

COMMUNITIES COMMITTEE

Tuesday 12 April 2005

Session 2

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COMMUNITIES COMMITTEE **10th Meeting 2005, Session 2**

CONVENER

*Karen Whitefield (Airdrie and Shotts) (Lab)

DEPUTY CONVENER

*Donald Gorrie (Central Scotland) (LD)

COMMITTEE MEMBERS

*Scott Barrie (Dunfermline West) (Lab)
*Cathie Craigie (Cumbernauld and Kilsyth) (Lab)
*Linda Fabiani (Central Scotland) (SNP)
*Christine Grahame (South of Scotland) (SNP)
*Patrick Harvie (Glasgow) (Green)
*Mr John Home Robertson (East Lothian) (Lab)
*Mary Scanlon (Highlands and Islands) (Con)

COMMITTEE SUBSTITUTES

Shiona Baird (North East Scotland) (Green)
Christine May (Central Fife) (Lab)
Mike Rumbles (West Aberdeenshire and Kincardine) (LD)
John Scott (Ayr) (Con)
Ms Sandra White (Glasgow) (SNP)

*attended

THE FOLLOWING GAVE EVIDENCE:

Ron Ashton (Convention of Scottish Local Authorities)
Councillor Sheila Gilmore (Convention of Scottish Local Authorities)
Jason McDonald (Convention of Scottish Local Authorities)
Councillor Iain McMillan (Convention of Scottish Local Authorities)
Michael Thain (Convention of Scottish Local Authorities)
Robert Thomson (Care and Repair Forum Scotland)
Angela Yih (Age Concern Scotland)

CLERK TO THE COMMITTEE

Steve Farrell

SENIOR ASSISTANT CLERK

Katy Orr

ASSISTANT CLERK

Jenny Goldsmith

LOCATION

Committee Room 1

Scottish Parliament

Communities Committee

Tuesday 12 April 2005

[THE CONVENER *opened the meeting at 09:30*]

Housing (Scotland) Bill: Stage 1

The Convener (Karen Whitefield): I open the Communities Committee's 10th meeting in 2005 and remind everybody that mobile phones should be switched off.

Item 1 on the agenda is the Housing (Scotland) Bill, on which the committee will hear evidence from two panels. I welcome the first panel, which is made up of representatives of the Convention of Scottish Local Authorities. We are joined by Councillor Sheila Gilmore of the City of Edinburgh Council; Michael Thain, the private housing strategy manager with the City of Edinburgh Council; Councillor Iain McMillan of Renfrewshire Council; Ron Ashton, the director of housing with Angus Council; and last, but by no means least, Jason McDonald, policy manager with COSLA. Councillor Gilmore will make a brief opening statement before committee members ask questions of our invited guests.

Councillor Sheila Gilmore (Convention of Scottish Local Authorities): Thank you for the opportunity to meet the committee today. It is important that COSLA is heard through this channel on what is an important bill. We welcome the bill, which is a major step forward in the legislative and policy framework for management of the private rented sector. We accept the basic principles that underpin the bill—we believe firmly that householders have the basic responsibility for maintaining their homes and we are pleased that that is the framework within which the bill is set. Equally, local authorities have a responsibility to intervene if failure to maintain housing has an adverse effect on the neighbourhood or the community. The issue is to get the balance right so that local authorities have the power to intervene when necessary; the bill will provide an effective framework in that regard.

Our written evidence goes into many of the bill's more detailed technical aspects, but we do not seek to argue against the bill's principles. We are happy to answer questions on the key issues that we have set out in our written evidence. Some of our comments may appear to be critical, but they are intended to be constructive and to use this stage in the process to improve the bill. The process has been good, if slightly lengthy, and has provided widespread opportunities for people to comment and input. The opportunities that have

been given to us through the housing improvement task force and, more recently, through detailed meetings with some of the people who drafted the bill have been extremely useful. We would like that model to be implemented in the future. We are happy to discuss any detailed points that the committee may want to raise.

The Convener: You touched on one issue that I want to raise—the consultation on the bill proposals. As you rightly say, much of the bill affects the remit and role of local authorities and how you interact with the private rented sector. You said that the consultation process was positive: will you say what was positive about it and why the Executive got it right?

Ron Ashton (Convention of Scottish Local Authorities): The process was good, but lengthy, although we must be honest and point out that that was to ensure that the bill was right. It was also inclusive and reached the nether or far parts of Scotland. The bill team took a series of roadshows directly to practitioners to consider the practical implications of the proposals. That was an open and straightforward process, during which the Executive team was receptive to feedback from practitioners. So, it was an excellent process from the perspective of having input before the bill even appeared on paper, which we commend. As in all consultations, we did not get everything we wanted, but that is a reality of life. The end-product is workable and can be developed.

Cathie Craigie (Cumbernauld and Kilsyth) (Lab): I would like to concentrate on the part of the bill that deals with housing renewal. The consultation showed quite widespread support for changing from housing action areas to housing renewal areas for dealing with houses that are below the tolerable standard, as well as with the wider issues of poorly maintained stock, poorly managed housing stock, derelict land and so on. Do you believe that housing renewal area orders will be a more flexible tool for dealing with the many different issues that concern communities?

Councillor Gilmore: We think that housing renewal area orders will be a much more flexible tool. It is important that the housing renewal area orders will go beyond addressing traditional tolerable standard issues, because other issues come up and there are different issues in different areas. The flexibility that housing renewal areas offer is in their geography and size. It is important that, according to local needs and circumstances and after consultation, housing renewal areas are of whatever size is necessary. They could be very small in some cases. When the task force originally considered the proposal, we were talking about a housing renewal area as small as one multistorey block, one street or part of a street. Equally, however, a much wider area might be

appropriate—that will flow from the specific local needs, what the issues are and what is being addressed.

There is, therefore, flexibility regarding the circumstances in which a housing renewal area order can be used and in the size of the area that it can occupy. We think that that is important because it will allow each local authority to make its own decisions about such matters. We also welcome the fact that there will be consultation before a designation order is made. We are aware that such things can be sensitive and that people must be involved if a housing renewal area is to be a success. We do not want local authorities to make designations only for there to be a huge local furore in which everybody ends up in the courts. We therefore welcome the process of pre-consultation to get things right and get people on board.

Michael Thain (Convention of Scottish Local Authorities): That is right. In considering the move from housing action areas to housing renewal areas, flexibility was added to reflect the change in some of the challenges that we face. For example, housing action areas were relatively effective in dealing with older, largely privately owned pre-war tenements in the cities. The housing renewal area power has been designed with mixed-tenure regeneration in mind. The challenge that we have faced in regeneration areas has sometimes been the impact of the right to buy and the need to get other owners who have bought under the right to buy or through the resale of the right to buy to agree to contribute to regeneration and improved housing in their areas. The housing renewal area power and the process of consultation that will lead to a designation will help us to do that.

Cathie Craigie: Will the need for a housing renewal area be identified through local authorities' preparing their housing strategies, so that it will not come as a surprise to communities and owners that the council is moving in that direction?

Michael Thain: As Sheila Gilmore said, it is essential that local authorities bring the people who live in the areas with them, so that what appears in a local housing strategy does not come as a surprise to them. The process of consultation must begin quite early so that there are no surprises for people. One of the biggest challenges in making a housing renewal area effective will be to take people with us by explaining to the people who live in an area the advantages of the regeneration or renewal of that area.

Ron Ashton: It is also fair to say that local housing strategies are an integral part of community planning, particularly local community

planning. To back up what Michael Thain said, designations should come as no surprise to anyone, because the matter should have been gone through. They should all be part of a strategy that the local authority is following for an area, and the relevant mechanisms should be gone through. The process must be much more inclusive than it was previously. I think that it will work better.

I am old enough to remember the old housing action area processes—I worked in a major city at the time. It seemed that we had to devise housing action areas that missed out pubs, because we could not afford to buy them out. In the cities of Scotland you will see pubs sitting on corners in the midst of redevelopment areas, because the development area had to be designed around the pub and was not flexible enough. The new process is much more flexible and will be better at achieving its aims.

Cathie Craigie: The process for designating housing action areas, from the early discussions to seeing an area completed, was notoriously long. Do you believe that the process that is proposed in the bill will be speedier and that people might see developments completed in their lifetime?

Ron Ashton: As Councillor Gilmore said, because we can identify much tighter areas where the problems are and the process is much more flexible, things should move much faster than they did under the previous procedure.

Councillor Gilmore: In the preliminary discussion and decision-making process it will be important to consider the practicalities of what is achievable and what people are willing to sign up to. A lot of work goes in at the front end. Local authorities are concerned about how that will be supported and resourced. Getting things right at the beginning is not just about giving people financial assistance or seeking the contributions of owners—it is also about carrying out planning and preparation and talking to people, which is quite resource intensive for local authorities. It will be worth it, but we are clear that if we want the process to work, we need council staff to be out there talking to people, holding meetings and putting out information. Sometimes, we do not allow for that resource requirement but concentrate on what it costs to do the work at the end of the process. If we get the first bit right, it can make the rest easier, especially in relation to getting owner sign-up and contributions.

My experience, which I am sure is the experience of Iain McMillan and everyone else here, is that we cannot shortcut the process. People are questioning; they will question our facts and why we think things need to be done and they will, quite rightly, want everything to be spelled out. We will have to be in a position to give them the information and to deal with it properly.

That will pay off as we get co-operation to allow the process to work. We would like acknowledgement that local authorities will have to do that important work.

Cathie Craigie: From my experience of housing action areas, some people delay the process and unreasonably withhold their support—I am sure that a lot of people would share that opinion. Does the bill give local authorities enough powers to deal with people who unreasonably withhold support?

Ron Ashton: Yes, I think it does. The description of the process that Councillor Gilmore just gave is absolutely right, especially in relation to the time that is involved. I remember experiencing days, weeks, months and years of anguish trying to put together packages; the recalcitrant owner and absentee landlord are prime examples of the problems that we faced. The bill goes a long way towards resolving many of those issues.

I do not discount the up front work that will be required; that work will be extremely resource intensive because in many instances we deal with people on a one-to-one basis about complex actions and large commitments. We sometimes ask individuals to make commitments that will change their lives. However, the bill provides flexibility that will allow us to move the process forward with some uncertainty. We will be able to deal more easily with owners and to persuade people—or, if necessary, force people—to come on board. It will allow us to say, “Okay. This really needs to be done for the benefit of the community and the whole block. Can we move forward on that basis?”

09:45

Cathie Craigie: Could the bill be strengthened with additional powers to assist local authorities?

Finally, I have a question that is probably silly. When the Scottish Executive gave evidence to the committee a few weeks ago on housing renewal areas, the officials referred to them as HRAs. Will that cause any confusion in local authority housing departments?

Michael Thain: There are so many acronyms in housing that it was inevitable that we would run out of combinations of letters at one point.

The housing renewal areas and the ability to serve works notices will provide a relatively strong power for local authorities to require owners to do work. The ability of local authorities to recover costs is another issue, to which we will come later. However, the general principle of the works notice powers should allow us to carry out work when owners are being obstructive. I am relatively

relaxed that the balance is just about right on that issue.

Ron Ashton: The proposals are an improvement and I am keen to get them into operation to see how they work in practice.

On the latter question, when I first saw the phrase “extra resources for HRA” my heart started to beat a bit faster, but I soon realised that HRA did not mean housing revenue accounts.

Linda Fabiani (Central Scotland) (SNP): I cannot find the exact place, but I remember reading in your written evidence that COSLA is unhappy with the proposal that the local housing strategy will have to include an estimate of the amount of HRA stock that is below tolerable standard, as well as a plan to improve that part of the stock. Will you expand on that?

Jason McDonald (Convention of Scottish Local Authorities): We said that we are not keen on a requirement to include in the local housing strategies action plans for the stock that is below tolerable standard because we have seen no clear demonstration of the benefits of that.

Linda Fabiani: As I said, I cannot find the exact place, but I think that you also said that the measure would mean that local authorities would have to survey up front all the properties and carry out a lot of on-going work and monitoring. Is that the reason for your view?

