but tenants should certainly be involved in decisions on allocation policies and in looking at their area's local needs and helping to decide priorities very much within the constraints of the existing legislation.

Mary Fee: Thank you.

The Convener: Mark Griffin has some questions on tenancy changes.

Mark Griffin (Central Scotland) (Lab): The bill makes some changes to the qualifying period for joint tenancies, subletting, assignments and successions. In its written submission, COSLA has said that it would prefer the power to assign to be given to the social landlord instead of its remaining a tenant's right. Do you agree with the changes to the qualifying periods and have you any other comments about the section in question?

Councillor McGuigan: I will answer the question directly and then ask Jim Hayton and Tony Cain to provide some more detail.

We feel strongly that the subletting and assigning of tenancies should be the business of the landlord, not the tenant. In other words, the right of assignment should shift to the landlord. As a member of the same local authority as me, Mr Griffin, you will have seen some very clever abuses of that very situation, with assignments being carried out in a way that is anything but consistent with fairness in the allocation of property.

Jim Hayton: Yes, I broadly agree with that. ALACHO was one of the groups that argued that landlords should have the power to make such decisions rather than assignment being a right of the tenant, but we are happy with the halfway house of extending the qualifying periods—essentially, for the reason that Harry McGuigan outlined and indeed for the reason that Tony Cain mentioned earlier about the credibility of the process.

Every single housing manager could tell stories about perceptions of abuse of the system, where someone has moved into a house and has claimed to have been living there for some time in order to succeed to the tenancy or where tenants decide to assign the tenancy to someone who almost certainly would not have been allocated that house on the basis of housing need.

Although the changes have not perhaps gone entirely the way that ALACHO would have liked, we think that they are a good move in the right direction and we support them.

Mark Griffin: Are you able to talk about any of the problems that councils have had when tackling and trying to solve problems with tenants' antisocial behaviour, including any problems that councils have had with the use of short Scottish secure tenancies and any court action where councils have sought to evict tenants?

Councillor McGuigan: One of the big disappointments for COSLA in the bill relates to initial tenancies—some people call them probationary tenancies, but they are initial tenancies. Initial tenancies are useful and they should not be interpreted as being an attempt to make it easier to evict tenants for antisocial behaviour or for other reasons. We feel that initial tenancies provide us with a tremendous opportunity to help new tenants to understand what their responsibilities and rights are and to work with us as a group to ensure that we can minimise the likelihood of antisocial behaviour developing.

As far as initial tenancies are concerned, Jim Hayton may come in on the more general point about antisocial behaviour and what tools we have. I think that we have to look more deeply at the tools that we currently have and bring in more innovative means to deal with the issue.

A good approach is being adopted in North Lanarkshire at the moment in areas where the housing stock has unattractive features and there are stories about antisocial behaviour and so on that mean that people do not want to be housed there. Instead of allocating a house to an individual, who moves into such an area and immediately has the perception that they are vulnerable and on their own, there has been a move towards allocating collectively, with maybe four or five families going into a particular block or a particular area at a particular time.

Those four or five families have had the opportunity to meet and talk to one another and to get a feel for the aspirations that they each have for the new houses that they are moving into. That provides a degree of security and confidence as they move in. We find that people are moving into the houses and they are not retreating in the face of some of the bad practices that happen in the area. That is a particular example of what might be a good innovative practice. It is only being experimented with at the moment, but that is the kind of thing that we need to build on.

Jim Hayton: I have spent more than 30 years working in housing, and dealing with antisocial behaviour is probably the most intractable housing

management problem that housing managers face. It is a huge issue for tenants. I have not read the *Official Report* of the committee's meeting in Dumbarton last week, but I would be very surprised if antisocial behaviour did not figure largely on tenants' agendas too. I guess that what is behind Mr Griffin's question is the extent to which the bill will help landlords to deal with that problem.

There are some welcome measures that will help landlords to deal with substantive elements of the behaviour and that will go some way to convince tenants that landlords are not completely without power and therefore credibility in the area. A frequent criticism that councils and RSLs face is that we are unable to deal with such problems when they emerge and that the court system takes far too long to sort out problems for people. Some tenants say that they have lived with serious antisocial behaviour for three years or more.

10:45

Therefore, we welcome some of the provisions in the bill. However, on the surface, other provisions look as though they will make our lives a wee bit more difficult. An example is the increase in the minimum term of an SSST that is granted for antisocial behaviour from six to 12 months. If a person has a short tenancy because of previous antisocial behaviour and they persist with that behaviour, neighbours will have to put up with it for 12 months, rather than six. So there are disadvantages, although there are measures to balance that.

We very much welcome the new requirement for courts to grant an application for a possession order that is made within 12 months of a tenant's conviction. Unfortunately, some people have suggested that that is an open door for councils to evict people willy-nilly for things such as dropping litter or playing football on the street. We are not talking about that, and nothing could be further from the truth; we are talking about serious criminal or antisocial behaviour. It could be someone who has been dealing drugs and causing all kinds of problems for years and has then been convicted. Is anyone seriously suggesting that councils should reinstate that person or allow them to continue to live in the tenancy, and that they just need some support? When that happens, councils lose all credibility with tenants.

With the proper safeguards and the right guidance and regulation, that kind of measure will be helpful to landlords in dealing with antisocial behaviour. To the extent that the bill contains such measures, we welcome it.

Silke Isbrand: The topic of antisocial behaviour always features strongly at meetings of the cross-party elected member task group that, as Councillor McGuigan outlined, we set up specifically to consider the bill. The general feeling of the group is that the proposed changes are a useful addition to the local authority toolkit. However, local authorities are still struggling with a number of issues. There are mixed-tenure blocks where antisocial behaviour arises from private properties, which links to the discussion that we had earlier about the right to buy. There is recurring low-level antisocial behaviour. The problems are different across the spectrum.

The general feeling is that the proposals in the bill are welcome but that the problem will not go away as a result of those proposals, so we need to continue to look at the issue. We need innovative practices as much as other methods. As Councillor McGuigan said, initial tenancies are a key issue. Another key issue is our disappointment, which we expressed in our written submission, about the fact that the bill does not introduce a housing tribunal for the social rented sector.

The Convener: We will come on to that.

Mark Griffin: When the committee has raised the concerns about the increase in the minimum period of short SSTs from six months to 12 months, we have been told that many people who engage in antisocial behaviour have underlying issues, such as mental health issues or learning difficulties, or just living in a highly stressed environment. Alternatively, it could be only one individual in a household who is carrying out antisocial behaviour, rather than the whole household. Does the use of short SSTs sometimes exacerbate the situation and make things worse, which would mean that, actually, the move from six months to 12 months is welcome in those circumstances?

Councillor McGuigan: The short-term tenancy can be used effectively, but I do not know whether the evidence suggests that it would be more helpful to have a 12-month tenancy. We use the arrangements to ensure that people with mental health problems are supported; indeed, it is well understood that support is provided in that regard. However, a worrying issue relates to antisocial behaviour that is caused by other residents in the house as opposed to the tenant. We must make it absolutely clear to the tenant that they have and must accept some responsibility for the conduct of others in the home. I will let Jim Hayton speak to the detail.

Jim Hayton: As I said in response to a previous question, a short-term tenancy can be a mixed blessing. If there are issues that the council or agency can genuinely work with, a longer period

could be helpful to make sure that a person gets the necessary support.

We have a particular issue with co-ordinating services for people who might be in need of support, so some of us have high hopes for the new health and social care partnerships that are coming in next year. In our profession, we sometimes feel that housing is left to deal with people's problems that may have wider roots beyond those related to their housing problems. You mentioned some of those problems, which include substance abuse or health or mental health problems. We have high hopes that better-integrated working with our colleagues in health and social care could ensure that the support that people get is holistic and genuinely helpful in sorting out their problems. However, if the behaviour is intractable and continuing, we must accept the possibility that the extension from six to 12-month tenancies would work against rather than for us.

