

LOCAL GOVERNMENT AND COMMUNITIES COMMITTEE

Wednesday 11 February 2009

Session 3

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LOCAL GOVERNMENT AND COMMUNITIES COMMITTEE

5th Meeting 2009, Session 3

CONVENER

*Duncan McNeil (Greenock and Inverclyde) (Lab)

DEPUTY CONVENER

*Alasdair Allan (Western Isles) (SNP)

COMMITTEE MEMBERS

*Bob Doris (Glasgow) (SNP)

*Patricia Ferguson (Glasgow Maryhill) (Lab)

*David McLetchie (Edinburgh Pentlands) (Con)

*Mary Mulligan (Linlithgow) (Lab)

*Jim Tolson (Dunfermline West) (LD)

*John Wilson (Central Scotland) (SNP)

COMMITTEE SUBSTITUTES

Brian Adam (Aberdeen North) (SNP)

Paul Martin (Glasgow Springburn) (Lab)

Alison McInnes (North East Scotland) (LD)

Margaret Mitchell (Central Scotland) (Con)

*attended

THE FOLLOWING GAVE EVIDENCE:

Robert Aldridge (Scottish Council for Single Homeless)

Professor Alice Brown (Scottish Public Services Ombudsman)

Gavin Corbett (Shelter Scotland)

Eric Drake (Scottish Public Services Ombudsman)

David Kemp (Scottish Borders Council)

John Kerr (West Dunbartonshire Council)

Cathy King (City of Edinburgh Council)

Andy Young (Scottish Federation of Housing Associations)

CLERK TO THE COMMITTEE

Susan Duffy

SENIOR ASSISTANT CLERK

David McLaren

ASSISTANT CLERK

Ian Cowan

LOCATION

Committee Room 4

Scottish Parliament

Local Government and Communities Committee

Wednesday 11 February 2009

[THE CONVENER opened the meeting at 10:00]

Decision on Taking Business in Private

The Convener (Duncan McNeil): Good morning. I ask members of the public and the committee to turn off their mobile phones and BlackBerrys. I should not need to say that now, but I say it at every meeting. I welcome everyone to the fifth meeting of the Local Government and Communities Committee in 2009. Agenda item 1 is to ask whether we will take in private item 4, which is consideration of our approach to the Scottish Local Government (Elections) Bill, and which we would normally take in private. Do members agree to that?

Members indicated agreement.

Homelessness

10:01

The Convener: Agenda item 2 is evidence on homelessness. I welcome our first panel of witnesses. Gavin Corbett is the policy manager for Shelter Scotland, Andy Young is the policy and strategy manager for the Scottish Federation of Housing Associations, and Robert Aldridge is the chief executive of the Scottish Council for Single Homeless. I invite one member of the panel to make some short introductory remarks, if you feel that you need to do that.

Robert Aldridge (Scottish Council for Single Homeless): We are happy just to take questions.

The Convener: Excellent. That gives us more time for questioning.

Alasdair Allan (Western Isles) (SNP): One of the main issues in the written submissions that we have received is progress towards the target that has been set for 2012. There has been mixed progress among local authorities—can you comment on the reasons for that?

Gavin Corbett (Shelter Scotland): The table at the back of Shelter's written submission gives a statistical picture of the rate of progress. The last column is a summary of that.

The variation may be due to a number of reasons. There might be inherent housing market problems such as historical lack of supply, a high level of use of the right to buy or a low level of rented housing. That is certainly the case in some areas.

However, it is striking that progress has been determined not only by that external environment. Some authorities that are recognised as pressured areas for housing supply are doing pretty well on the road to the 2012 target, so the policy decisions of individual councils are also a factor. It might boil down to a particular commitment to the 2012 target by elected members or senior officials. That is equally important in determining why progress has been mixed.

Robert Aldridge: That sums up most of the issues. Each local authority has its individual pressures, which can be to do with the supply of housing, where the available housing is and where the pressures are. As Gavin Corbett has said, the variation can also be due to the priority that is given to homelessness by local authorities, which may place it above other, competing priorities.

As we state in our written submission, the change in the relationship between central Government and local government means that it is becoming harder for us to determine exactly

where progress is not being made. We are all committed to ensuring that the 2012 target is achieved. We think that it is important to know exactly where we are going and, if there are areas in which sufficient progress is not being made, that we understand why, so that support can be provided to enable us to meet the target by 2012.

Andy Young (Scottish Federation of Housing Associations): Even within local authorities that are, on the face of it, performing well statistically, there are still pockets of real pressure.

Alasdair Allan: You mentioned a number of problems, of which supply is one. Is another of them the legislative framework itself? It has been suggested in written evidence that 34 per cent of the allocations that are made in Scotland are made to people who present themselves as being homeless. Many members could cite higher percentages in their local authority areas. Is that a problem purely of supply, or does it have something to do with the legislation?

Gavin Corbett: The figures in Shelter's written submission are 30 per cent for both local authorities and housing associations and 39 per cent for local authorities only. The graph on the third page of our submission tries to illustrate where the pressure is coming from. It shows that there is a squeeze in lettings, which is due both to rising demand from homeless people and to falling supply. The biggest contributory factor is falling supply. If you like, the gradient of the lines is much steeper because the supply of properties is reducing. The problem is fundamentally one of supply, but it is accentuated by rising numbers of homeless households. I guess that the numbers will only increase in the next couple of years if the projected number of repossessions is accurate.

Alasdair Allan: Will you comment on the impact on homelessness of the current economic downturn?

Robert Aldridge: We are all living with that from day to day. Some of the implications are not fully known, but we can make educated guesses about the impact on some areas. More people will find themselves in financial difficulties and unable to maintain their mortgage payments, so there may well be more pressure from that. We have anecdotal evidence that some private landlords who have buy-to-let mortgages are beginning to struggle to meet those mortgage payments, which then puts their private rented sector tenants at risk of becoming homeless.

At the same time, there is a squeeze on mortgages, so those who might have been hoping to get on to the first rung of the ladder as first-time buyers are finding it increasingly difficult to get access to owner-occupied housing. That, too, will increase the pressure on social rented housing.

Some of those factors will impact on homelessness, but all of them together will put pressure on the social rented sector.

Andy Young: The economic downturn will also impact on people's perception of homeless people, because some people will have to declare themselves homeless who would never in a million years have been in that situation before. That might change the public's perception of what homelessness is all about. I guess that that is a perverse benefit of the recession.

The Convener: On the point about increased demand, we have taken a range of evidence on the collapse of the private sector, but it is still not clear, at least to me, what has gone on out there. The Cabinet Secretary for Health and Wellbeing told the committee recently that the outcome for rented accommodation this year would be 6,000 to 7,000 houses. Is that the case?

Andy Young: The change in housing association grant assumption levels means that it is more likely to be about 4,000.

Gavin Corbett: I imagine that the figure of 6,000 to 7,000 is for the whole affordable housing investment programme, including low-cost home ownership. Very few homeless people would get access to that. The figure for the rental programme will probably be more akin to the number that Andy Young mentioned. He knows better than I do, but even that programme is under pressure to achieve the targets that have been set for it.

The Convener: There is a lack of clarity about the 6,000 to 7,000 properties. You both say that the figure is 4,000. Where are the figures that will give the committee a real understanding of what is going on and what is available? Tackling homelessness is about the volume of houses that we can provide for rent. I accept that that is not the solution in itself, but it is part of the solution.

Gavin Corbett: We can certainly provide those figures, but we were led to believe that housing supply was being dealt with separately.

The Convener: I do not know why we did that. It was not clear to me that that had happened. The evidence that we have received from Shelter, the Scottish Council for Single Homeless and, I think, the Scottish Federation of Housing Associations points us to the fact that we cannot deal with homelessness without considering housing supply.

Gavin Corbett: I have an important point, which I have raised with a couple of committee members individually. I have been examining housing investment for 15 years, and in each of those years the Government of the day published an investment bulletin that said how many houses it was building that year and how much it was

paying for them. The current Government has not done that this year. That is a major weakness in the transparency of the programme. No published document says how many houses we expect to build. Given that there is a new minister, that might be one thing to press him for. It creates a problem in scrutiny of how the budget allocation and investment programme match the commitments that have been made.

Jim Tolson (Dunfermline West) (LD): Good morning, gentlemen. I will focus on allocations. Shelter has kindly provided statistics that show that, on average across Scotland, 79 per cent of people who are allocated houses are assessed as being in priority need. The impact on the general housing list is quite significant and often underreported, but to come to homelessness, which is the issue that we are talking about today, the statistics show what councils are doing. A high proportion of their available housing is being used to address homelessness. To what extent do you have evidence that people are putting themselves forward as being homeless when they may not really be homeless—for example, youths who leave the family home with the permission of the parent rather than being thrown out by the parent? I am sure that you can give some other examples. How much more could the private sector do to help reduce the number of homeless presentations?

Andy Young: I can perhaps clarify the housing association contribution. In a lot of the statistics that have been issued, there has been heavy reliance on the section 5 referral statistics. That is understandable, but there is growing evidence that in many parts of the country lets are made to homeless people through nomination agreements between local authorities and housing associations and, indeed, direct from housing association waiting lists. Homeless applications are also being prevented—as opposed to homelessness being prevented—by the use of internal transfers from housing associations and, occasionally, from the waiting lists. That will become even more apparent when the priority need barriers are completely dismantled as we head towards 2012, at which point more waiting list applicants would, if they presented as homeless, fall within the definition of homeless. The most obvious example of that is overcrowding.

It is unfortunate in a way that speeding up the process and providing good outcomes for individual applicants is making the system difficult to monitor nationally. In other words, some of the processes and practices are cutting through the bureaucracy and the perceived indignity of people having to present as homeless or having to go through the section 5 referral process. The Scottish Government section 5 research, which is

due to be published imminently, is likely to touch on the subject.

The SFHA has suggested that the annual performance and statistical return that is made to the Scottish Housing Regulator by all registered housing associations should provide information that more accurately reflects the letting outcomes, and identifies which categories of need are being catered for by housing association allocation policies, because that is—as Jim Tolson says—a very much underreported outcome.

Robert Aldridge: The graph at the front of the Scottish Council for Single Homeless submission shows that the number of people who are presenting as homeless is beginning to tail off—a slight decrease has taken place. Similarly, the number of people who are assessed as being homeless in Scotland as a whole is beginning to decrease. There are obviously differences among local authority areas, but the figures suggest that we have reached the point at which we are identifying all those who are homeless and that the prevention work that is being done is beginning to have some effect.

There is a slightly growing gap between those who present as homeless and those who are assessed as being homeless. It is hard to tell to what extent that is caused by people thinking that the homelessness route is the only route through which to get into social housing, and to what extent local authorities are being more strict in their assessment of whom they consider to be homeless, since that is where the filter of whether they need to house a person will lie. It is a complex picture, but there is a downward trend in applications and in those who are being assessed as homeless.

10:15

The private rented sector, which Jim Tolson mentioned, has an important role to play, but it is quite important to bear in mind that it, too, will be affected by the recession, in that a number of people who are unable to sell their homes might become landlords, although only until they are able to sell their houses. We have to be careful not to rely on them as a long-term solution to homelessness.

There are issues about the security and length of tenancies that are offered to people in the private sector. The tenancies are almost all short assured tenancies, which can be ended automatically if the correct period of notice is given. Other tenants have a much greater security of tenure.

There will also be increasing pressure on the private rented sector from, for example, young professionals who are unable to get on to the

owner-occupier ladder. Who is going to be displaced? Will it be those who are most disadvantaged? We are looking at quite a complicated picture of an area that is in motion. We do not have a full understanding of the private rented sector.

We need to welcome the role that the private rented sector can play, but we must also be wary of placing too much reliance on it, especially because it exists to a large extent in some areas but to almost no extent in other areas.