Councillor Gilmore: The issue is one of balance and necessity. Important though the below-tolerable-standard issue is, and although the bill will increase the standard to a degree, most authorities feel that it is possible to become over-obsessed with the issue. Certainly, on the housing improvement task force, it sometimes felt as if we were going down narrower and narrower avenues in discussing the issue. Some properties will be below tolerable standard and local authorities should consider that as part of their local housing strategies. However, we do not agree that there should be a specific duty to carry out a separate up-front audit, which may in some areas yield very few properties that fall into the category. If the target was to deal with such properties, we would be happy with that.

The strength of the bill is the way in which it goes beyond the issue of stock that is below tolerable standard. The standard is a minimal one, even with the amendments to it that the bill will introduce. It is the basic minimum that everybody should have. Stronger powers and more intervention are required in that regard, but we are interested in how we can move beyond that in a slightly different and more flexible way. Local authorities feel that too many requirements, such as the one to carry out a separate audit, would detract from other on-going work.

Linda Fabiani: That is fine.

The Convener: I will allow Christine Grahame in as long as she keeps her remarks to housing action areas and not to tolerable standards.

Christine Grahame (South of Scotland) (SNP): The tolerable standard was raised by the evidence of Councillor Gilmore.

A large part of the COSLA submission is about resources and challenges the financial memorandum, which says that the annual costs to a local authority will be £3 million. That is fairly important, to put it mildly. I know that local authorities complain about their resources all the time, but if we are to make this work, you might wish to—

The Convener: Christine—

Christine Grahame: This is a supplementary question to the issue of annual costs, which was raised during evidence on housing renewal areas. I see no question on this in the papers.

The Convener: I think that you will find—

Christine Grahame: In the financial memorandum, the £3 million is said to be a maximum, but Councillor Gilmore seems to think that it is a minimum. There is a big disparity there.

Jason McDonald: I am sure that we will talk about the issue in more detail later. The figures in the financial memorandum are based on the situation in Glasgow.

Christine Grahame: I see that in your submission.

Jason McDonald: We feel very strongly that suggesting that £3 million would be a maximum because it is based on the Glasgow situation misses factors that come into play when we consider rural and other urban areas across the country that face the same problems as Glasgow and, in some cases, more problems.

Christine Grahame: Are we talking 10 times too little money or five times too little? How off the mark is £3 million? We must get the money right.

Ron Ashton: Much of the calculation will be done when we see the depth of detail that comes with the bill. One of the problems that we have at the moment is that so much supplementary information will follow the bill.

The depth of detail that local authorities might have to go to—keeping a register of below-tolerable-standard properties, carrying out the action plans, and deciding how to monitor all that—might mean considerable costs. I will take a minute to talk about my local authority, rather than from a COSLA perspective. We had a tragedy in Angus where a young chap was killed in a derelict

property just over the boundary from Dundee. As a result of that, we instituted a risk analysis of derelict buildings in our area—buildings that are well beyond the tolerable standard. There are relatively few of them, but the risk analysis register needs a full-time professional officer to maintain it, to consider what to do with the property, to negotiate with owners and take matters through the statutory process.

That analysis was done as a one-off and it was a considerable resource commitment. It would be a very large commitment if we had to expand that to cover the level of detail that is implied by the bill by keeping what could be described as a risk register that would cover below-tolerable-standard buildings, and by keeping track of what happens to the property and any changes that might be made by the owners.

If we can risk assess the properties that we require to look at, leave a clearly auditable trail and ignore for the moment the properties that are not going to come to the top of the tree, we would use much less resource. So we have to examine the detail of what comes through and ask what it implies for us because the differences could be quite considerable.

Christine Grahame: I take it that we have to disregard that maximum £3 million per annum for local authorities for staffing and other resources that the financial memorandum says will be required. That cannot be right.

Michael Thain: We will talk about the financial memorandum later, so we can cover that question in more detail then. Our main point is that the financial memorandum's assumption that £3 million would be a minimum was based largely on costs that were provided by Glasgow City Council, which ran significant improvement programmes in mixed tenure areas to support the Scottish housing quality standard and older tenemental stock. Many urban authorities face similar challenges. Local housing strategies require housing departments and registered social landlords to bring their properties up to the quality standard in all areas of Scotland.

Glasgow's circumstances can be and are repeated in other urban authorities but there are other issues for rural authorities, particularly in respect of dealing with the geographical spread of stock. In some cases the condition of some of the private sector housing in rural areas is much worse than it is in urban areas. Our point was that we need to consider some of the assumption in the financial memorandum.

Mr John Home Robertson (East Lothian) (Lab): You have touched on aspects of section 11 of the bill, which is on the tolerable standard, and I want to return to that subject. In general, are you

happy with the extension of the definition of houses that meet the tolerable standard to ensure that they have thermal efficiency and that all electrical installations comply with the relevant requirements?

Michael Thain: Yes, we are broadly happy with the extension of the definition in those areas. There was, during the consultation, a lot of discussion with the task force about adding other standards to the tolerable standard, but we must be careful with that standard because it is ultimately a condemnatory standard. Local authorities have strong powers ultimately to close down and demolish buildings, so a balance must be struck between using the tolerable standard as a minimum and condemnatory standard and adding other standards to it. The provision of safe electrical wiring and a minimum level of thermal efficiency in houses will be welcome. We also welcome the opportunity to develop further guidance in order to get those standards and their technical aspects right.

Mr Home Robertson: Would you like to take this opportunity to say a word about any other considerations that you have been thinking about? Should other elements be added to the tolerable standard list?

Michael Thain: I do not think that we need to say any more. We are broadly happy with the approach that has been taken and with the balance. A range of other bodies proposed other standards during the task force process, but they often reflected the interests of those bodies. It is important to accept that the tolerable standard is a condemnatory standard. Ultimately, we need to ensure that the standards that it covers are realistic and reflect its condemnatory nature.

Councillor Gilmore: There has sometimes been confusion and criticism, especially about energy efficiency and raising thermal standards. Obviously, people have high aspirations for improving the quality of housing in Scotland in order to meet those standards—nobody is saying that that is not the aim. Through the task force at the beginning of the process, we distinguished between the tolerable standard—which could lead to a house being condemned as being unfit to live in—and the quality standard that people want to move towards. There should be no question of saying that the country is satisfied with the tolerable standard. Indeed, the most recent Scottish house condition survey showed that most local authorities and other public housing providers have done a great deal to raise their standards considerably above that level, although there are still issues in particular areas—for example, standards have not yet been reached in parts of the private rented sector. However, we thought that it was unnecessary to include the

stringent quality standard in the bill, although that should not be taken by those who are lobbying for much more effective resources and so on to mean that we should not aspire to that standard. We have two standards in mind, and the aim is to move towards the quality standard.

In respect of the tolerable standard, saying that a house is unfit to live in is fairly drastic. There can be some intervention in people's homes and lives, but there is also an issue about the point at which individuals should make their own decisions rather than have us intervene. Again, the matter comes back to housing renewal areas and whether proposals affect other people, the community and the neighbourhood. Beyond a certain level—health and safety requirements, for example—the internals of somebody's house—

Mr Home Robertson: What was tolerable a few years ago might not be tolerable today. Standards are rising and you think that it is appropriate to focus on these things at this stage.

Ron Ashton: Standards are undoubtedly organic. Everyone aspires to raise building standards in relation to what we are actually building, but the aspirational approach comes up against reality. As Michael Thain said, it is a condemnatory standard because it sets the bare minimum and says simply, "This is what people should not be in." However, we should always aspire to be better than the bare minimum.

10:00

Mr Home Robertson: I gather that there is consensus between you and the Executive on what has been done.

In your response to the Executive's consultation, you express concern about the practicalities of identifying and assessing the extent of adequate thermal insulation. In the financial memorandum, the Executive estimates that 63,000 houses fail to reach an indicative standard for thermal insulation of level 2 in the national home energy rating. Do you know where those houses are?

Ron Ashton: No.

Mr Home Robertson: Seriously, though, that is the problem. If we are going to set a national standard, we will be placing on local authorities a duty to identify those houses and to do something about them.

Ron Ashton: That comes back to what we were saying about maintenance of the tolerable standard register. The national home energy rating is a standard that, again, some have argued should be higher and some have argued should be lower. However, in the end, it is a scientific assessment.

We do not have the information that you mention. We have the national survey, which is augmented in many local authorities by boost samples, but it is still only sampling. It does not deal with individual properties; it is a statistical analysis. In relation to the housing standard delivery plan for the housing quality standard for the registered social landlords sector, almost every authority had to go back and do sampling and assessments based on the national home energy rating.

You are right to say that determining which are the relevant properties is a big issue.

Mr Home Robertson: Has that come out in the house conditions surveys that have been undertaken? Will it be possible to find the substandard houses?

Ron Ashton: The substandard houses can be found by using thermal imaging and a variety of analytical techniques. There is no doubt about that, but the question comes down to the resources and the time that it would take to do the work. The work that has been done so far has relied on broad statistical analysis based on sampling. If one wanted to identify individual properties, in effect one would have to sample each property.

Mr Home Robertson: You might expect tenants who feel that their rented accommodation is substandard to blow the whistle or invite local authorities to have a look.

Ron Ashton: That can and does happen.

Mr Home Robertson: Through our constituency work, we have all heard about the alleged idiosyncrasies of building inspectors. Do you think that the Executive's issuing of guidance on the tolerable standard will help to prevent varying interpretations across the country? If so, will that be useful?

Michael Thain: I think that it will. We look forward to having more detailed discussions on the guidance that will enable us to strike a balance between establishing some national consistency across local authorities and retaining flexibility. Buildings are quite complicated—

Mr Home Robertson: Tell me about it.

Michael Thain: I am sure that I do not need to tell you that.

Christine Grahame: John, I thought that you wanted to bury that controversy.

Michael Thain: We all recognise that achieving greater consistency across local authorities would be valuable, particularly for those of you who get complaints about the inconsistencies of building inspectors. However, we also need to ensure that we do not arrive at guidance that is so prescriptive

that we cannot respond flexibly to the needs of an individual or a building. That is a tricky balance to strike, but that would be our aim.

Mary Scanlon (Highlands and Islands) (Con):

Do you think that the proposed changes to the repairing standard for private landlords will be effective in promoting a higher level of physical condition and comfort in private rented properties?

Michael Thain: The introduction of the repairing standard brings the situation into line with elements of the standard for social landlords and identifies issues relating to furniture and fittings and so on that would be specific to the private rented sector.

The combination of the repairing standard and the proposed private rented housing panel, which will give tenants a much more effective route by which to raise complaints about the standards of repair or the condition of their property than do the sheriff courts, which are the route that they have to take at the moment, will lead to better standards and a more consumer-friendly mechanism in the private rented sector. There is no doubt about that.

In part, local authorities' role will be to ensure that private sector tenants are aware of the new mechanism to deal with landlords whose property is in poor repair or, more important, who have poor management arrangements to deal with repairs as they are required during a tenancy. The two issues that are most in the minds of private rented sector tenants are their inability to get private landlords to respond to requests for repairs and problems with rent deposits. The combination of the repairing standard and the private rented housing panel will lead to better management of properties in the private rented sector.

Mary Scanlon: So you do not propose any changes on top of those that are outlined in the bill.

Michael Thain: No, because the repairing standard will raise the benchmark for the private rented sector considerably. We must be careful to ensure that we get the balance right between improving quality and protecting supply in the sector. Local authorities, consumer groups and industry bodies want an overall improvement in management and property standards in the sector, but we do not want to raise the benchmark so high that we price landlords out of the sector.

The continued provision of affordable accommodation that meets all the legal requirements is needed. Particularly in the cities, the private rented market is an essential provider of accommodation, especially for younger people, such as students and young workers. In my authority area, the economic growth of Edinburgh in the next 10 years depends on in-migration of young workers into the city to fill jobs and

vacancies. We need a private rented housing market because young workers will not be able to access owner-occupation or will not want to because they may plan to stay for only a year or two. Further, social housing will continue to be relatively scarce and to be targeted at other groups. Therefore, it is important that we achieve a balance on the issue.

Councillor Iain McMillan (Convention of Scottish Local Authorities): In my experience, people who are on benefit tend to move into the private rented sector, because they have limited choices from the local authority and they certainly cannot afford owner-occupation. I am slightly concerned about who will meet the cost of the new regulation, although I support it. Good examples exist in the private rented sector, but there are also some poor examples and I would not like the burden of the costs to be put on tenants. There is a difference between what the local authority pays in housing benefit and private sector charges. Many people use their benefit to pay rent, but the benefit levels are low. It is a crying shame that people use £30 to £40 a week of their benefit just to live in the house that they want. As Michael Thain said, we must ensure that we get the balance right.