Mark Griffin: What are your views on the proposals to simplify the eviction process in cases of antisocial behaviour? Is there potential for tenants to be continually moved around the housing stock in a local authority area, leading to cycles of antisocial behaviour in different places, rather than addressing the problem?

Councillor McGuigan: Simplification is not something that we would accept as far as antisocial behaviour is concerned. Antisocial behaviour is a problem that we try very hard to deal with. The idea that any of the proposals that we are arguing for, such as initial tenancies, are being put forward because we feel that we need to be able to evict people more easily is a nonsense. We must continue to work with people in the situation that they are in. If we cannot find solutions to that situation, there must be interventions. Silke Isbrand talked about that with regard to the toolkit. An examination must take place of what other ways there are to enable us to deal with the antisocial behaviour scourge because it destroys lives—you know that and I know that. Jim, do you have anything to say?

Jim Hayton: I have nothing to add to that. Tony, do you want to say anything?

Tony Cain: I will say something about the credibility of the management function. Communities have a reasonable expectation that people will be held accountable for their actions. It is very difficult to remove from a home people who are perpetrating acts of antisocial behaviour, but our failure to deliver a response impacts directly on our credibility as a landlord and people's view of and willingness to engage in that process. If there are no outcomes and problems are not dealt with, people will simply stop reporting issues and withdraw from being prepared to give evidence

and assist in tackling the problems. The ability to remove individuals whose behaviour is, in the end, beyond the pale, make them accountable for that behaviour and demonstrate that to their neighbours is a critical part of the process.

If we then need to engage with that individual in another context to assist them in improving and managing their behaviour—their drinking or their drug abuse—so that they can move on to a more stable environment, we need to do that, too. The answer is not to leave them where they are while you try to come up with solutions to the other problems. In some circumstances the answer must be that you have to remove people and then move on from there. A consequence must be demonstrated.

Councillor McGuigan: You might be going to ask about tribunals, which have been mentioned. We are disappointed that there will be housing tribunals only for the private sector. We think that the bill represents an opportunity to identify a problem early and to start the work that needs to be done to solve that problem at an earlier stage and thereby avoid the long, drawn-out court processes that we have to go through at the moment. We hope that lessons will be learned from the private sector that can be applied to the social sector.

Mark Griffin: I will come on to that but, before I do, is there anything else that could be included in the bill to address antisocial behaviour and its root causes?

Jim Hayton: The point has already been made: in the council sector, in particular, we strongly believe that the bill has missed an opportunity to bring in initial tenancies. I do not know whether the committee was going to come on to that.

The evidence from south of the border suggests that initial tenancies are successful, that they are a valuable tool in the toolkit, that they do not increase evictions and that they allow landlords to engage with tenants in the critical first year of a tenancy to emphasise that a secure tenancy is a valuable currency. At the same time, initial tenancies provide a meaningful sanction; they say to tenants, "This is a valuable commodity, but it involves expectations of behaviour on both sides. The landlord has obligations, but you have obligations, too, both to the dwelling and to your neighbours."

Although initial tenancies would not have been a panacea or a silver bullet, they would have been a valuable addition to our toolkit. We were very disappointed that the minister decided not to include provisions on initial tenancies in the bill, as that means that we will not have the chance to consider them. We still think that it would be worth having a look at the evidence. Initial tenancies will

not solve antisocial behaviour, but they might go some way to helping to prevent it and to mitigating the consequences of it in future.

Councillor McGuigan: It is also worth saying that some of the evidence that was submitted was clearly along the lines that Jim Hayton highlighted, so it is difficult to understand why the Government decided not to proceed with initial tenancies. The evidence—certainly that from tenants organisations—was overwhelmingly in favour of proceeding with them. The issue might need to be looked at again. Questions should be asked about why it was decided not to proceed with initial tenancies on the basis of a minority view from some quarters.

Mark Griffin: The transferring of social rented sector cases to the tribunal, along similar lines to what has been proposed for the private sector, has been raised repeatedly by witnesses. The Scottish Government has said that, because of the court reforms that are going through, increased use will be made of mediation, which will create the potential for improved outcomes for cases that go through the courts. Do you think that that is enough, or do you still support a move to the use of tribunals, as has been proposed for the private sector?

Councillor McGuigan: We do not think that that is enough. We think that we should proceed with tribunals. The agony that some people have to suffer continues, and I do not think that we should delay. It may well be that there are lessons that we can learn from the housing tribunal approach in the private sector, but we would certainly have preferred it to have been extended to the social sector. We are disappointed that it has not been.

Jim Hayton: I agree. There are at least a couple of things that we thought that a tribunal might deliver that the current system does not. We were a wee bit surprised to hear that one of the reasons for not adopting the tribunal approach was that the court review was under way. The Government knew that the court review was under way when it consulted on the proposal, so it might have been an idea not to consult on it at all.

However, it is a good idea. It might have helped to sort out two significant problems. The first is the recurring theme of dealing with matters speedily and not having people suffer, particularly from antisocial behaviour, for undue periods of time. The second is the potential to bring together an expert body of people who could consider the issues and perhaps help to streamline the process, which would result in better-quality, speedier decisions not only on antisocial behaviour but on any other matters that would be under the tribunal's jurisdiction.

11:00

Having said all that, ALACHO was happy with the consultation and is happy that the transfer of jurisdiction for private rented sector cases is in the bill. We believe that we have some kind of tentative commitment from the Government to revisit the proposal for the social rented sector and examine it in light of how successful or otherwise the transfer of jurisdiction is for the private sector. As professionals, we would be keen to hold the Government to account on that and come back to it should the Government decide that it should remain outwith the scope of the bill.

The Convener: Jim Eadie will continue questions on the tribunal.

Jim Eadie (Edinburgh Southern) (SNP): Good morning. I am grateful to the witnesses for their evidence and the constructive way in which they have set it out.

Sticking with access to justice for landlords and tenants, I hear your views on the proposal that we transfer certain cases in the private rented sector from the jurisdiction of the court to that of the first-tier tribunal. If I hear you correctly, you are saying that there should be a level playing field for the private rented sector and the social rented sector but, clearly, that is not what the Government proposes at the moment.

I ask you to tease out briefly the benefits of, and the justification for, the change in relation to the private rented sector.

Councillor McGuigan: The benefits in relation to the private rented sector?

Jim Eadie: The benefits for tenants and landlords of the proposal to transfer jurisdiction.

Councillor McGuigan: It means speedy interventions and early intervention. It means that people's expectations would be fulfilled in a reasonable timescale as opposed to cases dragging on and on through the court system. If we get in early enough, we can certainly change attitudes. It might also avoid more severe measures having to be taken, such as seeking eviction. Once it is known that things will happen more speedily, it will have a transformative effect on what happens in the private sector.

I am absolutely certain that a transfer of jurisdiction would make a very big difference in the public sector. It would have considerable benefits. The elected members who are sitting around the table all know perfectly well that there is no quick and easy remedy for the people who come to their surgeries and are going through the hell of antisocial behaviour. Local authorities follow the processes that are in place, which are too slow, too frustrating and too painful for those who are suffering.

The transfer of jurisdiction will mean that things will happen quickly, will enable us to deal with problems early and will make a big difference. We believe firmly that it should be in the bill.

Jim Eadie: Would it be fair to characterise the benefits as speed, efficiency and nipping some problems in the bud without any diminution in the rights of tenants?

Jim Hayton: There is a big perception that there is a real imbalance of power between landlords and tenants in the private rented sector—one that does not exist to anything like the same extent in the social rented sector—and that the panel should allow that imbalance of power to be redressed in large measure or, at least, in part, not least by allowing third-party application rights. That will not mean landlords taking every single case for every single tenant because the onus will still be on tenants, but one hopes that it will help significantly those tenants who lack confidence about holding their landlords to account or feel vulnerable about it. The tribunal would also hear alleged breaches of the proposed code of practice under the proposals for the regulation of letting agents. I agree with your succinct list, but I would add to it the benefit of redressing the balance of power between landlords and tenants to do no more than get tenants access to their rights to decent quality standards, tenancy conditions and so on.

