



The Scottish Parliament  
Pàrlamaid na h-Alba

## Official Report

# INFRASTRUCTURE AND CAPITAL INVESTMENT COMMITTEE

Wednesday 24 June 2015



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**INFRASTRUCTURE AND CAPITAL INVESTMENT COMMITTEE**  
**16<sup>th</sup> Meeting 2015, Session 4**

**CONVENER**

\*Jim Eadie (Edinburgh Southern) (SNP)

**DEPUTY CONVENER**

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

**COMMITTEE MEMBERS**

\*James Dornan (Glasgow Cathcart) (SNP)

\*Mary Fee (West Scotland) (Lab)

\*Alex Johnstone (North East Scotland) (Con)

\*Mike MacKenzie (Highlands and Islands) (SNP)

\*David Stewart (Highlands and Islands) (Lab)

\*attended

**THE FOLLOWING ALSO PARTICIPATED:**

Kay Blair (Scottish Housing Regulator)

Michael Cameron (Scottish Housing Regulator)

Nigel Don (Angus North and Mearns) (SNP)

**CLERK TO THE COMMITTEE**

Steve Farrell

**LOCATION**

The Sir Alexander Fleming Room (CR3)



## Scottish Parliament

### Infrastructure and Capital Investment Committee

Wednesday 24 June 2015

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

### Decision on Taking Business in Private

**The Convener (Jim Eadie):** Good morning. I welcome you to the Infrastructure and Capital Investment Committee's 16th meeting in 2015. Everyone present is reminded to switch off any mobile phones, as they affect the broadcasting system. As meeting papers are provided in digital format, you may see tablets being used during the meeting. No apologies have been received.

Agenda item 1 is a decision on taking business in private. Does the committee agree to take in private item 4, on consideration of evidence from the Scottish Housing Regulator session, and item 5, on consideration of the committee's work programme?

**Members** *indicated agreement.*

## Scottish Housing Regulator

### Annual Report 2013-14

10:00

**The Convener:** Item 2 is on the Scottish Housing Regulator's annual report for 2013-14. The committee will take oral evidence from the Scottish Housing Regulator. I welcome Kay Blair, the chair of the Scottish Housing Regulator, and Michael Cameron, its chief executive. I invite Kay Blair to make an opening statement.

**Kay Blair (Scottish Housing Regulator):** Good morning, everyone. Thank you for giving us an opportunity again to present our work to the committee. As I have said before, we very much welcome the committee's interest in and scrutiny of our work. I believe—I say it often enough—that we are a listening and learning organisation. We are keen to hear our various stakeholders' views and, wherever possible, we reflect those views in how we regulate.

I am delighted to report the progress that we have made on the matters that we set out in our letter of 5 March. Michael Cameron and I will answer any questions that the committee has on the progress update that we gave you in our submission. Specifically, the committee asked us to highlight progress on the introduction of an appeals process and on our work with the Scottish Federation of Housing Associations and asked how we would agree the federation's policy on entitlements, payments and benefits.

We will go live with the new appeals process on 1 April 2016. Over the coming year, we will work with all our stakeholders, especially tenants and tenants organisations, and landlords and their representative bodies, to develop that process. We will aim to put in place an appeals mechanism that is transparent, accessible, proportionate, independent and cost-effective. We also need to ensure that it is able, and that we are able, to act swiftly where necessary to protect the interests of tenants and other service users—in other words, other customers of social housing.

I am pleased to report to the committee that we are now in a position as a regulator to endorse the SFHA's proposed model policy on entitlements, payments and benefits. That includes provisions on limiting the personal use by a registered social landlord's governing body, members and staff of its contractors, with appropriate flexibility in the code. The model policy takes account of the needs of landlords that work in rural and remote communities.

The SFHA has issued the model policy to its members and it hopes to publish the final version

later this week. We have proposed that, in working with its members, it emphasises that individual landlords have the flexibility to opt out of parts of the model policy that they feel are particularly difficult to implement given their circumstances, and we have proposed that landlords can adopt different approaches, while of course still upholding the principles and spirit of the model policy and meeting our regulatory standards. We are happy to work with the SFHA on communicating and promoting its model policy.

On other matters, we have had generally positive and constructive responses to our recent consultation on revised regulatory guidance, including that on notifiable events. The committee may recall that we have always said, from the beginning of our existence as an independent regulator, that we would constantly review what we do and that we would, wherever possible, streamline our regulation. We are reviewing the independent analysis of our regulatory guidance and we will publish that independent analysis, along with our response and the final guidance, later in the summer. As I said, the exercise has been positive, helpful and constructive.

I highlight that we are now into the second year of collecting charter information from landlords. The charter has been welcomed, particularly by tenants because of the information that it gives them and the ability that it gives them to hold their landlord to account. In the second year, tenants will be able to look at the start of trend information to see how their landlord not only compares with peers in the sector but has performed over time. That is really helpful. On a high note, I am delighted that our work in collecting the charter data and making it available to tenants and other service users was recognised last week when we won two of the prestigious Holyrood connect awards, which celebrate public sector excellence in information and communications technology.

We would be delighted to answer the committee's questions.

**The Convener:** Before we get to more specific matters, some of which you highlighted, we will take a step back and ask you to restate what you see as the role of the regulator, particularly since it has received a significant investment of public expenditure. How would you justify the regulator's existence? What do you see as its role? How do you respond to the criticism that we have sometimes heard in evidence that the regulator tends to be involved in the micromanagement of individual housing associations and that your actions are not always proportionate?

**Kay Blair:** Perhaps I can start—I am sure that Michael Cameron will have something to add.

Our role is quite simple because of the statutory objective that we were given when we were set up as a new and independent regulator, which is to promote and safeguard the interests of tenants and other service users. Unlike other regulators, which perhaps have a variety of objectives, we have only one. That is interesting, because it guides all our work in ensuring that tenants, factored owners, homeless people and other service users get a good deal from their landlord.

We are keen to work with the sector, RSLs and local authorities to ensure that they provide good, warm, secure and safe homes. That is really important for tenants. In our priorities and risk assessments, we are keen to look at where there is the greatest possibility of things going wrong. We might also have an interest in a particular RSL because of its size, scope or complexity.

You mentioned that we receive a decent-sized investment of money. I point out that we have only around 50 staff and a budget of just under £4 million. We have a very important role in providing confidence and reassurance to lenders in the sector. Lenders have traditionally seen and continue to see the sector as a safe and secure place for investment. Because of that, the sector enjoys preferential interest rates.

Recently, one lender estimated that the value of our regulation is around £40 million, which is 10 times the size of our budget. That is quite a good example to justify our existence, because it means that we are ensuring that lenders continue to see robust and effective regulation in the sector and that lenders continue to invest in the sector in Scotland. That will enable the sector to develop and build new homes.