Mary Scanlon: I am glad that you highlighted that point, because in the Highlands just now benefits barely cover private rents.

To return to the point about supply, your submission states:

"The Housing Bill is one of the longest and most technically detailed Bills considered by the Parliament."

You are concerned that the additional regulation might affect

"supply in the market or lead to substantially higher rents that would price many households out of this market."

However, paragraph 236 in the financial memorandum states:

"At the upper end of the rental market it is likely that any new compliance costs will be capable of being passed on through higher rents to the tenant."

It is obviously a problem, but it is probably more of a problem in rural areas—I represent the Highlands and Islands—because the wage levels are not what people would get in cities. Do you feel that the bill will price some tenants out of the market or that it might lead to a reduction in the supply of private rented housing? Is that a fear?

Ron Ashton: There is a fear that the bill might price out not only the tenants but some of the landlords, because the prices that they have to charge could become higher than the average market price for the area. That is something that we do not know much about at the moment and, to be quite honest, we need to do a lot more detailed

work on what the levels and impacts might be. All the benefits that have been described by my colleagues are absolutely correct. We have no objection to the bill, which is valiant and valuable. It is doing what it should be doing, which is raising standards, but there is concern that the infrastructure costs of raising those standards, if they are fully passed on to the marketplace, might overwhelm the marketplace in specific areas and for specific types of property.

Mary Scanlon: If you take the cost for cities, you must then add on the cost of maintaining that standard in remote areas and on the islands, where some housing can be quite poor.

Councillor Gilmore: The private rented sector is hugely variable. In dealing with any form of regulation, it is important to understand that the sector is not one single thing that is easily described; it ranges from the quite expensive and often extremely good-quality properties in some cities—and people who enter that market can afford the cost of maintenance—right through a whole range of housing that fulfils a function in cities and rural areas. When we have dealt with the private rented sector in the past, we have seen that what appear to be quite small changes can have a dramatic effect.

Many fairly small-scale landlords—people who rent out only one flat or a couple of flats—can make quite a quick decision and say, "This is becoming too difficult. I'm not getting much back from this. There's a lot of hassle involved." Many people have gone into letting through the buy-to-let market thinking that they would make oodles and oodles of money. Some people have now found that it is not quite as straightforward as that. If they have a tenant who abandons the property, they will not get rent in for a couple of months, so the rate of return is not quite as great as it was cracked up to be. If you add on to that too much regulation and more expense, people make a rational decision and say, "I'd rather not bother with this. I'll sell the flat and get my capital return." In the cities, they would probably get that capital return.

Mary Scanlon: Have you done any research on that subject? Does the Scottish Association of Landlords have any information that would give an idea of how many people may be willing to sell up and move on?

Michael Thain: No concrete research has been done on the impact of increased regulation on the private rented sector. I am sure that the Scottish Association of Landlords and other industry bodies will provide their own evidence and views on the potential impact on the sector. It is important to take a step back and look at the purpose of the bill. We are all agreed, and the private rented industry is agreed, that the fundamental purpose

of the bill is to raise standards in the private rented sector, for a range of reasons.

None of us wants private landlords who consistently overcrowd their houses, provide unsafe accommodation and do not deal with the behaviour of their tenants to continue to operate in the market. However, we must also recognise that there are many good landlords out there as well as many landlords who probably need to learn more about private renting. As Sheila Gilmore says, many landlords who have got involved in the market in the past 10 years have got involved through buy to let and are relatively inexperienced. We recently started providing a training programme for private landlords. When we first started, I expected about 25 landlords at each training session and would have regarded that as a good result. Seventy attended each of the first two; indeed, there has been such a demand that we have had to limit the numbers and run more training programmes. There are landlords out there who recognise that they need to learn more and who are willing to take advantage of these programmes.

However, the focus of all this regulation of the private rented market must be on tackling landlords who continue to be recalcitrant and refuse to comply with regulation and legal requirements. Instead of overloading the whole sector with more and more regulation, we need to focus on landlords who probably should not be in the market at all.

10:15

Mary Scanlon: I realise that we have to move on, but this issue is huge. For example, I am surprised by the financial memorandum's statement that at the upper end of the market any higher compliance costs will be passed on through higher rents. Surely the repairing standard is just as essential at the lower end of the market and costs will be passed on there as well.

Will the private rented housing panel, which Michael Thain mentioned, make it easier for tenants to enforce their landlords' statutory repairing conditions, or will local authorities still have to intervene?

Michael Thain: The private rented housing panel will have a range of powers that it will be able to use where private landlords do not meet the repairing standard or do not meet the actions that the panel requires of them. I suppose that, as the ultimate sanction, the panel can ask the local authority to carry out the repairs that it has identified as necessary. One element of developing the process will be the effectiveness of the relationship between the panel and the local authority.

However, the panel's powers, which include making reoccupation of the property an offence and suspending up to 90 per cent of rent payments, are pretty effective. If a landlord continues to ignore those requirements, they are in effect committing an offence. Most landlords who end up in such a position will carry out the required work. However, if that does not happen, the local authority will still be able to carry out that work. Perhaps we will discuss later how local authorities can recover the costs of that work.

Cathie Craigie: From my experience of the private rented sector, I do not think that very many landlords are scrimmaging in their pockets trying to find a shilling to pay for repairs. Perhaps I am biased in that respect.

Do you agree that the bill's key principles are underpinned by the idea that, regardless of whether we are talking about a home owner who lives in their home or a private landlord who owns a house, they should take responsibility for maintaining their properties? We need to get that message over to some landlords who do not accept that responsibility, but in a way that does not give them excuses to jump out of participation. All we are trying to do is to improve the quality of the stock.

Michael Thain: Absolutely. Two issues emerge from this matter. I agree that the impact on rents will depend on many other circumstances including supply of and demand for property in the area. However, I am more concerned that we have moved from a sector that was relatively unregulated to one in which a substantial part is covered by houses in multiple occupation licensing and which is subject to the registration provisions of the Antisocial Behaviour etc (Scotland) Act 2004 and the additional registration measures in the bill. The regulatory framework is complex, particularly for landlords who are not necessarily bad but who have got into the sector through buy to let and rent out one or two properties. There is a hell of a lot of regulation that is new to them, and part of the purpose of our carrying out the training programme is to help to keep those people on board. So, there are two issues: one is about the cost, which is a complex issue, and the other is about the impact of introducing a lot of complex regulation in a relatively short period and what that may do for people.

Ron Ashton: It is fair to say that private sector landlords throughout Scotland have welcomed the raising of standards, are co-operating fully with the principles of the 2004 act and are desperately keen to learn and move on. Local authorities must concentrate their efforts on the small number of recalcitrant landlords who are bad landlords, who do not want to come into the family and be part of the new regime. From our perspective, co-

operation with the private sector has been extremely good. Major and small private sector landlords are asking for more information and are willing to co-operate to take the proposal forward.

The Convener: Before I allow Mr Home Robertson to ask a brief question, I inform committee members that we will have two evidence sessions with representatives of the private rented sector at which they will be able to engage with the committee on some of their concerns.

Mr Home Robertson: This is a quick, technical point. In an earlier evidence session, I raised the question of tied housing. When you talk about private sector landlords, do you include the owners of tied housing in your assessment? Is there a problem with tied housing such as farm cottages?

Ron Ashton: We have brought the private sector landlords on board in our rural area. The big estates and farms have been more than willing to co-operate.

Mr Home Robertson: So you include tied-house proprietors.

Ron Ashton: Yes.

Linda Fabiani: The single statutory notice is generally welcomed by local authorities because it makes sense. How do you think that it will be used when a house is likely to fall into serious disrepair or to affect adjoining properties—rather than when the house is already in an obvious state of serious disrepair? That is a fairly new power. How often do you think that it will be used by local authorities, how easy and convenient will it be to implement, and what level of enforcement will be available?

Michael Thain: The ability to require work to be undertaken in circumstances in which failure to do so could lead to serious disrepair was something that the task force found lacking in the current repair and improvement order system. The power will come into play especially when failure to carry out work will have an impact on other buildings, neighbours or the rest of the community.

I do not think that implementation of the power will be straightforward, as buildings are complex things and their owners are generally complex people. There will be varying degrees of interpretation regarding what work is required to be done, and I suspect that there will be more challenges from owners about what they are required to do to avoid their properties falling into serious disrepair. That is probably going to require a more technical judgment and will be less straightforward than, for example, pointing out to someone that their chimney is falling down. The challenge for local authorities will be to point out to owners the disrepair implications of not carrying out certain works.

Ron Ashton: That is perfectly true. It is about the technicalities of what is immediate versus what is long term and what is required as a bare minimum to take a property back to the standard. Those become highly technical issues. At the moment, they are extremely complex and, although the new power is welcome, I do not pretend that it will be an easy ride. It certainly is not, especially where properties are in multi-ownership.

Linda Fabiani: Let us try to look at this from the point of view of the owner-occupier or the private landlord, who may feel that the local authority is abusing its power—whether that is right or whether there is only a perceived abuse of power. How would you deal with that? Is the appeals system adequate? Will your member councils shy away from conflict situations such as that, because of resources as much as anything else, or do you get a feeling from your members that they would be quite willing to take that on board?

Councillor Gilmore: As with all new legislation, to some extent we will have to try it to see how it works. We can speculate endlessly about how many objectives we will achieve and how expensive the new powers will be. Judgment has to be exercised, which is why there must be local discretion. In much of the discussion about the new powers, it has been quite hard to pin them down. It is the kind of thing that becomes much clearer when people are able to identify a specific example and say, "Oh yes, that's what it means." Talked about in the abstract, it can be quite difficult to grasp.

There will be challenges. We have to ensure that we have done our homework and we must be convinced that we have a case. If we have a clear case, we have to tackle those challenges; if we back off on the basis that we would have to go through a legal process, nothing will happen. The message to somebody who just wants to dig in would be that that is the way to avoid any action. Two or three years down the track, all the other people affected will feel pretty let down. We will often have to balance an individual's case against the case of the other people affected by the situation. We have to be reasonably robust without being foolish. If we started making orders that were successfully challenged and a lot of costs were awarded, we would be in trouble. Most councils have different ways of tackling these things and they have considerable experience of what is involved. However, outside of the individual examples it can be difficult to pin down what is involved. Like everything else, it has to be reviewed to see whether it is working out. However, we would rather have the power than not have it.

Linda Fabiani: On a technical point, how do you feel that the provisions in the bill interact with the provisions of other legislation, such as the Building (Scotland) Act 2003? The policy memorandum says that the bill should interact with that act. I do not know whether there are any technical experts among you, but do you feel that the legislation is complementary?

Michael Thain: I think that it is, but we probably need to do more work with the Executive and with other local authorities on how we use the powers on defective buildings that we have under the 2003 act and the powers that we will have under this bill. In my authority we have a range of byelaws, which further complicates matters. What is important is that local authorities are able to consider the range of powers that they have in legislation and, rather than getting into too much technical detail, to develop policies that apply those powers in a way that owners or members of the public can understand. My authority does not use repair notices and improvement orders as they are under the Housing (Scotland) Act 2001 because we have other byelaws that do the same thing in effect and address some of the weaknesses in the current system.

Ron Ashton: We have not studied in any great depth whether the legislation is complementary, but we have certainly studied whether it is contradictory, and it is not. We take that as a plus point.

Scott Barrie (Dunfermline West) (Lab): Following on from where Linda Fabiani left off, I turn to maintenance orders. What are the key benefits to local authorities of the power to serve such orders?

10:30

Michael Thain: One of the advantages of maintenance orders is in dealing with buildings in multi-ownership, such as tenements and blocks of flats. The Tenements (Scotland) Act 2004 made significant improvements to the basic law behind the management of tenements. However, one of the weaknesses in enforcing the provisions of that act is that, where a scheme decision is made to carry out common repairs—or common maintenance as it is called—and an owner refuses to meet their share of the cost of that scheme decision, it is up to the other owners to take them through the debt recovery process and through the sheriff court to get the money back.