David Brewster may want to add to that.

David Brewster: There is a recognition that the standard of the management of private rented properties varies enormously. There are some very good private landlords, some amateur private landlords and some people who probably should not be private landlords. At one end of the scale, the very good landlords have some difficulties in dealing with problematic tenants, which is a long and difficult process for them. At the other end of the scale there are tenants with difficult landlords, and the ability for them to go to the tribunal, which is a more informal approach, helps to redress the balance of power in favour of the tenant. The slightly more informal approach, which is more inquisitorial than adversarial, is probably to everyone's benefit.

Jim Eadie: We have heard evidence from a number of witnesses that there is a lack of awareness among tenants and landlords of their rights and responsibilities. Mr Hayton, you suggest that we need to do more to empower tenants to hold landlords to account. From your perspective as someone who works for a local authority, what steps have you taken locally to empower tenants and to make them aware of their rights? Scottish Borders Council told us that it had been involved in radio campaigns and campaigns in the letting

pages of local newspapers. Have you taken those steps or would you consider doing so?

Tony Cain: I think that I count as a practitioner. We are always conscious of the need to ensure that our tenants are properly informed of their rights, including their right to redress. When the council gets it wrong, we remind them of their right to independent advice on a regular basis, we remind them of our complaints procedure and we operate that complaints procedure as consistently as we can. We are also fairly diligent in ensuring that, if they do not like the outcome of the complaints procedure, they have the option of going to the ombudsman. To a greater or lesser extent, those are routine elements of the way in which we engage with tenants to ensure that they are aware of their options and the routes for challenging their landlord when we get it wrong.

I will make a couple of slightly wider points, going back to management in the private rented sector. In most of the management in the private rented sector, there is no culture that bears on issues of service quality—that is not what drives private landlords in managing their property. It is not foremost in their minds when they make decisions about their property and it is not a factor in their attitude and behaviour towards their tenants. Anything that pushes that sector more towards trading standards and a culture that is focused on service quality as opposed to property prices will benefit tenants. However, the power balance, which revolves around the nature of the tenancy regime, will always leave the landlord with the whip hand. The process of removal in the private rented sector is, in essence, arbitrary—tenants feel that acutely—so the third-party reference to tribunals is important in protecting tenants' rights.

You may be surprised to hear that the main beneficiaries of extending that to the public sector will be tenants, as it will provide them with a significant additional option for holding public sector landlords to account for our behaviour. We do not always get it right, and there are occasions when—I need to be careful with my words here—we do not get it right over an extended period. Access to a tribunal will give the tenants confidence that they have somewhere else to go to hold us to account. That will result in a significant improvement in the rights of public sector tenants.

Councillor McGuigan: I would be surprised if any local authority in Scotland was not working to ensure that there is good communication about what services and support tenants can receive when they have difficulties with a private landlord. However, in spite of the campaigns and regardless of what we do to put the information out in the public domain as clearly as possible, people still

come to our surgeries and say, "I didn't know that I could do that." We must keep working on that.

The Convener: That leads us nicely on to questions that Gordon MacDonald has about letting agents, but Patrick Harvie will come in first.

Patrick Harvie (Glasgow) (Green): I will pick up on comments about issues such as third-party applications to the Private Rented Housing Panel. That is one of two powers that the bill gives local authorities—the other concerns enhanced enforcement areas—to exercise at their own discretion. COSLA's submission says:

"With regard to **Third Party Reporting**, we welcome this as a dedicated tool to be used by Local Authorities in special circumstances. A widespread expectation that local authorities take forward cases on behalf of tenants would have a considerable impact on resources."

At the moment, no additional resources are attached to the provision. Is it fair to say that it would be wrong to expect either of the new mechanisms to be widely used?

Councillor McGuigan: In everything that we have spoken about today and in our submission, we have repeatedly said that the powers must be backed by adequate resourcing. I hear what is said about the bill being cost neutral. There is no point in having powers if the full recipe of needs is not being met, because that will not make a difference or make the changes that we require. A local authority would use the powers sensibly but, if we were snowed under, the service would not be of any great quality as we would want it to be. Resources are at the heart of the issue.

Patrick Harvie: So local authorities might be more likely to use the powers in specific geographic areas. If somebody had a problem in an area that was not being given such attention, they would be unlikely to have the option of asking a local authority to raise something on their behalf.

Tony Cain: I expect the powers to be used as and when appropriate. Resources are always a difficult issue. Most authorities operate with a specific allocation of personnel to an activity, who will deal with all of it and do what they can.

Forgive me for wandering beyond the brief for a moment, but one issue is that landlord registration fees, for example, have not risen in six or seven years. Setting fees is one thing, but the Scottish Government also needs to accept responsibility for raising them, so that we are properly equipped. An increase in fees would increase our ability to deal with issues.

I would expect us to use the powers when they are required and with our capacity rather than to fuss initially about whether the resources are available.

Patrick Harvie: Under the heading of “Alternative approaches”, the policy memorandum says:

“Consideration was given to allow other relevant parties to make an application to the PRHP. This option was rejected”.

The bill gives the discretionary power of third-party application to a local authority or

“a person specified by order made by the Scottish Ministers.”

Would your organisations welcome ministers using that provision to extend the power to others, such as non-governmental organisations, student welfare rights advisers and perhaps even elected representatives, who could apply to the panel on their constituents’ behalf?

Councillor McGuigan: We would be keen to talk about and look at the detail of anything that would enable us to improve the situation and to understand better what might work and what certainly would not work.

David Brewster: I will respond to some elements of the issue that Patrick Harvie raises. COSLA’s submission reflects the situation that arises when the public have expectations because a power exists. Local authorities’ experience is that some owner-occupiers still expect local authorities to fix the roof of their home, for example. That suggests that the balance of responsibility must still be the tenants’.

In some circumstances, such as when tenants are particularly vulnerable, the third-party application power will be useful. Sometimes, tenants phone us in the week when they are leaving a property to say, “It’s awful—I’m getting out. Please make sure nobody else goes in there.” By that time, there is no ability to do anything, because only the tenant can report, and the tenant has already left or is leaving. So there are some circumstances in which the ability for a local authority to make an application would be a useful tool but, also from a local authority point of view, we would wish to ensure that the normal expectation remains that it is for the tenant to make such applications.

11:15

The Convener: We are rapidly running out of time. I ask Mr Hayton to be as brief as possible.

Jim Hayton: I wish to respond to Mr Harvie’s point about the powers perhaps not being used in a widespread fashion. Nonetheless, I welcome them. Over the past couple of days, I have been reading some other councils’ submissions. Scotland’s biggest city, Glasgow, which has some of the most intractable problems, has been asking for such measures for years. The powers might

not be universally used, but they are nonetheless welcome as additional tools in the toolkit.

The Convener: Gordon MacDonald has some questions on letting agents but, if the point has already been answered, do not go over it again—and I ask the witnesses not to repeat themselves if they think that they have already answered the question.

Gordon MacDonald (Edinburgh Pentlands) (SNP): The bill provides for the regulation of letting agents. Is there a need for the statutory regulation of letting agents? What would the benefits be to the consumers of letting agents’ services?

Jim Hayton: The short answer is yes. Those provisions have been universally welcomed. That seems to be a gaping hole in the current legislation, in the sense that any of us in the room could set ourselves up as a letting agent on Monday morning and could start operating, with all that that entails with regard to health and safety, conditions and so on. A lot of people have been arguing for some time that letting agents should be brought within the ambit of regulation, and we welcome that proposal.

Councillor McGuigan: I would embrace that, too.