Gavin Corbett: I worked as a homeless persons officer for four years for a local authority and can say that it would be naive to suggest that all applications are of equal urgency. There are some subjective elements around the question of when a period of housing pressure becomes homelessness—perhaps Jim Tolson alluded to that.

It is important not to be led totally by anecdotes. The evidence that we have suggests that 30 per cent of lets of social homes go to homeless people, which means that for every one that goes to a homeless person, two go to people on waiting lists. That pressure has increased a bit over the past five years but has levelled off in the past two years. It would not be fair to say that council house allocation departments have, as is sometimes claimed, been utterly swamped by homeless people. There is increasing pressure, but I argue that, as a whole, the system is still able to cope. The pressure is more acute in some areas than in others, so we need to address the housing supply problems in those areas and, perhaps, bring in other options for access to housing. I would not want to throw the baby out with the bathwater on this point.

Jim Tolson: That is a good round-up of where we are. As Mr Corbett said, there is a good deal of pressure on the general housing list, with people who are looking for suitable rented accommodation finding that they cannot access it because of a shortage of available properties. As has been said, that pressure leads people who do not have enough points to get accommodation on the general list to consider presenting as homeless. That puts added pressure on the system, which is not helpful with regard to meeting the 2012 target.

The Convener: When new houses are built in an area, some people get them by declaring themselves homeless, which causes a great deal of tension among those who are on the waiting list because their housing is not appropriate. Do we have any figures on how many people get those new homes through the homelessness route?

Gavin Corbett: As far as I know, we do not have those figures for new-build developments.

Most of the information is collected at a local authority level.

Evidence that was gathered some time ago suggests that homeless people tend not to be offered the best choices, despite the best efforts of local authorities to ensure equal access to housing for everyone. The combination of the fact that turnover is higher in areas that people least want to live in and the fact that homeless people need to be housed relatively quickly means that homeless people tend to get the less popular houses, although that does not mean that no homeless people are getting the new properties. It is important that they, too, get new houses because, if they do not, we end up with the most disadvantaged people being crammed into the worst areas.

The evidence that we have does not suggest that the issue that the convener raises is an overwhelming problem, although I recognise the tension that you allude to.

The Convener: Do we have no evidence on that?

Gavin Corbett: I think that we have no evidence either way.

Robert Aldridge: It is important to bear in mind the fact that, although the perception is often that only homeless people are housed, the increased pressure on housing actually comes from a range of people with increasing vulnerabilities. As the amount of supply has decreased, local authorities and other social housing providers have had to house a higher proportion of people with a higher proportion of needs. Perhaps blaming that situation on homeless people has been a convenient way of labelling what is happening. A whole range of people with a wide range of needs are being housed. Although the perception might be that only homeless people are housed, the reality is that people from waiting lists are also housed.

The Convener: Perhaps when someone with a problem is allocated a house and people raise complaints because of the ensuing difficulties, the housing association tells people that the tenancy had to be given under the Scottish Parliament's homelessness legislation. We are all in a blame game. However, that is a significant problem for people who have, as they see it, been good council tenants for many years but are denied access to new housing, or perceive that others are put ahead of them in the queue. The issue needs to be taken seriously. Do the witnesses have any ideas about how we could tackle that?

Gavin Corbett: With new lettings, it would be quite easy to record in the Scottish continuous recording system—the SCORE system—who has

been allocated new-build properties. I think that housing associations already do that.

Andy Young: I am pretty sure that it would be possible to extract information that would broadly cover what has been suggested.

The Convener: If we could explode those myths and perceptions, that would be a good start.

Andy Young: The perception of what goes on needs to be tackled.

The Convener: Would we need to revisit the legislation to tackle that?

Andy Young: I am not sure that we would need to revisit the legislation. As I said earlier, we need to monitor which category of need people are in when they are housed. I presume that, if we could monitor and measure that, we could explode those myths and get rid of the poor practice that was mentioned earlier.

The Convener: How does the legislation tackle the issue about inappropriate housing and overcrowding? If we focus on homelessness as the only housing problem, there is no legislative support for people who are in what they would describe as inappropriate housing. They are stuck in that house. We cannot even build our way out of that problem because those who have priority under the homelessness legislation will be given the new houses whereas those who are, as they see it, in inappropriate housing will be stuck there.

Andy Young: Such people are catered for under the Housing (Scotland) Act 1987. However, I see where you are coming from. There is a definite tension between those two different categories of need.

The Convener: That is the reality that you and I face. Housing associations face that as a daily problem.

Gavin Corbett: When I worked for a local authority, councillors would often complain that every let in their ward in the past six months had been given to a homeless person. When we went through the lets, we found that that was not the case.

There is a problem, which is particularly amplified when issues emerge as a result of a let—for example, if a difficult family causes chaos. However, the first step is to ask to what extent the perception that all the lets go to homeless people—as Robert Aldridge said, the term “homeless” is often used as a cipher for difficult families—is matched by the reality. We could look at the information that is collected by housing associations on new-build lets. If we can establish where the people who get those lets came from, we will be able to see whether the perception is backed up by the statistics.

Secondly—I might sound like a broken record—the fundamental problem is housing supply. If we have a number of people with different characteristics or problems who all need to be housed, we can house them only if we provide enough homes to house them all. If we do not provide enough homes, we will continue to have that tension because people need to live somewhere. We will simply create problems of acute overcrowding either in the private rented sector or elsewhere if we do not accommodate that.

Alasdair Allan: I know that we should not deal in anecdotes, but I have heard anecdotally about the problem in rural areas and in the Highlands in particular. I also know of community buy-outs and potential social housing suppliers who feel that the current legislative set-up is a disincentive to providing housing and they wonder whether it is worth their while building houses in an area where there is a housing shortage, if the lack of local connection requirement means that people who, for all sorts of cultural reasons, are very unwilling to describe themselves as homeless will remain permanently behind people in the queue who are willing to describe themselves as homeless but who might have appeared in an area out of the blue. You can understand the tension that that creates. I know from anecdotal evidence that feeling exists—certainly, in my neck of the woods.

Gavin Corbett: I was asked to speak about that in some detail at the Rural Affairs and Environment Committee during its rural housing inquiry last year. The evidence that I produced for that would be useful, particularly in considering rural lets. It is true that there are additional pressures in rural areas. I have not heard about the problem that Alasdair Allan describes: I would be disappointed and surprised if there were such a disincentive to providing housing. There are ways in which housing providers can ensure that genuine locality-based needs are reflected. I am referring, for instance, to social networks, with people moving into an area for employment. The evidence is that lets are not swamped by people from some external area.

It is important to unpack what we mean by “local”. I gave a presentation to rural community activists recently. I was being given a hard time—reasonably enough I suppose, as that was what I was there for—by a chair of a housing association in the Highlands who was telling me that it could not house local people. She, however, had a clear Glasgow accent, which made me wonder. I would argue that it was right for her to come from one part of Scotland and to be housed by a housing association in another area, but it was as if that was somehow the stopping point, with no other people to come from outside that area to be housed there. We have a relatively open society

and housing system, and I do not think that the social housing sector can be utterly separate from that.

Alasdair Allan: I declare an interest: I moved to the Western Isles, and I lived for the first year and a half there in a former loom shed, because of the lack of housing. I appreciate the point that you make, but I repeat that there is, nonetheless, a perception about the number of homeless allocations, certainly in my constituency. The figure is considerably higher there; in some parts of my constituency, it comes to 60 per cent of allocations. There is a feeling that if people are unwilling to describe themselves as homeless—as I have said, an awful lot of people in the Highlands and Islands are unwilling to do so for cultural reasons—they will never get a house. How do you overcome that problem and the cultural unwillingness of people to describe themselves as homeless in some circumstances?

Andy Young: It is perfectly legitimate for a local housing provider to come up with a local lettings initiative to cover exactly that type of situation, as long as it is evidence based and as long as the outcome is published and reflects the initial evidence base. The Scottish Housing Regulator is clear that that is legitimate. We are currently working with the Scottish Government on some allocations guidance, which will be published in September this year. That should clarify the matter.

The Convener: I invite any further comments on allocations, before we move on.

John Wilson (Central Scotland) (SNP): I will address one of the issues that comes up in relation to allocations. The written submission from the Scottish Federation of Housing Associations shows “a 46% increase” in the number of people on waiting lists over a period covering almost the last decade. In addition, it identifies a

“loss of around 100,000 homes ... through Right to Buy take-up and demolition of dilapidated stock,”

as the submission puts it. Surely that puts pressure on allocations.

I am trying to get at the difference between people who present as homeless and people who present for transfer. Not all people who are on waiting lists are homeless. The figures that have been presented to us show that a large number of them are looking for a move to a larger or smaller house. Clearly, that puts pressure on the allocation options for local authorities and housing associations. How do we square that circle in the allocation process? There is a perception that the majority of allocations are made to people who present as homeless, whereas in some areas a normal allocation process is taking place, with people moving to larger or smaller houses.

10:30

Andy Young: As my written submission states, housing associations have not always been very good at publishing the outcomes of their allocation policies. On squaring the circle, you are correct that tensions exist within allocation policies in catering for different needs. The guidance to which I referred earlier will, I hope, deal with those issues.

Gavin Corbett: I do not have the numbers to hand but, from memory, I believe that about 30 per cent of local authority allocations are to homeless people and about 15 per cent are to people who are transferring. That figure has decreased, probably as a result of the squeeze to which John Wilson alluded. Although there is no reason why a landlord cannot allocate houses to transfers—obviously, that creates a succession of lets, so it does not reduce the overall volume of lets—I suspect that the difficulty is that the more transfers that are allocated, the longer people are kept stacked up in temporary accommodation, to which a cost is attached.

A graph in the Shelter evidence shows that the use of temporary accommodation has risen dramatically. If we are prepared to bear the cost of temporary accommodation, and that accommodation is suitable, there is absolutely no reason why landlords cannot continue to make transfers to satisfy the needs of people who are in their stock and then ensure that subsequent lets are available to homeless people. As I say, transfers do not affect the overall volume of lets.

Mary Mulligan (Linlithgow) (Lab): I am interested in your responses to the convener's point about getting sound figures on the number of houses that are completed each year. Shelter has provided a list of local authorities and their progress towards the 2012 target. The majority of councils have made excellent progress and are to be congratulated on that, but I am not sure that we know how they have made that progress, why a few have not and whether we will be able to sustain the progress. How can we get that information so that, where there are challenges, we can make changes?

Robert Aldridge: We are concerned that limited information will be collected at central Government level from now on. Information is gathered through the HL1 form—the homelessness return form—which informs the statistical return. A previous project that was sponsored by the Scottish Government involved officers from the Association of Local Authority Chief Housing Officers going round every local authority to delve into the problems that they were having. Now, as the level of information that comes in centrally is diminishing, it is more important than ever to get a handle on local authorities that are having difficulty

meeting the 2012 target. We state in our written evidence that it is time to do a stocktake of where we are and what is needed in individual areas to ensure that we get to the ambitious but realisable target for 2012. Because less information is being gathered centrally, it will be much more difficult to know where the problems are.

Gavin Corbett: We argued for a stocktake last year, too, but it did not find favour with the Government at the time. There are a few reasons why it is worth reconsidering the idea. First, we have provided evidence that although there has been significant progress in some areas, things are still difficult. Secondly, this is the year when authorities have to meet an interim target to reach the 2012 target, which might be an opportunity to ask whether we have in the box all the tools that we need. Thirdly, we have a new minister, so perhaps this is an opportunity for him to look at the programme that he has inherited and to consider whether changes need to be made to it. Fourthly, the context has changed considerably. Back in 2002, when the homelessness task force report was launched, no one could have anticipated that we would be looking at such a high level of mortgage repossessions and that unemployment would be rising to levels not seen since the early 1990s. Given that changed context, it is worth asking whether we have got the programme right or whether we need to refresh it to ensure that we know what is happening.