Most owners are not willing to do that either because of the impact that it would have on relations among neighbours or because it is a complex legal process, and most owners would be relatively uncertain about how to go through it. Owners are unlikely to want to go to lawyers,

particularly given the impact of legal costs. A maintenance order will enable the local authority to pay the share of the owner who is refusing to pay the costs. Currently, the bill states that local authorities can charge administrative costs and any reasonable interest. We must ensure that we do not become by default the payer of the maintenance order costs, which come later.

The inability to look towards the future is a weakness in the current improvement and repair orders, which are focused on tackling serious disrepair. Over the past 20 years, local authorities have spent a lot of money through improvement grants and so on to tackle repairs and bring properties up to a certain standard, but maintenance has not then been dealt with and properties have come back into the system despite the fact that orders and grants have previously been used to deal with the problems.

Councillor McMillan: I think that the power to serve maintenance orders will improve the situation. It used to be the case that when we went round a council estate we could always tell who had bought their house because the owner-occupiers had the better properties. Now the opposite is the case, because councils have got their act together and made improvements. The houses of owner-occupiers now look shabby, with pipes hanging down and all the rest of it. We certainly welcome the improvements as they enable us to ensure that all the houses are kept up to scratch.

Ron Ashton: Following on from Michael Thain's comments, I confirm that we must consider how the costs are recovered because that could become quite a large burden on local authorities. We must consider matters such as charging orders or whatever. We would perhaps want to discuss the matter further.

Scott Barrie: That is a significant point. There is no point in encumbering local authorities with additional expense for something that is essentially an owner-occupier's responsibility, as Councillor Gilmore said.

Do you believe that the proposals that are contained in the bill strike the correct balance between the rights of individuals to decide their own priorities and the powers of local authorities to intervene and ensure that minimum standards are met?

Ron Ashton: It is always a difficult balancing act, but basically the answer is yes. You are right to suggest that there will always be a compromise. It is difficult, because in many instances we are interfering in someone's property, which is something that they have bought and paid for and which is theirs, but it is necessary to balance that with the long-term benefit to the community,

neighbours, other people who might be affected and so on. The balance is about right, but I make no bones about the fact that the decision is a difficult one.

Scott Barrie: Finally, individual owners would have the capacity to prepare and implement the maintenance plans. What sort of support do you envisage local authorities providing in the scenario that you outlined? It is one thing to identify the problem, but it is another matter to ensure that the requisite work is undertaken. What role will local authorities have in enabling the process to operate?

Michael Thain: It is inevitable that local authorities will have to provide a substantial amount of advice and information to owners to enable them to have a reasonable chance of implementing the requirements of a maintenance order in the first place, whether it involves a maintenance plan, establishing a maintenance fund or whatever. We need to do that work across local authorities and involve the Scottish Executive and Communities Scotland to ensure that there are models for a maintenance plan, setting up a maintenance fund or whatever that can easily be implemented by a group of owners.

If we are to have any hope of owners implementing the maintenance order without the local authority having to take over responsibility, we will need to provide them with a substantial amount of advice and information up front. It is not in our interests to take on the responsibilities of owners. Doing so would not only create more work for us but remove the responsibility for maintenance from the other owners in the property. It is in our interests to provide help to ensure that, in as many cases as possible, the work is carried out by owners themselves.

Ron Ashton: In many instances, that sort of support mechanism for owners could be provided not by local authorities directly but by voluntary sector partners, especially if there are special needs involved. An excellent example is the concept behind the Care and Repair Forum Scotland, which already helps owners to maintain properties. There could be an expanded role for such voluntary organisations.

Councillor Gilmore: Like many of the bill's provisions, the provisions on maintenance plans will work only if local authorities are able to perform a slightly different role from their traditional one. Many authorities have been moving in that direction anyway, but staffing, training and resource issues will be involved. Councils will need to be concerned with not just enforcement but trying to avoid reaching the enforcement stage. If we can achieve the move to that slightly different role, it will be worth while in the long term to go through the pain involved in

reorganisation. Resources will need to be put in if we are not to be seen as just the ogres who force people to do things. However, not only would the alternative not work, it would simply give the owners somebody to hate. If the council becomes the bogeyman in the situation, that does not help the people in the tenement or block to move on and deal with the problem rather than just mutter about the council. We need to be able to tell owners that, although their problem with their roof is a one-off, such repairs are an inevitable part of owning a property. That will need a change in the balance within which local authorities have operated. Although people are not unwilling to take that on board, we need to realise that local authorities will need to take on a slightly different role from the traditional one.

Scott Barrie: I take the point about the need for a change in the culture. The bill is not just about local authorities requiring that work be done on a property to bring it up to the minimum standard and then, at a later date, requiring some other repair to be done; it is about getting people to take responsibility. That is a valid point.

On the issue of disabled adaptations—

The Convener: Before we move on, Linda Fabiani has a brief supplementary question.

Linda Fabiani: Like everyone else, I can see the logic and the benefit of the provisions on maintenance plans, but I worry about how they will be implemented. Let me put Ron Ashton on the spot. As a director of housing, how would he expect a member of staff in his department to go about identifying and sorting out such a problem?

Ron Ashton: We would try to be proactive. The worst-case scenario would be that we had to react to a problem that had arisen. We would proactively look at the properties within our custodianship—both in the private sector and in the council sector—to spot problems before they arise. It is important to communicate and get in contact with the owners concerned. We need to try to persuade them and move them through a process. Ultimately, if they cannot be persuaded to move through a process, we can issue a maintenance order as a last resort. The trick is to try to support the individuals concerned. Very few people are totally and absolutely recalcitrant right down the line. In a sense, we need to help them to change direction.

We do not want to be simply issuing fixed-penalty notices or tickets for bad buildings; this is about trying to give encouragement, move through the process and ensure that people take responsibility for their property because, ultimately, it is their property. We must make use of a carrot-and-stick approach but also take a much wider approach involving other agencies,

the voluntary sector and anyone who can bring something to the table on the understanding that the end-product is to bring the property up to the required level by whatever means are available. That means being more flexible and looking to measures such as equity release, because a big part of the failure to maintain property has involved concerns about resources, whether actual or imagined. The issue is about devoting time and an officer or voluntary sector person, or other resource, to ensure that people take the motion forward.

From my perspective, the maintenance order is very much a last resort. Nobody wants to drive around housing schemes or estates handing out tickets and so on. This is about a process of involvement and getting people to take responsibility.

Scott Barrie: On adaptations for the disabled and COSLA's response to the Executive's consultation, concerns were raised about the cost of reinstating adaptations after installation. Does Mr Ashton think that the bill and the provisions to cover such expenses address the issues that COSLA raised initially?

Ron Ashton: There are still some questions to be answered, especially on the potential enhancement of value that might result from adaptations and so on. This might sound hard-hearted, but I am still slightly unclear about the system that would be gone through. Undoubtedly, aids and adaptations must be considered in the context of the overall package—the minister is looking at housing across all sectors at the moment—because the picture in relation to where aids and adaptations come in, both from the perspective of local authority resources and the National Health Service, remains confused.

A lot of resources are going into that process. As it stands, the grant system is rightly biased towards ensuring that the top priority is providing aids and adaptations. However, some aids and adaptations are substantial and might enhance or add value in the private sector. I do not have an answer to that question; it must be teased out.

I come back to the point that in many instances it is the owner's property. Therefore, how are equity issues to be teased out in cases in which although there might be an enhancement in value, it might be much smaller than the cost of the work required to provide the aids and adaptations? The question is how to balance the two. I do not have an answer. It is an issue that has arisen and we are considering it further.

Councillor Gilmore: There might be a huge difference between some types of grant-aided adaptations and others, although nobody wants to get involved in valuing the difference a small

adaptation can make. For example, I hope that an extension to a family home will begin shortly in my ward. The extension will create a downstairs bathroom, which is essential for the family's needs, but at this point in their lives, the family are unable to fund the adaptation because the additional costs of having a disabled child are substantial. Nevertheless, if and when the family moves on from the house, a bigger house with certain advantages will have been created, which, although it is particularly useful for people with disabilities, is also useful for everybody.

That is the kind of situation where some method of ensuring a return to the public purse would not be unreasonable, not least because it would allow us to think about doing more such work. That kind of situation does not arise every day, but there are a substantial number of such cases.

We would not want to stop carrying out adaptations, because they can make such a huge difference to families in enabling them to sustain a family member, whether old or young, at home. Everyone is anxious that the practice should continue, but that kind of work can cost between £30,000 and £40,000, or more. Expecting some return on that is not unreasonable. For smaller adaptations, we have to be practical. Basic grant assistance is probably the right way to deal with those.

Some critics of the bill have suggested that it will reduce the amount of assistance that people can be given. However, although all local authorities provide grants for disabled adaptations, their power is discretionary. The bill strengthens the situation; it does not weaken it. That has been lost sight of in some of the discussion.

To say that there should be mandatory and unrepayable grants for any and all disabled adaptations opens up a financial minefield.

10:45

Donald Gorrie (Central Scotland) (LD): Section 57, in chapter 8 of the bill, is on the recovery of expenses. In your written evidence, you have expressed concern that the section is unhelpful to local authorities because they are not offered the possibility of flexible charging arrangements. So that it is on the record, will you describe your concern? Why do you feel that the Executive's retreat on the issue was unnecessary?

Michael Thain: Two issues arise, the first of which is on the principle of exercising a charging order power when local authorities have incurred costs when taking enforcement action. The second issue is whether the charging order power that currently exists under the Housing (Scotland) Act 1987 should be amended. The housing improvement task force made a number of recommendations on amending the power.

As it stands, the bill does not appear to give any charging order powers in situations in which local authorities incur costs. That might be the result of a technical flaw in the drafting but, even if such a flaw were overcome, the charging order power would apply only to the work notice. We would like an effective charging order power in four areas: the work notice; the enforcement of a maintenance order; the payment of a shared cost when someone in a tenement has not paid; and repairs that have been carried out at the request of a private rented housing panel.

The advantage of a charging order power is that the local authority can apply a charge directly to the property where the work has been carried out and where it has incurred costs. We would not get the money back immediately but we should get it at some point in the future.

There are weaknesses in the current provisions on charging orders and we would like them to be considered. For example, under the charging order powers in the 1987 act, I understand that there is no legal requirement on the property owner to pay money back at the point of sale. In reality, that happens, because no solicitor worth their salt will carry a charge over, but the powers could do with some tightening up.

Before the bill was introduced, the task force made some proposals in "Maintaining Houses—Preserving Homes" to make the charging order power more flexible. The proposals included giving local authorities powers to decide whether to continue with an annual charge, whether to require interest to be paid, or whether to leave the charge on the property until it was sold. The task force saw some advantage in leaving the charge on the property until it was sold, because it acknowledged that many owners would have difficulties paying an annual charge, as required under the current charging order power.

Those proposals had substantial support in the responses to the consultation paper, but they have not appeared in the bill and we have not had an opportunity to discuss with the Scottish Executive what the problems are with including them in the bill. We would like to have that opportunity. We know that the Council of Mortgage Lenders is concerned about it and we would like the opportunity to make progress and to discuss a way of resolving the problem. Having that additional charging order power is an important part of local authorities' armoury in ensuring that they recover costs.

In Edinburgh, where we use byelaws to serve repairs notices, we have recognised that one of the weaknesses in those byelaws is that we do not have a charging order power. We are currently considering developing proposals for private legislation that would amend that because it is a

major weakness in the system that we use in Edinburgh just now.

Ron Ashton: That summarises the situation fairly.

Donald Gorrie: Thank you. It is helpful to have that on the record. No doubt if your discussions are not satisfactory, you will send us suggested amendments in anonymous brown envelopes, or however you operate.

In my experience, the longest section of any bill is always on appeals. There is a huge section on appeals in the Housing (Scotland) Bill. On a yes or no basis, are you happy with what the section proposes about appeals or should major changes be made to the proposals?

Ron Ashton: We are content that the section is reasonable and workable.

Donald Gorrie: We will move on hastily in that case. I have some questions about the scheme of assistance. Some of the issues have already come up, so you need not duplicate what you said. First, there is the permanent issue of achieving a balance between flexibility for local authorities to respond to local conditions and the desire of the national Government to have uniformity so that somebody in Fife does not complain that their auntie in North Lanarkshire got a much better deal than they did. Does the bill achieve that balance between a level playing field and local flexibility or have you suggestions for how that could be done better?