David Brewster: It is indeed a substantial gap. One particular factor is that the majority of private sector landlords are small, and own one or two properties. Therefore, the majority are reliant on having a good agent operating on their behalf. We receive inquiries and complaints where landlords are relying on advice provided by agents who simply do not seem to know what they are doing.

Gordon MacDonald: Registration will work and provide a benefit only if it can be enforced properly. In its evidence on 29 January, the Scottish Association of Landlords said:

“landlord registration is not being enforced properly by our local authorities.”—[*Official Report, Infrastructure and Capital Investment Committee*, 29 January 2014; c 2523.]

What are your views on that? Is there anything that we can do to make the legislation more effective with regard to landlord registration or, indeed, letting agent registration?

Tony Cain: The legislation around the private rented sector is shot through with criminal offences to be enforced by Police Scotland. For a variety of practical reasons, the police almost never do so, and they are largely unaware of many of the offences that are set out in the legislation. Transferring the responsibility for prosecution to local authorities is the one single step that you could make to improve the operation of the legislation and the effectiveness of enforcement.

David Brewster: It is worth noting that, in the proposals in the bill, a local authority enforcement power is not envisaged for dealing with unregistered letting agents.

Tony Cain: Forgive me—I know that there is a time pressure—but I wish to mention a practical example. We recently managed to get a prosecution against a landlord both for being unregistered and for an unlawful eviction. The unlawful eviction was, if you will forgive the expression, an absolute stick-on—there was no avoiding the fact that it had happened. When the case eventually came to court, after some dispute with the police about whether there had been a criminal offence, the prosecution for unlawful eviction was dropped, and the fine for failing to register was about £200, which is well short of the maximum. The case concerned a professional landlord.

Jim Hayton: We identify a possible anomaly, which we need to address: the locus for enforcing landlord registration is local authorities and the responsibility for maintaining the letting agents register lies with central Government, as I understand it. We absolutely need to join those two things together, so that we get consistent, coherent action when it is needed. I am not quite sure that we have that sorted just yet, but we absolutely need to bear that in mind if the new powers are to be effective.

Gordon MacDonald: On enforcement of the repairing standard, in part 3 of the bill, the committee has heard evidence from stakeholders about the need for stronger legislative requirements around electrical and gas safety in private rented housing. What would be the benefits of expanding access to the Private Rented Housing Panel by enabling third-party applications by local authorities to enforce the repairing standard?

Silke Isbrand: We would look at it together with the other measures.

Jim Hayton: There is perhaps a prior question about the extent to which we extend to the private rented sector some of those provisions, such as installing carbon monoxide alarms and improving electrical safety checks. That has come up in quite a few of the responses and we would broadly support that.

The Convener: We will move on to mobile homes. I am conscious that the subject comes not under ALACHO's remit but under health enforcement. Most of my remarks will therefore be directed to the COSLA representatives.

From a local authority perspective, what issues need to be addressed around mobile homes? In its evidence to the committee, the British Holiday and Home Parks Association said:

“there is often poor understanding among many local authorities who sometimes fail to understand site licensing and the role of Model Standards.”

Councillor McGuigan: The degree of understanding or lack of understanding will vary from local authority to local authority. We are in tune with the bill's intentions on licensing, and that means that interventions and enforcement measures can be taken.

I ask David Brewster to come in on that one.

David Brewster: Local authorities are certainly keen to see an improvement in the enforcement and licensing arrangements for residential mobile home sites that are permanently occupied. The current legislation dates back to 1960 and is no longer fit for managing that sector. The residential mobile homes sector did not particularly exist in 1960 and the legislation has not kept pace with its development.

The degree to which local authorities have issues with residential mobile home sites tends to depend on how they are managed. Some sites are managed extremely well and provide useful housing capacity without causing difficulties. When there are difficulties with site management, it causes a disproportionate amount of difficulty for the local authority, and the current legislation simply does not provide sufficient teeth and practicality to allow those matters to be dealt with effectively.

Could you clarify the second part of your question?

The Convener: When we took evidence from the British Holiday and Home Parks Association, it said that there is often poor understanding among many local authorities and they fail to understand site licensing and model standards.

David Brewster: I will start with model standards. The Caravan Sites and Control of Development Act 1960 gives them status, but one of the difficulties is that the exact status of model standards is open to a degree of interpretation. When such matters come to court, the exact status of model standards is a subject of considerable debate, and local authorities have raised that with the Scottish Government.

As far as local authority understanding of the licensing process is concerned, unless a local authority has a lot of sites, it will not spend a lot of time on the licensing of caravan sites—and they are legally caravans. There is certainly a lack of training and good knowledge about how to deal with those matters.

Over time, local authority staff move on, which means that the one or two people who have a good working knowledge of the issues can end up

going to another authority or retiring. There is a need to keep those knowledge levels up.

The development of residential mobile home sites has changed things somewhat. It would be fair to say that most local authorities in Scotland did not necessarily understand the implications of those sites becoming full-time homes, with requirements for services and so on. Local authorities are much more aware of that now.

Silke Isbrand: The issuing of new, clear legislation around this matter is exactly aimed at addressing those issues and ensuring that there is clarity around the tools that everyone can use. Local authorities, which understand the problems, drove that process. They wanted to have new and clearer tools in their toolkits so that they could address those problems.

We are aware that some residents have voiced fears that the legislation could turn against them. We have clarified those issues. It is the clear policy intent of the legislation to benefit and protect residents, and we are absolutely sure that the legislation can be designed in such a way that residents do not suffer.

The Convener: That brings me to my next point, which is about the three-year licensing term. The representatives of some tenants organisations have told us that they think that that will give unscrupulous park owners a tool to threaten vulnerable people with, as they could say that they were going to close down the park. What is your view on that?

Silke Isbrand: We have heard those concerns and we followed them up immediately with the Scottish Government in terms of the design of the legislation. As I said before, it is no one's intention to let residents suffer. The reason why we want the legislation is so that we can protect residents. We are clear that the legislation can be designed in such a way that residents will not suffer. We have had assurances that, when an unscrupulous site owner loses their licence, the licence for the whole site will not be revoked, which means that residents will not lose their right to stay.

David Brewster: The bill already contains a provision that ensures that if a local authority refuses to issue or renew a licence, that does not affect the right of residents to stay on the site.

What we perhaps cannot legislate for is intentional or accidental mis-statement of what the law is and how it should be applied. However, the issue of the resident's right to remain living on the site, under the Mobile Homes Act 1983, has been addressed in the draft text of the bill, and we have had further discussions with the Scottish Government about how we can ensure that those assurances are clearly stated.

The Convener: My experience is that some site owners do not like the idea of the three-year licensing period and are therefore putting a bit of fear into the residents on their parks.

There are a few local authorities that manage mobile home parks pretty well and it would be useful to spread that good practice among other local authorities that have mobile homes.

Adam Ingram, do you want to wash up?

Adam Ingram: The bill makes some provisions regarding local authority housing condition discretionary enforcement powers. Is the range of provisions in the bill wide enough to be effective?

Jim Hayton: Do you mean specifically in relation to the private sector?

Adam Ingram: I am asking about local authority housing condition discretionary enforcement powers.

Councillor McGuigan: Are you talking about a situation involving mixed tenure in a single block, and an owner-occupier not being prepared to pay their share of the cost of common repairs?

Adam Ingram: Yes.

Jim Hayton: There are some amendments in the bill to the tenement management scheme to allow local authorities to step in and pay so-called missing shares, where owners are reluctant to carry out works. As with several other provisions in the bill, those are broadly welcomed by local authorities. The scope of works that we could do that for is extended a bit. We still have the thorny problem of paying the money up front and trying to recover it.

Managing and improving mixed tenure estates is one of the most challenging areas that we face and it will get even more so if and when we get to the stage of introducing energy efficiency regulations for the private sector. In that context, we are content with the provisions in the bill. Many authorities have said that they would plan to use them.