Andy Young: I echo what my two colleagues have said. We might look like a band of brothers; we are in total agreement on that issue.

The Convener: That is okay.

Mary Mulligan: You talked about trying to get the information so that you can find out what the difficulties are. Do you have any information about why some local authorities seem to be stalling and some challenges seem to be arising, or is it just that, as you get towards the end, things get more difficult?

Gavin Corbett: We have information, some of which is from the report by local government secondees to which Robert Aldridge referred. The data are not necessarily directly comparable across areas, but we have qualitative information. We can dig underneath the statistics that are given in the Shelter evidence. To some extent, lack of progress is a reflection of where an authority started from. Although it appears from my evidence that Glasgow City Council is struggling, that is partly because in 2003-04 it was already giving a high number of allocations to homeless people, so it has been harder for it to make progress than it has been for authorities that previously gave the issue a low priority. Sometimes the picture changes depending on what you look at. If it would be helpful, we could

provide more information, but the Government collects a lot of information that could be analysed further. That might be better done in the context of some kind of spring clean or stocktake, or whatever you want to call it.

Mary Mulligan: We have come full circle. The main way of dealing with homelessness is by finding people a house. If we do not have the information about who needs houses, how do we build a programme that addresses housing need?

Robert Aldridge: What you say is partly true, but we can also undertake preventive activities. We should ensure that when people are found houses, that is a long-term and sustainable solution. Many other elements contribute to the numbers that are coming through the system in the first place. Part of the ability to meet the 2012 target will relate to how local authorities manage support for people who are at the early stages of getting into difficulty, before the difficulty becomes a homelessness crisis. It is about not simply managing the crisis when people become homeless but intervening early. That involves all the elements around housing support funding, which we will also have less information about in the future.

Gavin Corbett: I do not want to give the impression that we are somehow shooting in the dark. Local authorities' local housing strategies contain a lot of information about the needs in their areas and the kind of investment that is required. The only difficulty for an evidence session such as this is that you cannot add up all 32 strategies and say, "This is where we're at." However, that does not mean that the information is lacking at local level.

Mary Mulligan: I think that my colleague Patricia Ferguson will cover supporting people funding, which you were clear about in your written submission, Mr Aldridge, when you said that things are only going to get more difficult. Given the present economic climate, there are clearly housing pressures. Is there a risk that that pressure will become the reason why the target is not met?

Robert Aldridge: I think that the target can and should be met. We need to keep a close eye on any new elements. As Gavin Corbett said, given the economic climate, we are in a different place than we expected to be in 2002. More than ever, it is important that we monitor carefully any changes to allow appropriate Government intervention if required or to give additional power to local authorities if required, and that we re-examine how we are doing.

Gavin Corbett: I am quite optimistic for two reasons. First, ministers have made it clear that the 2012 target is a firm commitment. I do not get

any sense that it will somehow be whittled away. Secondly, although we expect rising numbers of repossessions, it is important not to overestimate the impact of that. Around 40,000 homeless applicants are assessed as homeless. Repossessions may rise from 2,000 to around 6,000 or 7,000 in the next couple of years—that is the best estimate that we can get from mortgage providers—but not all of the people involved in those additional repossessions will choose to apply as homeless, because some will find accommodation in the private rented sector or by other means, so we are talking about perhaps an extra 2,000 or 3,000 applications from struggling home owners. That is significant and it is a huge rise among home owners, but it will not double the number of homeless people or do anything else that will make the 2012 target unachievable. It is important to put it in perspective.

Andy Young: It is an ideal opportunity for us all to refocus.

Mary Mulligan: I appreciate your responses. There is clearly a good argument for taking stock at this stage and refocusing our efforts to achieve the 2012 target.

Bob Doris (Glasgow) (SNP): This is an opportune moment for me to come into the discussion, because I want to ask about the mortgage market and repossessions. The previous Executive attempted to provide some support in the form of a mortgage to rent scheme. Under the current Government, that has been expanded and a new product has been introduced—a mortgage to shared equity scheme. I would like your opinions on both products and how they can stave off repossessions and, therefore, increased levels of homelessness.

Andy Young: Housing associations have been really keen to get involved in the mortgage to rent scheme. Over the six years of the scheme, we have helped 700 families to stay in their homes. We have mixed opinions of the mortgage to shared equity scheme, because we are not sure how housing associations benefit from being involved in it. We have concerns about shared equity under the current economic circumstances anyway.

Gavin Corbett: I have had a productive dialogue with Government ministers about the expansion of the money in the mortgage to rent scheme—up from £20 million to £35 million over the next two years, which is welcome—and the development of a shared equity product, for which Shelter Scotland argued as much from the point of view of potentially struggling home owners as from the point of view of providers. We felt that some home owners might want to keep a foothold in the home ownership market and not convert directly to social rent, which is what happens under the

mortgage to rent scheme. The mortgage to shared equity scheme is an additional way of responding to that situation, although I agree with Andy Young that it is likely to be small scale. Evidence from research that the Government published recently shows that few of the people who benefited from the mortgage to rent scheme would have been able to afford the mortgage to shared equity scheme, so it is likely to be a relatively small part of the landscape.

Robert Aldridge: I agree with my colleagues. It is useful to have as many tools in the box as we can to prevent people from entering the homelessness stream. The schemes are helpful, but they are not the only way of dealing with matters.

Bob Doris: I have spoken to some housing associations about the mortgage to rent scheme, and they have been highly supportive of it. They are interested in getting involved in the mortgage to shared equity scheme but, if a housing association was going round its area with an investment programme, where would a shared-equity house sit within it? The home owner could still be left with a bill for a portion of that programme. That is one issue that was raised with me. There is a question about equality of status for the tenants and shared-equity owners. I take on board the fact that there are obviously issues to be ironed out.

There is, of course, a private sector equivalent of the mortgage to rent scheme, which is the sell and rent back. I have made representations to the Scottish Government and the United Kingdom Government to push forward the regulation of sell and rent back, and I am glad to say that regulation appears to be imminent. Are you aware of the issues with sell and rent back and do you have any direct experience of it?

Gavin Corbett: Shelter has had clients who used sell and rent back and it is bad news. Apart from being unregulated, the sell and rent back is a bad deal for tenants. The typical price that people get for their homes is 15 to 20 per cent below market value, which is a bad deal. The rents are very high, usually well above the eligibility level for housing benefit. Also, the tenancies are insecure, for example they are short assured tenancies. That is not just Shelter's view—we have had clients who have been through it.

The researchers who evaluated the mortgage to rent scheme that the Scottish Government just published examined some clients who applied for mortgage to rent and did not get it so went to sell and rent back. The researchers found no redeeming merits in sell and rent back schemes. Regulation is long overdue, and I hope that it picks off some of the cowboys who are working in the

sector and ensures that all schemes work for the tenant's benefit.

10:45

Bob Doris: I am glad to hear you say that. I know that the Office of Fair Trading is currently writing to some of the companies that provide sell and rent back to ask them to justify some of their claims. I have read the OFT's report on sell and rent back, and some of Shelter's anecdotal experience chimes precisely with the alarm bells that rang for me when I looked into sell and rent back. I was worried that there was effectively a black market in repossessions, where people were taking a huge hit on the value of their property, and then, six months down the line, finding their rent spiralling and themselves being kicked out because they could not afford to pay. I welcome any regulation of that.

I would like to be positive. I hope that the UK Government will bring in such regulation sooner rather than later. If the Financial Services Authority is to regulate the sector, will the private sector get the opportunity to make sell and rent back the private sector equivalent of mortgage to rent? My worry is that people are rightly being put off sell and rent back because of the alarm-bell stories, but if we regulate the private sector, could it have a role to play?

Gavin Corbett: There is a case for a well-regulated, private sector sell and rent back scheme. Any Government scheme, such as mortgage to rent, will have eligibility thresholds. Any Government scheme that uses public money has to say at some point that it will not help people whose house is over a certain value, or perhaps it depends upon the householder's employment status. I agree that a well-regulated and well-run private sector scheme might complement that, and we have done some work on the characteristics of a well-functioning private sector initiative.

Bob Doris: I do not know whether the committee will do further work in that area, but I would be delighted to meet any of the witnesses to discuss how to take those ideas forward.

Andy Young: The devil will surely be in the detail.

The Convener: To follow Bob Doris's point, the committee would be interested in considering the issues, given that mortgage to rent has helped 700 families, the question mark over shared equity and the fact that sell and rent back has no redeeming features at all.

We have heard that 6,000 to 7,000 people will face repossession and that the homelessness legislation will possibly help 2,000 to 3,000 of them, but who will help the remaining 4,000? We

have had a critique of what is available, but what discussions are taking place between you and the Scottish Government to come up with solutions? The committee is interested to hear positive solutions and ideas so that we can play our part with the Scottish Government to address some of the fundamental issues, such as preventing homelessness, which is important.

Gavin Corbett: Immediately after this meeting, I have got the first meeting of the Scottish Government's repossessions working group, which has been set up partly to examine the legislative safety net for homeowners and partly to consider other initiatives that could help to ensure that any rise in the number of repossessions does not result in a rise in the number of homeless people. Things are happening to address the issues, which I would be happy to report back on at future committee meetings.

The Convener: Yes, and I am sure that we will be able to discuss that with the minister as well.

Patricia Ferguson (Glasgow Maryhill) (Lab): The committee is concerned about sell and rent back, given our moves to end unintentional homelessness. I wonder whether sell and rent back has any benefits whatsoever, or whether it should be ended rather than regulated. Does it have any redeeming features at all?

Andy Young: Not at the moment.

Gavin Corbett: Sell and rent back is basically a form of equity release. I do not have a problem with someone negotiating with a private provider because they are not eligible for the mortgage to rent scheme, perhaps because they do not have acute mortgage arrears problems or because the value of their house is particularly high but, to be honest, I would be surprised if that was a rational way to go. There must be an easier way to release equity.

However, I do not have a problem with that option being available, as long as there are certain rules about the rent levels that might be charged, the tenancy regime—given that people might want to negotiate longer-term tenancies—and how properties are valued. It would be possible, at least in principle, to have such a system. One of the problems of attempting to regulate sell and rent back out of existence is that it would simply reinvent itself in another form.

Patricia Ferguson: Is there enough merit in sell and rent back from the point of view of reducing the number of homeless people as we approach the 2012 target for it to be continued with, or is it so fraught with problems that we would be better to recognise that it does not help and to walk away?

Gavin Corbett: I do not know enough about the legal instruments that we would require to prohibit it. I would have thought that the scale at which it could operate ethically might be so small that it would be close to its not operating at all, but I do not know enough about the detail.

Patricia Ferguson: I will move on to a different but related subject. Some of us are interested in finding out whether the effect of the supporting people fund can still be monitored even though there is no longer ring fencing. Mr Aldridge's submission commented on that. Has there been any monitoring of the impact of the removal of ring fencing, not from a political point of view but from the point of view of the effect that it might have had on that support?

Robert Aldridge: The housing support enabling unit, which receives funding from the Scottish Government, has done a baseline study of specific projects to find out what is happening. It will conduct annual surveys to examine some of the implications. One of the advantages of the removal of ring fencing—it can also be seen as a disadvantage—is that the money can be used in more imaginative and flexible ways without having to be reported back on as strictly as before. It will therefore be quite difficult to get comparable data.

Our worry is that the increased pressures that every local authority faces for a range of social care groups, such as older people and children who receive protection, will mean that the money that is freed up might be diverted to assist those groups. That is a perfectly legitimate use of the money, but our fear is that it will be at the expense of the low-intensity, low-level housing support work that helps people to sustain their first tenancy. I am talking about the light-touch work that involves two or three hours a week of popping in to ensure that people can manage their front door and their bills, for example. Such work is among the easiest to cut. We fear that the effect of that further down the line is likely to be more people coming through the system.