**The Convener:** Mr Cameron, do you want to respond to the comment—I am not saying that I agree with it, but it has been made—that the regulator sometimes micromanages the affairs of individual housing associations and that its actions are not always proportionate?

**Michael Cameron (Scottish Housing Regulator):** We are serious about taking a risk-based and proportionate approach to regulation. As Kay Blair has made clear, we always have regard to our statutory objective of protecting the interests of tenants and other service users, and that is what drives all our actions.

We undertake an annual risk assessment of all social landlords to identify the key areas where we require to engage with them and get appropriate assurances about how they are operating to protect the interests of tenants and other service users. We publish all that information; in fact, over the past year, we have gone further than simply publishing the plans and have for the first time

published a compendium of our engagement with landlords—both local authorities and RSLs.

We have also started to publish a series of documents called “How we work”, which sets out more information on and detail about how we apply our regulatory framework in practice. The first of those documents was developed in consultation with the key stakeholder groups—the representative bodies of landlords—and was broadly welcomed. We will publish more such documents over the coming months.

**The Convener:** Do the public and tenants know enough about how you carry out your risk assessments?

**Michael Cameron:** Undoubtedly, we could put more information out there, and the next two “How we work” publications will focus on how we undertake our annual risk assessments for RSLs and local authorities respectively, in recognition of the slight differences in the process for each. For example, with local authorities, we collaborate with our partner scrutiny bodies such as Audit Scotland and Education Scotland to produce a joint common scrutiny plan. We hope that the “How we work” documents that we publish on each of those risk assessment processes will further enhance the information that is available to tenants, landlords and the public.

**The Convener:** I understand that in November the regulator will publish a regulatory advice note on the key risks and issues that will be focused on in the risk assessment process. Can you update us on that work?

**Michael Cameron:** Yes. That is part of our annual cycle of risk assessment. Every October, we commence the next round of risk assessment, but this year we want for the first time to engage with landlords, lenders, auditors to the sector and tenants and to get their perspective on the key risks that landlords have to contend with. We will use that dialogue to inform our approach to risk assessment and we will publish the key risk areas that we will focus on in the coming year. We will put that out and promote it as widely as we can to help all those who are involved in social housing understand the basis on which we are conducting our regulation.

**The Convener:** We have received evidence from the regional networks of registered tenants organisations and umbrella organisations that represent housing associations. How do you respond to the statement that

“Many tenants not sure what the role of the SHR is with regards to investigating the concerns of tenants. Linked to this there needs to be more clarity on what constitutes a significant performance failure and timescales for responding”?

**Michael Cameron:** First, it is probably worth restating that the Parliament has empowered the Scottish Public Services Ombudsman to deal with complaints from tenants about their landlord. We are not the body that handles such complaints. When a tenant contacts us with such a complaint, we will absolutely work with them to help them understand the process of complaining to their landlord and then to the SPSO. We also have a process that allows tenants to raise serious concerns with us when they feel that their landlord is failing and that that failure, which we categorise as a significant performance failure, is impacting on many or all of the landlord’s tenants.

We appreciate that there can be potential for confusion between the two roles. We have worked with the SPSO to put more information into the public domain so as to be as clear as possible about those distinctive roles. We have published a fact sheet on significant performance failures, which we updated in August 2013. We have also published a “Performance Matters” report on how landlords are informing their tenants of significant performance failures, as a route for tenants to raise matters with us. Generally, landlords are performing well in communicating that information.

10:15

**The Convener:** What are you as the regulator doing to encourage housing associations to make that information available to tenants?

**Michael Cameron:** We have required all associations to do that—it is a regulatory requirement. We undertook a thematic study into how well landlords were delivering against that requirement—that is the “Performance Matters” report that I referred to. We found that, generally, landlords are performing well in making that information available. We have also made as much information available as we can, in as streamlined a fashion as possible, through our website, to enable tenants to raise serious concerns with us directly.

**The Convener:** I will move on. What are your plans for the introduction of value-for-money assessments? How do you respond, for example, to the concerns of the Glasgow and West of Scotland Forum of Housing Associations that

“now is not the time for SHR to introduce a further layer of bureaucracy into their assessment process”?

**Kay Blair:** The last thing that we want to do is to add further bureaucracy to our regulatory assessments. Value for money is quite hard to define. I am sure that, if I asked everybody round this table, you would all have a different definition of what value for money means.

We have a tenant panel that consists of more than 400 tenants, and we communicate with them

regularly. They consistently tell us that value for money is one of the key things that they look to get from their landlord. We are very aware that it is a key topic. The English regulator has introduced a specific indicator for value for money, but that is much more from an economic perspective.

We were keen to start a discussion with various people in the sector. That is not to say that we were going to introduce a new layer of bureaucracy, which is the last thing that we want to do, as I said. We wanted to discuss what value for money means and how landlords, who are responsible for delivering performance, identify and define value for money in what they offer as a package to their tenants and other customers.

We were very engaged in that. We quite like having debates about strategic issues with various stakeholders in the sector. The initial debate was to ask people what they thought, whether we should be doing more work on this or that and whether we should be asking more of landlords in delivering value for money. As I said, that was very much an initial discussion with the sector.

**The Convener:** I know that you cannot speak for those in the sector or for the Glasgow and West of Scotland Forum of Housing Associations, but do you think that they have been reassured by the discussions that you have had? Do they continue to have concerns about the regulatory burden that is being placed on them?

**Kay Blair:** They played an active part in the discussion that we had. Afterwards, we sent out a note to agree on the aspects that we would cover. At the time, we engaged with them. We will continue talking and listening. We are keen to ensure that tenants and other service users get a good deal.

**Michael Cameron:** After the discussion that we had with stakeholders in May, we debated what our guiding principles might be in pursuing a regulatory discussion on value for money. Currently, we give landlords a fair amount of scope to define what that means locally. One of our guiding principles will be to move not too far from that position. We will want to engage fully with the sector on the issue as it develops approaches to demonstrating value for money to its tenants. A number of significant pieces of research are going on in the sector in Scotland, and we will want to have regard to them.

As Kay Blair said, we are very much listening to the views of a range of stakeholders. We will move cautiously in adopting an appropriate regulatory position on value for money. In large part, that will be based on what we already have in charter information and the range of other information that we receive from landlords.

**The Convener:** Okay. Mike MacKenzie has a short supplementary question.

**Mike MacKenzie (Highlands and Islands) (SNP):** I will keep my question as short as I possibly can.

Ms Blair, you mentioned that you may be concerned about housing associations because of their size. Will you elaborate on that? What does size have to do with it?

It was mentioned that the lenders said that you were responsible for saving the sector £40 million in lending costs. I think that that was over a year. I am struggling to imagine how anybody could possibly do that calculation, and I would be very grateful if you could share information with the committee on that. I appreciate that the calculation is not yours and that it is the calculation of a group of lenders. However, as we know, the lenders have got their sums rather wrong in fairly recent history. I would really like to know what the method was.