11:30

David Brewster: The existing tenant management scheme is very useful where title deeds are silent on repair issues. The current difficulty is that although residents can reclaim money from other residents, there is always the risk that they are left out of pocket. That means that sometimes repairs do not get done and we end up having to serve statutory notices, which creates further expectations and work for the local authority.

The amendment to the tenant management scheme is very useful. It means that the local

authority can say, "If you, as a majority of residents in a tenement or flats, have agreed that work needs done, you can go ahead and do it and we'll guarantee to pay the missing share." That allows them to sort out their issue and deal with matters early, before the disrepair gets worse. It makes a huge amount of sense in all respects.

There is also a provision for specialist or additional powers for specific geographical areas where there are particular problems. That is perhaps where Adam Ingram's question was coming from. There is a general proposal for that but my understanding is that the detail will probably come through at stage 2 of the bill.

The Convener: Are there any final comments or questions?

Councillor McGuigan: Can I make one observation? It is in relation to Shelter's proposition that we need to establish acceptable standards in temporary accommodation across local authorities. I am sure that no one in local authorities would accept a situation where we were dealing with indecent standards. However, we have to be clear about the work that is ongoing in order to ensure that we do not trip up before we have examined the matter fully.

In other words, what are the standards that we are talking about? We need to identify definitive standards and establish a benchmarking understanding across local authorities. We are working with the Scottish Government and Shelter on that.

We should be cautious about embracing that request from Shelter. That is why I said at the beginning that I was pleased that we were able to comment on the evidence that has been given. Shelter's proposition is premature, but we will return to it after the discussions between Shelter, the Scottish Government and local authorities have reached a sensible conclusion as opposed to racing in too early.

The Convener: Are you talking about the private rented sector? Housing standards are set in the public sector, in public sector housing. Everyone sees the challenges and rises to the challenge of meeting the housing standards that are set. We would all agree that we want people who live in private sector houses to have the same standard of housing. That goes back to our first point about the vision for the bill.

Councillor McGuigan: Yes, absolutely.

Jim Eadie: Why would you have a lower standard in the private rented sector? Surely you are not suggesting that.

Councillor McGuigan: No, I did not say that. I was talking about temporary accommodation. The accommodation that we put people into should be

of a decent standard. Shelter's submission made a comment about people being able to challenge the accommodation that they are put into. I think that we should be careful when it comes to providing accommodation that meets what could be defined as an acceptable standard, because Harry McGuigan might have a different view of an acceptable standard than someone else might have.

We are simply saying that we should ensure that we get that right before we go down a road that causes more confusion and irritation for all concerned.

Tony Cain: I have one observation relating to an operational matter that is not covered in the bill. It concerns issues arising in the discharge of our duty to co-operate with Police Scotland in the management of high-risk offenders—principally sex offenders at the moment, but the service is soon to be rolled out to violent offenders—and in the operation of the Scottish secure tenancy regime. There are regularly occasions on which registered offenders need to be removed relatively quickly, and there is a tension between their rights, as Scottish secure tenants, to remain in their home and to be protected from unlawful eviction and harassment and the need to uphold the statutory regime and the operation of civil orders and sexual offences prevention orders. It strikes me that there is a piece of work to be done, probably around the short tenancy regime, to put in place an appropriate tenancy that is consistent with the obligations and objectives of the multi-agency public protection arrangements process.

The Convener: That is a good point.

David Brewster: A question was raised about why we have, or why we would want, separate standards for local authority housing and private sector housing. Private rented housing has to meet the repairing standard enforced by the Private Rented Housing Panel. That is different and has a different scope from the Scottish housing quality standard that applies to local authority and registered social landlord housing.

Jim Eadie: That is a helpful clarification, but I think that Councillor McGuigan was talking specifically about temporary accommodation.

Silke Isbrand: Which can be in the private rented sector.

Jim Eadie: Indeed.

Silke Isbrand: The point that was being made is that an important piece of work is on-going between local government, the Scottish Government and Shelter to find a way to get good, high-quality, acceptable standards in temporary accommodation. There are huge challenges with

regard to welfare reform, and all that has been looked at holistically.

Jim Eadie: That all sounds great, and I know that you are going to provide helpful supplementary written evidence, but are we to take it from your representations today that COSLA is not in favour of provisions relating to temporary accommodation being in the bill? Is that the point that you are making?

Councillor McGuigan: Yes, at this moment in time.

The Convener: We shall raise those points with the minister. In the meantime, thank you for your evidence, which has been helpful.

11:37

Meeting suspended.

11:41

On resuming—

Forth Replacement Crossing (Project Update)

The Convener: Item 3 is an update from the Queensferry crossing project team. I welcome back, from Transport Scotland, David Climie, project director, and Lawrence Shackman, project manager, Forth replacement crossing team. Mr Climie, would you like to make some opening remarks?

David Climie (Transport Scotland): I am pleased to be able to report continuing good progress on all aspects of the work for the FRC project since our previous appearance before the committee, exactly one year ago.

The three completed contracts are operating well, and progress on the principal contract for the Queensferry crossing and approach roads continues on time for completion by late 2016. Overall, that progress has allowed us to announce a reduction in the project budget range, from £1.45 billion to £1.6 billion down to £1.4 billion to £1.45 billion—that is as announced in the budget statement last September. That means that the project has realised £145 million of savings since construction started in June 2011.

On the Fife intelligent transport system contract, early monitoring during the first year of operation indicates southbound journey time savings of around eight minutes during the morning peak period, with five to 10 buses also using the southbound bus lane during the morning peak. Use of the bus lane is expected to increase following the opening of the Halbeath park-and-ride facility at the end of November 2013, and that facility is already being used by more than 200 regular daily commuters.

On the M9 junction 1A contract, the first year of operation concluded at the end of January 2014, and there is on-going data collection and analysis to inform monitoring and evaluation of that contract. Initial indications are that there are journey time savings of around two minutes during the peak period, and the southbound bus lane to Newbridge is also being used by buses to bypass peak-hour queues.

Perhaps more important to residents in Newton on the A904, early monitoring from February 2013 to July 2013 indicates that heavy goods vehicle traffic through the village decreased by 52 per cent compared with the same period in 2012, and that overall traffic decreased by 13 per cent. Following that period, additional traffic-calming measures in Newton were installed as part of the FRC project in August 2013, and we will continue to monitor

and report on the traffic flows as traffic patterns adjust to the new road infrastructure.

The third contract to be completed was the FRC contact and education centre and the traffic Scotland national control centre, which are located in the Forth Estuary Transport Authority car park on the south side of the Forth road bridge. The traffic Scotland national control centre, which relocated to that building from Glasgow in April 2013, now controls the entire Scottish trunk road network. It also has a resilience room, broadcasting facilities and police and emergency services facilities.

Public open days have been held at the contact and education centre two days per month from April to November 2013, attracting nearly 2,400 visitors. The success of those events means that this year we will run weekly open days on Saturdays, commencing on 29 March and running through until the end of October 2014. We have also contacted every primary and secondary school in Scotland to advise them of the education programme that is run at the CEC to complement the curriculum for excellence and to promote the benefits of a career in engineering. Between September 2013 and February 2014, there have been 69 school visits attended by 1,707 pupils.

11:45

On 11 and 12 February, we held our annual project update briefing sessions at CEC, with four open sessions for the public and three sessions by invitation for elected representatives, the media and key stakeholders. The feedback from those sessions was very positive. In addition, since the beginning of 2013, more than 2,000 interested individuals have heard a talk or presentation about the project as part of our wider outreach and education programme.

I turn to the principal contract. On the road works on the north side, initial consolidation of the Ferrytoll embankment structure has continued as planned and the piling for the foundations of the bridge over the new B981 and the northbound public transport link road is in progress. Three new bridges crossing the Rosyth railway branch line in the Ferrytoll area are complete and concrete columns for the new M90 overbridges at Ferrytoll have begun to appear beside the existing roundabout. The traffic management and rerouting of local roads, cycleways and footpaths in the area have been carefully planned, and over the coming months we will run a number of community engagement events in the North Queensferry, Inverkeithing and Rosyth areas as well as with users of the strategic road network to discuss the upcoming works.