It will be much more difficult to monitor precisely the effects of the removal of ring fencing, because a number of local authorities have already disbanded their supporting people teams and are using the money in different, more imaginative ways. In some cases, money is being used on social care and housing support in a more streamlined way, but some money might be being diverted away from what it was originally intended for. We are in a very uncertain time. We are talking about a large pot of money and a highly significant policy change that will have advantages and disadvantages. We need to see whether certain groups lose out as a result. It might be that people who receive low-intensity support will lose out.

Andy Young: Anecdotal evidence from our members suggests that it is indeed the lower levels of support that are being affected at the moment.

David McLetchie (Edinburgh Pentlands) (Con): Good morning, gentlemen. In relation to homelessness services and progress towards the 2012 target, I was interested to read in Shelter's submission that the City of Edinburgh Council got an A rating from the Scottish Housing Regulator, and it also performs well in the progress table that is appended to the Shelter submission. Is it a coincidence or a contributory factor to that A rating that the City of Edinburgh Council has the largest private sector leasing scheme in the UK?

Gavin Corbett: Perhaps Cathy King, who will appear on a later panel, can answer that too, but—

David McLetchie: I am sure that she will have a view, but I am interested in whether you have a policy point of view.

Gavin Corbett: The inspection would have covered the whole range of homelessness services, of which the temporary accommodation that the private sector leasing scheme contributes would have been one important part. Edinburgh took significant steps in recognising that it could not provide temporary accommodation from existing resources and it looked imaginatively at how the private sector could contribute. PSL would have been an important factor in the inspection's high rating. Edinburgh is the only authority so far to have gained an A. I am sure that its approach to providing temporary accommodation was a feature of that.

I suppose that progress towards achieving the 2012 target will be driven by the number of permanent lets. Private sector leasing provides only temporary accommodation; we still need housing association and council lets to provide people with permanent accommodation. I guess that that is not linked directly to private sector leasing—there is a question about how long temporary accommodation is temporary.

Edinburgh has done other things, in relation to the common housing register and choice-based lettings, for example, that might influence its lettings data. I suppose that I am saying that although PSL might be a part of the picture, it is only one part.

Robert Aldridge: I agree with all that Gavin Corbett said and add that private sector leasing can play a useful role as part of a solution, but it is important to bear in mind the fact that the rents that are charged in private sector leasing are often very high, which means that it is difficult for people to move into low-paid employment and sustain their tenancy. It will be even more important to

consider that when the new central Government welfare reforms are introduced, as they will make it possible for someone to suffer a benefits sanction if they refuse to take up low-paid employment. It is really important that we consider the affordability of rents in private sector leasing schemes for people who undertake low-paid employment.

David McLetchie: That is interesting, because it says in the City of Edinburgh submission:

“PSL helps people make the transition from homelessness to stability and independent living, improves access to private rented housing and supports people into employment. Currently 66% of people who move onto a permanent tenancy from PSL move into the Private Rented Sector.”

We can ask Ms King about that later, but it suggests that PSL is helping with transition.

Gavin Corbett: We can return to the point about employment. Because of the way in which the legislation is framed, it is not possible for an authority to discharge its duty through the private sector. It is possible for people to find their own solution, which might be what is happening in Edinburgh. The Scottish Government has been consulting on changes so that settled accommodation is provided in the private rented sector. That might build on current practice. I do not have any problem with that.

In some areas—for example rural areas where the social housing sector is small—allowing people to access the private rented sector might increase choice, as long as properties are well managed, rents are reasonable and support is available if needed. I do not have a problem with that. Indeed, it might be an advantage in lots of areas.

David McLetchie: Thank you. Let us move on to housing supply, which is highlighted in the Shelter submission, although I am sure that others might wish to respond. The issue is about the right to buy and

“the declining availability of lets, as new builds have lagged behind the rate of sale through Right to Buy.”

I think that we can all agree that the 480,000 or so houses that have been sold under the right to buy since 1980 were not towed into the North Sea or demolished and are still largely occupied by people who live in Scotland. The true comparison is not between the numbers that were sold and the numbers available to let, but between the numbers that would be available for let in an open market and the demand for them. Is that not right? For instance, of the 480,000 houses that were sold, how many would you expect to be available for let from time to time?

11:00

Gavin Corbett: It is right that the houses that were sold under the right to buy cannot be treated as if they were demolished. If that was hinted at, it is a false argument. However, the right to buy has had a significant effect on lettings that are available to local authorities. We have touched on this before, but the previous Scottish Executive's report on the right to buy had clear evidence that the right to buy was linked to the falling number of lettings. I think that we have all argued that the falling number of lettings lies behind some of the tensions between people on waiting lists and homeless people being housed. The right to buy is not the only contributor to that because falling levels of housing output have contributed as well, but the right to buy has been the most significant feature. However, its effect is less than the total change in stock from the social rented sector to owner-occupation.

David McLetchie: So it is false to try to equate the numbers sold with the number of new houses built. The correct comparison is between how many would have been available for let and how many are available. Is that right?

Andy Young: Of course, many of the houses are available to let again, but in the private sector, at much increased rents.

David McLetchie: Indeed, they are. I am just coming on to that point. What percentage of the 480,000 homes is available for let in the private sector?

Gavin Corbett: There are no data on that, but it might be in the order of 5 to 10 per cent of the homes that were sold. That estimate is based on discussions with housing managers. However, tenants groups cannot find words to express their outrage about what is happening with ex-council or ex-housing association houses that are available for let in the private sector. They see homes that were part of their community and which were available for their neighbours or their sons and daughters at affordable rents being let at exorbitant rents and creaming in money, as far as they can see, through the housing benefit system. Such lets are often badly managed because generally in such situations people did not take an explicit decision to become a private landlord. Those lets are a very unpopular outcome.

Robert Aldridge: The data on the right to buy show that the houses that were sold were primarily certain types of houses in certain locations. The issue is therefore not about making a direct comparison between the numbers sold and the number of lets, but about the fact that almost all the larger houses were sold under the right to buy. Even if larger houses and houses in certain locations previously became available for let only

once every 10 or 15 years, now they do not become available at all. That is particularly important for areas that suffer extreme pressure on housing, such as some rural areas. That is another element to bear in mind.

David McLetchie: Yes, but we already have legislation to deal with pressurised areas under the reformed right to buy that was introduced by the previous Government.

Gavin Corbett: Only for new tenancies.

David McLetchie: Exactly, but there are already restrictions in place in that regard in pressurised areas. Is that not right?

Robert Aldridge: Yes, that restriction can be applied for. However, the point is that because it was primarily certain types and sizes of houses that were sold, some areas do not have the full range of sizes and types of housing any more. That is particularly the case in some rural areas. It is therefore after the fact that many local authorities have applied for pressured area status.

David McLetchie: If 5 to 10 per cent of right-to-buy houses become available for let in the private sector, how many houses become available for let from the stock of a local authority or registered social landlord in a year?

Gavin Corbett: The social rented sector has roughly a 10 per cent turnover in a year, but that is not directly comparable, so 5 to 10 per cent is a kind of stock figure. Obviously, if we took 10 per cent of that in turn, the figure would be much smaller.

I agree with the line of questioning in so far as reform of the right to buy is not a jam-today argument. If we reform the right to buy today, we will not relieve pressure in getting towards the 2012 target. However, just because we cannot have jam today, it does not mean that we cannot ever have jam in the future. The reform of the right to buy is part of a longer-term approach to ensure that we have a better balance between properties available for social rent or affordable rent and owner-occupation.

Andy Young: That is particularly the case for the exemption of housing associations from the modernised right to buy. That exemption ends in 2012. Many newly built housing association properties will be eligible to be bought by their tenants in 2012.

The Convener: Yes, I noticed that in your submission. Among your 260,000 houses—or however many it is—how many households will have the right to buy?

Andy Young: I would need to find that out for you. The picture in housing associations is very complex because of charitable status.

The Convener: I presume that the figures are there, and that your call for a moratorium is based on them. Many people expect a right to buy, but they would not get it if your request were accepted.

Andy Young: That is correct.

Jim Tolson: I ask the panel to put aside for a second the fairytale scenario that has just been outlined by Mr McLetchie and to consider the right to buy from where we are now—with an extreme shortage of properties as a result of the right to buy. Are further changes in the right-to-buy legislation required to protect as much of the stock as possible, so that more houses are available? Do we have to do more than just protect houses for new tenants in pressured areas?

Andy Young: The SFHA welcomes the proposal to end the right to buy for all new-build properties, and we welcome the consultation to end the right to buy for all new tenancies, but we would also like the exemption that ends in 2012 to be made permanent if possible.

Robert Aldridge: The Scottish Council for Single Homeless takes the same view.

Gavin Corbett: And Shelter Scotland.

Jim Tolson: That is very welcome. Thank you.

John Wilson: I had wanted to ask a number of questions, but I know that we are short of time so I will ask just one.

All the organisations that have given evidence so far seem to have jointly agreed that we need to build 10,000 new houses for affordable rent each year. However, the number being built seems to be only about 5,000. For how long has that been the case? What will happen if we do not increase the figure to 10,000, bearing in mind the 2012 targets?

Andy Young: The figure of 5,000 has been relatively steady all the time that I have worked in Scotland, which is now 14 years. If we do not build 10,000 houses every year, I very much doubt that we will meet the 2012 target. It is that simple.

Robert Aldridge: If we do not build 10,000 houses a year, the pressure on allocations will increase, and the issues relating to public perception, which were discussed earlier, will become more intense. The greater the supply, the easier it is to meet demand. At the moment, demand is much greater than supply. It is therefore very important that we make social rented housing more available.

Gavin Corbett: I echo those comments. The 2012 target is still meetable, but not building 10,000 houses would be likely to amplify the tensions that many people have mentioned, which no one wants to happen.

Together with my Shelter colleagues in England, we have been discussing with the Scottish Government and the UK Treasury what the additional benefits of increased housing investment would be. A fiscal stimulus package, as it is called, would allow around 4,000 or 5,000 extra homes to be built in Scotland over the next two years, and around 55,000 in England. That would have an impact on meeting housing need, but it would also have a significant impact on stabilising the construction industry, which is having a difficult time just now. It would ensure that apprentices and skills were retained. The package has a lot to commend it, not just for housing but for the economy as a whole.

The Convener: As there are no further questions, I thank this panel of witnesses for attending.

I welcome the witnesses on our second panel. Cathy King is head of housing and regeneration services at the City of Edinburgh Council; John Kerr is the strategy officer at West Dunbartonshire Council; and David Kemp is the homelessness services manager at Scottish Borders Council. I have it on my script to invite you to make opening remarks. The first panel decided to forgo that opportunity and we moved straight to questions. If none of the witnesses feels that they need to make opening remarks, we will go straight to questions.

Mary Mulligan: Good morning. My first question is for Ms King, although I am sure that the others will wish to comment on it. As we heard earlier, Edinburgh received a high grading for its homelessness services. However, you suggest in your paper that the timescale for dealing with homeless households is increasing, as is the amount of time that households spend in temporary accommodation. What particular pressures do you feel are adding to that burden? How would we deal with them?

Cathy King (City of Edinburgh Council): The particular pressure is simply the availability of permanent accommodation. We have a duty to provide homeless people and families with a secure tenancy but, given the supply of social rented housing in the city, we cannot achieve that. In a recent homelessness strategy, we said for the first time that we do not think that we will achieve the 2012 target under those terms.

Mary Mulligan: Is it as straightforward as supply issues? I recognise the service that you have been delivering, but are there other things that you could deliver?

Cathy King: I think so. The service received recognition because we consider a range of options. We do not assume that if a person is homeless, what they need is a council house. The

length of time that people spend in temporary accommodation is particularly concerning because they tend to lose community links and family support, which means that that support has to be provided elsewhere, through housing support or social services. That is quite difficult.