Finally, a further point—

**The Convener:** I am sorry, Mike, but you were meant to ask a brief supplementary question.

**Mike MacKenzie:** Okay. Thank you.

**Kay Blair:** We take an interest in the size of housing associations because, if a very large organisation were to get into trouble and suffer financial distress, that would have an impact on the whole system. It would have an impact on the sector and tenants. Therefore, we are keen to keep close to some of those organisations, particularly some of the bigger ones that have subsidiary developments and quite complex structures. It is not necessarily the case that we take an interest because we have a particular concern about any one aspect at the time; we want to keep close to them for assurance from our point of view.

On the £40 million, the calculation was done through looking at what the standard interest rates would be for comparable organisations in the private sector as opposed to social housing. However, I do not have the exact detail of that calculation with me.

**Michael Cameron:** Perhaps I could expand on that a little.

In the conversations that we had with the lenders, they identified that they estimated that the average reduction in the interest rates that were applied was around 115 basis points directly as a consequence of the organisations that were loaned to being part of a regulated sector. If we extrapolate that basis points reduction over the totality of the sector's borrowing, the figure comes to around £40 million each year.



**Mike MacKenzie:** I would be very interested in more written information about that calculation and who exactly it came from.

**The Convener:** We look forward to receiving that.

**David Stewart (Highlands and Islands) (Lab):** Ms Blair, you said in your opening statement that your organisation is a listening and learning one. Can you demonstrate how you are listening and learning on the issue of whistleblowing?

**Kay Blair:** I will ask Michael Cameron to do that because he has more information on that at his fingertips.

**Michael Cameron:** We have become designated as a proper authority to receive disclosures about social landlords from whistleblowers under the Public Interest Disclosure Act 1998. That means that any whistleblower has the protection set out in that act if they come to us. It also places on us certain duties to publish information on the numbers of whistleblowing reports that we receive each year.

We published updated fact sheets on whistleblowing in April this year. One was for whistleblowers and another was for landlords who may have to engage with us on a whistleblowing report that we have received. We consulted the Glasgow and West of Scotland Forum of Housing Associations, Employers in Voluntary Housing and the SFHA in producing those fact sheets.

We will set out the figures for the first time in our annual report for last year, which will come to the Parliament in September. However, I can tell you that, last year, we were contacted by six whistleblowers with concerns about landlords. We took no action in two of those cases, because the whistleblowing information lacked sufficient evidence or credibility. In the other cases, we worked with landlords to establish the facts. In one, we found that there was no basis for the allegations, in two of the cases the concerns were substantiated, and one case is on-going. That gives a sense of our approach to whistleblowing.

**David Stewart:** Have you had any examples of whistleblowers within your organisation?

**Michael Cameron:** No.

**David Stewart:** What happens if you have that in the future? Who guards the guards? You regulate the sector, and we have some further questions on the general issue, but what procedure do you have to deal with whistleblowing from within your organisation?

**Michael Cameron:** All the staff of the Scottish Housing Regulator are civil servants and are fully subject to the civil service code and to all the procedures, including whistleblowing procedures,

that there are for civil servants. There is an extensive set of procedures. I am happy to give that information to the committee if that would be helpful.

**David Stewart:** Has there been any discussion in board meetings about the issue of whistleblowing?

**Michael Cameron:** Yes.

**Kay Blair:** Absolutely—we have discussed whistleblowing as a board and agreed the policy.

**David Stewart:** Will you explain in a bit more detail the role of the special managers?

**Michael Cameron:** Do you mean special managers in terms of the statutory appointments that we make to registered social landlords or local authorities?

**David Stewart:** Yes. Is there a role for special managers in relation to whistleblowing, or is that completely separate? There is not a lot of clarity on the role, so we would appreciate some information on it.

**Michael Cameron:** We appoint a special manager to an organisation to undertake investigations or to address issues or problems that have arisen. We have used statutory appointments of special managers only twice, both fairly recently. When we do that, we set out fully the remit and the accountabilities so that the organisation that is having a special manager placed with it fully understands that special manager's role.

We have had discussions with representative bodies on the accountability of special managers. Special managers that we appoint are accountable to the regulator for the delivery of the actions for which they are appointed, but they also need to work with the relevant management committee or governing body of the organisation—

**David Stewart:** Sorry to interrupt, but I want the committee to be clear on the role of special managers. To give a fictional example, if an RSL has a whistleblower who says that the organisation is not operating correct financial accountability and you are concerned about that, you could set up a special manager to look into that organisation to see whether the finances are being done according to the rules and regulations that are laid down by Parliament and which you regulate. Is that a fair fictional example of the way in which you use special managers?

**Michael Cameron:** No, that is not how that kind of scenario would play out. If we receive a whistleblowing report, we will first assess its credibility and the level of evidence that is presented. As I said, we might well decide not to

take the matter further if we think that the report lacks credibility or appropriate evidence.

If we feel that there is sufficient evidence for us to engage with the organisation, we first ask the organisation itself to undertake an investigation into the matters that have been raised. The organisation might do that using its internal audit function or its external auditors, or it might appoint an independent body to do that. That is sometimes confused with there being a special manager. In our language, a special manager is a statutory appointment made by us.

10:30

**David Stewart:** Could you give us more detail on the circumstances in which you would appoint a special manager? You have done it on two occasions. I appreciate that there may be issues of confidentiality, but can you describe in general terms the two circumstances that led to that in the past?

**Michael Cameron:** Yes, I can. We have published information on both those cases in regulation plans for the organisations concerned. There is quite a bit of information out there, and I would be happy to share that with the committee.

In one organisation, we became concerned about its financial health and the near risk of insolvency in particular. We were not able to obtain appropriate assurances from the organisation that it was dealing with the issues. On that basis, we made a statutory appointment: we appointed a special manager and three members to the organisation's management committee.

**David Stewart:** I am sorry if I am being a bit slow, but in my fictional example a whistleblower demonstrated that an RSL had some financial problems. You said that that was not really an appropriate example, but in the circumstances that you have just described there were financial problems in the organisation and you appointed a special manager. Why was my example incorrect?

**Michael Cameron:** In the first example that you gave, we received a report from a whistleblower. The first thing that we would do on receiving a report from a whistleblower would be to consider its substance and then look to the organisation to investigate it. The situation that I have just described that led to our appointment of a statutory manager followed our direct engagement with the organisation over a period of time to try to deal with several concerns that we had on its financial viability. That engagement led to our intervention. The circumstances are different.

**David Stewart:** I will not be like a dog with a bone on the issue, but I have a final point. I am not suggesting that the special manager is the first

thing that you do; rather I am saying that, if there were a whistleblower and you were not satisfied with what the RSL was doing, you could consider appointing a special manager as one option at the end of the day. Is that right?