Michael Thain: We broadly support the approach in the bill, which proposes a much higher degree of flexibility around the provision of assistance in a local area and expands that assistance to include information and advice. As we have touched on, in many cases information and advice are what are needed to encourage owners to take more responsibility, because they simply do not know what to do.

Flexibility is important when it comes to expanding the range of financial assistance, because each local authority has its own housing market. In Edinburgh and some other local authority areas where property values have seen substantial increases over the past five years, there is substantial equity in people's properties. I return to Ron Ashton's point about owners who worry about meeting the cost of repairs and improvements because they are not aware of the substantial capital in their property that they could free up.

In some authorities, there is scope to develop loan schemes that are attached to equity release that would not be applicable in other authorities where property values have not increased in the same way. The shape of the scheme of assistance

will depend a great deal on the development of local housing strategies that are tied to the differences in the housing markets. It is important that local authorities have the flexibility to deliver assistance to meet local needs rather than having an overly prescriptive framework. One of the task force's big achievements was recognising the weakness in the overly prescriptive system that we currently have.

Councillor Gilmore: The reality of a prescriptive system, particularly if it is a grant-loaded one, is that one ends up not doing things because resources are not unlimited and we face a stark choice between having grant available to do certain things and putting those things off for another two, three or five years.

A requirement has been placed on local authorities and registered social landlords to raise their properties to the Scottish housing quality standard. Admittedly, some of that work involves internal work to houses, but some of it concerns the shared and common areas and, most of the time, it is not now possible for local authorities and RSLs on their own to raise some of their properties to the standard by the due date. In Edinburgh and increasingly throughout Scotland, there are few places where the local authority can simply say, "Right, we're doing these houses. That's it. The roof needs done to bring it up to the quality standard, so we'll replace it, resources permitting." There is a delicate relationship between achieving the standard and involving owners in that work. How we involve owners and how financial and other assistance is given are a complex business but, if we do not start considering new ways of doing that, the finances will become so constrained that we will not be able to do as much as we need to and will not hit the standard in certain respects, which is not what any of us wants to happen.

The question is whether we can spread the resources more effectively and equitably over the piece and not always use them for huge amounts of grant. It is tricky to give local authorities the ability not necessarily to administer loans—many authorities would not want to go down that road—but to find other ways of spreading the resources. The City of Edinburgh Council has been investigating the possibility of setting up or joining a trust that can offer loans. Those might be equity loans, because we accept that, for many people, the problem is getting the money now. Although such people have equity in their houses because the value of the properties is going up, they do not have the income to assist in the process now. To find a solution requires a change in thinking but, if we do not make a change, the situation will become increasingly difficult and we will simply be unable to do the things that we know we need to do. That would be a severe weakness.

People need a range of help and resource and, to provide that help and resource, we might have to start at a different end from the one at which we have traditionally started, which has been to say, "Here's a grant, so get on with it. We can do only 10 houses this year and the other 50 aren't going to get done at all." If we can find a way of spreading the resources, we will achieve what we want to achieve, but local authorities will all have their own views on where their priorities lie and what they want to do, which is why we seek flexibility.

Ron Ashton: The issue is not only the physical improvement of property; there is the wider community interest—in effect, the community planning interest—which might be about economic and social regeneration. By the operation of such a scheme, we might be doing all sorts of things, such as moving properties from negative equity to positive equity. Therefore, we must think differently; we must conceive of it as a package of measures to achieve not only physical improvement but something for the community. That requires flexibility, not—dare I say it—an overly burdensome, centralist system.

Donald Gorrie: Your written evidence suggests the creation of a national loan fund to support equity share schemes. Should we press the Executive to create such a scheme, or would that come under the heading of burdensome national over-regulation?

Michael Thain: It has been stated in the past that one of the advantages of using loans or equity release schemes is the ability to use public resources to lever additional money from banks and building societies into loan funds—I think that the housing improvement task force discussed that to some extent.

The financial memorandum says that £5 billion is required to bring properties up to a reasonable state of repair in the next 10 years. We must recognise that we cannot provide all those resources through private sector housing grant, through which local authorities receive some funding to support their private sector housing strategies.

We need to consider ways not only to release capital that owners might have, but to lever in additional capital resources from other funds. A national fund would be worth exploring, in addition to many local initiatives. A national fund would be on a larger scale, which might make it more attractive for other funders to finance.

11:00

Donald Gorrie: You talked about giving advice. Government in the UK has a long and ignoble history of well-intentioned schemes that were so

complicated that most people never clicked on to them—the benefits system is an example. Will we achieve a comprehensible system that you—the people at the front line—can explain to your citizenry, so that they will use all the well-meant provisions in the bill?

Michael Thain: We need to consider that. We have raised issues about the current test of resources for grants, which will be applied to grants and subsidised loans. The test of resources can be quite difficult to explain—it is a bit like the bureaucracy of the benefits system.

One measure that we and other authorities have examined is that of developing a simple equity share arrangement for home improvements, whereby the loan fund—whether it is the local authority's or a trust—meets the cost of repairs in exchange for a percentage share in a property's value. If a property is worth £50,000 and the repair cost is £5,000, the loan fund is given a 10 per cent share in the property's value. When the property is sold, that 10 per cent share is repaid into the loan fund to be used for home improvement assistance for owners in future.

That model is relatively straightforward to explain to owners and is quite equitable, because all that it involves is, through a loan, buying into a property's future value, which the improvements and repairs that are undertaken will probably increase. Explaining to owners the process, the justification and the equity of the model is relatively straightforward.

Ron Ashton: The challenge is that we must keep whatever we do relatively simple, so that people understand it and owners sign on for it. Instead of being enforced, the measure should be one in which people are willing to participate. The challenge for us is to make the system easy, understandable and simple.

Councillor McMillan: The area that I represent has had a large take-up of the right to buy and people who are sitting with fixed incomes and quite a lot of equity would welcome the proposed idea. Michael Thain explained the system simply, and councils must convey the message that the system is quite simple and straightforward. Often, councils are guilty of making matters difficult and overly bureaucratic, but our job is to make the system as simple and straightforward as possible.

Donald Gorrie: I will ask about your resources. Assessing what more needs to be done to people's houses for energy conservation is labour intensive. Do you have the people to do that? Running a loans system is financially intensive. Will your directors of finance read section 79 and go to sleep muttering, "G divided by A times W"? Are those matters a problem?

Ron Ashton: The first point is only a problem of capacity. People out there can certainly undertake

the surveys that you are talking about, especially on heating, for example. An industry has suddenly grown in the past year or so as all the RSLs have become involved in recalculating their NHERs for the quality standard. We mentioned earlier in our evidence the capacity to do everything at once. We need to work in stages by examining risk assessments of major problems and considering how we proceed on a controlled basis.

The financial and loan aspects would probably have the opposite effect on a director of finance—he would probably sit bolt upright and then droop in his chair. Local government is not particularly comfortable with getting into the specialist work of arranging loans and so on. There are more readily available alternatives.

Donald Gorrie: Are there any other questions about assistance schemes that I should have asked?

Councillor Gilmore: There is a general issue about ensuring that we understand the resourcing. It is not just about saying, "Here's the money to do the work." Making everything work will require staffing resources. That is not a waste; it is not about employing people who are not directly productive. We all know that in operating any scheme we have to do a lot of groundwork to explain what is possible and give people the necessary information and reassurance that the scheme is manageable. In practice, working on a particular street will involve basic tasks such as our calling on each individual living there and speaking to them on a one-to-one basis. Everybody's finances are different; people will not come and talk about them at a meeting in front of lots of other people. It is worth putting in the staffing resources, otherwise a lot of the work will not happen.

The broader picture is that we are trying to raise the standards of buildings, which needs to be thought about. The subject is close to the hearts of all housing providers. We are trying to achieve the Scottish housing quality standard for tenants; that is our commitment. However, we cannot achieve it for tenants unless we bring owners on board. That will be a significant challenge for us in the next 10 years. It is partly about having finance that is available to assist owners, but it is also about having that finance available to provide such assistance early on. That will require a lot of local authorities to staff up. We have to calculate that cost and make a reasoned case for the resources. If we do not put in those resources, it will be difficult to achieve our aims.

The Convener: I am conscious that we are running short of time, so I cannot allow Christine Grahame to come in at this point. We still have a number of lines of questioning to explore so I ask committee members to keep their questions short.

Mary Scanlon: I will do just that and roll my three questions into one; the witnesses can decide who will reply.

The single survey has been seen as a controversial part of the bill. First, do you all agree with the duty on sellers, under section 95, to provide information to buyers, given that only 74 surveys were provided in the pilot study? Do you think that we have sufficient information to move to the proposed mandatory scheme? Secondly, how do you think that the measure will impact on the behaviour of buyers and sellers in the housing market? Thirdly, do you think that the single survey will meet one of the bill's key objectives, which is to improve the condition of private sector housing stock?

Michael Thain: I think that we should carry on with the single survey scheme, despite only 74 surveys being provided during the pilot—that is why we need to legislate for it. You asked whether the single survey would change the behaviour of buyers and sellers. The importance of the scheme is that it will make owners more concerned about the condition of their property. If sellers have to provide information on the condition of their property, there is a much greater chance that they will improve it or do repairs before they come to sell it. At the moment, the condition of a property is often a small consideration when people come to buy, particularly in areas of high demand.

The third question was whether the single survey will improve the condition of property, and I think that it will. It will make the job of local government a lot easier, as all the problems that we have been talking about often result from a lack of understanding or information among owners about the impact of poor maintenance on their buildings, on the local community and on their neighbours. The single survey will help us to change the culture of home ownership and make people aware of their responsibility to maintain their property.

Mary Scanlon: I am quite satisfied with those answers, although someone else may have burning issues to raise.

The Convener: The answers were very succinct.

Linda Fabiani: Is COSLA opposed to the single survey and the provision of information for houses that are sold under the right to buy?

Ron Ashton: It is fair to say that we would not be in favour of the full single survey for right-to-buy properties.

Michael Thain: I will explain why. First, when people buy under the right to buy, they are buying their home, so they already know more about their home. Secondly, one of the secondary objectives

of the single survey is to deal with the issue of multiple surveys, and there is no competition from other buyers for a right-to-buy home. Although we need to consider them more closely to see whether they are workable, the requirements to provide additional information to tenants who are thinking about buying their home under the right to buy meet our desire for those tenants to know more about their home before they buy it.

Linda Fabiani: Some tenants do not know what they are buying when they exercise the right to buy—or what they are renting when they rent a house. The house may, for example, be filled with asbestos. Also, houses do not always remain with the people who buy them under the right to buy, but are sold on to other people. Why should not the provision of information start with the first sale of a house under the terms of the bill?

Councillor Gilmore: There probably should be more provision of information; it is a matter of putting that information together. It is an area in which we need to have a bit more discussion so that we get the guidance and whatever goes into regulation right. I do not think that anybody is saying that the information should not be provided. Indeed, it could be useful for people who are deciding whether to buy. In the past, councils were discouraged from providing any information to those people, as it may have stopped them buying their homes. There is some basic information that people should know so that they can exercise their judgment, and it will probably help, later down the track, when repairs are necessary because it will not come as such a surprise to people that the roof needs to be repaired, or whatever.

The Convener: For members' information, the Housing (Scotland) Act 2001 addresses some of those issues under its provisions on the right to buy and the new tenancy arrangements. If somebody chooses to exercise their right to buy, they must get information about the obligations that will be placed on them as owners, including the maintenance obligations that accompany their decision to buy.

Linda Fabiani: There is an issue about the independence of the process of information provision, which is worth exploring. I am willing to consider whether some compromise can be reached in relation to houses that are being sold by a local authority as opposed to houses that are being sold on the open market. Nevertheless, if we are trying to implement a policy of having a single system that should cover all sales throughout the country, I have problems with straight exemptions being made right at the beginning.

Councillor Gilmore: It is not in the interests of local authorities not to release the information. Indeed, the frustration in the past was the fact that people were buying blind and local authorities that

tried to give information were seen as somehow discouraging them. I had prefabs in my ward, for instance, and people should have known a bit more about what they were buying. You might think that they would have known more, but that did not always happen. Folk came to the council after they had bought the houses and said, "We didn't know about that problem. The council should make it up to us now by giving us money to sort it."