We are seeing an increase in demand. Edinburgh is a growing city—the population is increasing significantly. More recently, we have seen a rise in proceedings for repossession, although that is not yet playing through into actual repossessions. There is an increase in demand, a lack of supply of permanent homes and an increase in the length of time in temporary accommodation.

Mary Mulligan: That brings us back to the supply issues. Will the other panel members say what pressures they feel are on their homeless service at the moment and how they will try to address those?

David Kemp (Scottish Borders Council): I concur with Cathy King. The absolute bottom line is supply issues. There is a lot of potential in bumping up the action that we take on the prevention side of things, but I would have serious doubts about whether everything that we could do there would be enough to make up for the shortfall in permanent accommodation.

John Kerr (West Dunbartonshire Council): It is a familiar story in West Dunbartonshire. There has been an increase in the length of time people are staying in temporary accommodation, which is purely the effect of there not being permanent accommodation for them to move on to. I echo what the other witnesses said. There are things that we could do—the new strategy concurs with that. It is about prevention, increasing choice for people, and having a sustainable solution. However, the supply logjam is definitely an issue at the moment. People are spending longer in temporary accommodation.

11:15

Mary Mulligan: West Dunbartonshire Council states in its written submission that the private rented sector in its area is quite small. You will have heard it said earlier in the discussion that that sector is seen as one of the options by which the supply of accommodation can be increased. Are there opportunities to increase such provision in your area, Mr Kerr, or will such provision always remain an add-on rather than a solution?

John Kerr: There are always opportunities to have dialogue with private landlords in our area. The private rented sector in our area is indeed small and quite self-sufficient. We want to engage in dialogue with private landlords, but the question is whether they need to have a dialogue with us.

At the moment, very few private lets are available in West Dunbartonshire, so the private landlords may not need to engage with us. However, we will keep on trying to engage with them.

David Kemp: There is a relatively large private sector in the Scottish Borders Council area, and it is fair to say that our relationships with the private sector are generally very good and positive. In the recent past, we have started a rent deposit guarantee scheme and we have private sector leasing. Those projects are in their early days, but they are promising. There is much more scope for us to do much more with the private sector, but what I said about the prevention of homelessness should be borne in mind. The extent to which such things will help us achieve the 2012 target remains debatable.

The previous panel raised an issue to do with the private sector. Local authorities cannot discharge their obligation to people who have been found to be homeless and in priority need by putting them into the private sector. If it were possible to create new tenancy agreements or whatever with the private sector, the system would offer much more scope than it currently does.

Mary Mulligan: Various local authorities are represented here, but we still come back to the issue of supply. That seems to be the main issue.

Alasdair Allan: We have discussed supply, but what are the other issues? The legislation on lets to homeless people has been presented as a particular issue. Previous witnesses discussed the rising proportions of allocations in some parts of the country to people who have presented themselves as homeless. How different are the issues in different parts of the country?

Cathy King: In Edinburgh, 60 to 65 per cent of lets in our stock go to priority need homeless people. The figures are also increasing for RSLs in the city. We operate a choice-based letting system that gives priority to homeless people. The figure for housing associations is around 40 per cent and rising. They link into our common housing register and choice-based advertising.

Obviously, the difficulty is that what is happening is reducing the availability of stock for people who want to move for other reasons. Medical need is given a higher priority than homelessness, but we really cannot accommodate people who are in overcrowded accommodation because the number of such people is significant and the types and sizes of homes that we have left are limited. We give priority to tackling extreme overcrowding, but that is for those who lack something like three bed spaces. That is quite a pressure on a growing family.

Those are the implications. To be honest, if people do not have one of those particular needs

to be rehoused but want to relocate to be near a particular school or work, for example, they have had it. Our system cannot cope with that.

David Kemp: Scottish Borders Council is a stock transfer authority, so we do not have our own houses to let. I am not certain what proportion of our local RSL partners' properties goes to homeless people, but it is certainly lower than the figure that Cathy King gave for Edinburgh.

Picking up another point that Cathy King made, I think that a particular issue in the Borders is the geography of the area. Even when we identify a property that is suitable in terms of bricks and mortar, it is even less likely than properties in urban areas to be suitable in terms of geography and access to services.

John Kerr: Last year, the proportion of council lets in West Dunbartonshire going to homeless households was 42 per cent; for RSL lets, the figure stood at roughly 38 per cent. Last year, we published a new homelessness strategy. When developing that, we looked at the question of lets to homeless households. We have agreed to phase in an increase in the number of such lets to 50 per cent across the sector by 2011. The figure was agreed through a range of consultation methods with tenants groups and communities in West Dunbartonshire as a whole. We sought to dispel some of the myths about homeless lets and to change perceptions about the type of individuals who become homeless and their reasons for becoming homeless. As a result, we got full support from tenants groups and the tenants movement in West Dunbartonshire. The council and RSLs will phase in the increase over the next couple of years, so that we reach the 50 per cent target by 2011.

Alasdair Allan: I was interested to hear you say that you managed to gain confidence in the process by speaking to tenants groups. Nonetheless, there are negative perceptions of the current process and what some people consider to be its inequities, if they are stuck in a queue. You mentioned the issue of supply, but what can be done to overcome the perception of unfairness in the process of allocation? I am sure that many people come to you about that issue.

Cathy King: We have attempted to address it by moving to a choice-based letting system that is absolutely transparent. Under that system, we advertise every home that becomes vacant. RSL partners have joined recently, so nearly 90 per cent of all social rented homes in Edinburgh are advertised.

People then bid for homes. The currency with which they bid varies. If they are in a social rented tenancy at the moment, it is the length of their tenancy. If they are in a private tenancy or are

homeless, it is the length of time since they registered with the system, but homeless people have priority. That makes the system transparent, but it does not get us away entirely from the myth that we keep the good keys in our desk drawer and give them to our pals. That is a difficulty, but there will always be a perception that another group is getting an advantageous bite of the cherry.

We are dealing with a basic human need through a rationing system, in circumstances in which demand far outstrips supply. We get more than 140 bids for every property that becomes available—for every property that we let, 144 people are disappointed. Some of them—though not all—think that council officers pulled a flanker on them in some way. There is room for that, even with a transparent system. It is difficult to address the issue.

The Convener: The system is transparent, but do people who are homeless have access to those houses?

Cathy King: Yes. They have priority. We have a dual trump system. Medical need has gold priority, which is the highest, and people who are homeless have silver priority, which is next. They leapfrog anyone who just wants to move—I do not intend to demean this—to be nearer work, school or a relative.

The Convener: So we are giving false expectation to people who are overcrowded or in inappropriate housing—we are pretending that we are giving them an opportunity to bid.

Cathy King: I do not think that we are. The system works only if people are clear about what housing is available to them. Our traditional waiting list system, which involved their filling in a form and our writing to them some time later to tell them that a house was available, gave a false expectation. This is a subject in itself—I could speak on it for hours, but I do not want to take up the committee's time.

The Convener: You mentioned increasing the volume of houses available. If we built houses and met the targets, how would that help people who are overcrowded or in inappropriate housing?

Cathy King: That would help those people because supply is the major issue. The city does not have many houses with more than two bedrooms and we have very few that have more than three or four bedrooms.

The affordable housing policy gives us some control over the size of the homes that are built. The difficulty is that the bigger the home is, the greater the subsidy needed to make it affordable. We hope that, through working with RSL partners, we can build bigger homes. People's needs are

matched to the appropriate size of home. For example, a single person who had been registered for a long period would not receive a five-apartment home. We match the family's needs to the size of the home for which they can bid.

The Convener: The legislative pressure is to tackle homelessness by 2012 and smaller homes are needed to fulfil the statutory responsibility. However, what matters is not just the number of houses. How many houses can you obtain to deal with inappropriate housing and overcrowding? What is the proportion of such houses? Setting the cost aside, you are not under the same pressure to build those homes.

Cathy King: The position is determined by the housing needs survey, which is under way throughout the Lothians. After that is complete, we will have hard facts.

Every overcrowded family that moves into an appropriately sized home frees up a council house for somebody who might be homeless. The bulk of homeless people are small families—single people or parents with one or two kids—but I would not suggest that the thrust is towards building only small houses. We can be smarter than that. If we are clear about the housing need, we can build larger houses, which will have a trickle-down effect. When overcrowded people move into appropriate housing, that makes another property available.

The Convener: Is that thinking reflected in your current strategy, or will you become smarter only in the future?

Cathy King: What I described is the basis of our housing needs survey. Needs are complex and varied, as members can imagine, but the housing needs analysis will consider that.

David McLetchie: Will you outline the private sector leasing scheme that the City of Edinburgh Council runs, to which the previous panel referred? I am particularly interested in what the council pays landlords who are part of the scheme, relative to what tenants are charged and to the maximum rent that is eligible for housing benefit. If you gave us an idea of the economics, that would be useful.

Cathy King: It is unfortunate that I do not have detailed information with me. However, I will outline the scheme and provide the details shortly after the meeting.

The scheme has been a huge success for us—it has provided 1,500 homes in three years. Even if I were given a bag of money today, I could not deliver that number by new build. I realise that Edinburgh is unique in having more homes in the private rented sector than in the social rented sector. The turnover of private rented homes is

such that we probably have 10 times as many lets in that sector.

We tendered for a contract to improve access to the private rented sector, which Orchard and Shipman won. Under our arrangement with the company, it liaises with landlords. The council has benefited from a significant increase in the buy-to-let market's size. The company contacts our homelessness services when properties are available. We place someone in an available property and that person has a tenancy with the council. In essence, we lease the property and sublet it to a tenant.

Under the current contract, which is being reviewed, rents are slightly higher—probably about £10 or £20 a month higher—than the market rent. However, that has not always been the case. The market rent in Edinburgh is dropping a bit.

All the rent is eligible for housing benefit, which I suppose is—crudely—a UK Treasury subsidy to the housing system in Edinburgh.

I want to correct something that I heard at the end of the previous discussion. About 40 per cent of people in our private sector leasing scheme are in work. Colleagues from Shelter and the SCSH felt that the cost of the rent is a major issue. However, although it is an issue, it is not a barrier to people moving into fairly low-paid jobs. Housing benefit will continue to meet the bulk of that cost.

11:30

David McLetchie: I am interested in your statement that all the rent is eligible for housing benefit. The previous panel suggested that there is a huge disparity between the rents that are charged and what would otherwise be charged in the private sector. However, that is not your experience. You are leasing houses from the private sector and effectively subletting them to tenants at rents that are all eligible for housing benefit. Is that correct?

Cathy King: That is the case. In designing our scheme, we were careful to ensure that it was housing benefit eligible, and it is.

David McLetchie: So, the evidence to the contrary, which was given by the previous panel, is wrong.

Cathy King: Specifically in relation to our scheme, but perhaps not in relation to others.

David McLetchie: Yes. The point that I am trying to clarify is that you have managed to secure, through your very successful scheme, 1,500 homes in three years, which you are effectively subletting to homeless people in the city, a large number of whom are in employment, at rents that are all eligible for housing benefit.

Cathy King: That is right, although I am not sure of the impact of welfare reform.

David Kemp: A few minutes ago, I referred to Scottish Borders Council having a private sector leasing scheme. We use Orchard and Shipman as well. The contract is very similar—close to identical, I think. I do not have exact figures to hand, but I would be happy to provide those for the committee after the meeting. We have a housing benefit shortfall on our private sector leasing properties. The level of the shortfall is much smaller for smaller properties, but it rises for larger properties.

It is early days, as our scheme has been running only for a year. It is a small scheme: we have a commitment to take on 90 properties over three years, and we have taken on 45 so far. We will undertake a proper evaluation of the scheme probably later this year. The first indications are that the scheme meets the needs of certain people. In that sense, it is another valuable and useful tool in the toolbox.

The Convener: Patricia Ferguson has a supplementary question on that issue.

Patricia Ferguson: It is just a small point and, in a sense, a side issue. Does any of these properties have factoring charges attached to it? If so, how are those paid?