**Michael Cameron:** If we were concerned that the organisation was not taking the matter seriously or that some of the issues that were being uncovered were so significant that further action had to be taken, there is the possibility that, in those circumstances, we could appoint a special manager.

**David Stewart:** That is fine and adds a lot more clarity.

**Mary Fee (West Scotland) (Lab):** I want to ask about communication and engagement but, before I do, I want to clarify a point. Would or could a special manager be appointed after a notifiable event?

**Michael Cameron:** A notifiable event might be the first indication that we would need to engage with an organisation. Depending on the issue and its scale, that could ultimately lead to a situation in which a special manager becomes involved. However, a notifiable event in itself would not necessarily trigger that response.

**Mary Fee:** I just wanted to see whether there was a connection between the two.

I will move on to communication and engagement. In previous evidence sessions, concerns were raised about the methods that the regulator uses to communicate with tenants and tenant organisations and the frequency of those communications. Can you give us some detail on the steps that you have taken to improve those things?

**Michael Cameron:** Yes, I can.

Tenants are an important audience for us. Last year, we asked all registered tenants organisations—RTOs—for their preferences for receiving information from us. They told us that they preferred hard copy summary documents, so we have responded to that by placing much more emphasis on producing such publications. We have done that for our national panel report, our registered tenant organisation priority research and our regulatory guidance consultation, to name but a few documents.

Shortly, we will issue a hard copy summary of this year's report on the national panel and we will send that to all RTOs. We send the nine regional RTO networks our electronic newsletter, which goes out frequently. We have promoted the newsletter to all RTOs and encouraged them to subscribe, and at least 134 have done so.

We continue to work with our committed group of tenant assessors. We provide resources to the new RTO liaison group that we have established, which we meet quarterly. Alongside that, one of our board members and I meet the chairs and secretaries groups of the regional network annually.

I would emphasise the role of our national panel of tenants and service users, which is a very important way for us to engage with the tenant community. We published the output of the second year of work with the panel last Friday. The panel has 430 members, which is up from 300 last year. Around three quarters of panel members are not members of any other form of tenant organisation or representative structure. While most of them are tenants, last year through the panel we engaged with 48 Gypsy Travellers. Some of them were already panel members and they have all signed up to receive panel updates and work with us on further engagements. We will continue to look to broaden the representative nature of the tenants panel.

We will continue to discuss how we can further improve our communication with the different representative structures that we engage with for tenants. Over the past year we have done a lot to ensure that tenants get the right information from us at the right time.

The other key thing is that we require every landlord to provide every tenant with a copy of the report that we publish every year on each of those landlords.

**Mary Fee:** Do you use the national panel and tenant assessors to assess the improvements that you have made in your communications? How often do you meet them?

**Michael Cameron:** We do, and we meet the tenant assessors regularly. They have been an important way for us to test different developments.

**Mary Fee:** When you say “regularly”, how often do you mean?

**Michael Cameron:** We meet all the tenant assessors twice a year, but we engage with them far more frequently than that, depending on what piece of work they are on. They will work with us on thematic studies and inquiries. We involved our tenant assessors in developing the landlord report and the key indicators that we would focus on in the charter. We have also used them to test how accessible our information technology systems are and how easy they are for people to use. We have a very much continuous engagement with our tenant assessors.

**Mary Fee:** It has been acknowledged that improvements have been made in

communications, but there are still concerns that it is too slow in maturing. Would you agree with that? Is there any way that you can move things along more quickly?

**Michael Cameron:** We will want to discuss those concerns with the RTO liaison group that we meet regularly, to better understand them. We put out a lot of information for tenants regularly, and we engage with them in a range of ways. However, we would be keen to understand what those concerns may be and how we can build on what we already have in place.

**Mary Fee:** The regional networks are concerned that you are not visible enough and that you need to get out there more. How would you respond to that?

**Kay Blair:** The point about visibility is a good one. Every organisation can be more visible. This year we have put a huge emphasis on communication and engagement with a variety of our stakeholders, including lenders, Government, landlords and tenant organisations. We have a huge communications plan, but we are quite a small organisation with a big job to do on effective regulation, in which we need to be risk based and proportionate and engage effectively with organisations that we need to engage. We need to get the balance right.

Because I come from a communications background, I am aware that we can never do enough to communicate and that, when we put information out, it is sometimes not the information that is most received. Therefore, we have done a lot of work to engage with our assessors and panel to find out how good we are at communicating, where we could be better and what they want. It is a continuing process, and I hope that, from a good base, we can only get better.

**Mary Fee:** The regional networks also suggest that there is evidence that landlords are renegeing on their legal requirement to consult tenants. How do you feel about that? Do you agree with it and, if you do, what steps will you take to resolve it?

**Kay Blair:** As Michael Cameron said, there is a statutory requirement for all landlords to give the landlord report to their tenants. We often hear from tenants that they do not get enough information from their landlords, so, as well as having our regulation plans, we conduct thematic inquiries, which are really mini research projects in which we examine particular topics. We have examined various aspects of the charter, including communication. In particular, we have considered whether landlords communicate well about rent increases.

When we ask tenants, as the charter tells us to do, we are mostly told that they are satisfied with

their landlord's performance and the information that they get. However, we are keen to have hard data behind that to make sure that what should happen is happening.

**Mary Fee:** The tenants network has suggested that a thematic inquiry be done into the degree of communication that landlords have. Would you consider that?

**Kay Blair:** Yes, we are considering it. That will probably happen this year, depending on our resources.

**Alex Johnstone (North East Scotland) (Con):** I will ask about the social housing charter and annual returns. The Glasgow and West of Scotland Forum of Housing Associations is concerned about the use of inconsistent language when you report on the charter performance of housing associations and local authorities. Why might that be and do you have any plans to revise the language that you use?

**Michael Cameron:** First, it is worth saying that we welcome the fact that our publications and the information that we publish are generating debate and discussion. That was one of our objectives in getting that information into the public domain.

We collect the same data from all social landlords—RSLs and local authorities—and use the same indicators in our risk assessment of both groups for the charter data. This year, following our risk assessment, we are engaging with just over two thirds of local authorities on matters relating to the charter and round about one third of RSLs. The bulk of our engagement with RSLs relates more to financial health than to the charter. Proportionately, we are engaging with about twice as many councils as RSLs on charter matters so there is no evidence that we are being any less critical of local authorities than of RSLs.

The two processes that we use to publish the information on how we will engage following the risk assessments are slightly different in that, for local authorities, we are part of a broader approach that involves all the scrutiny partners with which we work on local authorities, so that final product is co-produced. We are not convinced that there are significant differences in our use of language across two types of landlord. That said, this is the first year in which we have taken that approach with the charter information and we are keen to engage with the forum to discuss and pick up on its concerns, and to address where we can any issues that arise. We have a meeting planned for within the next few weeks to do just that.