When councils move into areas to regenerate them, it is important that people understand the implications. We do not want to put people off; we want to help them to make sensible decisions about financial planning and, in the end, we will find it easier if people do just that. As always, the devil is in the detail; we need to get into the detail of the single survey and have further discussion on it. The scheme was a fairly late entrant to the bill and a good bit of work still needs to be done on it.

11:15

Ron Ashton: I understand where the member is coming from on the single survey. There should be a single system but, as Michael Thain said earlier, the fundamental difference with the right to buy is the long-term relationship that exists between the individual who is purchasing the property and the local authority. Concern has been expressed about councils not pointing up the dangers, but everyone is in favour of buyers knowing exactly what they are getting hold of.

The problem arises at the next stage. Let me give the example of a heating system that has a lifespan of 12 or 15 years. In year 13, the natural assumption would be for the owner to say, "Well, I have paid for it over the last 13 years. It probably needs replacing now." At what point does the issue turn from one of warranty into one of the physical condition of the property? The survey would alter the balance and perhaps even the relationship between people in that situation and councils. This is the area in which some of the difficulties arise and we will have to tease them out.

The single survey was a late addition to the bill and when it was first explained to us, we could see some of the difficulties that might arise. Let me give a further example of a council that gives detailed information to someone whose central heating system is in year eight of its 15-year lifespan. What happens if that heating system packs in after 10 years? Councils are being asked to give out detailed information about the current status of a property, which is not a problem as it relates in particular to whether the property is in a dangerous condition. However, that becomes a problem when the information is used to make

decisions about longer-term investments in the property.

Linda Fabiani: I will not labour the point, although I think that the subject is worthy of further discussion, particularly in view of the implications for the first buyer and for subsequent buyers further down the line. There is also a question of liability if there is a lack of independent information given at the start of the process.

Cathie Craigie: If I could continue on that point—

The Convener: No. I am afraid that we do not have sufficient time.

Cathie Craigie: I am sorry about that. I will try to get the question in another way.

The Convener: I advise you that that would not be particularly wise. If you did so, I would ask you to stop your questioning. As I have already pointed out, time is very short. I ask you to refer solely to your lines of questioning.

Cathie Craigie: Okay. I will return to the subject of private landlords, which we discussed earlier. We touched on some of the areas on which the committee seeks answers, and I apologise if we appear to be going back over old ground. Do the provisions in the bill that amend the existing registration scheme for private sector landlords take into account the financial and administrative resources that local authorities require to get the amended scheme up and running?

Ron Ashton: The initial work that we have done indicates that the resources that will be required to implement the full scheme could be considerable. Again, that depends on what the letting code looks like, on which further discussions are to take place.

There are a large number of private sector landlords and a lot of education needs to be done with them; work also needs to be done to set up the system. The Executive has indicated that seedcorn funding will be made available to move the registration process forward. However, the long-term regulation of the scheme may well be resource intensive. I return to our earlier discussion, in which we said that the issue is one of where the cost will be placed.

Cathie Craigie: If the process becomes resource intensive, will it be worth while? Will it protect people in your local authority area who rent from private sector landlords?

Ron Ashton: Undoubtedly. I have no doubt whatsoever that private sector landlord registration will be a positive benefit both for the condition of the stock and for letting standards in the country.

Cathie Craigie: Provision was made for landlords as part of the Antisocial Behaviour etc

(Scotland) Act 2004 and further provision will be made for private rented housing in the bill. Those measures are modernising and bringing into the 21st century the way in which the private sector is managed and monitored. Are there any other ways in which the registration scheme could be extended or improved?

Ron Ashton: The devil will come when we consider the code that is produced under the bill on the registration scheme and on the depth and level of assessments that we make on management and maintenance issues. I make a plea that we get the measures from the Antisocial Behaviour etc (Scotland) Act 2004 in and settled—so that we register landlords—before the further provision in the bill is implemented. Let us be honest: that provision is really just an enabling paragraph, so there is a fair bit of work to be done on it. I ask for time for that work to be done, after which the code could be introduced as a second phase. That would not have to be far into the future, but we need time to stabilise the measures from the 2004 act before we move on.

Cathie Craigie: The City of Edinburgh Council runs one of the pilot voluntary accreditation schemes. I ask Michael Thain to share some of the experiences that the authority has gained on that. He has already told us a bit about that in briefings to the committee and this morning, but I ask him to share some more information with us.

Michael Thain: Four local authorities have been piloting accreditation schemes for about nine months. So far, the work has concentrated on developing the schemes in partnership with local landlord organisations and letting agents. We are nearly ready to start signing up landlords, with the aim of launching the scheme more widely towards August or September. We have developed the scheme through a board that is made up largely of landlords and letting agents and through a wider group that represents other interests. There is general support for accreditation among the landlords and letting agents who want to go above and beyond the minimum statutory requirements. We have found that the better landlords will sign up to accreditation.

The purpose of the accreditation process is to separate out the landlords who sign up to a code of standards from landlords who are not willing to go above and beyond the legal minimum. That is why the registration process is also useful—it is a way of establishing the benchmark below which landlords should not fall. In the Antisocial Behaviour etc (Scotland) Act 2004, the fit-and-proper-person test is drawn fairly widely, so that if a landlord fails to comply with any aspect of housing or tenancy legislation—which the bill will change considerably—local authorities will be able to deregister them. Given the repairing standard

and other measures in the bill, as the fit-and-proper-person test is framed, it will help to raise property management standards, as well as general tenancy management standards and standards on the behaviour of tenants.

Cathie Craigie: Do you agree with the measure that will require ministers to assess what provision local authorities have in place before a letting code is issued? As I read the bill, if the City of Edinburgh Council or another authority had a voluntary accreditation scheme up and running, the minister probably would not issue a letting code that the authority would have to comply with. Is that correct?

Michael Thain: We must consider what needs to be assessed before the letting code is published. Some local authorities have accreditation schemes but, as I said, that process is designed to accredit only the better landlords, whereas registration is intended to establish a benchmark below which landlords should not fall. To return to the previous discussion about regulation in the private rented market, we already have HMO licensing, the registration scheme, the pilot accreditation schemes in four authorities, possible pilots in other authorities—which will learn from the experiences of the four authorities that are already involved—and the measures in the bill.

To go back to the point that I made earlier, the fit-and-proper-person test is drawn fairly widely and covers many of the property issues. We need to ask whether the framework that is being developed supports the improvement of standards and, if it does not, whether we require a code of letting to firm it up. A code of letting would reinforce the framework, but we need to decide whether it is necessary.

Christine Grahame: I move on to deal with rights of entry, which are dealt with in part 7 of the bill, from section 156 onwards. In your submission, you state:

“COSLA supports the broad range of new local authority powers set out in the Bill.”

Are the powers that are set out in part 7 new and, if so, in what way?

You go on to say that it will be necessary to ensure that the powers

“strike a proper balance for the need for effective action and the interests of homeowners.”

We are now talking about stick rather than carrot. Would the witnesses like to comment? It does not look as if Councillor Gilmore wants to comment; it is not the sexiest question.

Michael Thain: The bill offers improvements in right-of-entry powers. It gives local authorities the ability to take action when there is substantial

reason for them to do so. The new powers represent an improvement. The task force considered them during its work. We are talking about a detailed area in which the interests of the community—which, broadly speaking, the local authority represents—and the interests and rights of individual homeowners need to be balanced.

I will give an example. If we suspected that someone's house was not thermally efficient and did not comply with the tolerable standard, would it be necessary for a local authority to apply all its powers to interfere with that person's home, when failure to meet the standard might affect just them? If failure to meet the standard affected other people roundabout, the authority might want to use such powers and rights of entry so that it could carry out work.

Christine Grahame: The powers seem to relate to much more serious matters than a house not having thermal insulation, such as an owner's failure to comply with maintenance orders or to tackle a bad state of disrepair. I just want to find out whether the bill contains new rights of entry—in other words, rights that are not available under current legislation—to allow local authorities to enter property either with consent or under warrant from a sheriff, in the circumstances that are detailed in section 157. I do not know whether the bill's provisions on rights of entry are new; that is why I am asking you.

Michael Thain: The complication is that the provisions on rights of entry relate to new powers and new circumstances. We might be able to get back to you with a briefing note on the detail of where we think the differences are. The differences relate to the new powers that the bill will give us.

Ron Ashton: The differences are mainly to do with the new powers that the bill will bring. Christine Grahame is right to say that we already have rights of entry, but they are not easily enforceable; in fact, they are extremely difficult to enforce. Exercising rights of entry is the nuclear option, which is taken only at the end of a long and difficult process.

The provisions on rights of entry fairly reflect the new duties and powers that the bill is intended to give local authorities. In that sense, they represent progress, but they do not really represent an advance on what we are doing at the moment.

Christine Grahame: I was talking about the process. The new powers will give you the authority to exercise rights of entry. I want to find out whether the core process—which, in some cases, can be fairly draconian—is different from the processes that you use to deal with other circumstances.

Ron Ashton: Not really. We have the ability to gain orders to enter properties at the moment.

Christine Grahame: So the process is much the same as existing processes.

The Convener: I am keen to get on the record at an early stage COSLA's concerns about the financial memorandum, notwithstanding the fact that Mr Ashton has said that it is difficult to voice those concerns at this stage. The committee would find it helpful to have an indication of the areas in which COSLA is worried about the financial implications of the bill's proposals, especially as most of those proposals relate to discretionary powers for local authorities, which they may choose to implement. However, COSLA pointed out, rightly, in its written submission that many local authorities recognise those issues in their communities and will, in fact, implement the discretionary powers.

11:30

Jason McDonald: Your point is quite correct. We have expressed concerns about the levels of funding that are outlined in the financial memorandum. Given the discretionary nature of the powers, it will be a straightforward case that, if the local authorities do not have adequate resources, those powers will not be enacted.

The Convener: What discussions are you having with the Executive about the likely cost impact of those new powers on local authorities?

Jason McDonald: We have had discussions with several people from the Executive, including economists. Four local authorities were contacted about the possible resource implications. We would welcome further discussions, and we hope that we can make more progress over the coming weeks.

The Convener: The committee may want to pursue that issue in its evidence session with the minister. Any supplementary evidence that COSLA may have from individual authority members about how much they anticipate the bill will cost would also be appreciated.

Christine Grahame: The COSLA submission contains only a small paragraph about a national loan fund and the matter was opened up in the evidence. Could the witnesses develop their statement and say how they think that such a fund would operate?

The Convener: If COSLA can do that, I am sure that it will attempt to assist us.

I have one final question about the impact of the bill on rural authorities. The committee held a number of fact-finding seminars around the country, in urban and city local authority areas and in more rural local authority areas. When we visited Perth and Kinross, people highlighted specific problems relating to higher levels of

disrepair and BTS housing in such rural authority areas. The problems, in their opinion, were compounded by shortages of skilled tradesmen and services in some rural areas and the higher cost of repairs. Do you believe that there are provisions in the bill that will ensure that the above-average levels of disrepair that are evident in rural communities are addressed, or would you say that, although there might be slightly different nuances in rural areas, city and urban authorities have other problems that do not manifest themselves in rural communities?

Ron Ashton: As someone from a rural authority, I would hate to try to differentiate and draw that difference. Every authority has differences and problems. There is undoubtedly a huge BTS problem in rural areas, which is difficult to manage, but there are not huge numbers of such properties in comparison with what there might be in cities. The number of such properties in one area in a city might be the same as the number across an entire rural local authority area. The difficulty lies in dealing with the problem, because it tends to involve very small groups of properties, or individual properties, which are sometimes in quite difficult and tenuous ownership regimes.

Perth and Kinross Council's points about a shortage of skilled labour would probably apply to most of the country these days. The shortage is a particular difficulty in the central belt, and the prices that can result from it are also a difficulty. I agree that such problems may be exacerbated in rural areas, but I stress that they are present in a large number of authorities throughout Scotland. The problems are, in a sense, the same, but they are made much more resource intensive and difficult to deal with because of the disparity in numbers and the dispersal of the properties concerned. In some instances, ownership regimes are equally complex in rural areas as they are in mixed-ownership blocks in the city.

I would not like to draw a heavy distinction between rural and urban areas, other than to acknowledge that we must have a scheme that is flexible enough to recognise that there may well be local differences in rural areas that must be responded to within that sort of regime.