Cathy King: I am not aware of any of the properties that we are involved with having factoring charges. However, some must, and I am not sure what happens about that. Factoring charges are quite unusual in Edinburgh—there is not a huge factoring sector except for new-build properties.

David Kemp: I would say the same.

David McLetchie: I would like to pursue with Cathy King the issue of the City of Edinburgh Council's need for affordable housing. The strategy has identified opportunities to provide up to 7,836 affordable homes, and it would be very nice if we could produce all of those. To what extent has the council benefited from the £100 million that has been accelerated in the affordable housing investment programme? How much of that money has been allocated to Edinburgh, given the scale of the need?

I am also interested in the construction of new affordable housing. In your experience, what is the approximate timescale from land acquisition, through planning, design, allocation of funding and so on, to the point at which the bulldozers are out and the building starts? What is the timescale for getting a house up and available?

Cathy King: I will take the first question first, which was about the additional funding that has been brought forward. As context, I point out that

Edinburgh and Glasgow are different from the rest of Scotland, in that we get money directly from the Scottish Government and we manage the development funding to RSLs. Other local authorities do not do that. We were advised recently that £1.8 million is available for investment in the Craigmillar area, which has an urban regeneration company. That is the extent to which we have benefited from the £100,000 to date. We are ever hopeful, though.

David McLetchie: Did you mean £100 million?

Cathy King: Sorry—yes.

David McLetchie: You have had £1.8 million of the £100 million.

Cathy King: Yes.

Your second question was about the timescale. It probably takes four or five years to move from land acquisition to homes being available.

David McLetchie: The actual construction only takes, what, a year?

Cathy King: It is difficult to say. At the moment, it takes longer than that. The process of negotiating section 75 agreements under the affordable housing planning policy can take a considerable time. Even when we have done that, there is work to be done on the infrastructure, and housing for the open market is often built first. The affordable housing is often the last part of a development to be built—it comes at the tail end of construction.

I think we mentioned in our submission that there has been a significant fall-off in house completions in the city. The staggering lack of activity in house building in the city will impact on what we can get through the affordable housing planning policy.

David McLetchie: Realistically, is it fair to say that the accelerated investment is useful in terms of acquiring land and building up a land bank for future social housing but that it will be four or five years before we get to the stage of having houses and flats for people to occupy?

Cathy King: It is certainly a longer-term project. Having said that, things can be accelerated at certain times and in certain areas. For example, we have a proposal for some land that we own, and we hope to move quite quickly to build on that. We hope that homes will be available there within two or three years. However, that project does not involve section 75 agreements, which are an issue for private developers, and it requires considerable streamlining of planning policy.

David McLetchie: So, even when you own the land, the process takes two to three years, and it takes four to five years when you acquire

properties through a developer under a section 75 agreement.

Cathy King: Yes.

David McLetchie: Thank you.

Jim Tolson: I am particularly interested in local government's perspective on a couple of points that were made by the previous panel of witnesses, who represented housing associations and the voluntary sector. The first is about the removal of ring fencing from the supporting people fund. As we heard, many people with tenancies would find it difficult to maintain their tenancy without support. If the tenancy is lost, that will cause problems further down the line. I am interested in your comments on the effects that the removal of ring fencing and the introduction of single outcome agreements have had in your areas.

The second point I ask the panel to consider is the strong point that was made at the end of the previous panel's remarks about the right-to-buy scheme. I and a number of other members would strongly agree that severe changes are required to that scheme to protect the housing stock not just for new tenants but for existing tenants. In addition, we have the separate issue of new build. I would be interested to hear from each of you whether your local authorities believe that the repeal of the right-to-buy legislation, or severe changes to it, would help to overcome homelessness in your areas.

Cathy King: On the removal of ring fencing from the supporting people fund, I think that we could demonstrate in Edinburgh that the fund's value, especially in preventing homelessness, was well established. I suppose we were fortunate in that the programme was valued to the extent that the vast bulk of the resources that existed before ring fencing was removed remain in supporting people and housing support services.

The pressures for us, as for most local authorities, were around the interface between housing support and social care, and issues around delayed discharge, the prevention of homelessness and the resettlement of people who have been through the homeless route. Those were the key priorities. However, investment in housing support was sustained in Edinburgh.

David Kemp: We are still in a fluid situation in terms of where the supporting people money lands up. The change has been a mixed blessing, in that it has allowed us to ensure better targeting of the money that we are given but, from the point of view of housing homeless people, there is a concern—to repeat what Mr Aldridge said earlier—that the lower level of housing support might come under increasing pressure. I hope that things do not turn out like that but, like every other local

authority, Scottish Borders Council has so many competing priorities that that might be a pressure in future.

Another point is that, bearing in mind the huge pressures of supply and access to affordable housing, if we are to achieve the 2012 target, preventing homelessness and sustaining people in their homes will be even more important than ever. We all have a lot of work to do in developing that area. That makes it even more important that we secure the resources that we need to provide people with the necessary housing support.

John Kerr: Like other local authorities, West Dunbartonshire Council is facing pressures, but we are probably in a position of strength in that—to pick up on the previous panel's discussion on light-touch housing support—our housing support service is part of the homelessness team so it has not been affected by the removal of ring fencing. Our funding for housing support is still secure as part of overall homelessness funding. That funding will continue and, if anything, be added to because our homeless strategy development outlines prevention of homelessness as a key function of a local authority. We want to provide as much intensive support as possible. Although such support is referred to as a light-touch approach, that light touch can make all the difference in setting up someone for successful independent living.

The Convener: Just for clarity, what does Cathy King mean by "the vast bulk"? Does she mean that funding levels are at a standstill, or lower or greater?

Cathy King: Sorry, what did I say about the vast bulk?

The Convener: You said that you continue to have the vast bulk of the resources that were available to you last year under the supporting people fund. Does that mean that the funding is at a standstill or that it has been cut only slightly?

Cathy King: It is probably not at a standstill. To explain the context, as David Kemp said, the removal of the ring fencing and of the prescribed tasks for supporting people has allowed us to use the money more effectively and inventively. We have been able to begin to look at economies in delivery across our support services, including traditional social care services such as home-help services and housing support. We have made some economies that have been reinvested in support services. We have probably had a slight reduction in funding but, with those on-going efficiencies, that has not come at the cost of services. We have recently commissioned our housing support services and reduced the cost of the contracts, but that money has been reinvested in additional capacity. The funding is broadly the

same, but I suppose that I am nervous about saying that it is exactly the same.

The Convener: I think that your answer indicates the type of pressure that is on the budgets. It remains to be seen what quality of service is delivered for that reduced investment.

Does anyone want to respond to Jim Tolson's second question?

Cathy King: Again, the issue is complex. I think that we have seen a significant fall-off in the number of right-to-buy applications since the modernised right to buy was introduced. The valuations under the modernised right to buy have provided us with a significant capital gain. We have recently seen a further fall-off due to the changing credit situation, which is beginning to cause us some concern for our capital budget.

Reference has been made to pressured area status. The City of Edinburgh Council considered applying for pressured area status but opted not to do so because we expected that the requirement to advertise the fact that we had applied for pressured area status would result in a peak—a significant increase—in applications under the right to buy. Although not all of those would have gone through, some of them might have done. On balance, I think that the impact of having pressured area status and the reduced right to buy would not have been very significant for us.

11:45

David Kemp: As Scottish Borders Council is a stock transfer authority I am not sure that it is appropriate for me to say very much on that point, apart from commenting that anything at all that could be done to protect the very limited supply of affordable housing would be a good thing.

John Kerr: We in West Dunbartonshire would welcome a reform of the right to buy, although I emphasise Cathy King's point about a potential vast increase in demand for right-to-buy properties until the date of repeal.

Jim Tolson: It is interesting to note that there is support—some of it strong—among local authorities, as there was among the voluntary sector and the housing association sector, for changes to be made. The people around Scotland with whom I have discussed the housing situation feel that such changes would be a key driver for protecting limited stock—as Mr Kemp rightly described it—and for giving people more options.

The Convener: I am sure that Mr Tolson will have the opportunity at some future date to review the evidence in a cold light.

John Wilson: I wish to explore the arrangements that are in place in the City of

Edinburgh Council and Scottish Borders Council regarding the private rented sector and the agreements that have been reached.

I might have picked you up wrongly, Ms King, but I think that you said that the private sector rents that you buy into, or that you work with through an agency agreement, are slightly higher than the market rent. I think that you said that they are 10 per cent higher. What do you mean by "the market rent"? Can you compare that with the rent that is currently charged by the City of Edinburgh Council for its own stock?

Cathy King: I think that I said that they are about £10 a month more. That is because, when we entered the contract, we considered the broad market rent. I do not mean the housing benefit market rent; I mean that we spoke to estate agents and did research across the city to find out the actual going rate for private rented accommodation. We negotiated and signed the contract with Orchard and Shipman, and we are tied into that for five years. Most recently, I have seen a slight drop in private sector rents in Edinburgh. Because of that, and because of the fact that we are still on an old contract, the rents are a wee bit higher. That is where the discrepancy comes from. It is not a function of private sector leasing per se; it is more a function of how the market has been operating.

I forget what the second part of the question was.

John Wilson: The second part was about how those rents compare with rents for the council's own stock.

Cathy King: Part of the issue is that although the City of Edinburgh Council's rents are among the highest for local authority housing, rents in general are very high in Edinburgh, so the council's rents are still about a quarter of what we might expect in the private rented sector. That is the difficulty for us.

John Wilson: I ask Mr Kemp the same question. Given that Scottish Borders Council disposed of its housing stock, I seek a comparison with the registered social landlords in the Borders.

David Kemp: I am not certain of the figures, but my feeling is that the PSL rents are still slightly higher than the RSL rents. However, I am happy to check that and provide you with the figures.

John Wilson: Ms King indicated that 40 per cent of people in the City of Edinburgh who went to the private rented sector through the agency agreement were in work. That means that 60 per cent of those people were not in work. Has the City of Edinburgh Council identified any problems with the payment of rent by the 40 per cent who

are in work—or any of the 60 per cent who might find work?

Cathy King: First, I will set that in context. About 40 per cent of those people are in work, whereas about 10 per cent of people in our council-owned temporary accommodation are in work. To some extent, a quite different group of people are homeless, and it is not the most chaotic who are in the private sector leasing scheme. In part, that is choice; in part, it is just how it has shaped up.

On the difficulties for people who are moving into work, we have found that people have to move into fairly well-paid jobs to come off housing benefit if they are in the private sector leasing scheme. I am not defending that scheme or its rents—which are high by any account—but in our experience it has not proved an absolute barrier to work. For people who are in work—perhaps part-time work, as there are a number of part-time jobs in the service industry in the city—that does not impact on their ability to pay the rent, and it probably does not impact that heavily on their housing benefit.

The value of the private sector leasing scheme is that when people move into permanent, well-paid employment, they enter the housing market with a reference from a private landlord. That allows them to access mainstream private rented housing, as we have outlined in our paper. A higher number of people move into the real private sector from the private sector leasing scheme than from any other tenure.

John Wilson: You stated that the people who are offered the private rented sector as an option are less chaotic than those who find themselves in temporary accommodation. Can you relate that statement to the homelessness policies of the City of Edinburgh Council? You deal with people who are homeless and who have presented as homeless, but you indicated that the people who are allocated the private sector option have less chaotic lifestyles.

Cathy King: In any local authority, a mix of people become homeless. Some people become serially homeless—they have several episodes of homelessness. Other people become homeless for a range of reasons, such as relationship breakdown or a break in the chain of buying a house.

When we assess people as homeless, we also try to assess their support needs. If people are particularly chaotic—we have been quite successful in Edinburgh in addressing rough sleeping, which is the most chaotic end of homelessness—we put them where we are confident that they can cope and receive support. Although some will go into the private rented

sector, it is easier to provide that support and monitoring if they are in our own accommodation—we have a range of supported temporary accommodation—or in RSL accommodation in the city. If someone needs supported accommodation they are more likely to go into one of those facilities than straight into the private rented sector. Visiting support can be and is supplied in the private rented sector, but a more supportive environment exists in other tenures.