**Alex Johnstone:** Although you might not have any plans to revise the approach, you are willing to engage at this stage.

**Michael Cameron:** Absolutely.

**Alex Johnstone:** What feedback have you had on the use of the online landlord comparison tool?

10:45

**Kay Blair:** We have had exceptionally good feedback. People have told us that the tool is easy to use and that they can get the information that they need. We have had very good feedback about how they can use that information to compare their particular landlord with their peers in the sector, so people find it very helpful.

As I said, we have won awards for the technology's ease of use and how we have developed it. It is working well, but it will be subject to review to ensure that it continues to work well.

**Alex Johnstone:** Have you changed the information that landlords have to submit for their annual return on the charter?

**Kay Blair:** No.

**Alex Johnstone:** Some tenants' representatives have suggested that there has been a change. Is there any reason why that impression might have been given?

**Kay Blair:** I do not know, because there has been no change. However, I would be keen to find out why some would think that there has been. The major change will be that, because we are in the second year of collecting the data, tenants will be able to compare the second year of their landlord's performance with that of the first year. This is the start of a benchmarking exercise that will be helpful in allowing tenants to make comparisons over time. However, the actual information has not changed.

**The Convener:** David, do you have a supplementary question?

**David Stewart:** Yes.

**The Convener:** I will limit you to one question, please.

**David Stewart:** I will keep it brief. Ms Blair, you will know that we will consider a petition later on our agenda that argues that RSLs should be subject to freedom of information legislation. What are your views on that? I understand from the Scottish Information Commissioner that the charter requirement falls short with regard to freedom of information and that you cannot require an RSL to provide particular information to individuals. Is the commissioner's assessment correct? What is your view of the matter?

**Kay Blair:** We do not have a view on that. I am sorry that my answer is quite brief.

**David Stewart:** Is it something to do with the fact that you have 50 civil servants working in your organisation?

**Kay Blair:** I could not possibly say. However, we do not have a view on the FOI issue. We think that the charter gives valuable information, and most tenants tell us that they are satisfied with that information. However, we do not have a formal view about FOI in that regard.

**David Stewart:** Is the commissioner correct in her assessment that the charter requirement falls short in terms of freedom of information legislation?

**Michael Cameron:** It is safe to say that the charter sets out a standard that encourages landlords to communicate fully and effectively with their tenants. The charter does not attempt to put in place the same kind of requirements and procedural responsibilities as freedom of information legislation; indeed, I suggest that you would be surprised if a charter did that. As Kay Blair said, our analysis of landlords' first annual returns highlights the importance that tenants place on being kept informed by their landlord. In addition, the satisfaction levels for how landlords are performing in that regard are pretty good. The charter is at a relatively early stage, and we will continue to monitor and consider the trends in landlords' performance in that regard. However, at this point, we see no evidence of a risk to tenants' interests regarding landlords' provision of information.

**The Convener:** Moving on, James Dornan has some questions.

**James Dornan (Glasgow Cathcart) (SNP):** Ms Blair, you said in your opening comments that one of the regulator's primary functions is to be there when things go wrong. Does the focus on that partly explain why RSLs are concerned about the tone and content of the "Governance Matters" publication, which they perceive as being overly negative at times? Is there a role for that publication to be used to disseminate best practice among RSLs?

**Kay Blair:** We have always said that our role as a regulator is not just to highlight weaknesses and bad practice, but to highlight good practice. Over the past year we have done a lot in putting out a series of publications called "Performance Matters", in which we highlight good practice and use that to help landlords in their own induction training and so on. I think that that has been very helpful.

On "Governance Matters", when we discovered issues, challenges and particular weaknesses in organisations, we were keen to share that information as far as possible, on an anonymous basis, as a learning tool. I have heard what has

been said about the tone and content of the publication, and we have taken that on board. However a number of organisations have told me that, as soon as they get the publication, they use it to check that they are not doing similar things in their organisations, that they are performing well and that they are not falling into some of the traps that are highlighted in the case studies. I take issue with the view that they are all entirely negative and that we have had a negative response to them, because a number of organisations have found them very valuable as a learning tool to use in their organisation.

Alongside publishing "Governance Matters", we ran a series of governance matters events, to which there was a hugely positive response. We used the "Governance Matters" series as the basis for a discussion that allowed board and committee members to get together to network and learn about other experiences in other organisations. It is really important that they do that.

We share bad practice, but we try to do that in a constructive way, using it as a learning tool. Our next issue of "Governance Matters", which will come out shortly, talks about an organisation in which we identified serious issues. In the beginning, that organisation did not particularly want to engage with us but it subsequently engaged with us constructively and there was a very positive outcome. The organisation itself would say that there was a very positive outcome in the end.

That was perhaps a long answer to your question, but I hope that it has answered it.

**James Dornan:** Yes, to a great extent it has. You are saying that "Governance Matters" deals with the bad stuff and "Performance Matters" highlights the good stuff that is going on.

**Kay Blair:** It is not necessarily as black and white as that, because "Performance Matters" sometimes looks at issues that are more to do with charter and service delivery.

**James Dornan:** If it is not as black and white as that, is there space in "Governance Matters" to highlight one or two examples of good practice, to show the sort of governance practice that organisations should be following?

**Kay Blair:** Yes. As I said, we have done that and we will continue to do that.

**James Dornan:** The RSLs also raised the matter of trust between the regulator and the RSLs. Can you give us an update on the work that you are doing to build trust within the sector?

**Kay Blair:** Absolutely. There is a huge push, from the board and within the organisation, to ensure that we are engaging effectively at all levels. Over the past year, we have continued to

have meetings with representative bodies and with the lending community. We continue to ensure that we are regularly in touch with lenders both in Scotland and in the United Kingdom so that there is engagement. We have board-to-board meetings, and I meet the chair of the SFHA on a regular basis. At all levels within the organisation we are engaging, which is, I hope, helping to build trust. It is my desire that we understand and respect each other's perspectives, because they will sometimes be quite different, and that we have a relationship of mutual respect and understanding.

**James Dornan:** Has the process been improving? Are you having more meetings, and is there an understanding among the RSLs of the efforts that you are making—and vice versa—to build that relationship of trust?

**Kay Blair:** I hope so. I certainly think so. We are making good progress. Sometimes, the representative bodies may not like what we are doing because, as I said, our statutory objective is the protection of tenants and even better performance in the sector. Sometimes, we agree to differ.

**Adam Ingram:** In your opening remarks, you mentioned that you hope to have a fully formed appeals process in place by April next year—is that correct?