On the south side, work on the road alignment from Scotstoun past Dundas home farm to Echline has advanced well and is clearly visible. The new B800 bridge is being constructed alongside the existing South Queensferry to Kirkliston road: the north abutment is complete and the new steel bridge beams are expected to be installed this summer. Traffic will be rerouted across that new bridge in early 2015, with the existing bridge being demolished later that year.

The South Queensferry junction alongside the existing A904 has progressed well, with the steel beams for both bridges having been installed in November and work on deck concreting and the rerouting of the A904 in progress. That work is being carried out largely offline to minimise any disruption to traffic on the A904. Once the traffic has been rerouted through the new roundabout, the excavation work for the M90 road cutting on the existing A904 road alignment can be completed.

Work to reconstruct Society Road to include a footpath and cycleway has been completed this year, three years ahead of the original plan, thereby providing an early community benefit. In addition, at the east end of Society Road, a signalised pedestrian crossing has been installed on the B924 by the City of Edinburgh Council on behalf of the project, as required by the Forth Crossing Act 2011.

That brings me to the newly named Queensferry crossing. The Queensferry crossing was the winning name in last year's successful name the bridge competition. More than 35,000 votes were cast for the five shortlisted names, and the Queensferry crossing received more than 35 per cent of the votes.

The land-based approach viaduct piers S7 and S8 have been completed and are ready for the south approach viaduct steel to be launched across them. Fabrication of the steelwork at Cleveland Bridge UK in Darlington has progressed well, and the first deliveries arrived on site last September.

Although it is largely out of the local community's sight in the cutting, the assembly work is progressing well. The first launch operation of about 80m of the northbound viaduct took place in December and the same operation for the southbound viaduct took place in January. During March, the northbound viaduct will become far more visible as it is launched across piers S8 and S7, stopping just above Society Road, and further launches out across the Forth as far as pier S3 will take place at about two-monthly intervals over the year. On the north side of the bridge, construction of the north abutment is making good progress and the area for the assembly and launch of the

north approach viaduct steelwork is being prepared.

On the marine side of things, a huge amount of activity has taken place in the Forth, with barges, floating cranes and other marine plant being used at the various foundation locations. With regard to the three towers, the handover from the marine team to the tower team happened when the two caissons and the cofferdam at Beamer rock were pumped out and work was able to continue in the dry. That occurred in May on the centre tower, August on the north tower and September on the south tower.

Since that time, work on the massively reinforced tower bases has been completed and work is now progressing on the three towers themselves. The centre tower currently leads the way with seven pours out of 54 completed, and it now stands at a height of 28m. The north tower is in second place, with three pours completed, and the south tower is just behind that, with two pours completed. It is worth mentioning that the south tower started from the greatest depth—40m below sea level—in order to reach the rock and, at 30m, it also has the largest internal diameter caisson.

The underwater concrete pour in September was a world record 16,869m³. The concrete was placed in a 15-day, 24-hours-a-day pour using a fleet of four barges, each of which had six concrete mixers using concrete supplied by the contractor's dedicated concrete batching plant in the port of Rosyth. That means that more than two thirds of the total concrete required for the south tower has already been placed. The towers are all expected to reach deck level by the summer, after which temporary trestles will be installed on either side of each tower to support the first four deck units. The units will be erected before the end of this year.

As you will appreciate, the progress that I have just described means that the Queensferry crossing works will be increasingly visible to users of the Forth road bridge this year, and I take this opportunity to reiterate the strong safety message that we gave at the recent project update meetings: drivers should keep their eyes on the road ahead and not be distracted by the adjacent construction works. Webcams that can be accessed through the project website give excellent views of the work on the project.

In short, three of the four contracts are complete and operating successfully and the fourth is progressing well. In 2013, we saw the transition from underwater to above-water construction of the Queensferry crossing. Overall, the project continues to progress on time and to a significantly reduced budget, and we continue to be on schedule to complete the crossing by late 2016.

The Convener: Thank you for that. Alex Johnstone will begin the questioning.

Alex Johnstone: The *Sunday Herald* does not sell many copies on my street, but I hear that it was a good read on 23 February. What is your response to the concerns raised in an article in that edition of the newspaper about the main towers and their construction?

David Climie: It is always very interesting to read such articles in the press and I am glad to be able to respond to some of the points that have been made in them.

We are almost exactly halfway through a major project lasting six years; 34 months have gone and there are 34 months to go. Our overall programme runs to more than 250 pages and contains more than 18,000 activities. Some of those activities will inevitably take longer than the contractor might originally have envisaged; some will go quicker; and some will be reprogrammed as work progresses. Overall, however, the contractor has put adequate risk mitigation and weather allowances in the programme, and nothing that has occurred to date has jeopardised the final completion date of the end of 2016 that I set out in my opening statement.

Sometimes the route to that end will vary over a six-year period. That is not unexpected, but, given the progress that we have made with the towers, I am confident that we will get to where we need to get to by the end of 2016.

Alex Johnstone: In a subsequent television interview, you indicated that the contractors had changed their plans for the construction of the bridge deck as they felt they needed to "pick up some time". What changes have been made to the construction plans and what might happen if the contractors cannot pick up time?

David Climie: That comment probably shows my background of 25 years as a contractor rather than a client. In my experience, that is exactly what happens: you start with a programme that lays out the initial path from start to finish but—and this is particularly the case in design-and-build contracts—things will develop as the design progresses. Moreover, if you bring together a world-class team and a certain amount of expertise, you expect to develop and refine your methodologies as you progress through the project.

That is exactly what has happened here. Under the original plan, it was thought that the contractors would initially build out from two towers and then use the same equipment to transfer the work across to the third tower. Obviously, that approach would have taken longer than one involving working on all three towers simultaneously. Quite early on in the project, the

contractors looked at the methodology and decided that, with two extra sets of lifting equipment, which they could get for a relatively small outlay, they could work on and build out from all three towers simultaneously.

That approach had two advantages. First, it reduced that period of the programme, which gave the contractors more float elsewhere. They have always been very open about their view that the marine and underwater work would be the most challenging part of the project, and that it would be better to build in more allowance if possible.

The second advantage of the approach is that it shortened the total period for constructing the deck. That work is done at height with greater exposure to wind, and shortening the period of that work reduces the risk of everything else slowing down over that period.

Alex Johnstone: Although the changes to the timescale for preparing the tower bases are understandable and have been adequately explained, why did you not pick up the issue in previous reports?

David Climie: When we appeared before the committee a year ago, we outlined that the transition from below water to above water would take place in the summer of 2013, which is what happened. The report in the *Sunday Herald* perhaps misinterpreted what had been presented. It is important to point out that the work inside the caisson has been largely invisible. The transfer from wet to dry in the caisson happened at minus 11m. Although we were working in the dry, it was not actually at water level—at zero. Things happened pretty well in line with what I outlined to the committee previously and with our expectations. It was perhaps just not as visible as some people might have interpreted it would be from what we said.

The Convener: Where, then, do you think the *Sunday Herald* article came from? How did people get the idea that everything was going haywire?

David Climie: It is obviously a very visible project. A lot of people are looking at the project and there are a lot of experts out there who like to comment on such projects. It is normal for a major infrastructure project to have a lot of people looking at it. However, they do not necessarily know all the details, as we do on a day-to-day basis. They might think of how they would have done it. I think that one of the angles that came out of the *Sunday Herald* article was that there are people who would have done the project in different ways. Their view is that they would not have done it in the way that it is being done and that if it had been done their way, the project might be in a different position. It is very common for major infrastructure projects of the size of this one

to get comment and speculation on what is going on and how things are developing.