David Kemp: Another aspect is that people who have greater support needs will be designated as being in priority need. They are then entitled to permanent accommodation, and the private sector leasing scheme will, therefore, be suitable for them only for a short period of time. That therefore raises a question mark about that sector's suitability for such people in relation to dealing with any issues that they have. Sorry—I am not being particularly eloquent. What I am getting at is that the private sector leasing scheme will take on people who are perhaps not in priority need, for example. A greater proportion of the people who are in priority need will have to go into permanent housing. I did not describe that very well—I hope that it makes sense.

John Wilson: We will read it in the *Official Report*.

Cathy King indicated that the City of Edinburgh Council's allocation policy was to let 65 per cent of its available housing to homeless clients, and that the figure for RSLs is around 40 per cent. Can you indicate whether you would be in favour of a common housing register?

I am interested in the Lothians-wide research that is being undertaken. Would it be useful to have a common housing register not only in Edinburgh, but throughout the Lothians?

Cathy King: First, it is not policy that 60 per cent of our lets go to homeless people through the priority system; that is just how the outcome shapes up. The figure is about 60 per cent for the council, and around 40 per cent—and increasing—for RSLs. We have a common housing register, which has been crucial in freeing up access to RSL accommodation in particular for homeless people. It has made it much simpler for anybody who is looking for a house: they fill in one form and can access 100 per cent of the social rented housing in the city. I am in favour of that.

We have seen the first cut of the Lothians-wide housing needs assessment that is under way. It is something that we do periodically—every five years, I think.

You ask whether a Lothians-wide common housing register and Lothians-wide access would be good. It has struck me that in the owner-occupied sector and the private rented sector a

person can move across local authority boundaries, but if they want social rented sector housing it is difficult to do that. There has been an exodus of families from Edinburgh to other areas in the Lothians where they can buy homes with gardens, but in the social rented sector people are confined to a local authority area.

The Convener: We have one final, brief question.

Bob Doris: I am interested in Cathy King's comments about crossing local authority boundaries. We heard earlier that there was much resentment about people without a local connection coming into communities, so there may be a conflict. However, that is not the subject of the quick question that I was going to ask.

My very quick question is on the PSL scheme. If the five-year contract is running to capacity, what happens to people in those private lets after five years? Are we storing up problems?

Cathy King: We are not storing up problems. We keep the situation under review. The five-year contract is between ourselves and Orchard and Shipman—people go into the flats on shorter contracts. Recognising that we have not yet discharged our homelessness duty, we try to work with people to get them permanent accommodation. Some people will stay in the accommodation for two or three years, which helps to stabilise their family. The five-year contract is not for the individual in the house. There is a rolling process: when a property comes on to the private sector leasing market, we review it, and there will be occasions when landlords want to break the contract before the five years are up. We work to get permanent housing for the people in such accommodation.

Bob Doris: That is good to hear. However, the scheme has been described as a tool that you have in the toolbox to tackle homelessness and provide home support for tenancies. If the scheme comes to an end, you will suddenly have 1,500 fewer tools in your toolbox. I would be wary of that. I hope that you are successful in your negotiations, because it would be damaging if the scheme did not continue.

Cathy King: A particular threat is the suggestion that banks will be less likely to lend on buy-to-let properties, which would have an impact on our PSL scheme. If that happened suddenly, it would be a major issue for us. You are right.

Bob Doris: That is interesting, thanks.

The Convener: I said that there would be one final, brief question, but committee members have reminded me that they are in charge. Patricia Ferguson will ask the very last question.

Patricia Ferguson: I have a request that relates to my question about factoring. It would be helpful if Mr Kemp and Ms King could give the committee information on any factored properties and how factoring charges impact on the overall situation.

The Convener: I thank the witnesses for their attendance; it has been a helpful evidence session.

Scottish Public Services Ombudsman Annual Report

11:59

The Convener: I move us quickly on to agenda item 3—we can just about still say good morning. The committee will now take evidence on the 2007-08 annual report and the work of the Scottish Public Services Ombudsman. We apologise for running behind schedule and are aware of the time pressure that Professor Brown is under.

I welcome the witnesses: Professor Alice Brown; Eric Drake, the director of investigations; and David Robb, director of policy and development. I give you the opportunity to make introductory remarks, on the basis that we are all aware of the time constraints.

12:00

Professor Alice Brown (Scottish Public Services Ombudsman): I will keep my remarks brief. The committee has already received a copy of the annual report and my briefing paper, which covers the key points.

We are pleased to have the opportunity to appear before the committee to discuss our annual report and receive feedback. It is particularly important for me, as this is my last appearance before the committee in my capacity as ombudsman. As you know, I demit office at the end of March this year, after six and a half years in post. It has been a tremendous honour to be the first Scottish Public Services Ombudsman, and I would like publicly to thank my staff for all that they have done to support me and to develop and improve the service that we provide.

Much has been achieved since the office was created in 2002. We have been successful in delivering the Parliament's aspiration for a one-stop shop and a modern complaints-handling body. I have said in presentations to Parliament and elsewhere that Scotland and Scotland's parliamentarians have very much led the way. Our scheme is a model from which others in the UK and across the world have learned, as was recognised by the Cabinet Secretary for Justice at the annual meeting of the British and Irish Ombudsman Association in 2008.

There have been major changes during my time in office, first with the merger of the predecessor ombudsmen's offices and the on-going reviews of office-holders. There has been an Audit Scotland review, the Finance Committee inquiry, the Crerar review, the Sinclair complaints handling action group's work and now the Parliament's own review

of Scottish Parliamentary Corporate Body-supported bodies.

Our approach has been consistent, in that we have supported the extension of the one-stop shop philosophy and the aim to build as simple and accessible a scheme as possible. In our submissions, we have also suggested key principles on which the future design of the governance framework of Scotland should be based. We have also explored the potential for greater sharing of services between office-holders.

Looking to the future, I believe that more can be done, both in continuing to improve our service and in responding to the new challenges and the potential extension of our role following the Parliament's review.

If I have any regret, it is perhaps that, having established the ombudsman's office, the Parliament has not engaged with us as positively and effectively as it could have. That is understandable, given that there were many demands on the time of members of the new Parliament. However, ever since Sweden appointed the first ombudsman in 1809—200 years ago—ombudsmen have been an important tool for Parliaments seeking to hold Governments of the day to account. There is scope for MSPs to see the office as a resource and to use the evidence from our investigations to do that.

I know that the committee heard evidence earlier on the important issue of homelessness. That reminds me that one of the challenges for my successor will be to continue to make the office more accessible to those who encounter major problems in their lives and depend most on public services. I wish my successor well in taking that and other issues forward when she or he takes office.

The Convener: Three of the members of this committee will be involved in the discussions about choosing your successor, who will, I am sure, have quite a task in following your example.

The committee pursued the issue of housing earlier. We noticed that your briefing paper refers to a significant number of inquiries, premature complaints and concerns about social landlords, which indicates that there is a wee problem. Did the housing allocations policy feature highly in the inquiries?

Professor Brown: A percentage of the complaints that we receive will concern that policy—I can send the exact figure to the committee. In fact, we can break down any of the headings in our briefing paper if that would help.

We get a range of complaints, the largest category of which tends to be repairs. People often come to us too early with those complaints,

partly because of frustration. They will have raised the issue with the body that is responsible for carrying out the repair but the repair will not have been done, and they will come to us because they think that we might be able to expedite matters. In those cases, rather than open a complaints form, we will telephone the body concerned to say that someone has approached us with a concern and ask what is happening with the repair and whether something can be done about it.

That aspect of our work does not necessarily register as a complaint, and a full investigation would not necessarily come to Parliament. However, if someone contacts our office, we do what we can there and then to sort the problem if a telephone call from our office might unplug a blockage in the system.

Alasdair Allan: Can you elaborate on your concern that Parliament has not fully used the ombudsman's office during your term?

Professor Brown: The office has a wide jurisdiction, and we cover all sorts of complaints about public services and policy, such as health, education, transport and so on. We have the opportunity to meet the committee once a year, and we value that. Each time we have visited the committee, it has brought up different issues depending on points that are of specific interest at the time. However, it is frustrating that that is the main opportunity to engage with parliamentary committees on issues that come out of the reports. Given the range of the office's jurisdiction, our annual report is limited to summarising and generalising, which means that members cannot get at the richness of some of the issues.

For example, we have appeared before Parliament's health committees in the past, but we would like the opportunity to do that more regularly to discuss issues such as continuing care. Another example of the issues that we hear about is the difference in services that people receive once they move from being a child to an adult or from being under 65 to over 65. Big policy issues often emerge from individual complaints, and it would be useful to share information. That is just one illustration. Another is planning: we were slightly surprised not to be called when Parliament was looking at the planning system, given that it dominates much of our work.

The situation is understandable, given the time pressures on parliamentarians in a relatively new Parliament. We will do what we can to make our material more accessible to the Parliament. Members are probably aware that we hold regular events in the Parliament for MSP staff and officials, and we produce a monthly commentary that summarises the materials of all our investigations, because a lot comes up each month. One MSP suggested that we target those

commentaries on a more regional basis, and we will try to follow up that suggestion so that each MSP gets a clearer focus on what is happening in their area in local government, health and so on. We can do things to help, too.

I will hand over to my successor a hope that he or she will be able to engage with the Parliament as effectively as possible. Remember that our office is a creature of the Parliament and that, with the committees, we are part of the mechanism for holding Government to account, whatever political party it might be. We are a resource, and we have at our disposal lots of information that members might find helpful. Members mainly get our investigation reports, but we carry out a range of other activities. We are looking at ways in which we could summarise that work. At the moment, the legislation places us under confidentiality restrictions, and we welcome the review of office-holders because we hope that it will mean a review of the legislation. That is long overdue, and it might close some of the gaps and reduce some of the anomalies.

That was a long answer, but I hope I have illustrated some of our concerns. I could give you illustrations from right across the policy framework. If our role is extended further following the Parliament's review, there will be even more need to engage with Parliament on the issues that arise.

The Convener: It would be great if you could add to your legacy and bring some of that about. However, in the past, we have issued calls for evidence on, for example, planning. It might be that a small organisation does not have the capacity, but I do not recall receiving a submission on planning, or other areas, from your office. In saying that, I support more proactive engagement because the office has something to bring to the table in our evidence taking.

Mary Mulligan: Professor Brown, will you say a little about how you have interacted with the public and us to promote understanding of your role? You mentioned the fact that Sweden has had ombudsman positions for 200 years, but we have not had them for very long. I get the feeling that there are still some misconceptions as to what you are about.

Professor Brown: That is an excellent question. When the Parliament created the one-stop shop, one of its aims and aspirations was to increase understanding of the role and of the things that ombudsmen can and cannot do. The latter is just as important because people often think that we can overturn decisions—say, planning decisions—although we cannot if the decision has been reached appropriately.

There is a challenge and a tension: resources go into raising public awareness, but the main

resource must be used in handling the complaints that come to the office. We raise awareness in a number of ways. We produce leaflets that are, we hope, as understandable to the wider public as they can be, and we produce specifically targeted leaflets on, for example, housing issues. We have a housing newsletter and special leaflets about how to raise complaints about planning and so forth. In addition, we must engage effectively with other organisations that link most directly with the public. That is important: there will never be huge resources in an ombudsman's office, so we must work with others.

The key area is in front-line staff delivering the service in the first instance. Parliament was aware that that is important and wrote into the legislation that it should be written into the documentation of service deliverers that people have the right to approach the ombudsman. From the start, the Parliament ensured that the ombudsman is on the agenda and that information about us is given out. We ensure that front-line staff are aware of our role so that they can convey the right messages to others. The promotion operates at lots of different levels in an organisation.