The Convener: Thank you very much for attending, for giving us so much of your time and for your written evidence, which was supplied in advance of the committee meeting.

11:35

Meeting suspended.

11:40

On resuming—

The Convener: I welcome our next witnesses, who are Robert Thomson, the national co-ordinator of the Care and Repair Forum Scotland, and Angela Yih, who is Age Concern Scotland's policy officer. I thank them for attending and for their patience in waiting to be called.

Have you had sufficient opportunity to engage with the Executive as part of the consultation on the bill and to influence the process?

Robert Thomson (Care and Repair Forum Scotland): Yes. Indeed, even as far back as the time of the housing improvement task force, the minutes of the meetings were made public and discussion papers were available. If we take the bill as an extension of that process, there has been ample opportunity to comment.

Angela Yih (Age Concern Scotland): I agree, to an extent. Given its long history of concentrating our efforts on private sector housing conditions and older people, Age Concern Scotland was disappointed not to be invited to join the housing improvement task force. However, we were asked to join various sub-groups to consider issues such as equalities proofing and asked for our opinions of various matters.

We found the consultation paper helpful, well written, clear and easy to understand. The abridged version, which contained a summary of the main proposals, made it easier for us to involve older people outside the housing world. For example, we used it as the basis of discussion at the older people's consultative forum. As a result, we are quite happy with the consultation on these matters.

The Convener: Will you give us a brief overview of the main problems that elderly and disabled people face in trying to repair and improve their homes?

Robert Thomson: We do not come across many home owners who try to avoid their responsibility; in fact, most of the people whom we meet are well aware of the problems with their property. However, they usually have to overcome two main difficulties in repairing their house. First, to get the repair done, they face the problem of bringing together the various components of funding and technical information such as building control, the planning system, the grants system and the loans system. The second problem, of course, is funding. For example, those in the over-70 age group have been brought up in a culture that has made them uneasy about the idea of loans or borrowing money. The combination of those two elements is the main issue that we face.

Angela Yih: I agree with all that. I should add that, although we do not have a clear picture of this yet, we think that the means testing of grants might create barriers to home improvement. In some respects, we welcomed that approach because it would allow more money to be targeted at people who are on the lowest incomes. However, there is a big difference between dealing with home repairs and improvements and dealing with houses that require adaptations to be made because of someone's physical disability. With the means-testing system, there is now confusion over whether social work will contribute funding and a ceiling of £20,000, which makes it difficult to carry out major adaptations. I believe that the Executive is reviewing matters such as adaptations and funding. That review is long overdue; barriers to accessing adaptations have been with us for years and we do not seem to have moved on.

Scott Barrie: Do you agree with the bill's proposed changes to the repairing standard? Do any additional elements need to be included?

11:45

Angela Yih: We are happy with the elements that are included in the repairing standard and happy that the standard will be put into statute. Much of the repairing standard was covered by common law, but it is much better to cover it in legislation.

We are aware that poor housing conditions at the lower end of the private rented sector are a problem. We have no criticism of the bill itself, but we have concerns regarding whether, in reality, it will lead to vast improvements being made quickly. The onus will still be on the tenant to carry forward the complaint. We welcome the fact that the tenant will have somewhere to go other than the sheriff court, but we must recognise that the majority of tenants—in particular newer tenants—have short assured tenancies, which means that they have no real security of tenure. The properties might be improved through the proposed system, but the landlord will always have the right to end the contract—as long as they follow the proper procedures—should they decide to do so.

Having had discussions with some members of the rent assessment committee, we know that there is a big issue about strengthening the existing structure in that regard to produce an effective private rented sector tribunal. More people are needed to fulfil that role and perhaps more training is required for them. Most important, should the proposed systems be implemented better advice and information will be required to raise their profile so that the public are aware of them.

Robert Thomson: I agree with that last point. In essence, the Care and Repair Forum Scotland is

in the business of giving advice and assistance. We broadly welcome the new terms, but we realise that within the new framework there will still be a need to advise tenants and even landlords. The key to the process is information and having the ability to spend time with people. In some cases, we will have to negotiate with landlords on behalf of tenants. Advice and information will be the key to the implementation of the scheme.

Scott Barrie: Do you have concerns that if the standards are thought to be too onerous or too expensive that might lead to a reduction in the rented housing stock?

Angela Yih: I was not sure what was being said by members of the first witness panel with regard to the standards leading to such an increase in costs. The standards are fairly basic. The additions to the common law are that the furnishings must be fit for purpose and the appliances for space heating and water heating must work. The rest was already included in the common law. I am confused by the idea that the standards should lead to a vast increase in costs.

Robert Thomson: Whether we like it or not, there must be interaction with landlords; the issue is when or how that interaction takes place. We are interested in how the local authorities propose to have such interaction and discussion, because it seems to me that often they do not happen. It is assumed, therefore, that the landlords are uncooperative, but perhaps they—like us all—are not willing to get involved in repairs until they are clear about the financial implications.

Scott Barrie: Do you think that the provisions in the bill will promote the carrying out of disabled adaptations or do you have concerns about the possibility that they might have a negative impact on the willingness of landlords to let to disabled tenants, because demands might be made to adapt property in the future?

Angela Yih: I do not have any evidence that would enable me to give an opinion on that. I am not sure how many people who are already living in the properties would want to take advantage of the right to make adaptations if they had to pay for everything. If they are on extremely low incomes, of course, they might be able to get a grant.

We welcome the principle. It is wrong that someone's tenure would prohibit them from being able to process adaptations legally in the way in which other people can do. Obviously, the landlords will still have to agree to the work being done.

I am not in a position to say whether the new right would lead to more adaptations being carried out in that sector.

Scott Barrie: As you said, landlords would still have to agree to the work being done and there is

a list of grounds on which a landlord could refuse such a request. Do you think that those grounds are legitimate? How might disputes be dealt with between a tenant who wished to carry out an adaptation and a landlord who refused permission?

Angela Yih: I have forgotten about the other provisions in the bill, but I assume that the proposed private rented housing panel could have a role in such disputes. Although the panel is being set up to deal with disputes over repairs, it would seem natural for it to be extended to deal with the sort of disputes that you mention.

Donald Gorrie: I want to ask about the scheme of assistance, which you have touched on in some of your answers. Are you satisfied that the range of objectives that the scheme of assistance is supposed to deliver and the various forms that it takes in section 68 cover the ground reasonably well?

Robert Thomson: We welcome the broad choice that has been offered to an owner. We think that the scheme of assistance, in the form that has been proposed, would be beneficial. Our one concern relates to the practical issue of what will happen when an owner presents themselves to a housing department. Who will make the decision on what is offered to the owner? Will the owner be offered all the items on the menu or will an individual officer be able to decide that, for example, the owner needs only advice and will therefore not be offered information about loans, equity release or grants? We have concerns about that situation. We would tend to favour what was discussed earlier on, but, obviously, COSLA would not be happy about that, for its own reasons.

We would like there to be a national standard of service delivery, because that would help to ensure that unhelpful situations did not arise. For example, one half of a certain street in Glasgow is administered by Glasgow City Council and the other half is administered by South Lanarkshire Council. In the part that is administered by South Lanarkshire Council, assistance is available to owners that is not available to owners in the other part, which is administered by Glasgow City Council. We do not think that that is helpful. If the scheme of assistance is to be introduced, we would like the items that are on the menu to be offered across the board as much as possible.

Donald Gorrie: Are there any other specific points that you would like to make about the different forms of assistance? You have mentioned the importance of one-to-one discussions and negotiations, which COSLA also mentioned, and you have raised the point that individual council officials will react in different ways. I do not think that legislation can remedy that entirely, but we can certainly look at that. Do

you have any further observations on the scheme of assistance?

Robert Thomson: We were very pleased to see recognition of the importance of the provision of advice and assistance to owners. As I said, since around 1986, the Care and Repair Forum Scotland has recognised that the way forward is to give owners advice. Although we understand that it is not possible for local authorities to do this, all our advice is delivered in a home environment, which we find helpful. It is helpful to be able to meet family members, general practitioners and other people who are involved in a person's life. That helps us to move the process forward. We do not meet many people who are trying to avoid their responsibility; however, we meet a lot of people who have fears about, for example, finding suitable builders or about the long-term implications of taking out a loan. We therefore welcome the new status that has been given in the bill to the provision of advice and information.

Donald Gorrie: Are there any specific issues that we should address regarding the problems that elderly or disabled people face? You mentioned that some elderly people are unenthusiastic about taking out loans and that some are suspicious of public authorities in general. Do you think that there are ways in which we could deal with that better?

Angela Yih: If local authorities want to pursue the strategy in relation to vulnerable older or disabled people, we need stronger care and repair projects. We need more of that type of approach, even if it is not simply all care and repair. However, the local authority officials appeared to state earlier that they would not be able to pursue that course.

Local authorities need robust guidance on how to deal with loans. That is a difficult area. Local authorities want to be regulated by the Financial Services Authority, but there is a minefield about advising people and being seen to be leading people down a road that could lead to their having no equity left in their home. I think that local authorities would acknowledge that.

We were originally concerned that the tenor of the housing improvement task force reports meant that we were going down the road of abandoning grants and were, instead, encouraging loans. Although we support the concept that the home owner is responsible for the maintenance of their home in the first place, I would like local authorities to adopt a different approach to dealing with home owners' requests for help. It is not helpful if people can find out only what kind of grant they can get; they need to be told what kind of assistance is available.

In our experience, apart from through care and repair schemes, local authorities are not much

engaged with involving home owners. However, they will have to be now, as they have admitted, because the bill introduces a radically different approach.

I know little about the technical details of the subsidised loans or equity loans that have been proposed, but the process certainly seems to be much more flexible than it has been in the past. Moving away from the tied system in which certain types of work cannot be done because a specific grant is not attached to such work could be extremely helpful.

I am interested in what has been said about the shared equity fund and the different ways of reclaiming part of the equity loan. We never seem to discuss simpler ways of reclaiming some grant in some circumstances, if we want to protect our limited resources. There might be simpler things than commercial loans and subsidised loans. However, I assume that civil servants and the Executive have considered that matter.

12:00

Donald Gorrie: On a national standard, you spoke about having reasonable conformity between two parts of a street in Glasgow. From your experience in your spheres of work, is there an issue about more rural and remote areas having to be treated in different ways? There could be a lack of local tradesmen in such areas or other issues. With a national system, is there scope for flexibility in different types of community?

Robert Thomson: I think that there is. There could be flexibility, and builders are a classic example in that respect. Many councils have fairly rigorous selection processes for the contractors that they use; they may have good reasons for using those processes for their own repair schemes, but there could simply be a relaxing of some rules. I will give an example. A number of local authorities insist that contractors who are on their approved list go through equal opportunities training. There are highly capable tradesmen in rural areas, but they may not wish to go on equal opportunities training courses. Last week, I returned from Shetland, where payment of bills rather than tradesmen getting involved with local authorities is a huge issue. A balance could be achieved if local authorities could find ways of relaxing some rules. Doing so would not really impact on the overall national scheme, but would simply make it easier for rural tradespeople to become involved.

Mary Scanlon: Given that you have not provided a written submission—although I understand that you will send one later—I am sure that you will take the opportunity to highlight concerns that we have not been forewarned

about. In response to Donald Gorrie, you mentioned the fact that you welcome the broad choice and flexibility that will result from the move from grant to mandatory assistance. How will that help to meet the specific needs of disabled people? As you were speaking, I wondered whether your research had found that elderly people are less likely to complain to their landlords. Not wanting to cause a fuss or raise concerns might be part of their general culture. Is that a factor that might inhibit achievement of the repairing standard?

Robert Thomson: Older people tend to put up with things across the board, not only in their dealings with landlords. For example, I refer to the recent Scottish Executive central heating scheme, which is administered by the Eaga Partnership. The view of many people was expressed by a man in Sutherland who said, “I’ve always been cold, son, so why should I apply for free central heating?” There is an acceptance among older people of situations that a younger person might not accept. We need to provide intensive advice and support to get people to see that free central heating would be helpful and beneficial.

Mary Scanlon: That is perhaps the view in rural areas, particularly in Sutherland, where people have been much more independent.