**Kay Blair:** Yes.

**Adam Ingram:** You are engaged in a consultation on that, which I understand is a two-stage process.

**Kay Blair:** It is.

**Adam Ingram:** Can you flesh out some of the details of that for me?

**Kay Blair:** Yes, I can. We are keen to have an appeals process that is transparent and proportionate and which works for us and those who use it. We have decided to engage at a very early stage by issuing a discussion paper that will look at what the principles should be, what the process should be and what people think about the issue. That will happen in September. We will also have meetings and appropriate dialogue with others in the sector. Thereafter, towards the end of October or in November, having had the response from the discussion paper, we will issue a consultation paper that will present a firm proposal and ask people what they think of it.

Do you want to add to that, Michael?

**Michael Cameron:** I have nothing to add, other than that we want to ensure that there are as many opportunities as possible for all stakeholders to engage with us. That is our motivation for having a two-stage process. We want to ensure

that we get the appeals process right and that as many people as possible have the opportunity to engage with us.

**Adam Ingram:** The umbrella organisations have welcomed the fact that you are to consult in that way, but they are keen for the appeals process to be truly independent and for it to provide an avenue of redress on all relevant aspects of the regulator's decision making. I take it that that is your intended outcome.

**Michael Cameron:** The strategic code that the Scottish Government introduced earlier this year sets out the principle of an independent approach to appeals. We will set out to have a full discussion about exactly what that would mean for the range of stakeholders and how we can best accommodate their views.

It is important to state that it is critical that any appeals process is proportionate and that it will not be a tool that can be used to prevent a regulator from doing the things that it needs to do. There is always a balance to be struck.

We will engage fully with stakeholders on the topics that you have set out—the scope of the appeals process and the level of independence that is built into it.

**Adam Ingram:** We will talk about the entitlements, payments and benefits policy later. If an organisation were to opt out of any element of that because of its local circumstances and the regulator were to decide that the alternative approach that the organisation had identified was inappropriate, would it have an avenue of redress to appeal that decision by the regulator? Is that your intention?

**Michael Cameron:** I would not want to prejudge the outcome of the discussions that will take place as part of the consultation. We can debate with stakeholders whether it would be relevant for the appeals process to be able to deal with that scenario.

**Adam Ingram:** What progress have you made on the issuing of revised guidance on notifiable events, such as when a senior officer leaves an RSL?

**Michael Cameron:** As Kay Blair mentioned in her opening statement, we have had positive and constructive responses to our recent consultation on revising our regulatory guidance, including that which relates to notifiable events. Our aim was not only to update that guidance, but to streamline our requirements.

As Kay Blair also said, we are reviewing the independent analysis of the feedback to that consultation, and we will publish that along with the revised guidance later in the summer. At yesterday's board meeting, we agreed to make

further changes to the guidance on notifiable events to reflect the comments that we received from some of the landlord representative groups on the situation in which a senior officer leaves. We are confident that the revised guidance, which we will publish later in the summer, will be recognisably different from the existing guidance.

**Adam Ingram:** Can you give us a flavour of the change at this stage, or is it too early?

11:00

**Michael Cameron:** The change involves shifting the focus from requiring an option appraisal in most situations to allowing organisations that have an appropriate and up-to-date business plan strategy to use that as the basis on which they can proceed to reappoint a chief executive. We have worked with the different representative bodies on the language around this and the result reflects those conversations.

**Adam Ingram:** What progress has been made on developing a procurement framework agreement on the appointment of consultants? That has been a particular point of criticism previously.

**Michael Cameron:** As the committee will appreciate, there are many complexities and technicalities in procurement frameworks. We are working through those complexities with legal and procurement advisers, particularly to enable us to achieve our ambition of having a framework agreement that is available not just to the regulator but for social landlords to access and make use of. We hope to have a clearer position on that later in the year.

**Adam Ingram:** At the time there was a lot of criticism that the consultants were very expensive and that there were none in Scotland—we had to import them. Will that situation be addressed by what you are doing?

**Michael Cameron:** Our hope is that there will be much greater transparency around the appointment of contractors and consultants on the basis of a framework agreement. Obviously, framework agreements are tendered through processes to ensure appropriate value for money.

**Mike MacKenzie:** Ms Blair reiterated in her opening statement this morning something that was in your most recent submission of written evidence to the committee—the suggestion that the Scottish housing regulator fully endorses the Scottish Federation of Housing Association's model policy on entitlements, payment and benefits. In particular it was stated that this takes account of the needs of landlords working in rural and remote communities. That is reassuring. However, the feedback that I have received from

housing associations across rural Scotland and from the SFHA is that the draft model policy has a number of real problems, including the fact that it does not specifically address or take account of the needs of rural landlords. Could you explain how you seem to have got this wrong?

**Kay Blair:** I would like to make it clear at the beginning that we have not got it wrong, because it is not our code. It is the SFHA's code and model policy, which it has developed. It has taken some time for the SFHA to develop it, but we are now in a position to endorse it. We have worked constructively over a period of time to ensure that whatever the SFHA produced was of sufficient quality and met our principles around ethics and integrity. We had very high-level principles that we wanted the code to embrace, which it now has.

We were also very aware of the needs of rural and remote communities. It is something that Mr MacKenzie brought up at our last session with the committee. We are very aware that in certain circumstances there is a limited market. In those circumstances, if there is only one contractor, staff and others should be in a position to use that contractor, provided that it is at an acceptable rate.

We were very keen that that should be spelled out in the code. However, as far as I am aware, the SFHA took that part out of the code because it wanted to ensure that there would be flexibility in the code for everybody in Scotland who encountered particularly difficult or special circumstances. That flexibility has been introduced into the code. The SFHA has said that it will publish the code by the end of this week, and I think that it has proposed that it will run for a year, by which time it will have had an opportunity to monitor the operation of the code and review how it has been working. However, it is the SFHA's code.

**Mike MacKenzie:** I was aware of that. However, I am still not grasping this, so you are going to have to bear with me. What I am struggling to understand is that you have said that you fully endorse the code—is that right?

**Kay Blair:** Yes.

**Mike MacKenzie:** However, we do not know what the finished version is going to be. Moreover, although I welcome the flexibility that you have mentioned, it gives, as I understand it, local housing associations the ability to delete certain aspects of the code that they are not comfortable with or which they feel are unworkable and to substitute their own arrangements. Without prior knowledge of that, how can you possibly endorse it?

**Kay Blair:** That is because there are high-level principles. As far as flexibility is concerned, what the code says—Michael Cameron might have the

exact wording—is that housing associations can, if circumstances dictate, alter the SFHA code as long as they still comply with the high-level principles. That brings us back to the comply and explain approach, although the SFHA has not accepted that wording, because it felt that it would not be understood. Basically, it gives flexibility in particularly difficult or challenging local circumstances.

**Mike MacKenzie:** But, although you might fully endorse the code in principle, are you reserving the right to come to a different view if you find that, in what are quite subjective and difficult matters, you and a particular housing association have different interpretations of the high-level principles that you have just described?