The Convener: Was the *Sunday Herald* invited to visit as part of your on-going engagement process, and did it visit?

David Climie: It was invited to the session that we had in February, but it did not attend. On that occasion, there was a very open question-and-answer session at the end. I attended it, as did Carlo Germani, the Forth crossing bridge constructors' project director. We would have been very happy to address questions from the *Sunday Herald*, had we been asked.

The Convener: You finished your presentation by saying that the project was on time, but you did not say that it was on budget.

David Climie: I think that I said that it was under budget.

The Convener: Under budget. Okay.

Mark Griffin: I had some questions, but I think that you answered most of them in your fairly comprehensive opening statement, Mr Climie. Can you highlight any key events in the construction in the next six months that you think might be of interest to the Parliament?

David Climie: As I outlined, things are going to be very visible going forward. What is clearly going to happen is that at two-month intervals we will see the south approach viaduct steelwork being launched out from the south shore. A V-shaped pier will progressively appear and then the approach viaduct steel will be pushed over that. As I said, that will happen roughly every two months over the next year. That will be clearly seen coming out from the south shore.

Work on the towers, which are now visible and can be clearly seen, is parallel to that. Last Friday, we jacked up the tower crane at the centre tower another 20m, so it is now well above the height of the Forth road bridge deck. By summer of this year, the three towers will get to around the height of that deck. At that point, we will put in some trestling on either side of the towers and then the first deck units will appear around the towers themselves—they will be supported on the temporary trestles rather than the cables. Those will also appear before the end of this year.

Gordon MacDonald: I want to ask about community engagement. What progress has been made in addressing the concerns of residents that we raised with you back in March 2013? I hear that there is no road cleaning regime and that no routine cleaning regime is in place for footpaths and roads. There are concerns about air quality, particularly around the Echline corner area, and flooding has been caused by construction vehicle spillage filling up gullies and so on. There are

residents who are still concerned about noise issues. What steps are being taken to address those concerns? Have you addressed the points that we raised with you last year?

Lawrence Shackman (Transport Scotland):

We take all those issues very seriously and listen to comments when they come in via the hotline, through the community forum—which is the main arena where issues are raised—or by any of the means that people use to raise queries. Over the course of the project so far, we have had 149 complaints out of a total of 533 contacts by phone, email and so on. To put that into context, that is about five complaints a month over the course of the project since August 2011.

12:00

You are right to say that we have had quite a bit of dialogue with the residents, community councils and the community forum about the cleanliness of the A904. We have made sure that the contractor has put in wheel washers wherever he has access points that are there for a reasonable duration. Even if an access point to the site is there only for a short period, he has to take appropriate measures to ensure that the road and the footpaths are kept clean. A road brush is normally employed in those areas. We continue to monitor those situations to ensure that the impacts are minimised as far as possible.

One of the other issues on the A904 is the general state of the road. The A904 is in a pretty poor condition—a fact that has been recognised by the City of Edinburgh Council—all the way along from our current works at Echline corner to Echline roundabout. There are proposals to reconstruct the A904, not only through resurfacing but by addressing drainage. Those things are combining in a way that does not help the situation.

Having said all that, I think that the reduction in the amount of construction traffic that is using the A904 to deliver materials has been fairly marked during the course of the past year. It pretty much ceased in November, along with the shale deliveries from Winchburgh, although those deliveries are due to resume sometime later this month. When those wagons were travelling along the A904, there was—as you rightly say—a cleaning regime in place, which was the joint responsibility of the contractor and his supplier. The City of Edinburgh Council also has responsibility for some cleaning of the road. The road and the bus shelters were being cleaned every two weeks, as a minimum, and that will resume shortly, when the shale deliveries recommence. Any other aspects will be dealt with on a need-to-clean basis. Making sure that the

road and the pavements there are kept clean is very much within our sights.

The residents have also raised issues regarding air quality and noise. As we have said before, we are monitoring noise levels at various locations around the site, focusing particularly on the south side because the properties are closer to the works there. We have had one or two instances of the noise levels exceeding the agreed thresholds, but the noise regime is well managed through the noise liaison group, which meets regularly and involves the local authorities, as we have said previously. As far as possible, the contractor has employed the best practical means to reduce the noise levels.

There have been a couple of instances of the community being concerned about works going over the normal working hours. Whenever possible, we have issued a flyer notification to the residents concerned, stating that the works have permission to overrun. A good example of that was when it was known that one of the concrete pours for one of the piers on the south approach viaduct was going to overrun into the evening because of the nature of the concrete pour. Notification was given so that residents were made aware of that, and the activity was not particularly noisy anyway.

David Climie: We arranged a tour for some of the residents to see the work that we are doing in Echline field and on the south approach roads. They were all equally amazed by the volume of work that was being done so close to them, including work at the A904 South Queensferry junction and the assembly work for the south approach viaduct, all of which is tucked away in cuttings and behind protective bunds. All the residents were amazed by how much work had been done that they had not been aware of. That is the other side of the coin. There have been a small number of complaints, but a huge amount of work has been done, and when people have come to look at it they have been stunned.

Gordon MacDonald: You have said that there have been a small number of complaints and so on. We are told that 130 compensation claims have been put in, of which 22 have been settled in full and 25 have received 90 per cent payments. That means that fewer than half have been settled. Can you give us an idea of the nature of those compensation claims and the value that is still outstanding to be paid?

Lawrence Shackman: Certainly. The claims that we are talking about are on the part of people who are directly affected by the scheme—landowners, lessees and tenants. They are not part 1 claims, which are post-construction claims.

Out of a possible 316 claims, to date 133 claims have been received. Of them, 23 have had full and final payments made; 27 have had 90 per cent of the advance payment made; and 38 claims are being processed by Transport Scotland, via the district valuer. A further 41 claims have been closed by the district valuer, as they have no vested interest in any plot of land that has been compulsorily purchased; and three cases have been closed by the district valuer on negotiation with the residents, who withdrew their claims because they were so small—they were single-figure sums.

In terms of monetary aspects, the estimated budget for compensation in the financial memorandum was £12.7 million. To date, we have paid out a total of £5.32 million on 50 cases. Of the remainder, which is around £6 million, I think that £4.21 million is attributed to three specific cases. Those are quite big claims, which are still being processed.

The picture that I am trying to build up is that the situation is being managed. A number of people have not yet raised claims, for whatever reason, but we are dealing as best we can with the claims that have been raised.

Gordon MacDonald: In the recent community forums—the north one, which took place on 19 February, and the south one, which took place on 26 February—were any new areas of concern raised by the residents? If so, what are you doing to address them?

Lawrence Shackman: On the north side, we have been discussing the upcoming works at Ferrytoll, which we have mentioned in the recent public briefings. The community there requested a further briefing in the not-too-distant future, and that has been arranged for 25 March and will take place in North Queensferry. We will take that briefing to them and will explain what is happening on the project.

Subsequently, we will hold briefings on the Ferrytoll junction works, which will start in earnest as we go through 2014. The community was quite concerned about when those briefings would take place and it wanted them to happen timeously, before the works start. That is very much on our radar.

Another issue on the north side is what is happening with the overflow car park—which is commonly known as the Deep Sea World overflow car park—and where that parking capacity will go. We were able to clarify that issue, which is good because parking is a big issue in North Queensferry.

On the south side, one of the biggest issues was one that we have touched on today: the cleanliness of the A904. Concerns were raised

about the works in the Echline area in particular. The planting and seeding of earthworks in that area was done as soon as possible. We have also had one-to-ones with some of the people in the area to try to understand in a bit more detail particular concerns in the community and to give a better indication of the timing of particular works, so we can give people a bit more comfort with regard to tidying up and finishing off the area around Echline corner.

It should be borne in mind that the South Queensferry junction roundabout will be complete this summer, and I believe that the contractor aims to get all of the works in that area, including the landscaping, finished as soon as possible thereafter.