We try to work effectively with advocacy groups. The committee heard from Shelter earlier, and we produced a leaflet with Shelter that focused specifically on housing options. People use Shelter, Citizens Advice Scotland and Consumer Focus—I spoke at Consumer Focus yesterday—and those organisations are much more likely to interact with a wide range of members of the public. If the organisations are well aware of our office, they can pass on information. We have to operate at lots of different levels and through different media—printed material, websites and so on—to reach different groups. It is a huge challenge for a relatively small office with relatively modest resources. The convener referred to resource restrictions, and the main restriction for members of staff in responding to all the different things that the Parliament is engaged in is time. We have to prioritise the work that we can respond to most directly.

I hope that I have answered your question. There are lots of different ways in which we try to raise awareness of our role, but a lot could still be done. We look to good practice elsewhere for possible mechanisms, such as having roadshows in different parts of the country. Awareness raising is a vital part of our work.

People are often disappointed that we cannot do something for them because the legislation does not allow us to do it. That is another story, although we want to reduce the number of anomalies in the legislation, which can often be ambiguous about whether we can do something.

All of that work is on-going. The word ombudsman does not trip off the tongue, but we now have a brand name that is recognised. We are seeing evidence of that because of the media attention on our work.

Mary Mulligan: You have kind of answered my next question, which was going to be about what the ombudsman will do in the future. You cannot decide people's policy for them, but have you considered the consultations that develop policy?

Professor Brown: Yes. We often get complaints about that, especially when a consultation is on a highly contentious issue such as the closure of a school or hospital. We explain to people that we may not be able to do anything about the eventual decision, as it is made by democratically elected members, but that we have a role in the process. One of the key things that we ask our investigators to do when they receive a case is to ask what should have happened—in other words, what procedures should have taken place.

Consultation processes are usually written into lots of different aspects of policy, and one of our questions is, "Were they followed or not?" There is a distinction between a body's statutory duty and good practice. We look for good practice and any areas in which bodies have to do certain things. That is where members of the public might feel that we are getting into judgments about how good a consultation has been—that is definitely an area for us because we cannot look at the specific decision that is made. We get quite a number of complaints about consultation in different policy areas; it is a growing trend.

12:15

Mary Mulligan: When you investigate the processes of bodies, do they respond appropriately and take on board that there might have been problems with a consultation, or do parliamentarians need to consider whether to guide consultation practice?

Professor Brown: I cannot generalise because in some cases people could do more but in others they do a lot and it is just that a member of the public does not like their decision. There is nothing that we can do in that circumstance.

I am not aware whether we can learn more general lessons from consultation processes per se, other than those learned already by public bodies about how to go about consultation. They are getting better at doing that; indeed, they sometimes employ independent consultants, when appropriate, to conduct a consultation to assure members of the public that it is an independent exercise that is not skewed in any way by officials. We look for all such examples of good practice.

We engage with public bodies regularly and feed back to their liaison officers on such issues, and they are discussed when people who work on the front line meet people in my office to discuss cases. You will see in our annual report that we now issue annual letters to chief executives. We look for any trends and issues on which we might want to engage with a particular authority.

Jim Tolson: I welcome some of the feedback and information that you have given to elected members, from leaflets to one-to-one meetings. It has helped me—and I am sure that it has helped other members—to advise more properly and adequately constituents who have issues when they mention the ombudsman in conversation.

In the local government part of your annual report, you say that a significant number of complaints are from people who come to you prematurely. With the volume of your work, I do not know sometimes how you manage to get through to the nitty-gritty. You say in the report that 69 per cent of complaints in the housing association sector were premature, which is significant. What further action can you and your successor take to help reduce that number of premature complaints?

A second area in which you have been proactive and helpful in your tenure is the power of the apology, which you touch on in the health section of the annual report. It has been a tremendous help to many people. Is that power also available in the other sectors that you deal with, such as housing and local authorities? If so, what could be done to make that a more proactive option for some of the organisations to use rather than get themselves into great difficulties about resolution?

Professor Brown: Thank you for those questions about two key areas that we focused on and which are on-going issues for us. You are right to point out the high figures of premature complaints in some areas, which, as we say in our report, vary considerably both across and within councils. There are different percentages in different areas of service, but the problem is particularly acute in housing. That is probably because people want a quick response to an immediate problem, and they jump to us too early in the hope that we can do something for them quickly—and often we can—without the matter going any further.

We conducted joint research with the Chartered Institute of Housing to understand what was going on because we had a general feeling that there had been a lot of improvement to the health service complaint-handling system, particularly the part that Eric Drake was involved with when big changes were made to the service in 2005. Many of the lessons that were learned could be transferred to other sectors. The health service

has one clear and unambiguous complaints process, whereas local authorities have a range of processes. We have done quite a lot of work with authorities on that.

The research pointed out interesting factors. What matters is not just the complaints process but training front-line staff to recognise when a problem has arisen and to deal with it before it turns into a complaint. Local authorities record and learn from complaints in lots of different ways.

We are finding basic ways in which bodies could do an awful lot more. After all, the ombudsman should be the last resort when all other options have been exhausted. It is much more proportionate, effective and satisfying for the public if, when a problem arises, it is dealt with well in the first instance and does not escalate. Too many problems escalate.

We did a piece of research that highlighted some issues, and a number of factors are involved. We have engaged with authorities whose complaint numbers are higher by asking them to examine their complaints processes and how they support front-line staff. We are considering whether we can do more to work with those authorities to reduce the number of complaints and ensure that complaints are channelled properly.

When a case is in the press, we always receive phone calls for help from people who have a similar case. We give advice and send such people lots of information about how to proceed. However, there should not be the discrepancies and differences that exist. That is continuing work and a task to hand over to my successor.

I have talked about apology to different parliamentary committees more times than I can remember, but I feel strongly about the issue, which applies not just to the health sector but across the board. As members know, one of the biggest areas of complaint is local government. When visiting all the local authority chief executives, I have tried to get them on board in their approach to apologising when something has gone wrong. A shift in attitude, practice and culture has taken place, but much more could be done. People still resist apologising, because their perception is that if they do so they will immediately face litigation.

We can provide more information, and we have been encouraging MSPs to propose a member's bill on the subject. Scotland is excluded from the provision of the UK Compensation Act 2006, which allows public bodies to apologise without admitting liability. That provision does not apply to Northern Ireland or Scotland, but there is no good reason why not. It is anomalous that Scotland does not provide such protection, and the gap

could be plugged by a one-page act—an example of good practice is that British Columbia plugged such a gap with a short and directed piece of legislation. I hope that Scotland will pass such legislation. It is obvious that that will not happen in my term of office, but I hope that it will happen soon.

David McLetchie: We have discussed the engagement of the ombudsman's office in planning law reform, and the committee considered delegated legislation on it two weeks ago. The policy thrust of planning reform is to increase the number of permitted developments and to increase the number of developments on which decisions are likely to be taken by a council officer rather than a planning committee. Given that direction of travel, is it fair to say that the incidence of complaints to your office is likely to increase? Such complaints might not be well founded but might be born of frustration about the delegation of such decision making.

Professor Brown: That is a very good question. I spoke on that subject at a Planning Aid for Scotland summit that was held towards the end of last year. We support a lot of the reforms that are being proposed for planning, but there might be greater scope for people to complain about different aspects of the process and the point at which discretion is exercised. We will monitor the knock-on impact of the reforms, and I hope that my successor will bring the results back to the committee.

The legislative changes are not exactly the same, but I know that my counterpart, the Local Government Ombudsman in England, has already argued for more resources because he anticipates a substantial increase in complaints on planning issues.

As David McLetchie said, such complaints are not necessarily likely to be upheld—although I would not want to prejudge them—but there is the potential for other things to be challenged, depending on how a complaint is categorised. If people do not get the opportunity to be heard and their complaint is decided by an official, there may be frustration and discontent.

Most of the planning cases that we see are not the major cases that hit the headlines—although we see one or two of them—but the day-to-day things that people get very upset and emotional about. Planning is an emotive topic, particularly where people wake up every day to something that they really oppose. That frustration is often seen in the challenges to our decisions on complaints, because people transfer to us the frustration that they originally felt at the local authority. It is frustrating for our complaints investigators, too, because they know that ultimately there is nothing that they can do to help.

We work closely with Planning Aid for Scotland, the Society of Local Authority Chief Executives and Senior Managers and others. We are currently working with the Standards Commission for Scotland to look at a much more simplified complaints process specifically for planning. We are committed to having that process up and running in the next few months—I am reminded by David Robb that it will be ready next month. It is a question of getting information to people and managing what happens at the front line. When people work in planning departments, there needs to be a lot of training to ensure that they understand what happens. We will monitor what happens, and others will be able to give you stats on that next year.

Patricia Ferguson: I followed with great interest and concern the judicial review and Lord Macphail's opinion, and I notice that you devote quite a lot of the annual report to it. In light of that opinion, do you think that any change needs to be made to the way in which the ombudsman's office is set up under legislation? Is there scope for that to be considered at the moment, when the whole landscape is being considered?

I was particularly concerned to note—I had not picked this up before—that the gentleman in that case still does not have a remedy. I would welcome your comments on that. I realise that it is a wide-ranging area, but do you think that changes need to be made?

Professor Brown: The impact of the opinion on our legislation is interesting, and I will ask Eric Drake to comment shortly because he was involved most directly in the judicial review and wrote the section on it in the annual report.

The committee knows my view—which I gave it last year—that I did not think that the topic of free personal care should have been under judicial review in the first place because it was a political issue. There was an understanding in the Parliament about the act that it had passed. If that was not clear, it should have been clarified politically. We were encouraged to see that Lord Sutherland was asked to review the matter. I gave evidence to him on our experience of the judicial review itself, and various lessons came out of that exercise.

12:30

Eric Drake (Scottish Public Services Ombudsman): We devoted quite a bit of the annual report to the judicial review, because it is the first one that we have had. In fact, it is the first one that an ombudsman in Scotland has had, so it is groundbreaking. As Alice Brown said, we found it slightly odd that we were not challenged directly on how we had exercised our jurisdiction but on

the interpretation of the free personal care legislation. Lord Macphail said that he reluctantly came to the view that we were wrong—so was everybody else. We thought that the legislation meant what everybody else thought it meant and what the Parliament had intended it to mean. He came to the conclusion that the legislation did not mean what everyone thought it meant.

On our legislation, I am not sure that I can identify anything that needs to be changed as a result of our experience. Although we lost on a technicality, the judge was supportive of our general approach. He understood that we were different from the courts and acknowledged that it was appropriate that we were different and that our reports were not written like court judgments but directed at members of the public. From that point of view, although I would not like to go through the experience again, some positive things came out of it.

Professor Brown: Eric Drake is right to say that the judge endorsed the investigation process, which was encouraging, not least for the complaints investigator involved. As Patricia Ferguson said, a member of the public still has not had appropriate redress, which I very much regret.

The case also raises issues about the quality of the drafting of legislation, which is a much more general issue for the Parliament as it relates to other legislation as well as to our act. There is a learning experience for us all about being clear in drafting, the financial memorandums that support the drafts and so on. There is more work for everyone in that regard.

The Convener: There are no other questions, so it only remains for me to thank the witnesses. This is your last evidence session as ombudsman, Alice. We have enjoyed your evidence, and your undoubted commitment to and enthusiasm for the job over your tenure have been obvious to everyone. We will heed your wise words this morning and see how we can build on your successful legacy. When we approach our inquiries or evidence sessions, we will ask our support team to try to feed in input from the ombudsman when appropriate. We wish you all the best in your future endeavours, and we will do our very best to get a successor who will carry on your successful legacy. Thank you.

Professor Brown: Thank you very much for your kind words.

12:32

Meeting continued in private until 12:49.

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