**Michael Cameron:** It is worth restating that what we have endorsed is a model policy that has been produced by the SFHA; it is for individual landlords to decide whether they wish to adopt that model policy or to adopt it with appropriate revisions. Obviously, landlords are then responsible for ensuring that the policy is implemented and adhered to and for monitoring its management. That is for landlords to determine.

**Mike MacKenzie:** I am still struggling to understand this. You have said in no uncertain terms that the needs of landlords in rural and remote communities had in particular been taken into account and dealt with, but in fact, most of the representations that I, the SFHA and Employers in Voluntary Housing have received on that very same model policy have made criticisms on those specific points. I cannot understand how you can be of the view that the rural concerns have been fully addressed while the whole sector is of the view that they have not been.

**Michael Cameron:** Perhaps I can provide further clarification. We asked the SFHA to include in the policy a statement that made it clear that, where local market conditions made it difficult for a member of staff or governing body of an RSL to achieve a reasonable selection of contractors, they would, in those circumstances, be able to make use of the landlord's own contractors. We felt that that gave flexibility in more remote and rural areas. In fact, we encouraged the SFHA to refer directly to rural and Highland areas as an example of where local market conditions could be taken into account, but it was keen not to have any examples, because it felt that they might be interpreted as the only circumstances in which that flexibility could be used.

We are also keen for landlords to have flexibility in how they use the model—that has been our position for some time. Where there are specific circumstances in their contexts, landlords should be able to determine that they will not use specific aspects of the model policy and will, instead,

adopt their own approaches, which would be true to the spirit of the model and would adhere to regulatory standards. That gives landlords a degree of flexibility and enables them to have a policy that is relevant to their context.

**Mike MacKenzie:** Given that this piece of work has been going on for about four years without getting to the point of completion, and that the SFHA has asked the committee to keep it under review, would you be prepared to keep the committee informed of progress?

Finally, you stated that you were a listening and learning organisation. Could you listen a wee bit more carefully to local housing associations and attempt to learn about their problems a wee bit more quickly?

**Michael Cameron:** On monitoring, we would be more than happy to report back to the committee on any issues that arise in relation to circumstances in which we get involved and have to take a view on a landlord's implementation of the model or its own determined policy. We will discuss further with the SFHA its intentions on monitoring. When any organisation introduces a new policy or proposal, it makes sense to monitor its implementation.

We will absolutely continue to listen. As Kay Blair has set out, we have a number of processes in place for gathering views. Our recent event with stakeholders on value for money is an excellent example of our engagement early on in conversations with the aim of fully understanding the range of views that exist in order that we can take them into account when we are developing approaches and policy.

**The Convener:** Could you summarise your key priorities in further developing what the regulatory regime will be and, in particular, say how you intend to continue to engage with the relevant stakeholders?

**Kay Blair:** In April, we published our next corporate plan, which covers the period from 2015 to 2018. Again, I emphasise that the focus is very much on tenants and on good outcomes for tenants and other service users. To that end, we will continue to focus on three main priorities. The first priority is financial health. That is critical, particularly given the context that RSLs are operating in, which is increasingly challenging. There is a wider range of risks. I am thinking of things such as welfare reform, which could impact quite seriously on income streams; pension liabilities; the rate of inflation; and so on. We will take a keen interest in a number of areas in relation to financial health, because it is of critical importance.

The second priority is good governance. Since our inception, we have put huge store in having



well-managed and well-governed organisations. Inevitably, when an organisation gets into trouble, the problems will have started with poor governance that has involved poor risk management and risk mitigation and, perhaps, poor understanding of the financial complexities that the organisation has got itself into.

The third priority is good service delivery—I am talking about good homes, good repair services, warm homes and so on. A lot of that information comes out of the charter. Increasingly, we will be using our new analytical tools, which are incredibly helpful. We will be looking to get a much deeper insight into the organisations that we regulate.

We have a huge commitment to engaging with stakeholders, including representative bodies and tenant organisations. I have listened to the feedback today about what we can do better in our engagement with tenant organisations.

We will have a number of thematic inquiries that will enable us to drill down into issues in more detail. For example, we are keen to get more information on issues such as Gypsy Travellers, factored owners and other areas in relation to which we feel that we do not have enough information. We will use those studies to get more information about the customer base and performance issues.

We will continue to be vigilant against new risks. The sector is complex and diverse. One challenge with any model policy is the fact that one size does not necessarily fit all, because the sector has become much bigger, much more diverse and much more complex. As a regulator, we have to ensure that we are ahead of the game and understand the risks, the sensitivities and the challenges that are out there. Therefore, a lot of our work is analytical and is involved in making sure that we have the right market intelligence and are engaging with the lending community, which is critical to the sector, to ensure that it still sees the sector as a viable area with which to engage.

The board and the organisation have very focused priorities, which we will continue to work on.

**The Convener:** Do you have anything to add, Mr Cameron?

**Michael Cameron:** I have nothing to add.

**The Convener:** As there are no further questions, I thank our witnesses for their evidence this morning and for the continuing constructive engagement between the regulator and this committee.

11:16

*Meeting suspended.*

11:22

*On resuming—*

## Petitions

### Freedom of Information (Scotland) Act 2002 (Housing Associations) (PE1539)

**The Convener:** We resume our meeting. Agenda item 3 is on public petitions. The committee will consider two public petitions. The first is petition PE1539, by Anne Booth, on housing associations to come under the Freedom of Information Act (Scotland) 2002. I believe that Mr Dornan has a statement to make.

**James Dornan:** Yes. I would like to put on the record that I was a member of the Glasgow Housing Association board between 2008 and 2012—the GHA is now part of the Wheatley Housing Group.

**The Convener:** A paper providing details of previous consideration of the petition by the Public Petitions Committee has been circulated for members' consideration. A number of actions have already been taken by the Public Petitions Committee, including inviting the petitioners to appear before it to make a presentation and to answer questions on the petition. I invite members to consider what action they wish to take in relation to the petition.

**David Stewart:** As members will know, I put a question to the Scottish Housing Regulator about the issue, and the regulator had no position on it. I am generally sympathetic to the petition, as I pointed out in my question in the additional papers from the petitioner. The proposed Scottish social housing charter is fine and well and I am not criticising it, but it is quite clear, to quote Rosemary Agnew, that

"The Charter ... falls short of the FOISA right, in that it does not provide the same level of access to information to enable public scrutiny."

I cannot speak for the Government, but the Government is very enthusiastic about freedom of information. I am not clear why the 2002 act cannot be extended to cover housing associations. If there are particular issues in addition to the recommendations that we have about actions, why do we not write to a cross-section of RSLs to get their first-hand views on the matter?

**The Convener:** Did you say "a cross-section of ourselves"?

**David Stewart:** No, I said "RSLs"—registered social landlords. It is getting late in the meeting, convener. I do not know whether it is my speech or your hearing—maybe it is a combination of both. I think that it would be useful to get the first-hand views of RSLs about the matter. To be

honest, I cannot understand why we are not supporting the petition. We have, across the parties, supported freedom of information. It should apply to housing associations. If they do not want that to happen, let us hear direct from them what their reasons are for that.