Gordon MacDonald: Are you satisfied that the community forums are providing an effective way for local residents and businesses to engage with contractors and Transport Scotland?

Lawrence Shackman: I think that they are, and they have been working increasingly well as we have gone through the contract. As I mentioned at the previous committee meeting, not too many properties are close to the works on the north side—although there are a lot of large-scale works to come in 2014—but the works on the south side are much closer to residents.

I can give you another example of where the residents have spoken to us at community forums and been in contact separately through correspondence. The Linn Mill residents in particular have been concerned about the works on Society Road, which, as David Climie mentioned, we delivered some three years earlier than was originally programmed.

The residents are pleased that we have done the new Society Road, which has a nice footpath and cycleway alongside it, but they want it to be extended to join in with the footpath at Linn Mill. After discussion with the City of Edinburgh Council, we have agreed to take that forward later in the project. We cannot do it now because there is a plant crossing there.

That is an example of good community engagement. We have listened to what the public have to say and we will deliver that extension to the footpath.

Gordon MacDonald: Okay. Thank you.

Jim Eadie: Will you provide an update on the operation of the M90 and M9 bus lanes and the associated gantries, and particularly the impacts on journey times and reliability?

Lawrence Shackman: Yes. David Climie has already mentioned in general the performance of the ITS and the bus lanes. One of the big things that happened over the past year is the opening of

the Halbeath park and ride in November, and it is encouraging that usage of it is already starting to ramp up. The peak so far has been about 250 people a day parking there, which is a good general progression towards filling the capacity. That has also meant that there are more bus services in the vicinity of the project.

Use of the bus lanes has typically been some five to 10 buses in the morning peak period on the Fife ITS side of the project—the M90 southbound towards the Forth road bridge. As David Climie mentioned, that is likely to increase as usage of the buses from Halbeath increases. They have been able to jump the queues in the morning period when the congestion extends back. However, because the ITS smooths the traffic down, we have found that, although the traffic levels before and after the Fife ITS was complete are similar, the queues are a lot less. The saving of up to eight minutes means that the queueing is spread out, so usage of the bus lane has perhaps not been quite as prevalent as we might have expected.

The feature was always envisaged as temporary, and we will revisit it as a permanent feature once we have a feel for the usage and how the operation of the system progresses as we go through the project. How the infrastructure is helping with bus operations is mentioned a lot at our public transport working group meetings, and the message that comes back is that it is certainly helping.

On the south side of the project—junction 1A and the bus lane there—only about five buses use that section of the road network in the morning peak period. I think that most people are aware that there is a substantial problem on the approach to the Newbridge junction in the morning peak period, and the buses can easily jump that queue. I think that the savings are eight minutes from Echline to Newbridge in the morning peak period, so there is quite a reasonable saving for the buses. As bus growth happens and destinations change, there will be a lot more scope to use that bus lane.

I do not know how much further you want me to go into the detail.

Jim Eadie: The picture that you have given is helpful. It is clear that you want to keep the situation under review.

There have been reports that the intelligent transport system on the M90 has been successful in cutting the number of accidents. The figures that I have seen show a reduction from 12 to two, and they also show a reduction of five to eight minutes in average journey times.

Lawrence Shackman: That is correct. I emphasise that the data that we have is one

year's data after the opening. We will need to have at least three years' data to form a valid, informed approach to whether the system has been a success.

With regard to accidents, you are right. Our information shows that, in the three-year period before Fife ITS opened, there was an average of 12 accidents per year; in the year since the system opened, there have been only two slight accidents—and it is arguable whether those were even in the scheme as they were right on the periphery. That bodes well for the use of such infrastructure in future, although the caveat is that we have only one year of data so far.

12:15

Jim Eadie: What further steps will you take to sustain that progress as the project moves forward?

Lawrence Shackman: We will continue to monitor all the data on traffic, journey reliability and accidents as we go through the project. When we reach the end and the full ITS corridor is open, we will monitor it and report on the before-and-after data to give a much more valid response. As I said, the initial data looks encouraging.

The Convener: Can you use the ITS to encourage people who come in by car to use the park-and-ride facilities?

Lawrence Shackman: Yes, that is possible. Initially, the variable message signs indicated to people that Halbeath park and ride was open, and there is no reason why—as long as there is no valid need to indicate delays or that an incident has occurred elsewhere on the road network—the signs cannot be used to make the most of the Halbeath park and ride and Ferrytoll park and ride, which we will upgrade as part of our works later in the project.

The Convener: It is looking pretty tired.

I will move on to subcontractors, suppliers and employees. Can you update us on the number of people who are currently employed on the project, including details of the number of professional trainees and apprentices?

David Climie: Certainly. During January, the average number of people employed on the project was 953, and we expect that to increase progressively during the year as more and more activity is ramped up, particularly when the decks arrive and all the concrete is poured on at our facility in Rosyth. The number will go back up to the previous peak of 1,200 during the year.

Within that number, 224 staff are currently undertaking some type of Scottish vocational qualification training, of whom eight are

undertaking modern apprenticeships. Of those modern apprenticeships, five are being run through Edinburgh College, two involve electricians—one in Edinburgh and one at Perth College—and one involves a welder from Fife College. We are looking at more opportunities to increase those numbers as we move forward.

We also have 45 professional trainees—graduates and so on who are training to become members of the Institution of Civil Engineers or the Institute of Highway Engineers—and 69 staff members who were formerly long-term unemployed.

The Convener: The number of modern apprentices seems rather low. Given that the project is three years in, some apprentices should have almost completed their apprenticeships by now. Is that the case?

David Climie: I would want to check that precise detail—I will ask the contractor and come back to the committee with a response on the exact status of the apprenticeships.

The Convener: Surely, as you move into the continuous construction phase, there should be more opportunities to take on more apprentices. Are you looking at that?

David Climie: Yes, that is certainly being looked at.

The Convener: Given the size of the project, I would have thought that you would be able to take on more apprentices.

David Climie: There is a balance between SVQ training and the modern apprenticeships. The SVQ numbers are very high, whereas the modern apprenticeships tend to have more structure and involve more of a long-term commitment. You are right—we are looking at that issue, and I will follow up on it and report back to you.

The Convener: Thank you. At your previous appearance before the committee, you assured us that you were keeping a watching brief on the issue of blacklisting by contractors that are working on the project. Can you assure us that blacklisting has not been an issue in the past 12 months?

David Climie: Yes, I can—absolutely.

The Convener: Finally, payments to subcontractors are always an issue. Do you have any handle on that at all?

David Climie: Our contract contains a clause that requires prompt payment to subcontractors. The Forth crossing bridge constructors consortium, which is our principal contractor, has to pay its subcontractors promptly, and if that is not happening they are able to contact us directly

to let us know. To date, we are certain that FCBC is paying its subcontractors promptly.

The Convener: You have not had any contact from subcontractors complaining about late payments.

David Climie: No, we have not.

The Convener: Okay. As members have no further questions, we will finish the session. Officials are currently discussing the committee's proposed visit later in the spring, and we look forward to that very much. In the meantime, I thank both the witnesses.

We will move into private session as previously agreed.

12:20

Meeting continued in private until 12:41.

Members who would like a printed copy of the *Official Report* to be forwarded to them should give notice to SPICe.

Available in e-format only. Printed Scottish Parliament documentation is published in Edinburgh by APS Group Scotland.

All documents are available on
the Scottish Parliament website at:

www.scottish.parliament.uk

For details of documents available to
order in hard copy format, please contact:
APS Scottish Parliament Publications on 0131 629 9941.

For information on the Scottish Parliament contact
Public Information on:

Telephone: 0131 348 5000
Textphone: 0800 092 7100
Email: sp.info@scottish.parliament.uk

e-format first available
ISBN 978-1-78392-879-8

Revised e-format available
ISBN 978-1-78392-896-5