Robert Thomson: To put it simply, if someone lives in a rural area, they might not have neighbours who are saying, “You shouldn’t be living like this. You can get help.” On your question about schemes of assistance, I hope that I have not given the wrong impression: we would want the menu still to include grants. The recent change in the grants system and the move towards the test of income have been beneficial for our clients. A large number of our clients—more than 90 per cent—have had the test of income and still get 100 per cent grants. The test has been beneficial for us, because in effect it has moved the focus of the grants system towards our clients.

Mary Scanlon: One of the advantages of Age Concern Scotland is that it can reach out to so many people in remote and rural areas. Obviously, there is a communication job to be done by politicians and your organisations.

Could difficulties arise from the loans and grants schemes, particularly for minority ethnic groups who might not be comfortable taking loans and grants? Have you done work on that?

Robert Thomson: Recently, I have given talks at the Glasgow mosque to representatives from throughout Scotland. Not only is there a reluctance to get loans; there is a reluctance to allow people from outside the community to be involved at all. That is still a huge hurdle.

Mary Scanlon: There is a reluctance to let people into the house to decide whether it is below or near the tolerable standard.

Robert Thomson: Yes.

Mary Scanlon: How can that be overcome?

Robert Thomson: It is certainly not easy. I presume that most authorities now have translated leaflets available. A person might be given a leaflet, but that is only the initial stage. If they respond to the leaflet, they will still find themselves dealing with architects, builders and planners who are not able to speak their language and who do not understand their culture very well. If we really want to address the issue, we will need a lot of resources. All Bradford Care and Repair contractors are ethnic minority contractors, as are its surveyors and building control people. As you can imagine, it has taken a lot of investment to achieve that.

Angela Yih: That might take quite some time. Some local authority housing providers acknowledge that if they have identified a problem within a minority ethnic group, one way forward is to employ minority ethnic staff. There are not necessarily minority ethnic staff across the board but one or two such staff, who act as the liaison between the family or older people and the local authority. That is the role that the Care and Repair Forum Scotland plays.

Mary Scanlon: That is a good point. I imagine that the same thing that I said about vulnerable, elderly people—that they might not want to cause a fuss or rock the boat—might apply to minority ethnic groups. Many minority ethnic private sector tenants might be unaware that they have rights that can lead to a higher standard of property, and as a result they might fall through the net of the legislation. Is that a possibility?

Robert Thomson: That is one of the reasons why we are speaking at lunchtime clubs. Generally, the response is good at such meetings. The common reaction of many homeowners is: "We thought that because we owned our own home we wouldn't get any help." Trying to provide as much information as possible is a constant process.

Mr Home Robertson: I have a follow-up question to a point that you raised in reply to one of Mary Scanlon's questions about the free central heating scheme. I have picked up some snippets of evidence of landlords refusing to allow insulation under that scheme. Have you come across that?

Robert Thomson: In all honesty, I cannot say that I have, but when we make our written submission—

Mr Home Robertson: There seem to have been one or two cases around Scotland. It would be a

matter of concern if a significant number of elderly people—or other people—in difficult circumstances who could get free central heating were being turned down because of an obstructive landlord. If you have any information on that, it would be useful to supplement what we have already.

Robert Thomson: I will look into that.

Mr Home Robertson: Incidentally, I express my appreciation for the Care and Repair Forum Scotland's excellent work in East Lothian, which has been useful for groups of elderly people in their own properties who might have found it difficult to get repairs undertaken.

The bill is a unique opportunity to improve standards and procedures for private sector housing. You will be giving us a written submission, but would you like to take this opportunity to make any suggestions for amendments or additions to the bill?

Robert Thomson: I was waiting to hear COSLA's response to that question. The one weakness that comes across is in what happens when an owner approaches a local authority. How is the scheme of assistance brought into that person's life? Shetland Islands Council has decided that the way forward is to provide information and assistance in people's homes. It has set up what it is calling a one-stop shop, not just for older people or disabled people but for everyone who feels that they need assistance. It has set up an arm's-length organisation. If you go to Shetland Islands Council's housing office and say, "I'm a homeowner. I need help," you will be referred immediately to the one-stop shop, which will visit you in your own home and will presumably work its way through the proposed scheme of assistance. Administering the scheme of assistance from behind reception desks in housing departments throughout Scotland will not work. There has to be contact with the owner.

Angela Yih: I agree with Robert Thomson about the implementation of the scheme. Welcome as the bill is, its focus links much of the mandatory assistance with the serving of a notice. I hope that we are looking towards a culture in which homeowners will be aware that they can get assistance and will know that they can go to a local authority and ask for advice. The issue is how to flag up that assistance. I am not sure that local authorities will identify problems of disrepair so easily. Rather than there being a proactive approach from the local authority—which is what we are hoping for—I imagine that local authorities will still respond to a request from an owner who is in distress because of disrepair.

The Convener: Thank you for attending the committee. I am sure that members look forward

to receiving your written submissions to supplement the oral evidence that you have given us.

12:15

Meeting suspended.

12:16

On resuming—

Subordinate Legislation

Home Energy Efficiency Scheme Amendment (Scotland) Regulations 2005 (SSI 2005/144)

The Convener: The Home Energy Efficiency Scheme Amendment (Scotland) Regulations 2005 are subject to the negative procedure. The instrument seeks to amend the Home Energy Efficiency Scheme Regulations 1997, SI 1997/790, which are the principal regulations for Scotland. They provide for the making of grants for the improvement of energy efficiency in dwellings occupied by persons on low incomes or elderly persons.

Specifically, the 2005 regulations propose to increase the income threshold for eligibility for such a grant for persons in receipt of child tax credit or working tax credit, in line with increases to those payments, effective from 6 April 2005. Members will note that the Subordinate Legislation Committee recommended last year that the principal regulations should be consolidated. The Executive has indicated an intention to do that in connection with the replacement of the programme in 2006, which it feels is the most appropriate time to do so. Members have been provided with a copy of the regulations and the accompanying documentation. Do members have any comments?

Members: No.

The Convener: Is the committee content with the regulations?

Members *indicated agreement.*

The Convener: Therefore, the committee will not make any recommendation on the regulations in its report to the Parliament. I ask members to agree that we report to the Parliament on our decision on the regulations. Are we agreed?

Members *indicated agreement.*

Proposed Planning Bill (Pre-legislative Scrutiny)

12:18

The Convener: Item 3 concerns the proposed planning bill. The committee is invited to consider whether it wants to undertake pre-legislative civic participation events to provide people with an interest in the planning system with an opportunity to express their views on the Executive's proposals. It is proposed that three separate events should be arranged to cover key areas of interest: a chamber event for community groups; an event for planning professionals; and an event for other business interests.

I would be interested to know what committee members think about the proposal. Obviously, there will be scope to discuss who should be invited, the format of the events and so on, so that we get them right. For now, I seek an agreement in principle, so that the clerks can go away and do some work on the matter. We need a general steer that the committee is happy with the proposal for three separate meetings with the groups that have been identified. The proposals in paper COM/S2/05/10/6 cover all the stakeholders. It is important that they get an opportunity to have their say.

Linda Fabiani: I agree in principle. My only comment is that there is huge interest from civic Scotland and I wonder whether one meeting will be enough. Perhaps we should hold a meeting here to cover the central belt and find another venue elsewhere in Scotland so that those in the north, for example, will feel able to come and take part. That might be worth while.

Patrick Harvie (Glasgow) (Green): There is merit in Linda Fabiani's suggestion. I am enthusiastic about bringing people into the chamber. It sends out exactly the right signal, and shows that of the three groups, individuals and community groups are an important part of the picture. Under the existing planning system, they rightly feel that they are not regarded as playing an important part.

I do not want to get into specific discussions about who should be invited, but I am concerned about the session suggested in paragraph 6 b). The three constituencies are community groups, planning professionals and developers. Session b) seems to be about including the private sector, but it seems to me that it belongs in the session described in paragraph c). The only reason why the private sector has planning professionals working for it is that it has the resources to employ them. Community groups would like to have planning professionals working for them, but they

do not have the resources. I would be concerned if developers' interests were expressed in two out of the three sessions and community interests were expressed in only one. I suggest that session b) should be about planning authorities rather than about planning professionals, including the private sector.

Mary Scanlon: Patrick Harvie raises one of the points that I wanted to raise, on ensuring the inclusion of individuals and community councils.

When do we expect the bill to be introduced? Also, the sessions are information-gathering forums and I do not want them to turn into rammies. I know what it is like in the Highlands with the wind farms—believe me, it is like world war three. I do not want people to turn up and find an opportunity to sit and argue with the planning professionals.

The Convener: To respond to Mary Scanlon and Patrick Harvie, it is important that the sessions are for evidence gathering. They are about engaging with the stakeholders, particularly those who think that the system has not engaged with them effectively in the past. One of the reasons for having three distinct events is to avoid having representatives of community groups and civic Scotland, who are rightly concerned and have a strong point of view to put across, arguing with the planning authorities. We want to hear from community groups about their experiences and we want to give those issues the priority and consideration that they deserve. We will meet the planning professionals separately so that we avoid the confrontation that might occur.

Mary Scanlon: We need to hear from individuals and community groups and take on board the issues that they raise, rather than provide an opportunity for confrontation—there are other opportunities for that.

The Convener: No doubt confrontation and conflict will happen at certain points. I am conscious that Donald Gorrie wants to comment, but first I will respond to Patrick Harvie. The point about professionals is not so much about having developers represented. It is about having people who work in the planning process represented, both those who work for local authorities and those who are members of professional bodies and work in the field.

Obviously, there will be a further discussion among committee members to ensure that they are satisfied with the remit of all the events. Any concerns can be flagged.

Donald Gorrie: The basic proposition is good. I agree with the convener's last point. Session b) could include planning professionals who work for councils and planning professionals who advise pressure groups on the anti-development side of

the proposition, as well as those who advise developers. I am sure that all of us have had meetings with planning professionals who advise environmental groups. I am sure that they could contribute usefully to the event and make it better balanced.

On event c), I have had discussions with quite civilised developers who have good methods of consulting people in advance, trying to get agreement and so on. It is important that such developers are involved and that we do not get only the Confederation of British Industry's sort of thinking, which is that this is the third world war and Scotland's economy will collapse if we move at all in this area. To put my cards on the table, I believe that we want a meeting at which the more civilised members do not feel hauden doon and fail to have their say. It would be a pity if event c) could be summarised by the phrase "Over my dead body," because the issue is much more complicated than that.

Mr Home Robertson: Do we leave it to the clerk to decide who is civilised?

The Convener: The issue is ensuring that all the events are representative of the wide range of interests within each interest group.

Mary Scanlon: They should include information gathering. That is the important point.

Linda Fabiani: Are we looking for suggestions for the events? Like Donald, I know a civilised developer. I am quite willing to put the name forward.

The Convener: I am sure that the clerks will welcome any suggestions that you have. However, this is the preliminary stage of our consideration of the matter. The clerks needed an indication of whether members agreed in principle with what is suggested. They will take all members' comments on board.

Mary Scanlon may make a further comment, as long as it not on something that she has already said.

Mary Scanlon: It is not something that I have already said. I reiterate my plea that one of the events could possibly be held outside Edinburgh, preferably in the Highlands, of course.

Linda Fabiani: Or Shetland.

Mr Home Robertson: Or Caldercruix.

The Convener: You are welcome to come at any time to Caldercruix, where there is a fine model of community participation. However, I am not sure that the community centre is big enough to hold all the people who might want to participate.

We will certainly consider the suggestion. The intention was that the event for civic Scotland would take place in the Parliament chamber, to send a signal to civic Scotland about the Parliament being not just for politicians but for civic Scotland as well. I understand members' desire to be seen outside the Parliament, but there is also an issue about ensuring that civic Scotland feels that it is able to participate in the work that we do in the Parliament. On this occasion, that might involve opening up the chamber to civic Scotland and allowing it to participate in the event. That does not mean that we cannot consider other events taking place outside the Parliament.

Linda Fabiani: To return to my previous point, because of the level of interest in civic Scotland, I am concerned that one event, even in the chamber, might not be enough. Perhaps we could go ahead with the three events and then schedule another day to meet two or three of the different groups.

The Convener: We must make the process manageable. We have an agreement in principle. Let us allow the clerks to work on the matter and then we can discuss it further.

Donald Gorrie: The events will have to be well chaired, but that is not a problem.

Mr Home Robertson: Sook!

The Convener: Thank you for your praise, Donald.

Meeting closed at 12:29.

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