**The Convener:** That is fine. It is only fair to point out that a number of registered social landlords have written to the Public Petitions Committee on the matter, so their views are on the record. However, we can consider your suggestion about whether to write to them again.

**Mike MacKenzie:** I am not necessarily suggesting that I disagree with the petition, but a factor that must be considered at a time when public budgets are under stress is that some housing associations, especially the smaller ones, may consider that they lack the resources to deal with the inevitable FOI requests that come their way. That resource might be better spent on providing warm, better houses and so on. As I said, some of the organisations are quite small, so complying with FOI would be onerous for them.

**Mary Fee:** Dave Stewart covered more or less all my points; I absolutely support his views. All I would add is that, were we to take Dave's suggested course of action of contacting RSLs, we could also ask them to expand on Mike MacKenzie's point about resources.

**Alex Johnstone:** It is difficult to argue against the petition. The likely difficulties would relate to implementation of the proposals. Might it be an idea at this stage to cut out the middle of the process and simply engage the Government directly and see what its views are on progressing the matter?

**The Convener:** Okay. That is fine.

**David Stewart:** I apologise for coming back in, convener, but the big issue here is that the Human Rights Act 1998 requires us to take this action. No one disputes what the act says. However, the Government says that there are technical reasons not to include housing associations—or ourselves—in the legislation. The petitioner has provided an answer to that.

I appreciate that we have had information from RSLs. Therefore, I suggest that we ask them to address the point about costs, and that the clerks focus on the organisations that have not yet responded.

**The Convener:** We have two suggestions. The first is that we write to a range of RSLs to ask for their views. Most sensibly, it is suggested that we focus on RSLs that have not yet expressed a view, although we could write to RSLs that have provided written submissions and put to them a more focused inquiry.

The second suggestion is that we write to the Scottish Government. Were we to do that, I think that we would want the Government not just to reiterate its previous response to the petitioner, but to respond to the petitioner's points on its response. I hope that that makes sense. Are we happy to proceed on that basis?

**Members indicated agreement.**

**The Convener:** Another point that is worth considering is that the Freedom of Information (Scotland) Act 2002 is being consulted on. The forthcoming Scottish social housing charter is also being consulted on. Notwithstanding that the petitioner has questioned whether that is a good idea, a formal process exists. Therefore, we should encourage the petitioner to engage in that process, because responding to the consultations is an obvious route for them to go down.

**David Stewart:** To restate my earlier point, the proposed charter is good and worthy of support. However, as the Scottish Information Commissioner has pointed out, it does not provide the teeth that the freedom of information legislation provides.

**James Dornan:** Are you suggesting that we do not encourage people to take part?

**David Stewart:** No, I am not saying that.

**James Dornan:** I do not understand what your interjection was for, in that case.

**The Convener:** The committee always seeks to move forward on a consensual basis. We have already agreed to write to a range of RSLs. We will write to the Scottish Government, asking whether it will take the petitioner's concerns into account as part of the current consultation on extension of the Freedom of Information (Scotland) Act 2002 and the forthcoming Scottish social housing charter consultation.

I suggest that we also write to the petitioner, encouraging them to engage with the Scottish Government's consultation and the forthcoming Scottish social housing charter consultation.

**Members indicated agreement.**

**The Convener:** Are there any other actions to take at this stage? No.

## **A90/A937 (Safety Improvements) (PE1236)**

11:30

**The Convener:** We move on to petition PE1236, by Jill Fotheringham, on A90-A937 safety improvements. I welcome Nigel Don MSP to the committee.

We have before us an update from Transport Scotland announcing that

"Nestrans 'Access to Laurencekirk' study is now complete."

It states that

"the preferred option arising from the study is an upgrade of the A90/A937 south junction to a grade-separated junction."

Transport Scotland concludes the letter by stating that it

"will now work with our partners to progress this work further, including discussions around funding."

I invite comments from members.

**Alex Johnstone:** I remember in summer 2004 becoming a signatory to petition PE778, which was the predecessor petition to this one. It was closed in March 2005, after the Government gave a series of undertakings about safety improvements at the junction. Those included a speed limit of 50mph and installation of speed cameras. It was expected by the petitioner and others that that would at some point progress to an improvement of the junction. It subsequently became clear that the speed cameras and the speed limit were all there was going to be. The argument has been rehearsed on a number of occasions that there have, since their installation, been no serious accidents. Unfortunately, last month there was another serious accident at the junction.

The news of the north-east of Scotland transport partnership report and its recommendations has been welcomed with delight and enthusiasm by the campaigners and people in the area. However, I am keen to ensure that we do not make the same mistake as we did in 2005 and assume that this piece of good news means that the problem is solved. Funding still remains a serious issue.

Given that the committee has stuck with the matter over a long time, and that I as an individual have done so for even longer, it is important that we do not take our eyes off the ball at this stage. On the positive side, there is an opportunity for the committee to stick with the issue until there really is a solution in place, and perhaps to share in and celebrate that success when it comes.

**The Convener:** Do other members have comments? If not, I invite Nigel Don to speak.

**Nigel Don (Angus North and Mearns) (SNP):** Thank you, convener. The matter is dear to my heart, because the road is right in the middle of my constituency.

I am grateful to Alex Johnstone for his comments. The matter has been taken forward on a cross-party basis, which I hope we can continue.

There is a sense in which the consultant's report tells us nothing that we did not already know. Anybody who lives near the area knows that we need a grade-separated junction. Indeed, the current arrangement of a speed limit and speed

cameras was discounted as an option, even before the consultation.

It is also clear that Transport Scotland will not give permission for any substantial planning application anywhere near until there is a grade-separated junction. The work has to be done, and we now understand that.

I agree with Alex Johnstone in that I would welcome the committee keeping the petition open, not least because of the words:

"Jill Fotheringham, calling on the Scottish Parliament to urge the Scottish Government to improve safety measures on the A90 by constructing a grade separated junction"

I will not be happy until the junction has actually been constructed. Members will recognise that that will not happen in months: it will take years, even if there is a positive move immediately.

I would be grateful if the committee would keep the petition open. The committee does not need to do anything else. The relevant bodies—Transport Scotland in particular, and Aberdeenshire Council—know that progress needs to be made.

**The Convener:** Are we agreed that we wish to keep the petition open?

**Members indicated agreement.**

**David Stewart:** I want to thank Nigel Don for all the work that he has done on the issue. I know from my previous life on the Petitions Committee that he was an honorary member because he was there so often, supporting this petition.

It is a very good petition and I certainly support keeping it open.

**The Convener:** We agree to keep the petition open.

11:35

*Meeting continued in private until 12:26.*



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